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PART I

(Part II begins on page 24073)

(Part III begins on page 24087)

HIGHLIGHTS OF THIS ISSUE

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

NUCLEAR POWER—AEC to require Government agencies to pay facility licensing fee 24028

RECREATIONAL VEHICLE WINDOWS—DoT amends safety standard requirements; effective 4–1–73 24035

GREAT LAKES NAVIGATION RADIO—Coast Guard proposes frequency changes for vessel bridge-to-bridge radio communications; comments by 12–15–72 24043

DECLASSIFICATION—Provisions of the Office of Emergency Preparedness 24032

FOOD FOR CHILDREN—USDA 1973 funds apportionment to States under School Lunch Act 24025

LOAN GUARANTY—VA establishes conditions for release of liability; effective 11–6–72 24034

DANGEROUS CARGOES—

Coast Guard proposals including exemption for shipment of motor vehicle passenger restraint systems; comments by 11–29–72 24044

Coast Guard authorizes storage cylinders for liquid nitrogen tetroxide; effective 2–16–73 24034

EDUCATION—HEW adopts standards for State plan programs; effective 11–11–72 24073

COMMODITY RATES—CAB agrees to adoption of IATA relating to specific commodities 24055

(Continued inside)

FEDERAL REGISTER

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SURVIVOR BENEFIT—VA proposes a contributory plan to provide annuities for surviving dependents of deceased retirees; comments within 30 days 24049

CATTLE IDENTIFICATION—USDA proposes extension of identification requirements for cattle moving interstate; comments within 30 days 24040

HOPS—USDA prescribes minimum quality standards for lupulin, a hops product; effective 11–15–72 24026

ENVIRONMENT—Council on Environmental Quality listing of impact statements for proposed Federal projects 24056

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM—EPA proposed guidelines for State participation; comments within 30 days 24087

FOOD ADDITIVES—FDA approves tridecanol in lubricants for metallic food-contact articles; effective 11–11–72 24031

IMPORTATION OF MEAT/OTHER ARTICLES—USDA proposes additional prohibitions and restrictions; comments within 30 days 24041

NONUNION CONSTRUCTION WAGE STABILIZATION—Pay Board extends "control year" provision to each succeeding 12-month period beginning Nov. 14 24037

MANAGEMENT–LABOR TEXTILE ADVISORY COMMITTEE—Notice of closed meeting, 11–21–72 24052

ANTI-INFECTIVE DRUGS—FDA changes new drug application requirements for Delvex Tablets and Lucanthone Hydrochloride Tablets 24052

VETERINARY DRUGS—
FDA notice of opportunity for hearing on proposal withdrawing approval of Thera-Tergent; comments within 30 days 24053
FDA approves diethylcarbamazine citrate tablets for dogs and cats; effective 11–11–72 24031

PUBLIC MEETINGS—
HEW: National Advisory Council on Services and Facilities for the Developmentally Disabled, 11–16 through 11–19–72 24054
Advisory Committee on Dental Health, 11–20 through 11–21–72 24054
Advisory Committee on the Rights and Responsibilities of Women, 11–30–72 through 12–1–72 24054
Advisory Committee on the Rights and Responsibilities of Women Subcommittee on Social Services and Welfare, 11–20–72 24054
National Advisory Health Services Council and Federal Hospital Council, 11–15–72 24053
Federal Hospital Council, 11–16–72 24053
Regional Archives Advisory Council, 12–1–72 at San Bruno, Calif 24054
FPC: Technical Advisory Committees on:
Fuels, 11–28–72 24060
Finance, 11–21–72 24060
Conservation of Energy, 11–15–72 24060
Research and Development, 11–20–72 24060
Fuels: Admin. Task Force, 11–15–72 24061
FCC PBX Advisory Committee, 11–14 through 11–15–72 24060

Contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Rules and Regulations

Liability for loss and damage or improper distribution of commodities 24032

AGRICULTURAL MARKETING SERVICE

Rules and Regulations

Handling limitations:
Lemons grown in California and Arizona 24025
Navel oranges grown in Arizona and designated part of California 24025
Hops of domestic production; maximum quality standards 24026
Milk in Inland Empire marketing area; order amending order 24026

Proposed Rule Making

Cranberries grown in certain States; increase in expenses for 1971–72 fiscal period 24038
Milk in South Texas marketing area; recommended decision and opportunity to file written exceptions on amendments to tentative marketing agreement and to order 24038

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules and Regulations

Hog cholera; areas quarantined (2 documents) 24028

Proposed Rule Making

Cattle; identification for interstate movement 24040
Rinderpest and foot-and-mouth disease; prohibitions and restrictions on importation of meat and other articles; declaration of uninfested countries 24041

ATOMIC ENERGY COMMISSION

Rules and Regulations

Fees for licenses issued to Government agencies for nuclear power plants; removal of exemption 24028

Notices

Californium-252; prices, standard forms and handling charges 24055
Southern California Edison Co. and San Diego Gas & Electric Co.; order for prehearing conference 24055

(Continued on next page)

CIVIL SERVICE COMMISSION

Rules and Regulations

Office of Economic Opportunity; excepted service 24025

COAST GUARD

Rules and Regulations

Nitrogen tetroxide; transportation or storage on board cargo vessels 24034

Proposed Rule Making

Dangerous cargoes; transportation or storage 24044
Great Lakes; vessel bridge-to-bridge radiotelephone 24043
Nansemond River, Virginia; drawbridge operation regulations 24044

COMMERCE DEPARTMENT

See also National Oceanic and Atmospheric Administration; Textiles Office.

Notices

Office of Audits; functions and organization 24051

CIVIL AERONAUTICS BOARD

Notices

International Air Transport Association; order regarding specific commodity rates 24055

EDUCATION OFFICE

Rules and Regulations

Guidance, counseling, and testing programs; assistance to States 24074

EMERGENCY PREPAREDNESS OFFICE

Rules and Regulations

Classification and declassification of national security information and material 24032

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rule Making

State program elements necessary for participation in National Pollutant Discharge Elimination System; guidelines 24088

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental impact statements; public availability 24056

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Control zone and transition area; alteration 24030
Teledyne Continental engine models and certain engine oil filter adapters; airworthiness directives 24029
Transition areas; alteration (2 documents) 24030

Proposed Rule Making

Transition area; designation 24047

FEDERAL COMMUNICATIONS COMMISSION

Notices

Applications for consolidated hearing on stated issues:
- Congaree Broadcasters, Inc., et al 24058
- Homer Air Service, Inc., and Cook Inlet Aviation, Inc 24059

Canadian standard broadcast stations; notification list 24058
PBX Advisory Committee; Non-Voice Task Group meeting 24060

FEDERAL POWER COMMISSION

Proposed Rule Making

Gas pipeline companies; annual report of total gas supply form; correction 24048
National Environmental Policy Act of 1969; implementation; denial of request for extension of time for filing comments 24048

Notices

National Power Survey Technical Advisory Committees:
- Agendas for meetings:
  - Conservation of Energy 24060
  - Finance 24060
  - Fuels (2 documents) 24060, 24061
  - Research and Development 24060
- Designation of additional member; Finance 24061

Hearings, etc.:
- Appalachian Power Co 24061
- Boston Edison Co 24062
- Eastern Shore Natural Gas Co 24061
- Great Lakes Gas Transmission Co 24061
- Michigan Wisconsin Pipe Line Co 24063
- Navarro Gas Production Co. et al 24064
- Panhandle Eastern Pipeline Co. et al 24063
- Phillips Petroleum Co 24064
- Union Electric Co 24064

FEDERAL RESERVE SYSTEM

Notices

Orders approving acquisition of banks:
- Banks of Iowa, Inc 24065
- Texas Commerce Bancshares, Inc 24066

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Canned fig identity standard; confirmation of effective date of order providing for optional use of slightly sweetened water 24031
Diethylcarbamazine citrate tablets; new animal drugs in oral dosage forms 24031
Metallic articles; use of surface lubricants in manufacture 24031

Notices

Drugs for human use; efficacy study implementations:
- Antibiotic-steroid preparation; correction 24052
- Certain anti-infective drugs 24052

Whitmoyer Laboratories, Inc.; Thera-Tergent; opportunity for hearing 24053

FOOD AND NUTRITION SERVICE

Rules and Regulations

Special food service program for children; apportionment of funds 24025

GENERAL SERVICES ADMINISTRATION

Notices

Archives Advisory Council; meeting 24054

GEOLOGICAL SURVEY

Notices

Deschutes River Basin, Oreg.; power site cancellation 24050

HAZARDOUS MATERIALS REGULATIONS BOARD

Notices

Shipment of hazardous materials; special permits issued 24055

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Health Services and Mental Health Administration; Social and Rehabilitation Service.

Notices

Public meetings:
- Advisory Committee on Dental Health 24054
- Secretary's Advisory Committee on Rights and Responsibilities of Women 24054
- Subcommittee on Social Services and Welfare 24054

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Notices

National Advisory Health Services Council and Federal Hospital Council; meetings during November 24053

INTERIOR DEPARTMENT

See also Geological Survey; National Park Service.

Notices

Proposed San Juan Wilderness Area, Wash.; availability of final environmental impact statement 24050
Statements of changes in financial interests:
- Beck, Howard A 24051
- Broaddus, James 24051
- Timme, Elwyn 24051

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Contracts for transportation of property; contract carrier authority; definition of shipper.. 24036

Notices

Assignment of hearings..... 24069
Fourth section applications for relief 24069
Motor Carrier Board transfer proceedings 24069
Motor common carriers of household goods; consumer protection; extension of time..... 24070

JUSTICE DEPARTMENT

See Narcotics and Dangerous Drugs Bureau.

LABOR DEPARTMENT

Notices

Welpro, Inc.; investigation regarding certification of eligibility of workers to apply for adjustment assistance..... 24069

NARCOTICS AND DANGEROUS DRUGS BUREAU

Notices

Manufacture of oxycodone; application 24050

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules and Regulations

Glazing materials; motor vehicle safety standard; response to petitions for reconsideration... 24035

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Aeder, David J.; loan application.. 24051
American Stern Trawlers, Inc.; hearing 24051

NATIONAL PARK SERVICE

Rules and Regulations

Yellowstone National Park, Wyoming; operation of commercial passenger-carrying motor vehicles 24033

Notices

Cape Hatteras National Seashore; intention to negotiate concession contract 24050

PAY BOARD

Rules and Regulations

Stabilization of wages and salaries; extension of control year for nonunion construction..... 24037

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Central and South West Corp. and Central Power & Light Co 24067
Guardian Insurance & Annuity Co., Inc., et al..... 24067

SOCIAL AND REHABILITATION SERVICE

Notices

National Advisory Council on Services and Facilities for Developmentally Disabled; public meeting 24054

STATE DEPARTMENT

See Agency for International Development.

TARIFF COMMISSION

Notices

Petitions for determinations; investigations:
Bernie Shoe Co..... 24057
Wise Shoe Co..... 24057

TEXTILE OFFICE

Notices

Management-Labor Textile Advisory Committee; closed meeting 24052

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; Hazardous Materials Regulations Board; National Highway Traffic Safety Administration.

Proposed Rule Making

State of Indiana; withdrawal of proposed standard time zone boundary 24048

VETERANS ADMINISTRATION

Rules and Regulations

Loan guaranty; release of liability 24034

Proposed Rule Making

Survivor benefit plan annuities; character of income; exclusions and estates..... 24049

Notices

New VA hospital and modernization of existing buildings, Columbia, S.C.; availability of final environmental statement..... 24068

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

5 CFR

213 24025

6 CFR

201 24037

7 CFR

225 24025
907 24025
910 24025
991 24026
1133 24026

PROPOSED RULES:

929 24038
1121 24038

9 CFR

76 (2 documents) 24028

PROPOSED RULES:

71 24040
94 24041

10 CFR

170 24028

14 CFR

39 24029
71 (3 documents) 24030

PROPOSED RULES:

71 24047

18 CFR

PROPOSED RULES:

2 24048
4 24048
260 24048

21 CFR

27 24031
121 24031
135c 24031

22 CFR

211 24032

32 CFR

1706 24032

33 CFR

PROPOSED RULES:

26 24043
117 24044

36 CFR

7 24033

38 CFR

36 24034

PROPOSED RULES:

3 24049

40 CFR

PROPOSED RULES:

124 24088

45 CFR

118 24074
143 24074

46 CFR

146 24034

PROPOSED RULES:

146 24044

49 CFR

571 24035
1053 24036

PROPOSED RULES:

71 24048

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that the following positions are no longer excepted under Schedule C: One Confidential Assistant and one Confidential Secretary to the Assistant Director for Program Development.

Effective on publication in the FEDERAL REGISTER (11–11–72), subparagraphs (24) and (27) of paragraph (a) of § 213.3373 are revoked.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

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

[FR Doc.72–19413 Filed 11–10–72;8:48 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Appendix—Apportionment of Food Assistance and Nonfood Assistance Funds Pursuant to National School Lunch Act for Fiscal Year 1973

Pursuant to section 13, of the National School Lunch Act, as amended, food assistance and nonfood assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment
Alabama	$816,003
Alaska	68,526
Arizona	195,570
Arkansas	522,579
California	863,437
Colorado	182,941
Connecticut	132,957
Delaware	78,953
District of Columbia	112,253
Florida	620,209
Georgia	885,483
Guam	9,462
Hawaii	87,934
Idaho	103,174
Illinois	627,090
Indiana	347,392
Iowa	318,165
Kansas	213,137
Kentucky	665,438
Louisiana	736,524
Maine	134,006
Maryland	269,011
Massachusetts	248,512
Michigan	530,133
Minnesota	343,488
Mississippi	795,224
Missouri	505,038
Montana	105,811
Nebraska	190,481
Nevada	62,584
New Hampshire	77,667
New Jersey	286,850
New Mexico	190,414
New York	887,887
North Carolina	1,116,064
North Dakota	138,310
Ohio	629,820
Oklahoma	357,641
Oregon	143,790
Pennsylvania	767,827
Puerto Rico	384,300
Rhode Island	99,587
South Carolina	701,090
South Dakota	155,445
Tennessee	784,560
Texas	1,492,708
Utah	98,559
Vermont	84,082
Virginia	648,937
Washington	189,961
West Virginia	380,947
Wisconsin	293,621
Wyoming	71,680
Virgin Islands	4,382
Samoa, American	3,693
Trust Territory	13,663
Total	20,775,000

(Sec. 13, 82 Stat. 117; 42 U.S.C. 1761)

Dated: November 7, 1972.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.72–19427 Filed 11–10–72;8:53 am]

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

[Navel Orange Reg. 273, Amdt. 1]

PART 907—NAVEL 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. 907, as amended (7 CFR Part 907), regulating the handling of Navel 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 recommendations and information submitted by the Navel 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 Navel 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 Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraphs (b)(1) (i) and (iii) of § 907.573 (Navel Orange Regulation 273, 37 F.R. 23323) during the period November 3 through November 9, 1972, are hereby amended to read as follows:

§ 907.573 Navel Orange Regulation 273.

* * * * * *

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

(i) District 1: 799,000 cartons;

* * * * * *

(iii) District 3: 51,000 cartons.

* * * * * *

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

Dated: November 8, 1972.

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

[FR Doc.72–19464 Filed 11–10–72;8:51 am]

[Lemon Reg. 559]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.859 Lemon Regulation 559.

(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 November 7, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 12, through November 18, 1972, is hereby fixed at 175,000 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: November 8, 1972.

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

[FR Doc.72–19503 Filed 11–10–72;8:54 am]

PART 991—HANDLING OF HOPS OF DOMESTIC PRODUCTION

Subpart—Administrative Rules and Regulations

MINIMUM QUALITY STANDARDS

Notice was published in the October 12, 1972, issue of the FEDERAL REGISTER (37 F.R. 21539) of a proposal recommended by the Hop Administrative Committee to amend the Subpart — Administrative Rules and Regulations (7 CFR 991.130–991.601). The subpart is operative pursuant to Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 991.31 contains the authority for promulgation of such minimum quality standards for hops in terms of their leaf and stem content and other quality factors as are required to effectuate the objectives of the order and the declared policy of the act. Currently, § 991.231 of the administrative rules and regulations prescribes minimum quality standards for hops. These standards prescribe the maximum permissible percentage of leaf and stem content that may be present in hops. Lupulin, and lupulin sweepings, appropriately packaged and identified, are exempt from these standards. This amendment adds a new paragraph (b) to § 991.231 which establishes quality standards for lupulin and lupulin sweepings. Hence, this amendment is consistent with action already taken with respect to baled hops and provides quality standards for all hops, including lupulin and lupulin sweepings. The amendment would insure a consistent quality of lupulin including lupulin sweepings by eliminating extraneous matter. These quality standards were developed after consultation with the Federal-State Inspection Service.

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee, and other available information, it is hereby found that this action prescribing additional quality standards pursuant to said Order No. 991, as amended, and thereby providing for quality regulations of hops, including lupulin and lupulin sweepings, would tend to effectuate the declared policy of the act.

Therefore, Subpart — Administrative Rules and Regulations is amended by revising § 991.231 to read as follows:

§ 991.231 Minimum quality standards.

(a) *Hops.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, hops which have a leaf and stem content of more than 8 percent, as determined by the Federal-State Inspection Service: *Provided,* That lupulin, including lupulin sweepings, that have been packaged and so identified by Committee approved seals or stencils, shall be exempt from this leaf and stem requirement.

(b) *Lupulin, including lupulin sweepings.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, lupulin, including lupulin sweepings, unless 95 percent by weight of such lupulin, including lupulin sweepings, will pass through a number 10 mesh screen as determined by the Federal-State Inspection Service.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hereinafter provided in that: (1) Most 1972 crop hops and lupulin are baled and are now beginning to enter the channels of commerce and the industry desires that the quality standards prescribed herein apply to as much of the remaining lupulin and lupulin sweepings as possible; and (2) hops, including lupulin, in excess of producers' allotments became reserve on November 1 and the industry desires to have any lupulin or lupulin sweepings that are placed in the reserve pool meet these quality standards.

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

Dated: November 8, 1972, to become effective November 15, 1972.

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

[FR Doc.72–19421 Filed 11–10–72;8:51 a.m.]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 133; Docket No. AO–275–A25]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued October 6, 1972, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued October 30, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order, amending the order, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Inland Empire marketing area shall be in conformity to, and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, as follows:

1. In § 1133.8, the introductory text is revised to read as follows:

§ 1133.8 Pool plant.

"Pool plant" means any plant described in paragraph (a) or (b) of this section, other than the plant of a producer-handler or a plant with respect to which the handler is exempt pursuant to § 1133.61, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

* * * * *

2. In § 1133.12, paragraph (c) is revised to read as follows:

§ 1133.12 Producer milk.

* * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.53 and 1133.81, diverted milk shall be considered to have been received at the location of the plant to which diverted.

3. In § 1133.81, paragraph (a) is revised to read as follows:

§ 1133.81 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1133.80 the market administrator shall reduce the uniform price computed pursuant to § 1133.71 by the location adjustment applicable at the plant where the milk was first physically received from producers, and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1133.53.

* * * * *

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

Effective date: December 1, 1972.

Signed at Washington, D.C., on November 8, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-19465 Filed 11-10-72;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

[Docket No. 72-577]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e) (8) relating to the State of Tennessee, a new subdivision (i) relating to Hamblen and Jefferson Counties is added to read:

(e) * * *

(8) *Tennessee.* (i) The adjacent portions of Hamblen and Jefferson Counties bounded by a line beginning at the junction of U.S. Highway 25 E, State Highway 32, and Secondary Road 2488 in Hamblen County; thence, following U.S. Highway 25 E, State Highway 32 in a southeasterly direction to the north bank of the Broad River in Jefferson County; thence, following the north bank of the Broad River in a generally southwesterly direction to State Highway 92; thence, following State Highway 92 in a northwesterly direction to U.S. Highway 11 E; thence, following U.S. Highway 11 E in a northeasterly direction to the north bank of the Mossy Creek; thence, following the north bank of the Mossy Creek in a generally northwesterly direction to the east bank of the Cherokee Lake; thence, following the east bank of the Cherokee Lake in a generally northeasterly direction to Secondary Road 2488 in Hamblen County; thence, following Secondary Road 2488 in a southeasterly direction to its junction with U.S. Highway 25 E, State Highway 32 in Hamblen County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 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 quarantines portions of Hamblen and Jefferson Counties in Tennessee because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. 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, unnecessary and contrary to the public interest, 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 7th day of November 1972.

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

[FR Doc.72-19424 Filed 11-10-72;8:49 am]

[Docket No. 72-578]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, a new paragraph (e) (5) relating to the State of South Carolina is added to read:

(e) * * *

(5) *South Carolina.* The adjacent portions of Dillion and Marion Counties bounded by a line beginning at the junction of the east bank of the Little Pee Dee River and State Highway 41 in Dillion County; thence, following State Highway 41 in a northeasterly direction to the South Carolina-North Carolina State line; thence, following the South Carolina-North Carolina State line in a southeasterly direction to the north bank of the Lumber River; thence, following the north bank of the Lumber River in a generally southwesterly direction to State Highway 30 in Marion County; thence, following State Highway 30 in a northwesterly direction to State Highway 72 in Dillon County; thence, following State Highway 72 in a northwesterly direction to the east bank of the Little Pee Dee River; thence, following the east bank of the Little Pee Dee River in a generally northwesterly direction to its junction with State Highway 41 in Dillon County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 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 quarantines portions of Dillon and Marion Counties in South Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. 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, unnecessary and contrary to the public interest, 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 7th day of November 1972.

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

[FR Doc.72-19423 Filed 11-10-72;8:49 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Removal of Exemption From Fees for Licenses Issued to Government Agencies for Nuclear Power Plants

On October 4, 1972, the Atomic Energy Commission published in the FEDERAL REGISTER (37 F.R. 20871) a proposed amendment to its regulations in 10 CFR

Part 170 to remove the exemption from payment of fees for a construction permit or license applied for by, or issued to, a Government agency for a reactor producing power on a commercial basis. Interested persons were invited to submit written comments and suggestions for consideration within 15 days after publication of the notice of proposed rule making in the FEDERAL REGISTER.

No comments were received. The Commission has adopted the amendment in the form set forth in the notice of proposed rule making.

On June 16, 1972, legislation was enacted amending the Atomic Energy Act by adding a new subsection 161.w., which authorized the Commission to:

w. Prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

The amendment which follows implements the new statutory authority by amending § 170.11(a)(5) of Part 170 to remove the exemption for Government agencies which apply for or are issued a license to operate a nuclear reactor producing power for sale.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 170, is published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

Subparagraph (5) of § 170.11(a) of 10 CFR Part 170 is amended to read as follows:

170.11 Exemptions.

(a) No application filing fees, license fees, or annual fees shall be required for:

* * * * *

(5) A construction permit or license applied for by, or issued to, a Government agency, except for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b of the Atomic Energy Act of 1954, as amended.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

Dated at Bethesda, Md., this 3d day of November 1972.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.72-19434 Filed 11-10-72;8:53 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-110, Amdt. 39-1554]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Engine Models IO-346-A, IO-520-B, IO-520-C and TSIO-520-B, TSIO-520-E and TSIO-520-J Engine Oil Filter Adapter

Amendment 39-1215 (36 F.R. 9241, 9242), AD 71-11-4, as amended by Amendments 39-1256 (39 F.R. 14127) and 39-1289 (39 F.R. 18373) requires inspection and replacement, if necessary, of the oil filter housing base plate on Teledyne Continental engine Models IO-346-A, IO-520-B, IO-520-C, and TSIO-520-B, TSIO-520-E and TSIO-520-J engines models with improved Teledyne Continental Part No. 633750 or AC Part No. 6437508 (Package No. 6436627) base plate. In addition, this amendment established requirements for inspection of the oil filter adapter and installation procedures for the oil filter housing assembly until such time as a strengthened replacement adapter has been installed. Since the issuance of this amendment, several configurations of strengthened oil filter adapters were produced; however, certain of these redesigned adapters were reported to have failed. Consequently, the requirement to install oil filter adapter Teledyne Continental Part No. 631645 or AC Part No. 5579663 identified with ½-inch-tall raised letter "A" and raised dot directly above it (cast into the adapter) was deleted from AD 71-11-4. Subsequently, Teledyne Continental has produced a satisfactory adapter which is now on new production engines and AC has produced a new strengthened adapter which has accumulated considerable satisfactory service.

Therefore, Airworthiness Directive 71-11-4 is being superseded by a new airworthiness directive that reinstitutes the replacement of oil filter adapters with either the Teledyne Continental adapter or the improved AC adapter at next overhaul and retains the inspection provisions of Amendment 39-1289 only until an improved adapter is installed.

Since this amendment is in part relaxatory in nature, provides clarification, and is in the interest of safety, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (39 F.R. 13697), § 39.13 or Part 39 of the Federal Aviation Regulations is amended by adding the following airworthiness directive:

TELEDYNE CONTINENTAL: Applies to Models IO-346-A, IO-520-B and IO-520-C and TSIO-520-B, TSIO-520-E, and TSIO-520-J engines having Teledyne Continental Part No. 631645 oil filter adapter installed, used with AC OF-9-A oil filter assembly.

Compliance required as indicated, unless already accomplished. To prevent loss of oil accomplish the following or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southern Region, Atlanta, Ga.:

(A) Not later than next engine overhaul, replace Teledyne Continental Part No. 631645 oil filter adapter with strengthened Teledyne Continental Part No. 632881 (Kit Part No. 637584A1) in accordance with Teledyne Continental Service Bulletin M70-16 or AC Part No. 5579663 (Package No. 6437861) in accordance with AC Instruction Sheet 6439067. NOTE: The correct AC part may be identified by a cast-in insignia "Ā" (raised letter A with a raised bar over the letter A). All other AC adapters are ineligible, including those identified by a plain-raised letter "A" and a raised letter "A" and a raised dot (Å) directly above. The Teledyne Continental adapter is identified by part number only.

(B) Within 25 hours' time in service from the effective date of the amendment, unless already accomplished under AD 71-11-4, paragraph (B) inspect the base plate to determine whether the gasket retaining seat is wedge-shaped or rectangular. If the gasket seat is wedge-shaped, replace this part with improved Teledyne Continental Part No. 633750 or AC Part No. 6437508 (Package No. 6436627) base plate having a rectangular-shaped gasket retaining seat.

NOTE: The required base plate can be identified by the presence of a thin sheet metal, square-shouldered retaining ring, spot welded around the gasket groove to hold the gasket in place.

(C) Unless already accomplished within the last 50 hours' of service prior to date of this amendment, accomplish the following within the next 25 hours' time in service and at every oil filter element change thereafter:

(1) Visually inspect the upper surface of the oil filter adapter face using a light and mirror for indications of radial cracks inward from the outer edge. Replace any cracked adapters with serviceable parts prescribed in paragraph (A).

(2) After placing filter element in housing in accordance with oil filter element manufacturers' instructions, install assembled housing and base plate to adapter as follows:

(*a*) Clean all gasket and seal surfaces.

(*b*) Lubricate new gasket well, on both sides using engine oil.

(*c*) Install assembly on adapter and turn center stud to a light seal contact by hand.

(*d*) Visually inspect base plate to adapter seal for proper positioning and seating.

(*e*) Torque center studs to 15-18 lb. ft. If torque wrench is not available or center stud is inaccessible to torque wrench, tighten center stud 1¾ turns beyond point of initial seal contact.

(f) Reattach upper bracket and resafety.

(g) Operate engine for approximately 5 minutes at 1,000–2,000 r.p.m. Check for oil leaks and proper assembly using a light and mirror if necessary. If a leak appears between top of housing and stud, remove stud and check for nicks or visual damage at sealing surface. Correct any damage and re-install using a new copper gasket. *Do not increase torque to stop leaks.*

Continental Service Bulletin M66–6, dated April 28, 1966, refers to this subject.

(D) The requirements of paragraph (C) are no longer applicable when paragraph (A) has been complied with.

This airworthiness directive supersedes Amendment 39–1215 (36 F.R. 9241, 9242), A.D. 71–11–4, as amended by Amendments 39–1256 (39 F.R. 14127) and 39–1289 (39 F.R. 18373).

This amendment becomes effective November 15, 1972.

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

Issued in East Point, Ga., on November 1, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72–19394 Filed 11–10–72;8:46 am]

[Airspace Docket No. 72–CE–18]

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

Alteration of Control Zone and Transition Area

On pages 17562 and 17563 of the FEDERAL REGISTER dated August 30, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Waterloo, Iowa.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., January 4, 1973.

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

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

(1) In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

WATERLOO, IOWA

Within a 5-mile radius of Waterloo Municipal Airport (latitude 42°33'20" N., longitude 92°24'00" W.); within 2½ miles each side of the Waterloo, Iowa VORTAC 078° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC; and within 2½ miles each side of the Waterloo, Iowa VORTAC; and within 3½ miles each side mile radius zone to 6½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 001° radial extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 316° radial extending from the 5-mile radius zone to 10½ miles northwest of the airport.

(2) In § 71.181 (37 F.R. 2143), the following transition area is ammended to read:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Waterloo Municipal Airport (latitude 42°33'20" N., longitude 92°24'00" W.); and within 3½ miles each side of the Waterloo ILS localizer northwest course extending from the 10-mile radius area to 8 miles northwest of the OM; and 3 miles each side of the Waterloo, Iowa VORTAC 120° radial extending from the 10-mile radius to 15 miles southeast of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 200° radial extending from the 10-mile radius to 11½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 001° radial extending from the 10-mile radius to 11½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 316° radial extending from the 10-mile radius to 11½ miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface with the arc of a 29-mile radius circle centered on the Waterloo VORTAC.

[FR Doc.72–19397 Filed 11–10–72;8:46 am]

[Airspace Docket No. 72–CE–21]

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

Alteration of Transition Area

On page 16552 of the FEDERAL REGISTER dated August 16, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Lebanon, Mo.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 4, 1973.

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

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

LEBANON, MO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lebanon, Mo., airport located at latitude 37°38'56" N., longitude 92°39'06" W., and within 3 miles either side of the 177° bearing of the Lebanon Airport extending from 5 miles to 8.5 miles, and that airspace extending upward from 1,200 feet above the surface within 9.5 miles west and 4.5 miles east of the 177° bearing from the Lebanon Airport extending from the airport to 18.5 miles south.

[FR Doc.72–19395 Filed 11–10–72;8:46 am]

[Airspace Docket No. 72–CE–20]

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

Alteration of Transition Area

On page 17563 of the FEDERAL REGISTER dated August 30, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at St. Louis, Mo.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 4, 1973.

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

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended, in part, to read:

ST. LOUIS, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert St. Louis International Airport (latitude 39°44'50" N., longitude 90°21'55" W.); within 5 miles southeast and 8 miles northwest of the Lambert St. Louis International Airport runway 24 ILS localizer northeast course, extending from the 10-mile radius area to 12 miles northeast of the runway 24 OM; within 5 miles southwest and 9 miles northeast of the Lambert St. Louis International Airport runway 12R ILS localizer northwest course; extending from the runway 12R OM to 12 miles northwest of the OM; within an 8-mile radius of Civic Memorial Airport, Alton, Ill. (latitude 38° 53'30" N., longitude 90°30'00" W.);

[FR Doc.72–19396 Filed 11–10–72;8:46 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND FRUIT JUICES

Canned Figs Identity Standard: Confirmation of Effective Date of Order Providing for Optional Use of Slightly Sweetened Water

In the matter of amending the standard of identity for canned figs (21 CFR 27.70) to provide for the use of slightly sweetened water as an optional packing medium:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120) notice is given that no objections or requests for a hearing were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 9, 1972 (37 F.R. 15991). Accordingly, the amendment promulgated by that order became effective October 8, 1972.

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19489 Filed 11-10-72;8:54 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting from Contact with Containers or Equipment and Food Additives Otherwise Affecting Food

SURFACE LUBRICANTS USED IN THE MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2629) filed by Quaker Chemical Corp., Conshohocken, Pa. 19428, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of tridecanol as a component of surface lubricants employed in the manufacture of metallic articles that contact food. The Commissioner further concludes that the tridecanol food additive should be identified as a synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 99 percent primary alcohols consisting of the following: Not less than 70 percent normal alcohols; not less than 93 percent C_{12}—C_{13} alcohols; not more than 5 percent C_{14}—C_{15} alcohols; and not more than 2.5 percent alpha, omega C_{12}—C_{16} diols.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2531(a)(2) is amended by alphabetically inserting in the list of substances the following new item:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(a) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 99 percent primary alcohols consisting of the following: not less than 70 percent normal alcohols; not less than 93 percent C_{12}—C_{13} alcohols; not more than 5 percent C_{14}—C_{15} alcohols; and not more than 2.5 percent alpha, omega C_{12}—C_{16} diols. The alcohols are prepared from linear olefins from a purified kerosene fraction, carbon monoxide and hydrogen using a modified oxo process, such that the finished primary alcohol mixture meets the following specifications: Molecular weight, 194±5; hydroxyl number, 283–296.	For use only at a level not to exceed 8 percent by weight of the finished lubricant formulation.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–11–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19402 Filed 11-10-72;8:47 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Tablets

The Comissioner of Food and Drugs has evaluated a supplemental new animal drug application (6–462V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing revised labeling for the safe and effective use of diethylcarbamazine citrate tablets as an anthelmintic in 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 135c is amended by adding a new section as follows:

§ 135c.86 Diethylcarbamazine citrate tablets.

(a) *Specifications.* Diethylcarbamazine citrate tablets contain 50 or 400 milligrams of diethylcarbamazine citrate per tablet.

(b) *Sponsor.* See Code No. 004 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used as an aid in the treatment of ascarids in dogs and cats and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(2) For the treatment of ascarids in dogs and cats, the tablets are administered orally or pulverized and given in the feed or water at a dosage level of 25 to 50 milligrams of diethylcarbamazine citrate per pound of body weight. A repeat dose should be given in 10 to 20 days to remove immature worms which may enter the intestine from the lungs after the first dose.

(3) For the prevention of heartworm disease in heartworm endemic areas dogs should be given a daily dose of 3 milligrams of diethylcarbamazine citrate per pound of body weight.

(4) Dogs with established heartworm infections should not receive the drug until they have been converted to a negative status.

(5) 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 (11–11–72).

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

Dated: November 6, 1972.

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

[FR Doc.72-19490 Filed 11-10-72;8:54 am]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 11]

PART 211—TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Claims Against Ocean Carriers

The amendment of § 211.9(c)(2)(ii)(*a*) of Part 211 of Chapter II, Miscellaneous Amendments (A.I.D. Regulation 11), published in Volume 37, FEDERAL REGISTER, No. 165, Thursday, August 24, 1972 (37 F.R. 17028), inadvertently modified provisions in the current regulations which it is intended shall remain in effect. Therefore, § 211.9(c)(2)(ii)(*a*) as contained in the foregoing amendment is hereby revised to read as follows:

§ 211.9 Liability for loss and damage or improper distribution of commodities.

* * * * *

(c) * * *

(2) * * *

(ii) (*a*) Unless otherwise provided in the Food for Peace Program Agreement or other program document, voluntary agencies and intergovernmental organizations shall file notice of any cargo loss and damage with the carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carriers for cargo loss and damage, and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations. However, the voluntary agencies or intergovernmental organizations need not file a claim where the cargo loss is not in excess of $25, or in any case when the loss is in excess of $25 but not in excess of $100 and it is determined by the voluntary agencies or intergovernmental organizations that the cost of filing and collecting the claim will exceed the amount of the claim. Where a claim is in excess of $25 but not in excess of $400, the voluntary agencies or intergovernmental organizations may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1972). Approval of such termination by CCC is not required but the voluntary agencies or intergovernmental organizations shall notify CCC when collection activity on a claim is terminated. The voluntary agencies or intergovernmental organizations will take no action to collect claims when there is loss or damage to commodities and general average has been declared. (See subdivision (iii) of this subparagraph (2).)

* * * * *

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (11-11-72).

Dated: November 6, 1972.

JOHN A. HANNAH,
Administrator.

[FR Doc.72-19391 Filed 11-10-72;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Emergency Preparedness

PART 1706—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The following regulations are issued pursuant to Executive Order 11652 of March 8, 1972 (37 F.R. 5209), entitled "Classification and Declassification of National Security Information and Material" and the National Security Council Directive of May 17, 1972, implementing that Executive order.

The Office of Emergency Preparedness security regulations have been approved by the Interagency Classification Review Committee; the following parts thereof affecting the public are published as required by the above-cited Executive order and directive.

Dated: November 3, 1972.

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

Sec.
1706.1 Purpose.
1706.2 Authority to classify.
1706.3 Review of classified material for declassified purposes.
1706.4 Historical research and access by former Government officials.

AUTHORITY: The provisions of this Part 1706 are issued under Executive Order 11652 (37 F.R. 5209, March 10, 1972) and National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 1706.1 Purpose.

To set forth those provisions of the Office of Emergency Preparedness Physical Security Regulations to the extent they affect the general public.

§ 1706.2 Authority to classify.

(a) Personal and nondelegable: Classification authority may be exercised only by those officials who are designated by, or in writing pursuant to, section 2 of Executive Order 11652. Such officials may classify information or material only at the level authorized or below. This authority vests only to the official designated and may not be delegated.

(b) The authority to originally classify information or material as Top Secret shall be exercised only by:

(1) Director.

(2) Deputy Director.

(3) Assistant Director.

(4) Assistant to the Director for Administration.

(c) The authority to originally classify information or material as Secret shall be exercised by those officials having Top Secret classification authority and the following:

(1) Executive Assistant.

(2) Assistant Director and General Counsel.

(3) Assistant to the Director for Planning Review.

(4) Health Adviser.

(5) Assistant to the Director for Congressional and Public Affairs.

(6) Assistant to the Director for Administration Chief, Security Division.

(7) Assistant Director for Government Preparedness.

(i) Deputy Assistant Director for Government Preparedness.

(*a*) Chief, Plans and Procedures Division.

(*b*) Chief, Implementation and Review Division.

(8) Assistant Director for Disaster Programs.

(9) Assistant Director for Resource Analysis.

(i) Deputy Assistant Director for Resource Evaluation.

(*a*) Chief, Stockpile Policy Division.

(ii) Deputy Assistant Director for Information and Analysis.

(*a*) Chief, Systems Evaluation Division.

(*b*) Chief, Information Systems Division.

(10) All Regional Directors.

(d) The authority to originally classify information or material as Confidential shall be exercised by all of the above.

(e) Observance of classification: Whenever information or material classified by an official designated under paragraph (a) of this section is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier.

(f) Identification of classifier: The person at the highest level authorizing the classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance OEP shall establish some other record by which the classifier can readily be identified.

(g) Record requirement: The Office of Emergency Preparedness shall maintain a listing by name of the officials who have been designated in writing to have Top Secret, Secret, and Confidential classification authority. The listings and records shall be compiled beginning July 1, 1972, and updated at least on a quarterly basis.

(h) Resolution of doubts: If the classifier has any substantial doubt as to which security classification category is appropriate, or as to whether the material

should be classified at all, he should designate the less restrictive treatment.

§ 1706.3 Review of classified material for declassification purposes.

(a) *Mandatory review of exempted material.* All classified information and material originated in OEP after June 1, 1972, which is exempt from the General Declassification Schedule shall be subject to a classification review by the originating office at any time after the expiration of 10 years from the date of origin provided:

(1) A department or agency or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable OEP to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption shall be declassified. Information or material continuing to qualify under the Exemptions Schedule shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(b) *Systematic reviews.* All information and material originating in OEP and classified after the effective date of Executive Order 11652 and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by OEP for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under Executive Order 11652. During each calendar year OEP shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year OEP, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(c) *Review for declassification of classified material over 10 years old.* The OEP Security Division is designated the office to which members of the public or departments may direct requests for mandatory review for declassification. This office shall in turn assign the request to the appropriate office for action. In addition, the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a the requester shall be notified. The action office shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the OEP Classification Review Committee for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in Executive Order 11652 continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the OEP Classification Review Committee and the notice of determination shall advise him of this right.

(d) *Departmental committee review for declassification.* The OEP Classification Review Committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Director, OEP, acting through the Classification Review Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the OEP Classification Review Committee determines that continued classification is required, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(e) *Review of classified material over 30 years old.* A request by a member of the public or by a department to review for declassification OEP documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification. If the OEP information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the Director of OEP, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the Director of OEP makes at that time the personal determination required by section 5(E)(1) of Executive Order 11652. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(f) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraph (c), (d), or (e) of this section, the burden of proof is on the originating department to show that continued classification is warranted within the terms of the order.

(g) *Availability of declassified material.* Upon a determination of paragraph (c), (d), or (e) of this section that the requested material no longer warrants classification it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(h) *Classification review requests.* As required by section 5(C) of the order, a request for classification review must describe the document with sufficient particularity to enable OEP to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

§ 1706.4 Historical research and access by former Government officials.

(a) The Director, OEP, upon written request may permit persons outside the executive branch performing functions in connection with historical research projects to have access to classified information if it is determined that (1) access to the information will be clearly consistent with the interests of national security, and (2) the persons to be granted access have the apropriate security clearances on record with the OEP Security Office.

(b) Every applicant for access shall beforehand agree in writing to the following:

(1) The historical researcher agrees to safeguard the information or material in a manner consistent with Executive Order 11652 and directives thereunder.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(c) Access granted a person by reason of his having previously occupied a policymaking position shall be limited to those papers which the former official originated, reviewed, signed, or received while in public office.

(d) These requirements and procedures shall have no application to Restricted Data or formerly Restricted Data since access to such information may only be granted by the Atomic Energy Commission.

[FR Doc.72-19432 Filed 11-10-72;8:54 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

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

Yellowstone National Park, Wyo.; Operation of Commercial Passenger-Carrying Motor Vehicles

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3),

section 4 of the Act of May 7, 1894 (28 Stat. 73, 16 U.S.C. 26), 245 DMI (27 F.R. 6395), as amended, National Park Service Order No. 66 (36 F.R. 21218), as amended, and Midwest Region Order No. 5 (37 F.R. 6324), § 7.13 of Title 36 of the Code of Federal Regulations is hereby amended as set forth below.

The purpose of the amendment is to eliminate the clause "which tour did not originate within 500 miles of the park boundaries" from the first sentence of paragraph (f) as an unnecessary restriction on operation of passenger-carrying motor vehicles in the park and to substitute the clause "on which the visit to the park is an incident to such tour." In addition, the phrase "at or outside the park" has been deleted from the last sentence of paragraph (f) as misleading and unnecessary since no such services outside the park are provided pursuant to a contract with the Secretary of the Interior.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, due to immediate need for this change, the amendment will take effect immediately on publication in the FEDERAL REGISTER (11–11–72).

(5 U.S.C. 553; 39 Stat. 535, as amended; 16 U.S.C. 3)

Section 7.13 of Title 36 of the Code of Federal Regulations is hereby amended to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(f) *Commercial automobiles and buses.* The prohibition against the commercial transportation of passengers by motor vehicles in Yellowstone National Park contained in § 5.4 of this chapter shall be subject to the following exception: Motor vehicles operated on an infrequent and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round trip passengers traveling from the point of origin of the tour will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of overnight stay in the park and exit from the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destinations. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the superintendent that the tour originated from such place and in such manner as not to provide in effect a regular and duplicating service conflicting with, or in competition with, the services provided for the public pursuant to contract authorization from the Secretary. The superintendent shall have the authority to specify the route to be followed by such vehicles within the park.

* * * * *

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park, Wyoming.

[FR Doc.72–19385 Filed 11–10–72;8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 36—LOAN GUARANTY

Release of Liability

The Veterans Administration is amending §§ 36.4323 and 36.4508, Title 38 of the Code of Federal Regulations to implement the provisions of section 204 of Public Law 92–328 (86 Stat. 393). The amendment is issued pursuant to the authority of section 210(c), Title 38, United States Code. The regulations set forth the conditions under which a veteran who has disposed of residential property securing a guaranteed, insured, or direct loan obtained by him under 38 U.S.C. Ch. 37 without receiving a release from liability with respect to such loan may, after termination of the loan, be released from liability on the resulting indebtedness.

The regulations were published in proposed form in the FEDERAL REGISTER on August 24, 1972 (37 F.R. 17067), with a request for comment from interested parties. The few comments received approved the change insofar as it went but requested further extension of the new regulations. The suggested changes were beyond the scope of the law (Public Law 92–328) and therefore cannot be incorporated in the regulations.

Effective date. These VA regulations are effective on the date of approval of the Administrator.

Approved: November 6, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

1. In § 36.4323, paragraph (g) is added to read as follows:

§ 36.4323 Subrogation and indemnity.

* * * * *

(g) If, on or after July 1, 1972, any veteran disposes of residential property securing a guaranteed or insured loan obtained by him under 38 U.S.C. Ch. 37, without receiving a release from liability with respect to such loan under 38 U.S.C. 1817(a) and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if he determines that:

(1) A transferee either immediate or remote is legally liable to the Administrator for the debt of the original veteran-borrower established after the termination of the loan, and

(2) The original loan was current at the time such transferee acquired the property, and

(3) The transferee who is liable to the Administrator is found to have been a satisfactory credit risk at the time he acquired the property.

2. In § 36.4508, paragraph (c) is added to read as follows:

§ 36.4508 Transfer of property by borrower.

* * * * *

(c) If, on or after July 1, 1972, any veteran disposes of the property securing a direct loan obtained by him under 38 U.S.C. Ch. 37, without receiving a release from liability with respect to such loan under 38 U.S.C. 1817(a) and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if he determines that:

(1) A transferee either immediate or remote is legally liable to the Administrator for the debt of the original veteran-borrower established after the termination of the loan, and

(2) The original loan was current at the time such transferee acquired the property, and

(3) The transferee who is liable to the Administrator is found to have been a satisfactory credit risk at the time he acquired the property.

[FR Doc.72–19399 Filed 11–10–72;8:47 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72–34]

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

Nitrogen Tetroxide

The purpose of this amendment is to:

1. Authorize DOT 3A, 3AA, and 3E cylinders for nitrogen tetroxide, liquid.

2. Revise the exemptions concerning labeling requirements to bring them into consonance with DOT regulations.

On Wednesday, March 1, 1972, the Coast Guard published a notice of proposed rule making containing these proposals. A public hearing was held on May 24, 1972, and interested persons were given 90 days in which to submit written comments. No comments were

received on these proposals. The remaining six proposals contained in that notice will be handled in a future rule making.

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

§ 146.25–100 [Amended]

1. In § 146.25–100 "Table H-Classification: Class A extremely dangerous poisons" for the article "Nitrogen tetroxide, liquid" by adding to column 4 the following:

Authorized for nitrogen tetroxide liquid only:
Cylinders (DOT 3A1800, 3AA1800 or 3E1800) Specification 3A and 3AA cylinders must not exceed 125-pound water capacity (nominal) and must have valve protection or be packed in strong wooden or metal boxes as described in 49 CFR 173.327(a)(2). Specification 3E1800 cylinders must be packed in strong wooden or metal boxes.

2. By revising § 146.08–31 to read as follows:

§ 146.08–31 **Exemptions concerning labeling requirements.**

(a) Packages containing explosives or other dangerous articles or substances need not be labeled when the packages are loaded and unloaded under the supervision of Department of Defense personnel and under escort by Department of Defense personnel in a separate vehicle.

(b) Cylinders containing compressed gases classed as flammable or nonflammable need not be labeled when the cylinders are—

(1) Carried by private and contract motor carriers;

(2) Not overpacked; and

(3) Durable and legibly marked in accordance with CGA Pamphlet C–7 Appendix A, dated May 15, 1971, entitled "A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers."

This amendment becomes effective on February 16, 1973.

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

Dated: November 6, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72–19431 Filed 11–10–72;8:51 am]

Title 49—TRANSPORTATION

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

[Docket 71–1; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Glazing Materials; Response to Petitions for Reconsideration

This notice responds to petitions for reconsideration of an amendment published June 21, 1972 (37 F.R. 12237), to Motor Vehicle Safety Standard No. 205, "Glazing Materials" (49 CFR 571.205). Petitions were received from the Recreational Vehicle Institute (RVI) and the California Highway Patrol. To the extent that this notice does not grant the requests of the petitioners, they are hereby denied.

In the amendment of June 21, the NHTSA changed the application section of the standard, based on FHWA Ruling 68–1 (33 F.R. 5020, March 26, 1968) to expressly include glazing for use in all campers, and defined campers to include both slide-in or "pickup" campers (including a related item, pickup covers), and chassis-mount campers (campers mounted directly onto truck chassis). The 1968 ruling held that Standard No. 205 applied to glazing for use in slide-in campers, and that glazing for use in chassis-mount campers came within the standard when the camper was ultimately attached to a chassis, as a standard applied expressly to the glazing of the completed vehicle, a multipurpose passenger vehicle. The petitioner objects to this amendment on the basis that the recreational vehicle industry has distinguished between the two camper types, and has considered the latter a motor home (a multipurpose passenger vehicle under Standard No. 205), and the former an item of motor vehicle equipment. It requests in its petition that this earlier distinction be retained in the standard.

The NHTSA has determined that the petition of RVI in this regard should be granted, and the applicability section of the standard is amended to refer specifically both to glazing for use in "slide-in campers," as that term is defined in Motor Vehicle Safety Standard No. 126, Truck-Camper Loading (49 CFR 571.126), and to glazing for use in pickup covers. Chassis-mount campers are included in a newly defined category of multipurpose passenger vehicle, "motor home," and glazing for use in them is subject to the standard insofar as they are incorporated into completed vehicles.

The RVI petition also requested that the requirements of the standard for glazing for use in multipurpose passenger vehicles (including chassis-mount campers and other motor homes) be clarified, suggesting that the requirements be made identical to those for passenger car glazing, with an exception in the case of motor homes for locations other than windshields, and windows directly to the right and left of the driver. It further requested that forward-facing windows of motor homes be considered to be "openings in the roof" under ANS Z.26. The NHTSA has previously, as a matter of interpretation, taken the position that is embodied in this amendment, that for the purposes of Standard No. 205 glazing for use in multipurpose passenger vehicles is subject to the requirements for glazing for use in trucks. This is based on the definition of multipurpose passenger vehicle in section 571.3: "A motor vehicle with motive power, except a trailer, designed to carry 10 persons or less, which is constructed either on a truck chassis or with special features for occasional off-road operation." The agency has decided to adhere to this position.

An exception is hereby adopted for motor home windows other than windshields, forward-facing windows, and windows directly to the right and left of the driver. Manufacturers may use in these other locations any type of glazing allowed by the standard to be used in motor vehicles. This is the position previously adopted for slide-in campers, which have a purpose and use similar to motor homes. The effect of this provision is to allow the use in motor homes, except for windshields, forward-facing windows, and windows to the immediate right and left of the driver, of any item authorized for use in motor vehicles by Standard No. 205. Windshields and windows to the immediate right and left of the driver must conform to the requirements applicable to trucks for those locations. Forward-facing windows may be manufactured of any item authorized for use by the standard except item 6 (AS 6), item 7 (AS 7), and item 13 (AS 13) flexible plastics.

The California Highway Patrol has petitioned for reconsideration of that part of the amendment which seemed to delete a requirement that persons who cut glazing material must place on the cut material the prime manufacturer's marking. Section 6 of ANS Z26 requires sections of glazing cut from pieces bearing the markings required by that section to be identically marked. The June 21 notice did not delete this provision. It deleted that part of the proposed requirements specifying that persons who cut glazing materials include the DOT symbol and the prime manufacturer's code number. The language of the preamble (p. 12238, col. 3) was intended to reflect only that fact. This amendment clarifies those requirements to make it clear that persons who cut glazing must include the markings required by section 6 of ANS Z26 on each cut piece. The amendment also provides that the prime manufacturer's DOT symbol and code number are to be affixed only to glazing items made by the prime manufacturer as components for specific vehicles, and not on sheets to be cut into components by other persons.

The marking provisions are further amended to specify that the new items of glazing material authorized by the amendment of June 21 be identified for purposes of marking by the marks "AS 12" and "AS 13". The use of these marks does not indicate approval by the American National Standards Institute, but is specified for the purpose of consistency with existing marking requirements.

In light of the above, Motor Vehicle Safety Standard No. 205, Glazing Materials, appearing at 49 CFR 571.205, is amended as follows:

1. Paragraph S3., Application, is revised to read as follows:

S3. *Application.* This standard applies to glazing materials for use in passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles, slide-in campers, and pickup covers designed to carry persons while in motion.

2. Paragraph S4., Definitions, is revised to read as follows:

S4. *Definitions.* "Camper" means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

"Motor home" means a multipurpose passenger vehicle that provides living accommodations for persons.

"Pickup cover" means a camper having a roof and sides but without a floor, designed to be mounted on and removable from the cargo area of a truck by the user.

"Slide-in camper" means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

3. Paragraph S5.1.1.2 is revised to read as follows:

S5.1.2.2 * * *

(j) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

(k) Windows and doors in slide-in campers and pickup covers.

4. Paragraph S5.1.1.3 is revised to read as follows:

S5.1.1.3 * * *

(j) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

(k) Windows, except forward-facing windows, and doors in slide-in campers and pickup covers.

5. A new paragraph S5.1.1.5 is added, to read as follows:

S5.1.1.5 *Multipurpose passenger vehicles.* Except as otherwise specifically provided by this standard, glazing for use in multipurpose passenger vehicles shall conform to the requirements for glazing for use in trucks as specified in ANS Z26.

6. Paragraph S5.1.2.1 is revised to read as follows:

S5.1.2.1 *Item 12—Rigid plastics.*

* * * * *

(a) Windows and doors in slide-in campers and pickup covers.

* * * * *

(g) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

7. Paragraph S5.1.2.2 is revised to read as follows:

S5.1.2.2 *Item 13—Flexible plastics.*

* * * * *

(a) Windows, except forward-facing windows, and doors in slide-in campers and pickup covers.

* * * * *

(g) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

8. Paragraph S6. is revised to read as follows:

S6. *Certification and marking.*

S6.1 Each prime glazing material manufacturer, except as specified below, shall mark glazing materials manufactured by him in accordance with section 6 of ANS Z26. The materials specified in S5.1.2.1 and S5.1.2.2 shall be identified by the marks "AS 12" and "AS 13" respectively. A prime glazing material manufacturer is one who fabricates, laminates, or tempers the glazing material.

S6.2 Each prime glazing material manufacturer shall certify each piece of glazing material to which this standard applies that is designed as a component of any specific motor vehicle or camper, pursuant to section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, by adding to the mark required by S6.1 in letters and numerals of the size specified in section 6 of ANS Z26, the symbol "DOT" and a manufacturer's code mark, which will be assigned by the NHTSA on the written request of the manufacturer.

S6.3 Each prime glazing material manufacturer shall certify each piece of glazing material to which this standard applies that is designed to be cut into components for use in motor vehicles or items of motor vehicle equipment, pursuant to section 114 of the National Traffic and Motor Vehicle Safety Act.

S6.4 Each manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, shall mark that material in accordance with section 6 of ANS Z26.

S6.5 Each manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, shall certify that his product complies with this standard in accordance with section 114 of the National Traffic and Motor Vehicle Safety Act.

Effective date. The effective date of April 1, 1973, is retained.

(Secs. 103, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1403, 1407; delegation of authority, 49 CFR 1.51)

Issued on November 8, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-19487 Filed 11-9-72;10:56 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—OTHER REGULATIONS RELATING TO TRANSPORTATION

[Ex Parte No. MC-83]

PART 1053—CONTRACTS FOR THE TRANSPORTATION OF PROPERTY

Contract Carrier Authority; Definition of Shipper

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of October 1972.

In the matter of Administrative Ruling No. 76, No. MC-C-6786, Milton K. Morris, Inc., petition for declaratory order.

It appearing, that by notice of proposed rule making and order of October 14, 1970, this Commission instituted the above-cited rule making proceeding to consider whether and to what extent Commission policies announced informally in Administrative Ruling No. 76 in 1939, should be revised in the light of present-day conditions and practices surrounding and affecting the operations of a contract carrier by motor vehicle as defined in section 203(a)(15) of the Interstate Commerce Act; and to take such other and further action as the facts and circumstances may justify or require;

It further appearing, that the proceeding in No. MC-C-6786 was held open pending the determination in the above-cited Ex Parte proceeding;

And it further appearing, that investigation of the matters and things involved in these proceedings having been made, and the Commission having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, That Part 1053 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new § 1053.7, reading as follows:

§ 1053.7 Contract carrier authority—definition of shipper.

Contracts of contract carriers, as required by Ex Parte No. MC-12 (1 M.C.C. 628), must be between the contract carrier and a particular shipper or shippers. The term "shipper" means the person who controls the transportation and refers to the actual shipper rather than an intermediary. Such shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation and such person will be presumed to be the shipper. However, this presumption is rebuttable and can be rebutted by evidence demonstrating that a person not paying the transportation charges controls the selection of the carrier and the routing of the shipment. In such an instance, the person selecting the carrier and controlling the routing of the shipment would be presumed to be the shipper. The contract carrier may not transport property for shippers other than the shipper with whom he has a contract.

It is further ordered, That in all other respects, the petition in No. M-C-6786 be, and it is hereby, denied.

It is further ordered, That this order shall become effective on December 26, 1972, and shall continue in effect until the further order of this Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the

Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-19458 Filed 11-10-72;8:50 am]

Title 6—ECONOMIC STABLIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Extension of Control Year for Nonunion Construction

The purpose of the amendment set forth below is to provide a new definition of the term "control year" for pay adjustments involving certain nonunion construction employees. Under present § 201.82(f), that term means the 12-month period beginning on November 14, 1971, and ending on November 13, 1972. The amendment would extend the definition to mean each succeeding 12-month period beginning on November 14.

Since this amendment is essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedure is impracticable and that good cause exists for promulgating this amendment in less than 30 days. Interested persons may submit written comments regarding the amendment. Communications should be addressed to the Office of the General Counsel, Pay Board, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), Executive Order No. 11,640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11,660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended)

Effective date. This amendment is effective November 11, 1972.

GEORGE H. BOLDT,
Chairman.

Section 201.82 is amended by revising paragraph (f) to read as follows:

§ 201.82 Definitions.

For purposes of this subpart, the term

* * * * *

(f) "Control year" means the period from November 14, 1971 through November 13, 1972, and each succeeding 12-month period beginning on November 14.

* * * * *

[FR Doc.72-19603 Filed 11-10-72;12:05 pm]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

HANDLING OF CRANBERRIES GROWN IN CERTAIN STATES

Proposed Expenses for Fiscal 1971–72

Consideration is being given to the following proposal submitted by the Cranberry Marketing Committee established pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

a. That the Secretary find that provisions pertaining to the expenses in paragraph (a) of § 929.212 *Expenses and rate of assessment* (36 F.R. 24213) be amended as follows:

§ 929.212 **Expenses and rate of assessment.**

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1971, through August 31, 1972, will amount to $54,575.

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 8, 1972.

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

[FR Doc.72-19466 Filed 11-10-72;8:50 am]

[7 CFR Part 1121]

[Docket No. AO-364-A5]

MILK IN SOUTH TEXAS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the South Texas marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the seventh day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, as amended, were formulated was conducted at Washington, D.C., on December 13, 1971, pursuant to notice thereof which was issued December 3, 1971 (36 F.R. 23222).

This hearing was held to consider certain proposed amendments to all Federal milk orders in effect, including the South Texas order. Following the issuance of a recommended decision on January 5, 1972 (37 F.R. 447), and a final decision on January 24, 1972 (37 F.R. 1388), concerning the hearing proposals, all orders except the South Texas order were amended effective February 1, 1972 (37 F.R. 2927).

A decision on the proposed amendments to the South Texas order was deferred pending the outcome of a preliminary injunction by the U.S. District Court for the District of Columbia which restrained the Secretary from effectuating an order, issued July 16, 1971, terminating the South Texas order. On October 26, 1972, the court vacated its preliminary injunction and the order terminating the South Texas order was rescinded by the Assistant Secretary on November 7, 1972. These actions now permit a decision on the proposed amendments to the South Texas order.

The material issues on the record of the hearing relate to:

1. Advancing the date for announcing the Class I price; and
2. Taking emergency action on Issue 1.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Advance pricing.* The South Texas order should provide that the Class I price for the month be announced by the fifth day of the preceding month, and that such price be based on the Minnesota-Wisconsin price (basic formula price) for the second preceding month. Presently, the order requires that the Class I price be announced by the fifth day of the current month, and that it be based on the Minnesota-Wisconsin price for the preceding month.

This manner of computing and announcing the Class I price was incorporated in each of the other 61 orders included in this hearing. In the January 24, 1972, decision for these orders, the following findings and conclusions were set forth:

"The Milk Industry Foundation (MIF), whose membership includes handlers under the 62 orders, proposed the earlier determination and announcement of Class I prices adopted herein. MIF claims that because handlers are unable to adjust their resale prices at the same time as, or within a reasonable period of, the change in their raw material cost, they are forced to absorb Class I price increases for extended periods before they can make necessary adjustments in their resale prices. The need for advance pricing is particularly urgent now, according to MIF, because of the requirements to which handlers are subject under the Economic Stabilization Act. Proponents claim handlers would be required to substantiate resale price increases resulting from Class I price changes in accordance with steps prescribed pursuant to that Act."

This procedure, it is argued, will extend even further the period of time between a Class I price change and the corresponding adjustment in resale prices.

"A handler who operates regulated plants under a number of orders testified in support of the MIF proposal. The witness emphasized particularly that advance pricing is needed by handlers to enable them to change resale prices at the same time the Class I price increases. He stated that handlers are now at a disadvantage in not knowing the Class I price for the month before the fifth of the month and, therefore, are unable to institute resale price changes before the greater part of the month to which the Class I price applies is over.

"National Milk Producers Federation (NMPF), which represents producer associations under the 62 orders, supported the MIF proposal. A number of producer association members of NMPF maintain milk processing and distribution operations. According to the NMPF witness, such associations have the same interest in advance Class I pricing as do proprietary handlers. The witness further stated that its other producer association members, however, fully support the proposal. He took the position that using the Minnesota-Wisconsin price for a month earlier than at present (in computing the Class I price) would not result in producers receiving any less money for

their milk than they do now. He reasoned that the increases and decreases from month to month in the Class I price (due to changes in the Minnesota-Wisconsin price) would be fully reflected in returns to producers as they now are, except for a delay of 1 month.

"The spokesman for the cooperative representing producers under five orders in the Northeast stated that the cooperative had not had sufficient time to study the proposal and its effect on its members, and therefore, urged that no action be taken on it. He questioned particularly whether the principal basis of proponents for requesting advance pricing is a valid one. In this connection, he cited an earlier decision of the Secretary in which it was found that there is no basis for assuming that there is a direct relationship between changes in Class I prices and changes in prices charged to stores and to consumers.

"The rapidly changing structure of the milk distribution industry throughout the United States makes it desirable that handlers be notified at a reasonable period in advance of changes in the price they must pay for Class I milk. An increasing proportion of the milk distribution throughout the country is by large firms, including cooperative associations as well as proprietary handlers. The centralized control of these large distributors requires a longer period of time between the date a Class I price change is announced and the time when the change may be made in their resale prices.

"According to an industry witness, it is mechanically impossible to place in effect a price increase in less than 2 to 4 weeks after learning of Class I price changes. This problem is compounded by the adoption of machine accounting by both handlers and retailers. Computer programs must be changed by both parties, a new price list developed and circulated by handlers, and new pricing schedules issued to retailers by both chain and cooperative buying groups.

"The major portion of the distribution of the principal handlers in the order markets is to large volume buyers such as supermarket chains and institutions (e.g., hospitals, schools). The prices at which sales are made to these are primarily on a contractual basis, many by advance bidding. Announcing Class I prices before the month to which they apply will facilitate the resale pricing of milk sold to large volume outlets.

"Replacing the Minnesota-Wisconsin price for the month immediately preceding with that for the second preceding month for computing Class I prices need not have, as testified by producers, any significant effect on producer returns since the proposed change only involves advance setting of price and not a change in the basis of pricing Class I milk."

These findings and conclusions concerning the marketing conditions in the areas regulated by the 61 orders are equally applicable to the South Texas market. Accordingly, the manner of computing and announcing the Class I price that was adopted in the January 24, 1972, decision for the 61 orders likewise should be adopted for the South Texas order.

To maintain pricing continuity for the first month in which these changes are effective, it is necessary to specify in the order that the market administrator shall announce by the fifth day of such month the Class I price for that month as well as the Class I price for the following month. As under the new pricing arrangement, the Class I price announced for this first month should be computed by using the Minnesota-Wisconsin price for the second preceding month. Using the earlier Minnesota-Wisconsin price will result in the South Texas Class I price being coordinated with the Class I prices under other Federal orders in this first month.

No change should be made in the method of computing the Class I butterfat differential. This differential, which is announced for the current month by the fifth day of such month, is based on the average of the wholesale selling prices of 92-score butter at Chicago for the preceding month.

Proponents advocating the use of the Minnesota-Wisconsin price for the second preceding month in computing the Class I price proposed at the hearing that the Class I butterfat differential be announced by the fifth day of the preceding month and be based on the Chicago butter prices for the second preceding month. The hearing notice contained no proposal, however, for advancing the Class I butterfat differential announcements. Those proposing it urged its adoption as an appropriate corollary change.

This proposal was not adopted for the other 61 orders included in this hearing. The following findings and conclusions on this issue were set forth in the 61-market decision:

"The Class I butterfat differential changes infrequently. This is because the Chicago butter price quotations, which are strongly influenced by the prices paid for butter by the Government under the price support program, do not vary significantly from month to month. Consequently, there is no compelling need to advance the Class I butterfat differential announcement in connection with the adoption of advance Class I pricing. Moreover, proposals to revise the butterfat differential provisions in 40 of the 62 orders were considered at hearings which began in Clayton, Mo., July 14, 1970 (35 F.R. 10694), for seven orders and in Atlanta, Ga., on October 18, 1971 (36 F.R. 19604), for 33 orders. Action on the record of these hearings has not been completed. It would be inappropriate, therefore, to amend any butterfat differential provision in these orders without full consideration of the evidence on the still open records of the hearings previously held."

There is no basis on the record of this hearing for taking a different action with respect to the Class I butterfat differential under the South Texas order than was taken for the other orders that were under consideration.

The uniform provisions concerning the announcement of class prices, butterfat differentials, and uniform prices that were adopted for the 61 other orders included in this hearing should be incorporated in the South Texas order. For Class I, the price announced by the fifth day of the month would be that for the following month, while the announced butterfat differential would be that for the current month. The Class II price and butterfat differential announced by that date would be for the preceding month, as at present. The announcement date for the uniform price under this and other orders was not under consideration and is unchanged by this decision. Under the uniform provisions for price announcements the market administrator will continue to have an obligation to notify handlers and other interested parties of all price announcements.

Similarly, the uniform basic formula price provisions that were adopted for the 61 orders should be adopted for the South Texas order. As provided herein, the basic formula price would be "the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent-butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33."

As noted in the decision for the other 61 orders, no purpose is served by the variations among orders in the language used to define the basic formula price. The South Texas order, therefore, should be made uniform in this respect with the other orders. This change will not affect the level of the basic formula price now existing under the South Texas order.

In the 61-market decision, it was stated that the Class I price under all orders "is determined, directly or indirectly, by adding a differential to the basic formula price. In most orders the Class I differential is a stated amount 'plus 20 cents.' The 'plus 20 cents,' which was instituted in these orders by amendment for specified periods prior to January 1, 1969, has been effective without a termination date since then. There is, therefore, no apparent need to continue listing the 'plus 20 cents' separately from the stated Class I differential. In the amended order language here adopted, the Class I differential for each order is stated as one amount, which includes the plus 20 cents heretofore listed separately." For these same reasons, a comparable change should be made in the manner of stating the Class I price differential in the South Texas order.

2. *Emergency action.* Proponents requested that the recommended decision on proposed amendments to the 62 orders under consideration be omitted to facilitate prompt effectuation of the advance pricing provisions. This request, which was denied for the 61 orders dealt with in the earlier decision, likewise is denied for the South Texas order.

A primary reason advanced by proponents for emergency action is the time-consuming procedures required for making price changes under the Economic Stabilization Program (Phase II). This is not a problem distinguishable on the record from the problems faced by participants in many other industries with respect to the pricing of their goods. Also, there is uncertainty at present of the extent to which the various categories of milk handlers are affected by that program. It cannot be concluded, therefore, that the requirements of the Economic Stabilization Act per se warrant the emergency action requested.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the South Texas marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1121.22, paragraph (i) is revised as follows:

§ 1121.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

* * * * *

2. Section 1121.50 is revised as follows:

§ 1121.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent-butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

3. In § 1121.51, paragraph (a) is revised as follows:

§ 1121.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.68.

* * * * *

Signed at Washington, D.C., on November 7, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-19422 Filed 11-10-72;8:49 am]

Animal and Plant Health Inspection Service

[9 CFR Part 71]

INTERSTATE MOVEMENT OF CATTLE

Proposed Identification

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126), the Animal and Plant Health Inspection Service is considering amending § 71.18 of Part 71, Title 9, Code of Federal Regulations.

Section 71.18 would be amended to read:

§ 71.18 Individual identification of certain cattle 2 years of age or over for interstate movement.

(a) No cattle 2 years of age or over, except steers and spayed heifers, shall be moved interstate other than in accordance with the requirements of this section. All interstate movements of any cattle shall also comply with the other applicable provisions in this part and other parts of this subchapter.

(1) When permitted under such other provisions, cattle subject to this section:

(i) May be moved interstate from any point to any destination, if such cattle, when moved interstate, are identified by a Department-approved backtag affixed a few inches from the midline and just behind the shoulder of the animal, or by other means approved by the Deputy Administrator, Veterinary Services, upon request in specific cases, and if such cattle are accompanied by a statement signed by the owner or shipper of the cattle, or other document,[1] stating: (*a*) The point from which the animals are moved interstate; (*b*) the destination of the animals; (*c*) the number of animals covered by the statement, or other document; (*d*) the name and address of the owner or shipper; [2] and (*e*) the identify-

[1] Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed information concerning the shipment as required in § 71.18(a)(1)(i).

[2] Department-approved backtags are available at such stockyards and slaughtering establishments, and from Federal and State inspectors as defined in § 78.1 of this subchapter. Information with respect to the federally inspected slaughter establishments, specifically approved slaughtering establishments, and specifically approved stockyards may be obtained as indicated in §§ 78.14 and 78.15 of this subchapter. Posted stockyards are designated by posting tariff rates at such stockyards and by publication in the FEDERAL REGISTER.

ing numbers of the backtags or other approved identification applied: *Provided*, That identification numbers are not required to be recorded on such statement or document for cattle moved from a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or slaughtering establishment specifically approved under § 78.16 (b) of this subchapter; or

(ii) May be moved interstate only from a farm, ranch, or feedlot to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or slaughtering establishment specifically approved under § 78.16(b) of this subchapter; or to a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), for sale and shipment to such a slaughtering establishment, if such cattle are identified when received at such slaughtering establishment or stockyard by the application of Department-approved backtags or by other approved identification as prescribed in subdivision (i) of this subparagraph, and, when moved interstate, are accompanied by a statement signed by the owner or shipper of the cattle, or other document[1] stating: (*a*) The point from which the animals are moved interstate; (*b*) the destination of the animals; (*c*) the number of animals covered by the statement or other document; and (*d*) the name and address of the owner or shipper: *Provided*, That the application of backtags is not required if such cattle are moved interstate to a federally inspected or specifically approved slaughtering establishment and if, when moved interstate, such cattle are identified by individual brands registered with an official brand inspection agency and are accompanied by an official brand inspection certificate: *And provided further*, That the application of backtags is not required when such cattle are moved interstate to a federally inspected or specifically approved slaughtering establishment, which maintains records of ownership of cattle by slaughter lot number;[2] or

(iii) May be moved interstate for breeding or dairy purposes if such cattle, when moved interstate are identified by Animal and Plant Health Inspection Service-approved eartags in lieu of backtags, and are accompanied by an owner's statement or other document[1] stating: (*a*) The point from which the animals are moved interstate, (*b*) the destination of the animals, (*c*) the number of animals covered by the statement or other document, (*d*) the identifying numbers of the eartags, and (*e*) the name and address of the owner or shipper: *Provided*, That identification by eartag is not required if such animals are registered purebred animals which are moved interstate for purposes other than slaughter and are identified in a manner acceptable to the appropriate breed association for registration purposes; or are identified by individual brands registered with an official brand inspection agency and are accompanied by an official brand inspection certificate as prescribed in subdivision (ii) of this subparagraph.

(2) The owner's or shipper's statement or other document[1] or registered purebred identification required by this section for cattle moved under subparagraph (1) (i) or (ii) of this paragraph shall be delivered to the management of the stockyard or slaughtering establishment at the time of delivery of the cattle;[4] and documents accompanying animals moved under subparagraph (1) (iii) of this paragraph for breeding or dairy purposes shall be delivered to the consignee. All such documents shall be made available for inspection on request by a State or Federal inspector or an accredited veterinarian, as defined in § 78.1, at any time within 1 year from the date of such delivery.

(3) Each person who ships, transports, or otherwise causes the movement of the cattle interstate is responsible for the identification of the animals as required by this section. No person shall remove or tamper with an identification backtag or eartag required in this section for interstate movement of animals, except as may be authorized by the Deputy Administrator, Veterinary Services, upon request in specific cases and under such conditions as he may impose to insure continuing identification.

The purpose of the foregoing proposed amendments would be to: (1) Require the identification by backtags or other approved means of all cattle 2 years of age or over moving interstate, except steers and spayed heifers (and certain cattle moving directly to slaughter); (2) permit cattle being moved interstate for dairy or breeding purposes to be identified by eartags in lieu of backtags; and, (3) exempt registered purebred animals being moved interstate for purposes other than slaughter from the backtagging or eartagging requirements. The proposed amendments would facilitate the identification of livestock in marketing channels and the tracing of diseased animals directly to farms of origin, which would make it possible to more efficiently control the spread of diseases by isolation and eradication of infection where found.

Great progress has been made in the control and eradication of communicable diseases of livestock, such as brucellosis, scabies, and tuberculosis. However, it is known that the contagion of brucellosis still exists in domestic animals in most States and Puerto Rico and there is reason to believe that communicable diseases of livestock may exist throughout the United States. The threat of the introduction of foot-and-mouth disease or other exotic diseases is ever present. The rapid transportation of animals in commercial channels makes it essential to locate and suppress foci of infection in the most rapid manner possible. The most efficient way to do this is to identify livestock in marketing channels and to trace diseased animals directly to farms of origin. In this manner, continued progress in disease eradication programs can be achieved; the interstate spread of diseases can be minimized by isolation and eradication of infection where found; and the probability of rapidly tracing diseases of foreign origin will be greatly strengthened.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, written 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 7th day of November 1972.

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

[FR Doc.72-19426 Filed 11-10-72;8:53 am]

[1] It is the responsibility of the person who causes the interstate movement to determine whether the establishment maintains such records. As evidence that the establishment does maintain such records such person should obtain a statement to that effect from the management of the establishment and retain it for a period of 5 years from the date of the shipment.

[4] The backtag or other identification numbers should be included on the receiving document of the stockyard or establishment for all such cattle identified by backtags or other identification after arrival at such stockyard or establishment.

[9 CFR Part 94]

RINDERPEST AND FOOT-AND-MOUTH DISEASE

Proposed Prohibitions and Restrictions on Importation of Meat and Other Articles; Declaration of Uninfested Countries

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to sections 106 and 107 of the Act of May 23, 1957, section 306 of the Act of June 17, 1930, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (7 U.S.C. 150ee, 150ff, 19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134b, 134c, 134f), the Department of Agriculture is considering the following proposed amendments of Part 94, Title 9, Code of Federal Regulations, relating to additional prohibitions and restrictions on importation of meat and other articles:

1. In § 94.1, paragraph (a) and the introductory portion of paragraph (c) would be amended to read:

§ 94.1 Designation of countries where rinderpest or foot-and-mouth disease exists; importation prohibited; exceptions.

(a) Notice is hereby given that, in accordance with section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), it has been determined, and official notice has been given to the Secretary of the Treasury that:

(1) Rinderpest or foot-and-mouth disease exists in all countries of the world, except those listed in subparagraph (2) of this paragraph;

(2) The following countries are declared to be free of both rinderpest and foot-and-mouth disease:

Australia.	Dominican Republic.
Bahama Islands.	El Salvador.
Bermuda.	Fiji.
British Honduras.	Great Britain (England, Scotland, Wales, and Isle of Man).
British Virgin Islands.	Mexico.
Canada.	New Zealand.
Channel Islands.	Nicaragua.
Greenland.	Northern Ireland.
Guatemala.	Norway.
Haiti.	Panama.
Honduras.	Panama Canal Zone.
Iceland.	Sweden.
Ireland.	
Jamaica.	
Japan.	
Costa Rica.	

* * * * *

(c) Except as otherwise provided in this part, fresh, chilled, or frozen meat of ruminants or swine which originates in and is shipped from a country other than those designated in paragraph (a) of this section as infected with rinderpest or foot-and-mouth disease and which enters any port of such an infected country or otherwise transits such an infected country en route to the United States, may be imported into the United States insofar as the restrictions of this part are concerned, if:

* * * * *

2. In § 94.5, the present provisions would be amended to read:

§ 94.5 Garbage.

Garbage aboard any aircraft, vessel, railroad car, or other means of conveyance that has been outside the territorial limits of the United States and Canada shall not be imported into the United States (including the territorial waters thereof) except in accordance with the following conditions: It shall not be unloaded from such means of conveyance in the United States unless such garbage is removed in tight receptacles under the supervision of an Animal and Plant Health Inspection Service inspector for sterilization in a facility approved by the Deputy Administrator, Veterinary Services, or for incineration, or other appropriate handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator, Animal and Plant Health Inspection Service, as adequate to prevent the introduction into or dissemination within the United States of livestock, poultry, and plant diseases and plant pests. Importation into the United States of any garbage derived in whole or in part from meat originating in any country designated in § 94.1 as infected with rinderpest or foot-and-mouth disease is prohibited by law (19 U.S.C. 1306).

4. Section 94.7 would be amended to read:

§ 94.7 Disposal of animals, meat, and other articles ineligible for importation.

(a) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by ocean vessel and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 48 hours, and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(b) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States aboard an airplane or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 24 hours and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(c) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by any means other than ocean vessel, airplane, or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 8 hours on the same means of conveyance and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(d) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by any means but are not offered for entry into this country; and other animals, meats, and other articles prohibited importation under other sections of this part which come into the United States by any means, whether they are offered for entry into this country or not, shall be immediately destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct at any time in accordance with section 2 of the Act of February 2, 1903, as amended, or section 2 of the Act of July 2, 1962 (21 U.S.C. 111, 134a).

§ 94.8 [Amended]

5. In § 94.8 the reference to Italy would be deleted.

6. A new § 94.11 would be added to read:

§ 94.11 Restrictions on importation of meat and other animal products from specified countries.

(a) Great Britain (England, Scotland, Wales, and the Isle of Man), Japan, Norway, and Sweden, which are declared in § 94.1 to be free of rinderpest and foot-and-mouth disease, supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) to be infected with rinderpest or foot-and-mouth disease; or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States; Thus, even though this Department has declared such countries to be free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in such free countries may be commingled with the fresh, chilled, or frozen meat of animals from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, meat of ruminants or swine, and other animals products, and ships stores, airplane meals, and baggage containing such meat or animal products originating in Great Britain (England, Scotland, Wales, or the Isle of Man), Japan, Norway, and Sweden, shall not be imported into the United States unless the following requirements in addition to other applicable requirements of this Chapter III are met. As used in this section, the term "other animal product" means all parts of the carcass of any ruminant or swine, other than meat and articles regulated under Part 95 or 96 of this chapter.

(b) All meat or other animal product from such countries, whether in personal-use amounts or commercial lots (except that which has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling and before such cooking and sealing so as to result in a fully sterilized product

in a hermetically sealed can which is shelf stable without refrigeration) shall have been prepared only in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the regulations in § 327.2, Chapter III of this title, issued thereunder, and shall be accompanied by a Department-approved meat inspection certificate prescribed in § 327.4 in Chapter III of this title, or similar certificate approved by the Deputy Administrator, Veterinary Services, as adequate to effectuate the purposes of this section, regardless of the purpose or amount of product in the shipment.

(c) Shipments of such meat or other animal product must be accompanied by an additional certificate, signed by a full-time salaried veterinary official of the agency in the national government having responsibility for the health of animals within that country, giving the name and official establishment number of the establishment where the animals involved were slaughtered and stating that:

(1) The slaughtering establishment is not permitted to receive animals that originated in, or have ever been in, or that have been aboard a means of conveyance at the time such means of conveyance called at or landed at a port in, a country listed in § 94.1(a) as a country infected with rinderpest or foot-and-mouth disease;

(2) The slaughtering establishment is not permitted to receive meat or other animal products derived from ruminants or swine which originated in such a rinderpest or foot-and-mouth disease infected country, or meat or other animal products from a rinderpest and foot-and-mouth disease free country transported through a rinderpest or foot-and-mouth disease infected country except in containers sealed with serially numbered seals of the national government of the noninfected country or origin;

(3) The meat or other animal product covered by the certificate was derived from animals born and raised in a country listed in § 94.1(a)(2) as free of rinderpest and foot-and-mouth disease and the meat or other animal product has never been in any country in which rinderpest or foot-and-mouth disease existed;

(4) The meat or other animal product has been processed, stored, and transported to the means of conveyance that will bring the article to the United States in a manner to preclude its being commingled or otherwise in contact with meat or other animal products that do not comply with the conditions contained in this certificate.

The proposed amendments would: (1) Clarify and simplify designation of countries with rinderpest and foot-and-mouth disease; (2) identify those countries found free of rinderpest and foot-and-mouth disease and those in this category which practice importation procedures that might constitute an undue risk of introduction of livestock disease into the United States if products from such countries were allowed into the United States, without special safeguards; (3) restrict importation of meat and other animal products, including ships stores, airplane meals, and baggage containing meat or animal products, and garbage into the United States from certain countries; (4) reduce time limitations for removal from the United States of animals, meat, and other articles ineligible for importation into the United States; and (5) delete Italy from the list of countries where African swine fever exists.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, 6505 Belcrest Road, Room 370, Hyattsville, MD 20782, during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 7th day of November 1972.

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

[FR Doc.72-19425 Filed 11-10-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 26]

[CGD 72-223P]

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE RULES FOR THE GREAT LAKES

Notice of Proposed Rule Making

At the request of the Lake Carriers' Association, the Coast Guard is considering amending the Vessel Bridge-to-Bridge Radiotelephone Regulations to change the radiotelephone frequency and frequency use requirements for vessels operating on the waters of the Great Lakes.

Section 7 of the Vessel Bridge-to-Bridge Radiotelephone Act provides in pertinent part that—where a local communications system fully complies with the intent of the concept of the Act, but does not conform in detail, the Secretary of the Department in which the Coast Guard is operating, may issue exemptions from any provisions of the Act, on such terms and conditions as he considers appropriate. This authority is delegated to the Commandant of the Coast Guard under 49 CFR 1.46(o)(2).

Vessels operating on the waters of the Great Lakes have, for many years, used a VHF radiotelephone communications system, primarily for the purpose of increasing the safety of navigation.

Under the system in use on these waters, the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operators' navigation stations—this is within the intent of the concept of the Bridge-to-Bridge Radiotelephone Act.

As required by the Act, vessels operating on these waters are equipped with multichannel VHF radiotelephone equipment, capable of transmitting and receiving on the 156–162 MHz band using emission designated by the Federal Communications Commission for the exchange of navigational information. However, the Great Lakes VHF radiotelephone system uses 156.8 MHz as a common distress, safety, and calling frequency. After establishing communication, operators may continue the exchange of information on other frequencies commonly used for the system.

The Coast Guard will hold a public hearing on Monday, December 4, 1972, at 9:30 a.m., Room 2069, Federal Building, 1240 East Ninth Street, Cleveland, OH. Interested persons are invited to attend the hearing and participate in this proposed rule making by presenting oral or written statements on the proposal. The public hearing will be informal and intended to obtain views and information from those persons affected by the proposal. There will be no cross-examination of persons presenting statements. Written comments may also be addressed to Commandant (GCMC), U.S. Coast Guard Headquarters, Room 8234, 400 Seventh Street SW., Washington, DC 20590.

The Coast Guard will consider each written comment received before December 15, 1972, and each oral and written comment submitted at the public hearing and then take final action on this proposal. The proposed amendment may be changed in light of comments received. Interested persons may examine all comments received by the Coast Guard at Room 8234, U.S. Coast Guard Headquarters, Washington, D.C.

The substance of the rule change is as follows:

1. The proposed amendment would apply to every vessel that is subject to the Vessel Bridge-to-Bridge Radiotelephone Act when navigating on those waters governed by the Navigation Rules for Great Lakes and their connecting and tributary waters (33 U.S.C. 241 et seq.).

2. The master or person in charge of a vessel to which the amendment applies would be required to maintain a listening watch on 156.8 MHz, rather than 156.65 MHz.

3. The amendment would allow the transmission and confirmation of vessel maneuvering intentions and any other information necessary for the safe navigation of vessels on 156.30 MHz or 156.40

MHz, after communications are initiated on 156.8 MHz.

(Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164; 33 U.S.C. 1201–1208; 49 CFR 1.46(o)(2))

Dated: November 7, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–19429 Filed 11–10–72;8:51 am]

[33 CFR Part 117]

[CGD 72–224P]

NANSEMOND RIVER, VA.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Virginia Department of Highways bridge on U.S. Route 460 across the Nansemond River at Suffolk to permit the draw to remain permanently closed to the passage of vessels; the draw is presently opened on signal if at least 12 hours notice is given. This change is being considered because the oil company located upstream from this bridge, the sole user, has converted from water to land transportation for supplying this facility and because a dam located approximately ½-mile upstream effectively prevents navigation above the dam.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 15, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraph (28–a) of paragraph (f) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(28–a) Nansemond River, Va.; Virginia Department of Highways bridge on U.S. Route 460 at Suffolk. The draw need not open for the passage of vessels, and paragraph (b) through (e) of this section shall not apply to this bridge. However, the bridge owner shall return the draw to operable condition within 6 months after notification by the Commandant to take such action.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Dated: November 8, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72–19430 Filed 11–10–72;8:51 am]

[46 CFR Part 146]

[CGD 72–182PH]

DANGEROUS CARGOES

Transportation or Storage

The Coast Guard is considering amending the dangerous cargoes regulations to:

1. Revise the regulation on ammonium nitrate and other nitrates.

2. Update the shipping names of certain dry chlorine compounds and to permit portable tanks to be used as packaging.

3. Permit the DOT–6D cylindrical steel overpack as a package for titanium sulfate solutions.

4. Grant exemptions for motor vehicle passenger restraint systems.

5. Grant exemptions for hydraulic-accumulators.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (GCMC), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGD 72–182PH), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

The Coast Guard will hold a hearing on December 12, 1972, at 9:30 a.m. in Conference Room 8334, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (GCMC), 400 Seventh Street, SW., Washington, DC 20590.

All communications received before December 29, 1972, will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 16108 of the August 10, 1972, issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR Part 146.

In consideration of the foregoing, it is proposed to amend Part 146 of Title 46 of the Code of Federal Regulations as follows:

§ 146.04–5 [Amended]

1. Section 146.04–5 "List of explosives and other dangerous articles and combustible liquids by:

a. Striking out the following entries:

Article	Classed as	Label required
Clacium nitrate	Oxy. M	Yellow.
* * *	* * *	* * *
Dcihloroisocyanuric acid, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
* * *	* * *	* * *
Potassium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
* * *	* * *	* * *
Sodium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
* * *	* * *	* * *
Trichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
* * *	* * *	* * *

b. Adding the following entries:

Article	Classed as	Label required
* * *	* * *	* * *
Ammonium nitrate fertilizer *containing no more than 0.2 percent carbon*.	Oxy. M	Yellow.
* * *	* * *	* * *
Mono-(trichloro) tetra(monopotassium dichloro)-penta-s-triazenetrione (*dry containing more than 39 percent available chlorine.*	Oxy. M	Yellow.
* * *	* * *	* * *
Potassium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.
* * *	* * *	* * *
Sodium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.
* * *	* * *	* * *
Trichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.

c. Revising the following entry:

Article	Classed as	Label required
* * *	* * *	* * *
*Ammonium nitrate phosphate	Oxy. M	Yellow.
* * *	* * *	* * *

§ 146.22–200 [Amended]

2. Section 146.22–200 "Table E-Classification: Oxidizing materials" by:

a. Striking out the entries in all seven columns for the following articles:

(1) Calcium nitrate.
(2) Dichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.
(3) Potassium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.
(4) Sodium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.
(5) Trichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.

b. Adding the following articles in proper alphabetical sequence:

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation			
			Cargo vessel	Passenger vessel	Ferry vessel, passenger or vehicle	R.R. car ferry, passenger or vehicle
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).		Yellow	Stowage: "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (AA). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Potassium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*). Sodium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	*White crystalline powder granules.* *Hygroscopic.* *Up to 59 percent available chlorine.* Keep dry and cool. *White crystalline powder.* *Hygroscopic.* *Up to 60 percent available chlorine.* Keep dry and cool.	Yellow	Stowage: "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: DOT-6A, 6B, 6C) not over 55. gal. cap. (DOT-17E, 17H, 37A 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).	Ferry stowage (AA). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).
* * *	* * *	* * *	* * *	* * *	* * *	* * *

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation	Required conditions for transportation—Continued		
			Cargo vessel	Passenger vessel	Ferry vessel, passenger or vehicle	R.R. car ferry, passenger or vehicle
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Trichloro-s-triazenetrione (*dry, containing more than 99 percent available chlorine*).	*White crystalline powder or granules. Hygroscopic. Up to 90 percent available chlorine.* Keep dry and cool.	Yellow	Stowage: "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (AA). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, n ot over 400 lb. net wt.	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
* * *	* * *	* * *	* * *	* * *	* * *	* * *

c. Adding in columns 4, 6, and 7 for the article "Ammonium nitrate (*no organic coating*)" directly after the words "Metal barrels or drums" the following:

Polypropylene bags in compliance with DOT regulations.
Polyethylene bags in compliance with DOT regulations.

d. Revising the article "Ammonium nitrate and ammonium nitrate products containing 90 percent or more ammonium nitrate by weight (*no organic coating*)" to read as follows:

Ammonium nitrate products *containing no more than 0.2 percent carbon.*

e. Adding in columns 4, 5, 6, and 7 for the article "Sodium nitrate" the following:

Authorized for sodium nitrate only:
Portable tanks:
(DOT–53, 56).

§ 146.23–100 [Amended]

3. Adding to § 146.23–100 "Table F-Classification: Corrosive liquids" in column 4 for the article "Titanium sulfate solution containing not more than 45 percent sulfuric acid" the following:

Cylindrical steel overpacks:
(DOT–6D) WIC overpack of over 15 gallons must be constructed of at least 18 gage steel throughout.

4. Adding § 146.24–23 as follows:

§ 146.24–23 Exemptions for Passenger Restraint Systems.

A cylinder which is a component part of a passenger restraint system installed in a motor vehicle, charged with nonliquefied, nonflammable compressed gas and having no more than two actuating cartridges per valve is exempt from the regulations in this Part 146 provided that it complies with 49 CFR 173.306(d)(3).

5. By adding § 146.24–24 as follows:

§ 146.24–24 Exemptions for Hydraulic Accumulators.

Hydraulic accumulators installed in motor vehicles, construction equipment and assembled machinery and designed and fabricated with a burst pressure of not less than five times their charged pressure at 70° F. when shipped are exempt from the requirement of this Part 146.

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

Dated: November 3, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–19353 Filed 11–10–72;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72–SO–111]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jesup, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Jesup transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jesup-Wayne County Airport (lat. 31°33'18" N., long. 81°52'54" W.); within 3 miles each side of the 286° bearing from Slover RBN (lat. 31°33'08" N., long. 81°52'48" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Jesup-Wayne County Airport. A prescribed instrument approach procedure to this airport, utilizing the Slover (private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 1, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19398 Filed 11-10-72;8:46 am]

Office of the Secretary

[49 CFR Part 71]

[OST Docket No. 6]

STANDARD TIME ZONE BOUNDARY IN THE STATE OF INDIANA

Withdrawal of Proposed Rule Making

In Notice No. 70-2, published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17195), the Department of Transportation proposed that § 71.5 of Title 49 of the Code of Federal Regulations be amended to redefine the boundary line between the eastern and central standard time zones so as to include Perry County, Ind., in the central zone. The proposal was based on a petition of the Governor of Indiana. The notice stated that consideration would be given to all comments received on or before December 15, 1970.

By resolution dated December 7, 1970, the Board of County Commissioners of Perry County requested the Secretary of Transportation to defer action on the proposal until after the close of the 1971 session of the Indiana General Assembly. Under Article 4 of the constitution of the State of Indiana, the general assembly was to convene in January 1971 and could have remained in session into April 1971. The board of county commissioners made the request to defer action on the proposal because the Indiana General Assembly was expected to consider exempting the entire State of Indiana from the requirement of "advanced time" as provided for by section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a). A number of similar requests were received from local business interests and individuals.

It was clear at the time that if the Indiana General Assembly exempted the State from the requirement of advancing its time 1 hour during the summer months the views of the citizens of Perry County who favored a change to the central time zone could have been significantly altered. If a State law were to be enacted exempting Indiana from observing "advanced time", the alternatives available with respect to Perry County would then be eastern standard time the entire year or central standard time the entire year. Neither alternative would involve "advanced time" during the sumer months.

In consideration of the foregoing, by Notice No. 70-3, published in the FEDERAL REGISTER on January 7, 1971 (36 F.R. 225), the Department extended the period for comment until April 15, 1971.

In January 1971, the Indiana General Assembly, over the veto of the Governor, exempted the entire State of Indiana from the requirement of observing advanced (daylight) time during the summer months. By its terms the Indiana exemption law (Acts 1969, Chapter 491) provided that if Federal law were ever changed to allow a State divided by a time zone boundary to exempt from the observance of advanced (daylight) time only that part of the State which is in one zone, instead of the entire State, then the Indiana law would apply only to the eastern time zone portion of the State. Until any such change in Federal law, the exemption applied to the entire State.

As it had during the 91st Congress, the Department of Transportation supported during the 92d Congress an amendment to the Uniform Time Act of 1966 to permit what the Indiana exemption law anticipated, i.e., authority for a State with parts in more than one time zone to exempt that part of the State in one time zone without requiring it to exempt the part in another time zone. If the amendment were enacted, the choices open to Perry County would be eastern nonadvanced time the entire year, or 6 months of central nonadvanced and 6 months of central advanced (daylight) time. Pending congressional consideration of the amendment, the Department decided to leave the docket open. The amendment was enacted by Congress and signed by the President on March 30, 1972. (Public Law 92-267.)

Comments received by the Department over the course of this proceeding indicate a change in the views of the citizens of Perry County following enactment of the legislative changes. Before Indiana enacted its exemption law, the majority of comments favored placing Perry County in the central time zone. Since enactment of that law, the comments, although less in number, have favored leaving Perry County in the eastern zone. The Board of County Commissioners of Perry County has declined the Department's invitation to express their official views on the matter.

In view of the foregoing, it does not appear to the Department that there is adequate basis for making any change in the present time zone boundary. Accordingly, the notice of proposed rule making published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17195), is hereby withdrawn.

This action is taken under the authority of the Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67), section 6(e)(5) of the Department of Transportation Act (49 U.S.C. 1655(e)(5)), and section 1.59 (a) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.59(a)).

Issued in Washington, D.C., on November 6, 1972.

JOHN W. BARNUM,
General Counsel.

[FR Doc.72-19393 Filed 11-10-72;8:46 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 4]

[Docket No. R-398]

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Notice Denying Request for Extension of Time

NOVEMBER 7, 1972.

On November 6, 1972, the Edison Electric Institute requested an extension of time for filing comments concerning the notice of proposed rule making to amend §§ 2.80, 2.81, and 2.82 of the general rules, and § 4.41 of the regulations under the Federal Power Act, issued October 30, 1972, in the above matter.

Upon consideration, notice is given that the request for an extension of time to file comments in the above matter is denied.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19448 Filed 11-10-72;8:50 am]

[18 CFR Part 260]

[Docket No. R-308]

GAS PIPELINE COMPANIES

Annual Report of Total Gas Supply; Proposed Form; Correction

NOVEMBER 3, 1972.

In the notice of proposed rule making, issued October 31, 1972 and published in the FEDERAL REGISTER November 4, 1972, 37 F.R. 23550:

First paragraph, line 15, change "1971" to "1972".

Paragraph (a), line 4, change "1971" to "1972".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19456 Filed 11-10-72;8:50 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

SURVIVOR BENEFIT PLAN ANNUITIES

Character of Income; Exclusions and Estates

Public Law 92–425, enacted September 21, 1972, established a Survivor Benefit Plan, sections 1447 through 1455, title 10, United States Code, for retired servicemen and commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration. This is a contributory plan which provides annuities for the surviving dependents of deceased retirees. It supersedes the Retired Serviceman's Family Protection Plan (sections 1431 through 1446, title 10, United States Code). Prior to enactment of Public Law 92–425, 38 United States Code 415(g)(1)(M) and 503(a)(17) provided for exclusion of annuities under the Retired Serviceman's Family Protection Plan from consideration as income for dependency and indemnity compensation and disability and death pension. The act amended the language of these provisions of title 38 to reflect subchaptering of Chapter 73, title 10, United States Code, and continues the exclusion. It provides, however, that annuities under the Survivor Benefit Plan shall be considered income under laws administered by the Veterans Administration. To implement the provisions of the law relating to income for Veterans Administration purposes 38 CFR Part 3 is amended as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address of the above room number.

Notice is also given that it is proposed to make this regulatory change effective September 21, 1972.

It is proposed to amend § 3.261(a)(14), Part 3, Title 38 of the Code of Federal Regulations to read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Pub. Law 86–211 (veterans, widows and children)	See—
(a) *Income:*					
* * *	* * *	* * *	* * *	* * *	* * *
(14) Retired Serviceman's Family Protection Plan; Survivor Benefit Plan (10 U.S.C. ch. 73):					
Retired Serviceman's Family Protection Plan (Subch. I):					
Annuities	Excluded	Excluded	Excluded	Excluded	
Refunds (10 U.S.C. 1446)	do	do	do	do	
Survivor Benefit Plan (Subch. II).	do	do	do	do	§ 3.262(e).
(Pub. Law 92-425; 86 Stat. 706).					
* * *	* * *	* * *	* * *	* * *	* * *

Approved: November 6, 1972.

By direction of the Administrator.

FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-19438 Filed 11-10-72;8:52 am]

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

MANUFACTURE OF OXYCODONE

Notice of Application

Pursuant to § 301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on September 26, 1972, Mallinckrodt Chemical Works, 3600 North Second Street, St. Louis, Mo., made application to the Bureau of Narcotics and Dangerous Drugs to be registered as a bulk manufacturer of oxycodone, a basic class of narcotic controlled substance listed in Schedule II.

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 832 (a)(1)) states:

> The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with U.S. obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:
>
> (1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Any person registered to manufacture oxycodone in bulk may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file written comments on or objection to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Room 611, 1405 Eye Street NW., Washington, DC 20537.

Dated: November 6, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-19428 Filed 11-10-72;8:50 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Power Site Cancellation 287]

DESCHUTES RIVER BASIN, OREGON

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classifications 274, 275, and 380 are hereby canceled to the extent that they affect the following described land:

WILLAMETTE MERIDIAN

Power Site Classification 274, of June 13, 1933:

T. 1 S., R. 16 E.,
Sec. 31, SE¼NE¼.

AREA—40 ACRES

Power Site Classification 275, of July 12, 1933:

T. 24 S., R. 9 E.,
Sec. 3, lots 3 and 4;
Sec. 4, SW¼NE¼, SE¼NW¼, NE¼SW¼, and SW¼SW¼;
Sec. 5, S½NE¼.

AREA—319 ACRES

Power Site Classification 380, of August 1, 1947:

T. 17 S., R. 21 E.,
Sec. 2, N½SW¼ and N½SE¼;
Sec. 4, N½S½;
Sec. 6, lots 6, 7, E½SW¼, NE¼SE¼, and S½SE¼;
Sec. 8, S½N½, NE¼SW¼, and NW¼SE¼;
Sec. 10, SE¼SE¼;
Sec. 14, N½NW¼.
T. 17 S., R. 22 E.,
Sec. 6, lots 1, 2, 3, 4, and SE¼NE¼;
Sec. 8, N½NE¼ and S½S½;
Sec. 10, W½SW¼;
Sec. 18, lots 1, 3, SW¼NE¼, and NE¼NW¼;
Sec. 22, SE¼NW¼.

AREA—1,675 ACRES

The land described aggregates about 2,034 acres. The effective date of this cancellation is March 2, 1973.

Dated: November 2, 1972.

V. E. MCKELVEY,
Director.

[FR Doc.72-19390 Filed 11-10-72;8:46 am]

National Park Service

CAPE HATTERAS NATIONAL SEASHORE

Notice of Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Chicamacomico Enterprises, Inc., authorizing it to provide concession facilities and services for the public at Cape Hatteras National Seashore for a period of five (5) years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 3, 1972.

LAWRENCE C. HADLEY,
Assistant Director, National Park Service.

[FR Doc.72-19383 Filed 11-10-72;8:45 am]

Office of the Secretary

[FES 72-39]

PROPOSED SAN JUAN WILDERNESS AREA, WASHINGTON

Notice of Availability of Final Environmental Impact 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 final environmental statement for the proposed San Juan Wilderness Area, Washington.

The environmental statement proposes wilderness designation for seven islands of the San Juan Archipelago, located in San Juan and Skagit counties, Washington, presently in the Matia Island and San Juan National Wildlife Refuges. This action will include the subject area within the National Wilderness Preservation System.

Copies of the final statement 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, Washington, D.C. 20240. Please refer to the statement number above.

Dated: November 2, 1972.

W. W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc.72-19389 Filed 11-10-72;8:46 am]

Office of the Secretary

HOWARD A. BECK

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Add—Texaco Inc.
(3) No change.
(4) No change.

This statement is made as of October 2, 1972.

Dated: October 2, 1972.

HOWARD A. BECK.

[FR Doc.72-19386 Filed 11-10-72;8:45 am]

JAMES BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 29, 1972.

Dated: September 29, 1972.

JAMES S. BROADDUS.

[FR Doc.72-19387 Filed 11-10-72;8:45 am]

ELWYN TIMME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 20, 1972.

Dated: October 20, 1972.

E. J. TIMME.

[FR Doc.72-19388 Filed 11-10-72;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-591]

DAVID J. AEDER

Notice of Loan Application

NOVEMBER 6, 1972.

David J. Aeder, Post Office Box 76, Wheeler, OR 97147, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 31 feet in length, to engage in the fishery for salmon, albacore, and bottomfish off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-19380 Filed 11-10-72; 8:45 am]

[Docket No. Sub-B-50]

AMERICAN STERN TRAWLERS, INC.

Notice of Hearing

NOVEMBER 9, 1972.

American Stern Trawlers, Inc., has applied for permission to transfer the operations of the 296-foot 10-inch-length, overall, fishing vessel Seafreeze Pacific, constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for bottomfish, hake and herring in the North Pacific Ocean and the freezing and transportation of salmon in the North Pacific Ocean to the fishery for bottomfish, hake and herring in the North Pacific Ocean and the freezing and transportation of salmon in the North Pacific Ocean and the processing, freezing and transportation of all such species (including *Merluccius gayi*) in the Pacific Ocean including the purchasing of unprocessed fish of such species from non-American catching vessels and the delivery of processed and frozen products to the United States utilizing other American flag vessels and foreign port facilities.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and Notice and Hearing on Subsidies (50 CFR Part 257) that a hearing on the above-entitled matter will be held on December 14, 1972, at 10 a.m., e.s.t., in Room 400, Page Building 2, 3300 Whitehaven Street NW, Washington, DC. Any person desiring to intervene must file a petition to intervention with the Director, National Marine Fisheries Service, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-19544 Filed 11-10-72;8:52 am]

Office of the Secretary

[Dept. Organization Order 20-2]

OFFICE OF AUDITS

Organization and Functions

This order effective October 25, 1972 supersedes the material appearing at 36 F.R. 21218 of November 4, 1971 and 37 F.R. 9678 of May 16, 1972.

SECTION 1. *Purpose.* This order prescribes the functions and organization of the Office of Audits.

SEC. 2. *Status and line of authority.* The Office of Audits, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall conduct audits of all organizational units of the Department except as the Assistant Secretary for Administration may otherwise determine with respect to particular auditing tasks for designated organizational units. The audits may (a) encompass the operating, administrative, and financial activities of units, including the administration for compliance with applicable law, economy and efficiency, and achievement of desired results, or (b) concern selected claims, costs, cost proposals, and cost and pricing data arising from contracts, grants, subsidies, loans or other similar agreements entered into, or proposed by, organizational units. The Office may also, by agreement, conduct audits for other Government organizations on a reimbursable basis, with the approval of the Assistant Secretary for Administration.

.02 The Director of Audits, shall be the adviser to, and serve as the representative of, the Assistant Secretary for

Administration on all internal and external audit matters of the Department, and shall serve as adviser to other Departmental officials with respect to these matters. He shall represent the Department in conferences and negotiations with officials of other Federal agencies or other groups with respect to audit matters.

SEC. 4. *Specified authority.* In addition to the authority implicit in and essential to carrying out the functions assigned the Office, the Director of Audits is expressly delegated the authority to arrange with other Federal, State and local agencies, and other organizations, to make external audits.

SEC. 5. *Organization.* Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The Deputy Director of Audits shall be the chief operating aide to the Director of Audits on substantive audit matters and shall be responsible for managing the audit staff. In consultation and cooperation with the Office of Personnel, he shall be responsible to the Director of Audits for obtaining a high quality professional staff, for developing and prescribing programs designed to further the career development of individual staff members, and for obtaining appropriate recognition of the professional character of the work done by members of the audit staff. He shall perform such other duties and assignments as the Director of Audits may prescribe. He shall also perform the functions of the Director in the latter's absence.

.02 The Program, Planning and Review Staff shall develop (a) policies, procedures, and standards for planning, programing, executing, and reporting on all internal audits, and (b) policies and procedures for all management and administrative matters for the Office of Audits. It shall coordinate, review and revise, as appropriate, individual audit programs and audit plans applicable to internal audits prepared by the operating divisions in the Office; maintain surveillance, through audit site visits, reports and conferences, over internal audits in process to determine compliance with approved policies, plans and programs; post-review selected internal audits in detail as a quality control; review, reference, edit, and process internal audit reports; maintain follow-up on all audit findings and recommendations; coordinate responses to and comments on General Accounting Office reports; and carry out such other duties and assignments as the Director of Audits may prescribe.

.03 The External Audit Policy Staff shall develop Department-wide policies, procedures, and standards for the execution of and reporting on all external audits. It shall maintain surveillance, through audit site visits, reports and conferences, over external audits in process to determine compliance with established policies; post-review selected external audits in detail as a quality control; maintain follow-up on external audit recommendations; in consultation with Regional Offices, prepare standard audit guides and standard audit programs for accounting systems surveys and financial audits for all Departmental contracts and grant and loan programs; maintain liaison with other Federal agencies and other groups on all matters pertaining to external audits; and carry out such other duties and assignments as the Director may prescribe.

.04 The Internal Audit Divisions, under the direct supervision of the Director, shall carry out, on a cyclical basis, comprehensive audits of the operating, administrative, and financial activities of organizational units, or special audits relating thereto. Each Audit Division is assigned, as specified below, a group of organizations of the Department which normally it will audit:

Division	*Organizations to Audit*
Internal Audit Div. 1--	National Bureau of Standards.
	National Oceanic and Atmospheric Administration.
	National Technical Information Service.
	Office of Telecommunications.
	Patent Office.
Internal Audit Div. 2--	Bureau of Domestic Commerce.
	Bureau of International Commerce.
	Maritime Administration.
	Office of Foreign Direct Investments.
	Social and Economic Statistics Administration.
	United States Travel Service.
Internal Audit Div. 3--	Economic Development Administration.
	Office of Minority Business Enterprise.
	Office of the Secretary.

.05 The Regional Offices (located in Chicago, Dallas, San Francisco, and Washington, D.C.), under the direct supervision of the Director, shall carry out, or arrange for, site audits of documentation in support of claims, costs, cost proposals, and cost and pricing data arising from selected contracts, grants, subsidies, loans, and other similar agreements, entered into or proposed by organizational units. The Regional Offices shall carry out or arrange for site audits of contracts, grants, or similar agreements, or proposals thereto, as requested by the Department officials and agreed to by the Director of Audits. The Regional Offices shall make any necessary arrangements with other Federal, State, and local agencies, or with any other organizations, for the performance of audits of such contracts, grants, or other agreements, on a reimbursable or other basis, and shall prescribe the scope of such audits and maintain liaison with the auditing agency or organization. The Regional Offices will carry out such other duties and assist in performing internal audits as the Director may prescribe.

Effective date: October 25, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-19412 Filed 11-10-72;8:48 am]

Office of Textiles

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Closed Meeting

NOVEMBER 10, 1972.

A. Management-Labor Textile Advisory Committee.

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

C. The meeting is scheduled for November 21, 1972, at 2 p.m., Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

D. The Secretary of Commerce, pursuant to section 13(d) of Executive Order 11671 of June 5, 1972, has determined that the Committee meeting scheduled for November 21, 1972, shall be exempt from the provisions of sections 13 (a), (b), and (c), relating to public participation and record keeping, because the Committee's activities are matters which fall within policies analogous to those recognized in section 552(b) of title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure. The specific exemption is the foreign policy exemption set forth in paragraph 1 of Section 552(b).

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

ARTHUR GAREL,
Director, Office of Textiles.

[FR Doc.72-19593 Filed 11-10-72;11:29 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 50168]

ANTIBIOTIC-STEROID PREPARATION CONTAINING POLYMYXIN B SULFATE, ZINC BACITRACIN, NEOMYCIN SULFATE, AND HYDROCORTISONE

Drugs for Human Use; Drug Efficacy Study Implementation; Correction

In F.R. Doc. 72-9211 appearing at page 12166 in the June 20, 1972, issue of the FEDERAL REGISTER, in the second paragraph, the number "NDA 50-146," is corrected to read "NDA 50-416."

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19400 Filed 11-10-72;8:47 am]

[DESI 6002; Docket No. FDC-D-309; NDA 8-578 etc.]

CERTAIN ANTI-INFECTIVE DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

In the FEDERAL REGISTER of August 7, 1971 (36 F.R. 14662), the Food and Drug

Administration announced its conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, concerning the subject drugs. Among the drugs included in that announcement were the following:

1. Delvex Tablets containing dithiazanine iodide; Eli Lilly & Co., Post Office Box 618, Indianapolis, IN 42606 (NDA 11-440).

2. Lucanthone Hydrochloride Tablets; Burroughs Wellcome and Co., Inc., 3030 Cornwallis Road, Research Triangle Park, NC 27709 (NDA 12-344).

For these two drugs, the announcement required, among other things, submission of abbreviated new drug applications, abbreviated supplements, and data to assure bioavailability.

Because of the potential toxicity of these two drugs, the Commissioner concludes that the requirement for bioavailability testing is not appropriate, and that, for the same reason, abbreviated applications and supplements are not acceptable. Therefore, with respect to these two drugs, only, marketing may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 12273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice. The Office of Scientific Evaluation (BD-100), Bureau of Drugs should be contacted concerning the clinical studies required.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19403 Filed 11-10-72;8:47 am]

[Docket No. FDC-D-533; NADA No. 11-353V]

WHITMOYER LABORATORIES, INC.

Thera-Tergent; Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of September 5, 1970 (35 F.R. 14168, DESI 901V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Thera-Tergent NADA (new animal drug application) No. 11-353V; marketed by Affiliated Laboratories Division, Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, PA 17067 (formerly marketed by Warren-Teed Pharmaceuticals, Inc.). The announcement invited the holder of said new animal drug application and any other interested persons to submit pertinent data on the drug's effectiveness.

A satisfactory supplemental new animal drug application has not been submitted in response to said announcement and available information fails to provide substantial evidence that this drug will have the effect it purports to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, notice is given to Whitmoyer Laboratories, Inc., and to any other interested person who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of NADA No. 11-353V, including all amendments and supplements thereto.

In accordance with the provisions of section 512 of the Act (21 U.S.C. 360b), the Commissioner hereby gives the applicant and any interested persons who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 11-353V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above-cited drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions of such data. If a hearing is requested, and is justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of a time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above), during regular business hours, Monday through Friday.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19401 Filed 11-10-72;8:47 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY HEALTH SERVICES COUNCIL AND FEDERAL HOSPITAL COUNCIL

Notice of Meetings During November

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the reissuance of 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, type of meeting and/or contact person

Joint Meeting of the National Advisory Health Services Council and the 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, type of meeting, and/or contact person

Federal Hospital Council, 11–16, 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.

A period will be reserved for comments and discussion from the general public.

Interested persons may submit written information or views addressed to the contact person named above. Members of the public who wish to participate in these Council meetings must furnish the contact person, at least 24 hours prior to the meetings, with their name(s), issues to be discussed, and any documentation to be submitted.

Dated: November 9, 1972.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72–19499 Filed 11–10–72;8:54 am]

Office of the Secretary

ADVISORY COMMITTEE ON DENTAL HEALTH

Notice of Meeting

The Advisory Committee on Dental Health, established to advise the Secretary regarding all significant aspects of dental health programs and other dental activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on November 20–21, 1972. The meeting will be held in the Food and Drug Administration Building located at 200 C Street SW., Washington, DC, Room 1409. The meeting is scheduled to convene at 9 a.m. and will continue until 5 p.m.

The Committee will review the draft of a final report to be submitted to the Secretary relative to the dental activities under the purview of the Department of Health, Education, and Welfare.

The meeting is open for public observation.

Dated: November 3, 1972.

MELVIN L. DOLLAR,
Executive Secretary.

[FR Doc.72–19414 Filed 11–10–72;8:48 am]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women, make recommendations to the Secretary on the status of women, and continually determine how HEW's programs can be of better service to the special needs of women, will meet on Thursday and Friday, November 30 and December 1, 1972, from 9 a.m. to 5 p.m. in Dallas, Tex. (Statler Hilton Hotel, 1914 Commerce Street). The Committee will discuss a wide range of issues and these meetings will be open for public observation. The Committee, in particular, will discuss consumer problems as they directly affect women. The Committee will also discuss health, education, social services/welfare, and employment policies as they relate to women.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72–19418 Filed 11–10–72;8:48 am]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN, SUBCOMMITTEE ON SOCIAL SERVICES AND WELFARE

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, Subcommittee on Social Services, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to social services and welfare programs affecting women, make recommendations to the Secretary through the Committee, and continually evaluate these policies, programs, and activities will meet on Monday, November 20, 1972, at the Pennsylvania Building, 13th and Pennsylvania Avenue NW., Suite 1032, from 9 a.m. to 5 p.m. This subcommittee will discuss in detail HR–I and child care development projects. This meeting is open for public observation.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72–19419 Filed 11–10–72;8:48 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Public Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled created to advise the Secretary on regulations and evaluation of programs for Public Law 91–517 will hold a regular meeting on November 16, 1972, 8:30 a.m. to 12 p.m. and November 19, 1972, 9:30 a.m. to 3 p.m. in the Tudor Room of the Shoreham Hotel, Washington, DC. The agenda will include discussion of National Conference, November 17–18, recommendations of committee on university-affiliated facilities, and discussion on extension of the Developmental Disabilities Act. Meeting will be open to the public. Additional information can be obtained by calling the executive secretary at 202—962–7355.

FRANCIS X. LYNCH,
Executive Secretary.

NOVEMBER 7, 1972.

[FR Doc.72–19316 Filed 11–10–72;8:48 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the time and place indicated. Anyone who is interested in attending, or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL

REGION 9

Meeting date: December 1, 1972.

Time: 9:30 a.m.–4 p.m.

Place: Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066.

Agenda: Research in regional archives; microfilm acquisition and use; Archival Symposia; National Historic Records Program.

For further information contact: Paul A. Kohl, NARS Regional Commissioner, 49 Fourth Street, San Francisco, CA 94103, 415—556–3425.

Issued in Washington, D.C., on November 6, 1972.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.72–19435 Filed 11–10–72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SHIPMENT OF HAZARDOUS MATERIALS

Special Permits Issued

Pursuant to Docket No. HM-1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during October 1972:

Special Permit No.	Issued to—Subject	Mode or modes of Transportation
6673	Air Products & Chemicals, Inc., Allentown, Pa., to ship nitric acid in an MC-31 tank motor vehicle with bottom discharge outlet.	Highway.
6676	Shippers registered with this Board to ship fissile radioactive materials in packaging identified as container type CMII INOX.	Highway, Rail, Cargo-only Aircraft, Cargo vessel.
6677	Shippers registered with this Board to ship Type B quantities of radioactive materials, n.o.s. in the Savannah River Shipping Container Model No. LP-12.	Highway, Rail, Cargo-only Aircraft.
6678	Shippers registered with this Board to ship large quantities of radioactive materials, n.o.s. in the Savannah River Shipping Container Model No. LP-50.	Highway, Rail, Cargo-only Aircraft.
6679	Shippers registered with this Board to ship fissile and large quantities of radioactive materials, n.o.s., or in special form, packaged in the Protective Packaging, Incorporated's "Half Super Tiger" overpack.	Highway, Rail, Cargo vessel.
6680	Eli Lilly & Co., Indianapolis, Indiana, to make limited import shipment of phosphorus pentachloride in non-DOT specification, open-head steel drums comparable to DOT-37A drums.	Highway, Cargo-only Aircraft.
6681	PPG Industries, Inc., Pittsburgh, Pa., to ship paints and related materials in 6½ gallon capacity DOT-37A drums, not so marked.	Highway.

ALAN I. ROBERTS, *Secretary.*

[FR Doc.72-19392 Filed 11-10-72;8:46 am]

ATOMIC ENERGY COMMISSION

CALIFORNIUM-252

Prices, Standard Forms, and Handling Charges

The U.S. Atomic Energy Commission hereby announces revisions in its present program for the sale and distribution of the neutron emitting isotope californium-252 (Cf-252). An additional standard form is being made available for the benefit of industrial source encapsulators and handling charges are being increased to reflect higher labor costs since initiation of the sale program in 1970.

Notice, entitled "Californium-252 Price Decrease", published in the FEDERAL REGISTER on August 29, 1970 (35 F.R. 13807) is hereby superseded.

1. The AEC will continue to offer unencapsulated californium-252 at a price of $10 per microgram. As a result of the AEC's research effort to establish an improved standard form for industrial source encapsulation, palladium-californium oxide cermet ($Pd\text{-}Cf_2O_3$) will be offered, in addition to oxide, as a standard form for Cf-252 sales. The AEC will continue to offer Cf-252 in oxide form as long as sufficient demand for this material exists.

2. The palladium-californium oxide cermet will be available to both domestic and foreign customers in wire and pellet form. Initial californium concentrations in wire form will be 5, 50, and 500 micrograms per inch; however, special orders for concentrations other than these will be considered, with charges for special orders determined in individual cases. Cf-252 cermet pellets are being offered in addition to the wire form because standard 100 series double-encapsulated sources, a design currently offered by commercial source encapsulators, can hold up to 10 mg. of Cf-252 in pellet form compared to a maximum of 2 mg. of Cf-252 in wire form.

3. Because of increased labor costs since initiation of Cf-252 sales, handling charges for Cf-252 in $Pd\text{-}Cf_2O_3$ and oxide must be increased from the current rate of $1,600 per standard shipment, effective immediately. The following charges are now in effect:

$Pd\text{-}Cf_2O_3$ wire or pellets: $1,250 for capsule assembly and preparation plus $600 per inch (or fraction thereof) of 500 microgram per inch wire and $100 per inch of 50 or 5 microgram per inch wire; or $850 per pellet.

Cf-252 Oxide: $1,850 per package.

4. The minimum length of wire ordered will be one-half inch. Cf-252 supplied can be provided within ±10 percent of the quantity ordered for all forms. Specific information on material specifications for sale quantities of Cf-252 is available from the Manager, Savannah River Operations Office, Post Office Box A, Aiken, SC 29801.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (11-11-72).

Dated at Germantown, Md., this 6th day of November 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-19433 Filed 11-10-72;8:49 am]

[Dockets Nos. 50-361, 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Notice and Order for Prehearing Conference

In the matter of Southern California Edison Co., San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3).

Please take notice, that pursuant to the Prehearing Conference Order issued October 31, 1972, in this proceeding, and in accordance to 10 CFR 2.752 of the "Rules of Practice" of the Atomic Energy Commission, a further prehearing conference will be held in this proceeding on Tuesday, November 21, 1972, at 10 a.m., Suite 720, Vanguard Building, U.S. Department of Labor, 1111 20th Street NW., Washington, DC 20006.

This further prehearing conference will consider:

(1) Simplification, clarification, and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule;

(6) Those matters included in paragraphs J1 and J2 of the Prehearing Conference Order issued herein on October 31, 1972, and;

(7) Such other matters as may aid in the orderly disposition of the proceeding.

Each party shall be represented at this prehearing conference by the attorney who expects to present the evidence at the formal hearing, except that, for good cause, parties may be represented by an attorney associated with the attorney who expects to appear at formal hearing. The attorneys who will appear at this prehearing conference are directed to be prepared to discuss the above-enumerated matters.

By Order of the Atomic Safety and Licensing Board.

Issued: November 7, 1972.

MICHAEL L. GLASER, *Chairman.*

[FR Doc.72-19416 Filed 11-10-72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-11-12]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority November 3, 1972.

Agreements have 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 International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name additional specific commodity rates as set forth in the attachment hereto,[1] and reflect reductions from the otherwise applicable general cargo rates. The agreements, which have been assigned the above-designated CAB agreement numbers, were adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated October 19, 1972, and October 23, 1972, respectively.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreements are 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:

Agreements CAB 23359 and 23360, R–1 and R–2, be and hereby are approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; *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.72–19463 Filed 11–10–72;8:52 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from October 30 through November 3, 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, November 2

Herbicide control of sagebrush, Idaho. The statement refers to the proposed use of 2,4-D herbicide on approximately 15,000 acres of national forest and grassland areas annually, in order to control sagebrush and Wyethia. The area to be treated is in southern Idaho, south of the Salmon River. The statement indicates that a minor amount of the chemical may find its way to water supplies and to the soil. Grouse, antelope, and mule deer are among the wildlife species which are dependent upon sagebrush for either cover or food; some nontarget species of plants will be affected. (54 pages) (ELR Order No. 05555) (NTIS Order No. EIS 72–5556–D)

ATOMIC ENERGY COMMISSION

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

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

Draft, October 31

Waterford Station, Unit 3, St. Charles County, La. The statement refers to the proposed issuance of a construction permit to the Louisiana Power & Light Co., for Unit 3, which is to be on a site with two existing oil-fueled generating plants. Unit 3 will employ a pressurized water reactor to produce 3,410 MWT and 1,165 MWE (net); a "stretch" level of 3,560 MWT is anticipated. Cooling water will be obtained by a once-through flow from the Mississippi River. The estimated dose to the population within 50 miles from the station is 2 man-rem/year. (212 pages) (ELR Order No. 05549) (NTIS Order No. EIS 72–5549–D)

Draft, November 2

Salem Nuclear Generating Station, N.J. The statement refers to the proposed continuation of provisional construction permits and the issuance of operating licenses to the Public Service Electric & Gas Co., for Units 1 and 2. The two units will employ pressurized water reactors to produce outputs of 3,350 and 3,423 MWT, and 1,090 and 1,115 MWE (net) respectively. Cooling water will be drawn from and returned to the Delaware River (at 13.3° F. above ambient). Several hundred acres of marsh have been filled and leveled for the facility. (196 pages) (ELR Order No. 05557) (NTIS Order No. EIS 72–5557–D)

Final, October 31

Edwin I Hatch Nuclear Plant, Appling County, Ga. The statement refers to the issuance to the Georgia Power Co. of an operating license for Unit 1 and a construction license for Unit 2. Each of the two boiling water reactors will have a capacity of 2,537 MWT; Unit 1 will produce 813 MWE; Unit 2 will produce 822 MWE. The units will be cooled by a closed system with mechanical draft two towers, with water being taken from and discharged to the Altamaha River. The 25,000 g.p.m. of water will be heated 3° above ambient prior to discharge; 170,000 curies of radioactive materials in gaseous effluents, and 10 curies in liquid effluents will be released per year. (218 pages) Comments made by: USDA, COE, DOC, EPA, FPC, HEW, HUD, DOI, and DOT. (ELR Order No. 05550) (NTIS Order No. EIS 72–5550–F)

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 31

Morgan City, St. Mary County, La. The statement refers to the proposed enlargement of 21.4 miles of levee and the construction of 3.5 miles of new levee, in order to minimize hurricane induced flooding. Numerous pipelines will be relocated, and several pumping stations will be modified due to the construction. (32 pages) (ELR Order No. 05543) (NTIS Order No. EIS 72–5543–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.

BUREAU OF RECLAMATION

Draft, October 31

Moovalya Marsh, Ariz. The statement refers to the proposed dredging of 80 acres of marsh, in order to provide a kilopower boat race course and convert another 83 acres to dry land suitable for commercial, residential, and recreational use. The project is located in the Colorado River Indian Reservation. Approximately 150 acres of marsh habitat elsewhere on the river will be rehabilitated to replace that lost to the project; a 10-acre replacement heron and egret rookery will also be provided. (45 pages) (ELR Order No. 05548) (NTIS Order No. EIS 72–5548–D)

NATIONAL PARK SERVICE

Draft, November 2

John Day Fossil Beds National Monument, Oreg. The statement refers to the proposed legislative designation of a 14,402-acre area as a national monument. Effects of the action will include the elimination of hunting on 7,127 acres; the restriction of agricultural activities (including grazing); and the displacement of one family. (24 pages) (ELR Order No. 05554) (NTIS Order No. EIS 72–5554–D)

DEPARTMENT OF TRANSPORTATION

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

FEDERAL AVIATION AGENCY

Draft, October 27

Ingersoll Airport, Fulton County, Ill. The proposed project consists of the construction of a 3,300 foot by 60 foot east/west runway with turnarounds; construction of a 1,130 foot by 40 foot partial parallel taxiway; and installation of a 60-inch drainage pipe and VASI systems on the existing north/south runway. All property involved is owned by the Canton Park District. Noise and air pollution levels will increase. (42 pages) (ELR Order No. 05532) (NTIS Order No. EIS 72–5532–D)

[1] Filed as part of the original document.

Final, October 27

Springdale Municipal Airport, Washington County, Ark. The proposed project considers the reconstruction of some facilities at the existing airport. The action consists of acquiring land for clear zones; overlaying, extending, widening, and marking the existing north/south runway; constructing and marking partial taxiway and turnarounds; extending aircraft parking aprons and installing medium intensity lighting and VASI. One family will require relocation. Noise and air pollution levels will increase. (58 pages) Comments made by USDA, COE, EPA, HEW, HUD, DOI, DOT, State, and regional agencies. (ELR Order No. 05534) (NTIS Order No. EIS 72–5534–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 31

State Route 395, Inyo County, Calif. The proposed project is the construction of a four-lane expressway on Route 395. Project length is 7.5 miles. The amount of land acquisition will depend upon the route chosen. The road will traverse Birmingham Canyon, causing water pollution and damage to the fish life in the water. Archeological sites will also be affected. (39 pages) (ELR Order No. 05547) (NTIS Order No. EIS 72–5547–D)

Draft, October 27

Soda Springs Overpass, Caribou County, Idaho. Three alternate routes for the construction of a highway-railroad grade separation structure on State Highway 34 are considered in this statement. Project length is 0.3 mile. The number of families and businesses displaced will depend upon the route selected. (30 pages) (ELR Order No. 05535) (NTIS Order No. EIS 72–5535–D)

Draft, October 31

Supplemental Freeway 411, several counties, Illinois. The project provides for the reconstruction of F.A.P. Route 411 (Illinois Route 1) in Lawrence, Wabash, White, Hamilton, Saline, and Gallatin Counties from north of Lawrenceville to Harrisburg. Project length is 95 miles. The number of displacements and the amount of right-of-way required will depend upon the route selected. Disruption of vehicular and pedestrian circulation patterns, loss of agricultural land and private property from the tax base, loss of wildlife habitat and higher noise and pollution levels are adverse effects of the action. (60 pages) (ELR Order No. 05544) (NTIS Order No. EIS 72–5544–D)

State Route 52, Mass. The proposed project is the construction of 2.4 miles of State Route 52 expressway. Displacements will include 56 families and six businesses. Adverse effects will include loss of 60 acres of the Oak-Hickory Forest, 50 acres of meadow and 20 acres of swamps. A change is expected in the hydrology of the Gates Brooks Stream causing increases of water pollution and adverse effects on existing fish life. A section 4(f) statement will be filed for the acquisition of Worcester YMCA Skating Rink. (71 pages) (ELR Order No. 05546) (NTIS Order No. EIS 72–5546–D)

Cross Range Expressway (T.H. 169), St. Louis County, Minn. The statement refers to the proposed construction of an 8.5 mile segment of Trunk Highway 169 in the Mesabi Iron Range. The project will provide a four-lane divided expressway for the mining range and connect with the adjacent section of "Cross Range Expressway" already completed. Five families and two businesses may be displaced; 13.25 acres of undeveloped section 4(f) land from the Bahl Village Park may be committed to right-of-way. (45 pages) (ELR Order No. 05540) (NTIS Order No. EIS 72–5540–D)

U.S. 206 freeway—Hammonton Bypass, Atlantic County, N.J. The proposed project is located on U.S. 206 freeway. The project's length varies from 5.34 to 7.6 miles according to alternates chosen. The amount of land acquired and the number of displaced homes and businesses will depend upon the route chosen. A section 4(f) statement will be filed to obtain land from the Wharton State Forest. (42 pages) (ELR Order No. 05539) (NTIS Order No. EIS 72–5539–D)

Draft, October 27

West Virginia Route 56, Jackson County, W. Va. The proposed project consists of the construction of approximately 2.7 miles of four-lane expressway connecting West Virginia Route 2 and I–77. The number of displacements and the amount of right-of-way required will depend upon the route selected. Temporary construction-related effects to the environment will occur. (64 pages) (ELR Order No. 05537) (NTIS Order No. EIS 72–5537–D)

Final, October 31

I–65–S(32), Jefferson County, Ala. The proposed project is the construction of 3.2 miles of I–65–S(32). Thirteen families and one individual will be displaced. Streams will be traversed, causing siltation and erosion. (46 pages) Comments made by COE, DOI, DOT, EPA, HUD, State and regional agencies. (ELR Order No. 0552) (NTIS Order No. EIS 72–5542–F)

Final, October 27

N.C. 68 (Westchester Drive), Guilford County, N.C. The proposed project is the widening of Westchester Drive in High Point from U.S. 311 (North Main Street) to Elgin Avenue. Project length is 4 miles. Sixteen families and nine businesses may be displaced. Noise levels may increase as a result of the project. (47 pages) Comments made by USDA, COE, EPA, GSA, HUD, DOI, OEO, State, and local agencies. (ELR Order No. 05536) (NTIS Order No. EIS 72–5536–F)

Final, October 31

76th Street, Cotner Boulevard, relocated, Lancaster County, Nebr. The proposed project consists of the redesign and relocation of an existing "Y" intersection at 76th Street and Cotner Boulevard. The relocation of the intersection will displace two homes. Adverse effects will be increases of water and noise pollution. (30 pages) Comments made by USDA, COE, DOI, DOT, EPA, State, local, and regional agencies. (ELR Order No. 05541) (NTIS Order No. EIS 72–5541–F)

U.S. 30, relocated, Adams County, Pa. The proposed project is the relocation of U.S. 30. Project length is 10.1 miles. The relocation will affect 10 to 15 dwellings, two to four farm buildings and three to five commercial buildings. The Marsh Creek will be traversed causing erosion and sedimentation. Other adverse effects will include an increase of storm water drainage from paved areas. (40 pages) Comments made by USDA, EPA, and HUD. (ELR Order No. 05545) (NTIS Order No. EIS 72–5545–F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–19471 Filed 11–10–72;8:51 am]

TARIFF COMMISSION

[TEA–F–46]

BERNIE SHOE CO.

Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of the Bernie Shoe Co., Haverhill, Mass., the U.S. Tariff Commission, on November 8, 1972, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in Items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

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: November 8, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72–19469 Filed 11–10–72;8:51 am]

[TEA–W–161]

WISE SHOE CO.

Workers Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of the Wise Shoe Co., Exeter, N.H., the U.S. Tariff Commission, on November 8, 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 footwear for women (of the types provided for in items 700.43, 700.45, and 700.55 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, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: November 8, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-19470 Filed 11-10-72;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 299]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

NOVEMBER 3, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering meeting January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
		1340 kHz							
(New)	Brooks, Alberta, N. 50°29'35", W. 111°53'05".	1D/0.25N	ND-190	U	IV	185	120	294	E.I.O. 11-3-73.
		1340 kHz							
(New) (delete assignment immediately).	Brooks, Alberta, N. 50°33'31", W. 111°54'13".	1D/0.25N	ND-193	U	IV	200	120	294	
		1490 kHz							
CKGO (now in operation)	Hope, British Columbia, N. 49°23'15", W. 121°25'42".	0.25	ND-186	U	IV	150	120	264 (ave)	

[SEAL]

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

[FR Doc.72-19445 Filed 11-10-72;8:52 am]

[Docket No. 19624, etc.; FCC 72-966]

CONGAREE BROADCASTERS, INC. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of: Congaree Broadcasters, Inc., West Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. West Columbia Broadcasters, Inc., West Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. Statesville Broadcasting Co., Inc., Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. For Construction Permits. Docket No. 19624, File No. BPH-7712; Docket No. 19625, File No. BPH-7776; Docket No. 19626, File No. BPH-7777.

1. The Commission has before it the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. The financial portion of the application of West Columbia Broadcasters, Inc. (West Columbia) indicates that it will require at least $48,800 to construct and operate its proposed FM station for 1 year.[1] This figures does not include interest and principal payments on West Columbia's projected loans from banks because such data has not been provided. To meet its first-year costs, West Columbia relies on $600 in cash, a $30,000 loan from the Bankers Trust of South Carolina located in West Columbia, and a $25,000 loan from The Lexington State Bank, which is also located in West Columbia. As to the $25,000 loan from The Lexington State Bank, that bank has not stated the interest rate or the terms of repayment for its projected loan to West Columbia, as required by paragraph 4(e), section III, FCC Form 301. The purpose of our financial standards is to provide a reasonable assurance that a particular applicant will be able to operate its proposed station on a continuing basis. A bank loan repayable in a short period is a factor that we wish to consider in making such a determination. We therefore believe that a bank commitment that fails to specify the period of time over which the loan must be repaid, without any additional data, does not adequately describe the terms of repayment and casts considerable doubt as to whether the applicant in question can meet the required payments on its loan as well as its other first-year costs. Thus, appropriate financial issues will be specified as to this loan. Concerning the $30,000 loan from the Bankers Trust of South Carolina, that bank has not stated the interest rate at which it is willing to make the loan, even though it does state that it will not require principal payments during the first year of operation of West Columbia's FM proposal. We note that where an applicant relies on a loan from a bank which has not specified the interest that it will require, but the applicant has shown the availability of sufficient funds in excess of its other first-year expenses to meet any foreseeable interest payments, we will not ordinarily specify a financial issue against it. In this case, however, since The Lexington State Bank has indicated neither the terms of repayment nor the interest required for its projected $25,000 loan to West Columbia, we do not know what figure to allow for the total amount

[1] West Columbia's first-year costs, aside from payments on bank loans, include the following: Down payment on equipment, $2,930; first-year payments on equipment, including interest, $7,000; land and building expenses, $3,120; miscellaneous expenses, $12,000; and working capital, $23,750.

of the applicant's other first-year operating costs. Thus, we cannot assume that West Columbia has sufficient funds available to meet these other first-year costs plus the interest payments on the loan from the Bankers Trust of South Carolina. In light of the foregoing, appropriate issues will also be specified as to the loan from the Bankers Trust of South Carolina, the total first-year operating costs of West Columbia, and the financial qualifications of the applicant.

3. Based on figures contained in its application, we find that Statesville Broadcasting Co., Inc. (Statesville) will have first-year costs of $95,300.[2] To meet these costs, Statesville relies on $21,200 in cash and a $100,000 bank loan. Although Statesville has established the availability of $21,200 in cash, it has not met our standards for showing the availability of the $100,000 bank loan. An entity which agrees to loan money to a broadcast applicant must indicate, among other things, the collateral or security required for the loan. If no collateral or security is required, the entity must so state. In this instance, although The Northwestern Bank in Statesville has stated its willingness to loan the applicant $100,000, it has not stated what security, if any, is required. We do not know, therefore, whether the applicant can meet the bank's security requirements. Thus, the availability of the bank loan has not been established. In view of the foregoing, appropriate financial issues will be specified against Statesville.

4. Statesville will not provide a 3.16 mv./m signal over the entire city of Columbia, as required by § 73.315(a) of the rules. Nevertheless, Statesville's proposed operation will provide a signal level of 3.16 mv./m or more over the city limits of California, as they existed prior to the annexation of the Fort Jackson Military Reservation. As stated by the applicant, the reservation is several times larger than the basic or "downtown" part of Columbia and has scarcely any population over much of its area. A class A station, which is the only class of station allowed on the channel for which Statesville has applied, could not be located so that its 3.16 mv./m contour would encompass all of the new city limits of Columbia, because of the size of the Fort Jackson Reservation. The applicant has determined that 97.1 percent of the total population of Columbia (including that of the reservation) will receive a signal level of 3.16 mv./m or more. In light of these facts, and since the general coverage of the city will be satisfactory, we find that a waiver of § 73.315(a) of our rules is warranted in this instance.

5. A comparison of programing proposals is warranted when one applicant proposes predominantly specialized programing, and the other, general market programing—Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, Congaree Broadcasters, Inc., proposes predominantly religious programing, while the other two applicants propose general market programing. Therefore, this aspect of the programing proposals of the applicants will be compared under the standard comparative issue.

6. The respective proposals would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of West Columbia Broadcasters, Inc.:

(a) The interest and terms of repayment required for the $25,000 loan from The Lexington State Bank, West Columbia, S.C.;

(b) The interest terms for the $30,000 loan from the Bankers Trust of South Carolina, West Columbia, S.C.;

(c) The total first-year operating costs for the applicant's FM proposal; and

(d) Whether, in light of the evidence adduced under the preceding issues, the applicant is financially qualified.

2. To determine with respect to the application of Statesville Broadcasting Co., Inc.:

(a) The security required for a $100,000 bank loan from The Northwestern Bank, Statesville, N.C., whether the applicant and/or its principals can meet the bank's security requirements, and, therefore, whether the bank loan will be available to the applicant;

(b) Whether, in light of the evidence adduced under the preceding issue, the applicant is financially qualified.

3. To determine the areas and populations which would receive FM service of 1 mv./m or greater intensity from the respective proposals together with the availability of other primary (1 mv./m or better for FM) aural services in such areas.

4. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between applications should not be based solely on 307(b) considerations, which of the proposals would best serve the public interest.

6. To determine, in light of the evidence adduced under the preceding issues, which application should be granted.

9. *It is further ordered,* That if the application of Statesville Broadcasting Co., Inc., is granted, the construction permit shall specify that the provisions of § 73.315(a) of our rules are waived to permit a signal level of less than 3.16 mv./m over the entire city of Columbia, S.C.

10. *It is further ordered,* That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

11. *It is further ordered,* That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: November 1, 1972.

Released: November 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-19442 Filed 11-10-72;8:52 am]

[2] Statesville's first-year costs are itemized as follows: equipment expenses, $37,100; miscellaneous expenses, $3,200; and working capital, $55,000.

[3] Concurring and dissenting statement of Commissioner Johnson filed as part of the original document. Commissioners H. Rex Lee and Hooks absent.

[Dockets Nos. 19618, 19619]

HOMER AIR SERVICES, INC., AND COOK INLET AVIATION, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Homer Air Service, Inc., and Cook Inlet Aviation, Inc., for an aeronautical advisory radio station to serve the Homer Airport, Homer, Alaska. Docket No. 19618, File No. 195-A-L-62; Docket No. 19619, File No. 162-A-L-62.

1. The Commission's rules (§ 87.251 (a)), provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the same landing area (Homer Airport, Homer, Alaska) and are, therefore, mutually exclusive. Accordingly, it is necessary to designate the applications for comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. In view of the foregoing, *it is ordered,* That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331(b)

(21) of the Commission rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

a. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

b. To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered,* That to avail themselves of an opportunity to be heard, Homer Air Service, Inc., and Cook Inlet Aviation, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 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 set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: November 3, 1972.

Released: November 6, 1972.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.72-19444 Filed 11-10-72;8:52 am]

PBX ADVISORY COMMITTEE; NONVOICE TASK GROUP

Notice of Public Meeting

NOVEMBER 7, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the Nonvoice Task Group of the PBX Advisory Committee to be held Tuesday, November 14, and Wednesday, November 15, 1972. The task group will meet at 590 Madison Avenue, New York, NY, Room A-2 at 9:30 a.m.

1. *Purposes.* The purpose of the PBX Advisory Committee is to prepare recommended standards to permit the interconnection of customer provided and maintained PBX equipment to the public switched network. The purpose of this task group is to prepare recommendations to the PBX Advisory Committee regarding the most practicable means by which a noncertified device may be used with a combined voice/nonbarrier PBX.

2. *Membership.* The task group is chaired by J. Merkel and is composed of the following: P. Bennett, M. J. Birck, G. Jahn, A. Marthens, H. A. Montgomery, G. Orelli, J. L. Wheeler. Observers include: P. D. Aoust, L. K. Armstrong, L. L. Butler, J. L. Caldwell, R. B. King, R. F. Norian, J. T. Walker, and W. L. Weikl.

3. *Activities.* Members and observers review existing interface criteria in some detail with the aim of identifying any additional harms which might accrue from nonvoice (noncarbon transmitter) devices. Any new criteria or need for modifications to the existing documents are highlighted.

4. *Agenda.* The agenda for the November 14 and 15 meeting will be as follows:

a. Review of work assignments.

b. Discussion of work assignments.

c. Review of test standard document.

d. Homework assignments.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on 202—632-6457.

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

[FR Doc.72-19443 Filed 11-10-72;8:52 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Notice of Meeting and Agenda

Agenda, meeting of the Technical Advisory Committee on Conservation of Energy on November 15, 1972, Room 4008, GAO Building, Washington, D.C. at 9:30 a.m.

1. Approval of minutes of October 17, 1972, meeting.

2. Review and approval of committee guidelines.

3. Review and approval of guidelines for Task Force on Practices and Standards.

4. Review and approval of guidelines for Task Force on Technical Aspects.

5. Review and approval of guidelines for Task Force on Environmental Aspects.

6. Review and approval of guidelines for Task Force on Policy, Implementation Methods, and Impact.

7. Task Force assignments for committee members and suggestions for additional members.

8. Other business.

9. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19452 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Notice of Meeting and Agenda

Agenda, second meeting of the Technical Advisory Committee on Finance at 9:30 a.m. at the Federal Power Commission Offices, 441 G Street NW., Room 2043, Washington, DC., on November 21, 1972.

I. Review of minutes of previous meeting.

II. Discussion of Revised List of Initial Lines of Inquiry.

III. Discussion of Load Forecasts.

IV. Preliminary Reports on assignments made at previous meeting.

A. Capital Structure and Coverage—Messrs. Childs and Eggerstedt.

B. Sulphur Emissions Tax — Mr. O'Connor.

C. Special Financing Problems of REA's—Mr. Raymond.

D. Federal Income Taxes—Mr. Corey.

V. Completion of assignments of study projects.

VI. Other business.

VII. Time and place of next meeting.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-19451 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Notice of Meeting and Agenda

Agenda, second meeting of the Technical Advisory Committee on Research and Development at 9:30 a.m. at the Federal Power Commission Offices, 441 G Street NW., Room 2043, Washington, D.C., on November 20, 1972.

I. Approval of minutes of previous meeting.

II. Review of report of the R&D Goals Task Force of the Electric Research Council.

III. Review of recent Office of Science and Technology studies of energy R&D potentials.

IV. Discussion of R&D areas as they relate to the Committee's assignment.

V. Discussion and selection of Committee work objectives and work plan.

VI. Other business.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19453 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Notice of Meeting and Agenda

Agenda, meeting, Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, Room

2043, on November 28, 1972, at 9:30 a.m. e.s.t.

1. Meeting called to order and roll call.
2. Approval of minutes of meeting October 17, 1972.
3. Receipt of report from Task Force on Report Structure and Review.
4. Development of outline of TAC report.
5. Assignment of duties.
6. Other business.
7. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19450 Filed 11-10-72;8:52 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Notice of Meeting and Agenda

Agenda, meeting of the Task Force—Administrative of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 1425 K Street NW., Washington, DC, Room 859, on November 15, 1972, at 10 a.m. e.s.t.

1. Meeting called to order and roll call.
2. Receipt and discussion of comments solicited at TAC meeting October 17, 1972.
3. Preparation of report outline for presentation to TAC meeting November 28, 1972.
4. Other business.
5. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19454 Filed 11-10-72;8:53 am]

[Docket No. CP73-89]

EASTERN SHORE NATURAL GAS CO.

Notice of Applications; Correction

NOVEMBER 3, 1972.

In the notice of application, issued October 19, 1972 and published in the FEDERAL REGISTER October 26, 1972 F.R. 37(22905):

Paragraph 2, change the customer and additional contract demand-Mcf table to read as follows:

Customer	*Additional contract demand-Mcf long term service*
Cambridge Gas Co	35
Chesapeake Utilities Corp.:	
Citizens Gas Division	80
Dover Gas Light Division	165
Sussex Gas Division	25
Elkton Gas Service:	
Division of Pennsylvania & Southern Gas Company	45
Total	350

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19455 Filed 11-10-72;8:53 am]

[Docket No. RP73-4]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Extension of Time

NOVEMBER 7, 1972.

On November 6, 1972, Commission Staff Counsel filed a motion to change the procedural dates fixed by the order issued September 1, 1972, in the above-designated matter. The motion states that all parties to this proceeding assent to the proposed changes.

Upon consideration, notice is hereby given that the procedural dates fixed by the order issued September 1, 1972, are changed as follows:

Service of Staff evidence	Nov. 27, 1972.
Service of Intervenor evidence.	Dec. 18, 1972.
Service of Company rebuttal evidence.	Jan. 15, 1973.
Commencement of Prehearing Conference.	Dec. 7, 1972. (10 a.m., e.s.t.).
Commencement of Cross-examination.	Feb. 6, 1973. (10 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19449 Filed 11-10-72;8:52 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Member

NOVEMBER 3, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Finance.

2. *Membership.* An additional member to the Technical Advisory Committee on Finance, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Jack F. Bennett, Member, Deputy Under Secretary for Monetary Affairs, Treasury Department.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19410 Filed 11-10-72;8:48 am]

[Project 2317]

APPALACHIAN POWER CO.

Order Reopening Proceeding and Requiring Further Procedures Implementing National Environmental Policy Act

NOVEMBER 2, 1972.

In this proceeding the Appalachian Power Co. seeks a license to build the Modified Blue Ridge project, a combined conventional and pumped storage hydroelectric project to be located in southwestern Virginia and northwestern North Carolina. The application has been the subject of extensive hearings, commencing in May 1967. The Presiding Examiner has issued two decisions, an Initial Decision on October 1, 1969, and a Supplemental Initial Decision on June 21, 1971. Exceptions to each and briefs opposing exceptions have been filed, and two oral arguments have been held. The matter is now pending before us for decision.

We have frequently indicated our desire that this case proceed with reasonable expedition, for it is an important case and we are anxious to take action concerning it. We remain so minded. We have concluded, however, that we cannot decide the case now, in advance of a further hearing.

On October 10, 1972, the Supreme Court denied this Commission's petition for a writ of certiorari to review the decision of the Court of Appeals for the Second Circuit in Greene County Planning Board v. FPC, 455 F. 2d 412 (1972). FPC v. Greene County Planning Board, Sup. Ct. No. 71-1597, —— U.S. —— (1972). Accordingly, we apply the conclusions expressed by the Court of Appeals in that case. Those conclusions concern this Commission's procedures with respect to the implementation of the National Environmental Policy Act, and in particular the court held that an environmental statement must be prepared by our staff in advance of hearing, and that such statement must be "subject to the full scrutiny of the hearing process."

A draft environmental statement was prepared by our staff in this proceeding, but that statement has not been subjected to cross-examination. In light of the Greene County decision, and because a contested application is here involved, we think that an opportunity to cross-examine must be afforded to the parties to this proceeding. For that reason, we are remanding this case to the Presiding Administrative Law Judge, so that the requirements of the Greene County decision can be met fully. A further hearing will be required to achieve that result.

Our favorable action on the application which forms the basis for this proceeding would, in our view, clearly constitute a "major" Federal action "significantly affecting the quality of the human environment," as that phrase is used in section 102(2)(C) of the National Environmental Policy Act. Recognizing that to be so, the Appalachian Power Co., at the conclusion of the most recent hearing on December 11, 1970, and at the direction of the Presiding Examiner, filed on January 25, 1971, its environmental statement. We accept that statement as constituting the applicant's report of the environmental factors involved in the project. Similarly, we are prepared to accord to the environmental statement filed by our staff on April 21, 1971, as part of the staff initial brief to the Examiner, the status of a draft environmental statement, but the staff should be afforded the opportunity to modify it, if it chooses to do so. Beyond

that, it will be necessary that notice be given of the availability of the staff statement; that it be made available to the parties, to the Council on Environmental Quality, to other appropriate governmental bodies, and to the public, for comment; that after consideration of the comments received, the staff revise as necessary and finalize its environmental statement, prior to hearing; and that such staff statement, as revised and finalized, be offered in evidence at the reopened hearing.

At earlier stages of this proceeding, a total of nine motions to reopen the record were filed, and to these we have not yet spoken. Six were filed by the State of West Virginia on August 20, 1971, and one each were filed by the Alleghany Farm Bureau and the North Carolina Farm Bureau on September 23, 1971, by the Appalachian Research and Defense Fund, Inc., and the Congress for Appalachian Development, on September 30, 1971, and by Grayson County, Va., on October 1, 1971. To the extent that each such motion seeks reopening of the record to permit the further exploration of environmental issues, our action herein has the effect of granting the motions.

More particularly, the six motions of the State of West Virginia seek reopening to afford a further opportunity (1) for the examination of environmental statements already prepared, (2) for the admission of evidence concerning the recreational and environmental impact of the project on 230 miles of the New-Kanawaha River, (3) to study the effects of the project as it relates to the operation of other projects in the pertinent basins, (4) to explore the "impropriety and illegality" of proposed low-flow augmentation, (5) to permit further testimony on the availability of at-source waste treatment technology, and (6) to determine the amount of low-flow augmentation required of the project. The Farm Bureaus' motion is for the purpose of receiving further evidence relating to the project's impact "on the continuing recreational, environmental, ecological and economic stability" of the affected areas. The motion of the Appalachian Research and Defense Fund and the Congress for Appalachian Development is based, in part, upon their belief that "the environmental statement of the Commission" is inadequate, and that the water quality function of the project requires further evaluation. Grayson County's motion states that reopening is required so that there may be received further evidence "relative to the environmental impact of the construction and operation of this project".

The procedures outlined herein, in which we require a staff draft environmental statement, an opportunity for comment thereon, revision as necessary and finalization by the staff of the draft environmental statement, the introduction of such statement as revised and finalized in evidence, and the opportunity to conduct cross-examination thereon, will permit the further exploration of the issues raised in the motions to reopen, as described above, to the extent that such issues are raised by or are revelant to the environmental statement of the staff, as revised and finalized.

The motion to reopen filed by the Appalachian Research and Defense Fund and the Congress for Appalachian Development is also based on the view of these parties that further evidence is needed concerning the desirability of Federal development of Blue Ridge resources, the anticompetitive effect of our granting the license applied for, and the applicant's fitness. On all such subjects, we view the record before us now as sufficient to permit us to reach an informed decision. As to the question of the desirability of Federal development, our orders in this proceeding of October 12, 1970, December 21, 1970, and January 26, 1971, denied earlier motions of these two parties on the same subject, for the reasons therein stated. The movants do not suggest that they have further evidence to offer on any of these three issues. Accordingly, their motion of September 30, 1971, is denied, to the extent that it seeks reopening with respect to the issues of Federal development, anticompetitive effects, and the applicant's fitness.

On October 18, 1972, the Federal Water Pollution Control Act amendments of 1972 became law. Section 102(b)(6) provides that:

> No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator (of the Environmental Protection Agency) shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

The question whether the Blue Ridge project should be constructed, or constructed and operated, so as to provide water quality control for the lower Kanawha River, has been a prominent and highly controverted issue in this proceeding. That issue involves numerous environmental implications, as the lengthy record now before us demonstrates. The reopening of the record to permit the further examination of environmental issues will thus have the secondary effect of affording to the parties (including the Administrator of the Environmental Protection Agency, to whom we have accorded the status of an intervenor), the opportunity to address themselves to the effect of the new law upon the Blue Ridge project. The parties will have that opportunity in connection with their comments and cross-examination on the staff environmental statement.

The Commission further finds:

(1) In order to assure that the parties to this proceeding have available to them all of the procedures and safeguards contained in the National Environmental Policy Act, as construed in Greene County Planning Board v. F.P.C., supra, it is necessary that the proceeding be remanded to the Presiding Administrative Law Judge and that the hearing be reopened so that a staff environmental statement may be received in evidence and an opportunity may be afforded for cross-examination thereon.

(2) A further hearing in this proceeding would be in the public interest.

(3) Such further hearing shall not be held until the staff draft environmental statement has been revised as necessary and finalized by the staff, following the receipt of comments on the staff's draft environmental statement, and until such statement, as so revised and finalized, has been made available to the parties for a period of time sufficient for their preparation of cross-examination. The environmental statement of the staff, as so revised and finalized, shall be introduced in evidence at the reopened hearing.

The Commission orders:

(A) The proceeding is hereby reopened so that a staff environmental statement may be received in evidence and an opportunity may be afforded for cross-examination thereon, and a further public hearing before the Presiding Administrative Law Judge shall be held thereon in Washington, D.C., commencing on such date as he may, in his discretion, prescribe. The Presiding Administrative Law Judge shall prescribe procedures for such further hearing, consistent with the decision in Greene County Planning Board v. F.P.C., supra, and with this order. At such reopened hearing, the staff's environmental statement, as revised and finalized following the receipt of comments, shall be offered in evidence, and cross-examination thereon shall be permitted.

(B) All interested persons desiring to be heard in this phase of the proceeding who are not already parties may file appropriate petitions to intervene, on, or before November 20, 1972.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19405 Filed 11-10-72;8:47 am]

[Docket No. E-7784]

BOSTON EDISON CO.

Order Accepting Proposed Rates for Filing, Consolidating Proceedings and Providing for Refunds

NOVEMBER 7, 1972.

On October 3, 1972, Boston Edison Co. (Edison) tendered for filing Exhibits B-PR and C-PR to its general service for resale tariff, together with supporting data, to provide rates and conditions for partial requirements services for Edison's wholesale for resale customers.

Edison states that the proposed partial requirements rates are base dupon the same revenue requirements as Edison's Rate S-2 which has been suspended for

5 months and will become effective subject to refund January 1, 1973 in Docket No. E–7738. Edison contends that it cannot estimate its revenues under the rates for partial requirements services since it does not have any firm requests for any of the services, and the commercial operation dates of its three atomic units are not known. In its transmittal letter Edison agrees to refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which would be or may be found excessive if the revenue requirements in Edison's cost of service are found to be excessive by the Commission in the S–2 case. Edison also agrees that if there is any question concerning the proposed methods or rates, the Commission may consolidate this filing with the Rate S–2 hearing.

Edison proposes to make these rates effective 30 days after the October 3, 1972, submission for filing or as soon thereafter as partial requirements services are provided.

Review of the rate filing indicates that certain issues may require development in an evidentiary hearing. The proposed tariff sheets have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) Edison's proposed rate schedule supplements should be accepted for filing

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission consolidate the instant Docket No. E–7784 with the proceeding presently pending in Docket No. E–7738.

(3) The disposition of this proceeding should be expedited in accordance with the following service and hearing dates established in Docket No. E–7738:

Staff Service Date	Jan. 3, 1973
Intervenor Service Date	Jan. 17, 1973
Edison Rebuttal Date	Jan. 31, 1973
Prehearing Conference Date	Feb. 7, 1973
Hearing Date	Feb. 13, 1973

(4) Edison should refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which may be found excessive after hearing and decision thereon in the consolidated proceedings established by this order.

(5) The placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) Edison's proposed rate schedule supplements of October 3, 1972, are accepted for filing and shall become effective 30 days after the October 3, 1972, submission for filing or as soon thereafter as partial requirements services are provided, subject to the terms and conditions of this order.

(B) Because it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act, Docket No. E–7784 is hereby consolidated with the proceedings presently pending in Docket No. E–7738.

(C) The disposition of this proceeding will be conducted in accordance with the service and hearing dates of Docket No. E–7738 as listed above.

(D) Edison will refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which may be found excessive.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in section 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–19407 Filed 11–10–72;8:47 am]

[Docket No. CP72–175]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

NOVEMBER 6, 1972.

Take notice that on October 31, 1972, Michigan Wisconsin Pipe Line Co. (Petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72–175 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing delivery of adjusted maximum daily quantities (MDQ) of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that its customers have reviewed their requirements for the coming heating season and have advised Petitioner that they will require an increase in contract demand to meet their customers' daily requirements. The requested modifications in MDQ proposed to be delivered by Petitioner are as follows:

Customer	Rate Schedule	Nominations (Mcf) Authorized	Revised	Increase or (Decrease)
City Gas Co	ACQ–1	3,943	4,360	417
	MDQ–1	657	440	(217)
Michigan Power Co	ACQ–1	----------	17,682	17,682
	ACQ–2	65,248	52,618	(12,630)
	MDQ–1	25,052	20,000	(5,052)
North Central Public Service Co	ACQ–1	6,118	7,799	1,681
	MDQ–1	4,575	3,700	(875)
Wisconsin Fuel and Light Co	ACQ–1	57,086	59,171	2,085
	MDQ–1	3,914	2,829	(1,085)
Wisconsin Gas Co	ACQ–1	562,021	603,735	41,714
	MDQ–1	67,979	46,265	(21,714)
Wisconsin Natural Gas Co	ACQ–1	255,265	266,851	11,586
	MDQ–1	31,050	25,019	(6,031)
Community Natural Gas Co., Inc	SGS–1	1,830	2,100	270
Lamoni, Iowa, City of	SGS–1	2,400	2,500	100
West Tennessee P.U.D	SGS–1	3,500	4,000	500

Petitioner states that the revised MDQ's for City Gas Co., Michigan Power Co., North Central Public Service Co., Wisconsin Fuel and Light Co., Wisconsin Gas Co., and Wisconsin Natural Gas Co. result in no increase in annual entitlements and that the annual requirements of Community Natural Gas Co., Inc., the City of Lamoni, and West Tennessee P.U.D. are essentially the same as heretofore described in the instant docket. Petitioner states further that it can provide the requested service with existing facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 28, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–19406 Filed 11–10–72;8:47 am]

[Docket No. RP71–119, etc.]

PANHANDLE EASTERN PIPELINE CO. ET AL.

Order Conditioning Temporary Modification to Settlement Agreement

NOVEMBER 6, 1972.

Panhandle Eastern Pipeline Co., Docket No. RP71–119; Michigan Consolidated Gas Co., Docket No. R–386; Battle Creek Gas Co., Docket No. R–386.

On September 28, 1972, the Commission issued a Notice of a Motion filed on September 25, 1972, by Battle Creek Gas Co. (Battle Creek), 23 East Michigan Avenue, Battle Creek, MI 49016, in the

above-styled proceeding, requesting that the Commission issue an order modifying or waiving for a period of several months the flexibility provisions set forth in the settlement and stipulation generally agreed to by Panhandle Eastern Pipeline Co.'s (Panhandle) customers and approved by order of the Commission on June 20, 1972, in this proceeding.

Battle Creek, a natural gas distributor in the City of Battle Creek, and environs, states that Panhandle is its only source of natural gas, that it has two propane plants capable of producing 8,500 Mcf of gas per day for peak shaving, and that it has a strict curtailment policy under which it has not added any new space heating customers since December 1970 and under which it has curtailed all new service to industrial customers and has limited existing firm customers to increases within existing contracts. Battle Creek further contends that for the past 2 years it has been engaged in a program of developing a natural gas storage field in Johnstown Township, Mich., and that engineering problems and environmental considerations have required the leaching of the cavern at a slower rate than anticipated so that the cavern will not be ready to receive gas until fall of 1973.

Battle Creek alleges that, based upon the anticipated curtailment of Panhandle as set forth in its schedule of July 1972, Panhandle's peak day responsibility to it in January 1973 will be 45,994 Mcf of natural gas which, when added to Battle Creek's propane production, provides a peak day availability of 54,494 Mcf of gas. Battle Creek then notes that its peak day requirements for firm gas might reach 62,356 Mcf in the winter of 1972–73 and that it will have a deficiency, based upon a winter colder than normal, of 7,862 Mcf of gas. If a colder than normal winter does in fact occur, it alleges that it will be required to curtail its firm industrial customers and large commercial users which will cause many businesses in the area to cease operations and will cause extreme hardship upon the citizens of the area.

In order to alleviate its supply problem for the 1972–73 heating season, Battle Creek has contracted with Michigan Consolidated Gas Co. (Consolidated) to receive from Panhandle at Consolidated's River Rouge Station in Melvindale, Mich., up to 200,000 Mcf of Battle Creek's gas between October 1, 1972, and November 30, 1972, at a rate not to exceed 10,000 Mcf per day. Battle Creek would cause such gas to be available by interrupting its interruptible customers earlier than it would otherwise do. Consolidated would redeliver gas to Panhandle for delivery to Battle Creek at a rate not to exceed 8,000 Mcf per day from December 1972 through April 1973. The gas would be delivered by displacement of other gas delivered by Panhandle at the River Rouge station during the heating season. Any gas not utilized by Battle Creek prior to April 30, 1973, would be redelivered to it as soon as practical thereafter. Battle Creek alleges that no gas delivered by Panhandle and stored by Consolidated will reenter interstate commerce, that such gas will be used exclusively within Michigan, and that all physical facilities necessary to carry out the proposal are in existence.

It is requested that the Commission approve the subject proposal as an exception to the flexibility provisions of the stipulation and agreement of May 8, 1972, by requiring Panhandle to deliver the gas as proposed and to find that the proposal will not affect the nonjurisdictional status of Battle Creek or Consolidated under the Natural Gas Act.

The arrangement is purely temporary in nature and will not result in Battle Creek's taking more gas from Panhandle than it normally would during the period October 1 through November 30, 1972. Additionally, since the takes will not exceed those contemplated under normal circumstances, the proposed request made by Battle Creek will not permit Battle Creek to pre-empt any capacity in Panhandle's pipeline to which it is not entitled. It is thus evidence that all of the facilities that will be utilized under this modification of the settlement agreement are presently installed.

However, since the service that Consolidated has agreed to undertake for Battle Creek falls within the purview of the Natural Gas Act our authorization is premised upon the condition that it be undertaken only if there is full compliance with our Rules and Regulations. In permitting this emergency service, we note that our rules and regulations under the act only recognize an emergency service of the nature requested when it is limited to a single period of not more than 60 days and when the other requirements prescribed in § 2.68 of our General Rules under the Act have been met. We shall therefore treat Battle Creek's motion and the attached agreement, for purposes of expedition, as a filing pursuant to § 2.68.

Hence, the Commission will approve the instant temporary modification requested by Battle Creek to the aforementioned stipulation and agreement to the extent that it is able within the provisions of section 2.68 of the Commission's general rules under the act. The rendition of the above noted emergency service shall not jeopardize the status that Battle Creek and Consolidated presently enjoy under section 1(c) of the act as long as it is being rendered in complete conformity and compliance with the provisions of the aforementioned section of our general rules. If the emergency service requested will have a duration of longer than 60 days, Consolidated shall obtain an advance statement from the Commission, prior to the termination of the 60-day period, in order to preserve their exempt status under section 1(c) of the act.

In the aforementioned notice relating to this motion issued on September 28, 1972, we afforded any person desiring either to be heard thereon or to make protest thereto until October 16, 1972, to do so. We have received only two responses to this motion and they did not voice opposition to the modification requested by Battle Creek Gas Co.[1] Hence, we can only conclude that none of the parties oppose the modification proposed in the aforementioned motion filed by Battle Creek.

The Commission finds:

(1) The public convenience and necessity requires that the flexibility provisions in the currently effective interim stipulation and agreement providing for curtailed service during times of gas supply deficiency on the Panhandle System, adopted by the Commission in its Order Approving Settlement on June 20, 1972, be modified to permit the emergency storage arrangement between Battle Creek Gas Co. and Michigan Consolidated Gas Co., which is fully set forth in their letter agreement dated September 18, 1972.

(2) The public convenience and necessity requires that Panhandle Eastern Pipe Line Co. make appropriate deliveries, as the occasion may require, to either Battle Creek Gas Co. or Michigan Consolidated Gas Co. in order to provide for service under the modification to the approved settlement requirement which is described in the body of this order, as the Commission may authorize consistent with Battle Creek's motion.

(3) The aforementioned agreement and the deliveries hereunder are both temporary and emergency in nature. Hence, the temporary arrangement between Battle Creek Gas Co. and Michigan Consolidated Gas Co. will not be regarded as affecting their continued exemption under section 1(c) of the Natural Gas Act, provided such service is rendered in conformity and compliance with § 2.68 of our general rules under the act.

(4) That the service recommended is suitable to alleviate the emergency that exists and is, therefore, required by the public convenience and necessity.

The Commission orders:

(A) That the flexibility provisions reflected in the currently effective interim Stipulation and Agreement relating to gas supply deficiency curtailments on the Panhandle Eastern Pipe Line System which the Commission approved in its Order Approving Settlement, issued on June 20, 1972, be modified and/or waived to the extent necessary to provide for the emergency arrangement set forth in the body of this order and in the motion filed by Battle Creek Gas Co. on September 25, 1972.

(B) That Panhandle Eastern Pipe Line Co. make the necessary deliveries to either Battle Creek Gas Co. or Michigan Consolidated Gas Co. as contemplated under the aforementioned modification and/or waiver of the flexibility provisions to the Interim stipulation and agreement, noted above, between Panhandle Eastern Pipe Line Co. and its

[1] A statement in support of the motion was filed by The Central Illinois Public Service Co. on October 13, 1972. A response to the motion by Panhandle was made on October 16, 1972. This order approving the modification appears to be consistent with the observations and comments contained in Panhandle's response.

customers as may from time to time be authorized hereunder.

(C) That any service made pursuant to this modification shall be in conformity with the delivery schedules both with respect to volumes and time as prescribed in the body of this order.

(D) The service rendered under this temporary, emergency arrangement will in no way affect the status that Battle Creek Gas Co. and Michigan Consolidated Gas Co. presently enjoy under section 1 of the Natural Gas Act provided that during the period of time in which this service is being rendered that the provisions in § 2.68 of the Commission's general rules are fully complied with.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19408 Filed 11-10-72;8:47 am]

[Docket No. CI73-309]

PHILLIPS PETROLEUM CO.

Notice of Application

NOVEMBER 7, 1972.

Take notice that on October 27, 1972, Phillips Petroleum Co. (Applicant), Bartlesville, Okla. 74004, filed in Docket No. CI73-309 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Transwestern Pipeline Co. (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to deliver gas to Transwestern at the outlet of Applicant's Gray Plant in Gray County, Tex., in exchange for gas to be delivered by Transwestern at points on Transwestern's 6-inch lateral in Roberts County, Tex., and 10-inch lateral in Sherman County, Tex. Applicant states that deliveries will be on an "as available" basis and will be balanced monthly on a weighted average B.t.u. basis. The initial exchange volume is estimated at 600,000 Mc.f. of gas per month. Applicant states that the subject exchange will enable both parties to operate more efficiently and will enable Transwestern to utilize existing horsepower at the LeFors station.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 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.72-19409 Filed 11-10-72;8:47 am]

[Docket Nos. CI72-834, CP72-274]

NAVARRO GAS PRODUCTION CO. ET AL.

Notice of Extension of Time

NOVEMBER 6, 1972.

Navarro Gas Production Co. and Louisiana Gas Production Co., Division of Commercial Solvents Corp., Docket No. CI72-834; Georgia-Pacific Corp., Docket No. CP72-274.

On October 30, 1972, Georgia-Pacific Corp., filed a motion for reconsideration of the order issued October 20, 1972, and, in the alternative, the motion requests the issuance of a temporary certificate. The motion further requests that the dates fixed by the order of October 20 be postponed.

Upon consideration, notice is hereby given that the procedural dates fixed by the order issued October 20, 1972, are postponed, pending action on the motion filed by Georgia-Pacific Corp.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19411 Filed 11-10-72;8:48 am]

[Project No. 459]

UNION ELECTRIC CO.

Notice of Application for Change in Land Rights

NOVEMBER 7, 1972.

Public notice is hereby given that application has been filed May 17, 1972, under the Federal Power Act (16 U.S.C. 791a-825r) by the Union Electric Co. (correspondence to: Mr. Carl H. Hendrickson, Attorney, Post Office Box 149, St. Louis, MO 63166) for Commission approval of a change in land rights for project No. 459 located on the Osage River below Bagnell Dam.

Applicant requests approval of a lease to the Missouri Conservation Commission (MCC) to develop a parcel of project land as a public access area to the Osage River. The parcel in question is located in the northwest quarter of section 29, Township 40 North, Range 15 West. MCC proposes to construct on the parcel a boat launching ramp, sanitary facilities, roads, and a parking lot.

The proposed lease is subject to the terms of the license, includes a covenant in accordance with paragraph (C) of Commission Order No. 313 and provides for public use of the parcel.

Any person desiring to be heard or to make protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene 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 a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19457 Filed 11-10-72;8:50 am]

FEDERAL RESERVE SYSTEM

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank

Banks of Iowa, Inc., Cedar Rapids, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank, Burlington, Iowa (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls four banks with deposits of approximately $345 million, representing 4.7 percent of the total commercial bank deposits in the State, and is the second largest banking organization and bank holding company in Iowa. (All banking data are as of December 31, 1971, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Applicant's acquisition of Bank ($34.5 million in deposits) would increase Applicant's share of deposits in the State by one-half of 1 percentage point, without changing its ranking in the State.

Bank is the largest of seven banking organizations serving the Burlington banking market with 30.7 percent of total commercial bank deposits therein. Inasmuch as this proposal represents Applicant's initial entry into the market, no existing competition would be eliminated. Furthermore, the development of any meaningful competition between any of Applicant's existing subsidiaries and Bank appears unlikely in light of the distances involved (Applicant's closest subsidiary is about 73 miles west of Bank), the large number of banks in the intervening area, and the State's restrictive branching law.

Although Applicant proposes to acquire the largest bank in the market, it appears unlikely that Applicant would acquire one of the smaller banks in the Burlington banking market. Three of the competing banks are located in West Burlington and cannot branch into Burlington proper, and thus are not attractive for acquisition. The other three banks in the market do not appear to be available for acquisition because of existing relationships with other banking groups. Applicant possesses the resources for meaningful de novo entry into the market; however, the city of Burlington, which has experienced no population growth since 1960, is not a major Iowa financial center, and the area's economy has been characterized by fluctuations in employment levels in the past. On the basis of the facts of record, the Board concludes that consummation of Applicant's proposal may have a slightly adverse effect on potential competition, but would not eliminate significant existing competition and, therefore, competitive considerations are consistent with approval of the application.

Affiliation with Applicant would increase Bank's lending capabilities through participations with Applicant's subsidiaries and special emphasis would be given to expansion of Bank's activities in trust administration, investment counseling, bond financing, and international banking. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application.

Considerations relating to financial and managerial resources and prospects as they relate to Applicant and its subsidiaries are regarded as satisfactory. The same conclusions apply generally with respect to Bank, except that Bank has not provided for adequate successor management. Applicant's capabilities for finding competent and experienced officers for Bank as needed lend some weight in favor of approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19381 Filed 11-10-72;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Bank Plaza del Oro, N.A., Houston, Tex. (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls six banks located in the Houston and Beaumont, Tex., areas with aggregate deposits of $1.4 billion, representing 4.7 percent of total deposits of commercial banks in the State.[2] Applicant, the fourth largest banking organization in Texas, is the second largest banking organization in the Houston banking market with four subsidiary banks controlling approximately 17.9 percent of deposits of commercial banks. In addition, applicant holds, through a subsidiary, between 20 and 24 percent of each of three other banks located in the Houston area. These three banks hold aggregate deposits of $77.2 million representing 1.1 percent of the total deposits of commercial banks in the Houston area. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved through September 30, 1972.[3]) Acquisition of Bank, a proposed new bank, will not affect applicant's ranking among banking organizations in the State.

Bank is to be located in a new residential-commercial complex being developed in the southern portion of the city of Houston approximately 5 miles from that city's central business district in which applicant's lead Bank is located. Applicant's other subsidiary banks in the Houston market are all located to the north of the central business district. An affiliate of applicant, Chemical Bank & Trust Co. ($31 million of deposits), is located approximately 4 miles from Bank's proposed location.[4] There are presently two unaffiliated banks located in Bank's proposed service area and three other unaffiliated banks located adjacent to that service area. As the development of the southern portion of the city of Houston continues, it can be expected that a number of additional banks will seek to locate in this area. Prospects for opening other banks throughout the rapidly growing Houston area (including the area in which Bank is proposed to be located) appear favorable and approval of this proposal would not serve to foreclose the opportunity for entry by other banking organizations into these areas. Applicant's acquisition of Bank should serve neither to eliminate existing or future competition nor have any adverse effect on the concentration of bank resources in the Houston area. On the contrary, the proposal herein, by adding an additional banking alternative, may serve to promote competition among those banks now located in or near Bank's proposed service area.

The financial and managerial resources of applicant and its subsidiary banks are regarded as satisfactory and prospects for the group appear favorable. Bank has no financial or operating history. However, as a subsidiary of applicant, Bank's prospects appear favorable. Banking factors are consistent with approval of the application. The development in which Bank is proposed to be opened is located on a site of more than 500 acres on which are to be constructed numerous office and apartment buildings, shopping centers, and professional facilities. As these projects are completed, the need for additional banking services will grow. To the extent Bank will be able to provide an additional alternative source of these services for persons using these facilities, considerations relating to the convenience and needs of the community are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order; or (b) later than 3 months after the effective date of this order; and

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

[2] On Aug. 31, 1972, the Board approved applicant's application to acquire American National Bank of Beaumont, Beaumont, Tex. As a condition to Board approval of that application, applicant is required to divest its interest in Beaumont State Bank, Beaumont, Tex., within 2 years of its acquisition of American National Bank.

[3] In addition to the present application, applicant has filed applications for approval to acquire two other proposed new banks in the Houston area. On Oct. 6, 1972, the Board announced the approval of applicant's application to acquire San Angelo National Bank of San Angelo, San Angelo, Tex. ($70 million of deposits).

[4] Applicant presently owns 20.9 percent of the voting shares of Chemical Bank and has stated its intention to file application to acquire control of this bank in the near future.

(c) Bank Plaza del Oro, N.A., Houston, Tex., shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective November 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19382 Filed 11-10-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5256]

CENTRAL AND SOUTH WEST CORP. AND CENTRAL POWER AND LIGHT CO.

Notice of Proposed Amendment of Charter

NOVEMBER 6, 1972.

Notice is hereby given that Central and South West Corp., 120 North Chaparral Street, Corpus Christi, TX 78403 (Central), a registered holding company, and one of its electric utility subsidiary companies, Central Power and Light Co. (CP&L), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9, 10, and 12(f) of the act and rules 50, 62, and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

CP&L proposes to amend its articles of incorporation to increase the par value of its 6 million authorized (issued and unissued) shares of common stock from $17 per share to $25 per share and to transfer from earned surplus to the common stock capital account the sum of $39,644,280—the equivalent of $8 per share for each of the 4,955,535 shares of common stock ($17 par value) now outstanding. At August 31, 1972, the common stock capital and the earned surplus of CP&L amounted to $84,244,095 and $60,992,830, respectively. Giving effect to the proposed transfer, common stock capital would be increased to $123,888.375 and earned surplus would be reduced to $21,348,550. The transactions are proposed for the stated purpose of achieving a better balance in the capital accounts of the company. Each of the outstanding common shares having a par value of $17 will, after the proposed transactions, constitute a common share having a par value of $25.

[4] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

CP&L also proposes to amend its charter to increase the authorized shares of its preferred stock from 175,000 shares to 675,000 shares and to issue and sell, subject to the competitive bidding requirements of rule 50 under the act, 260,000 shares of its authorized but unissued ------ percent preferred stock (cumulative, $100 par value). The dividend rate (which shall be a multiple of .04 percent) and the price (exclusive of accrued dividends) to be paid to CP&L (which shall be not less than $100 or more than $102.75 per share), will be determined by the competitive bidding. The terms of the preferred stock include a 5-year prohibition against refunding the preferred stock, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or other preferred stock at a lower effective dividend cost.

It is stated that the net proceeds to be derived by CP&L from the issuance and sale of the preferred stock will be used to pay outstanding short-term loans, estimated at $25 million at the time of issuance of the preferred stock, and to finance, in part, future construction expenditures, estimated at about $31,200,000 for the period July 1–December 31, 1972, and at $82 million for 1973.

It is stated that under Texas law, the affirmative vote of the holders of two-thirds of the outstanding shares of common stock, voting separately as a class, is required for the adoption of the proposed amendment increasing the par value of the shares of common stock and that the affirmative vote of the holders of two-thirds of the outstanding shares of preferred stock, voting separately as a class, and, in addition, the affirmative vote of the holders of two-thirds of the total outstanding shares of preferred stock and common stock, is required for the adoption of the proposed amendment to increase the total authorized preferred stock from 175,000 shares to 675,000 shares. Central, owner of all of the common stock of CP&L, has indicated that it will vote its shares in favor of the proposed amendments.

CP&L intends to submit the proposed transactions to its stockholders for their approval at a special meeting of stockholders which is to be held on or about December 12, 1972. In connection therewith, CP&L proposes, pursuant to rule 62 under the act, to solicit proxies from holders of its outstanding common stock and preferred stock.

Expenses to be incurred in connection with the proposed transactions are estimated at $57,000, including counsel fees of $15,000 and accountants' fees of $3.500. The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

CP&L has requested that the effectiveness of its declaration with respect to the solicitation of proxies from holders of its preferred stock be accelerated as provided in rule 62.

Notice is further given that any interested person may, not later than December 4, 1972, request in writing that a hearing be held with respect to the proposed amendment of the articles of incorporation and the proposed issue and sale of preferred stock, 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 applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that CP&L's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to rules 62 and 65:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to rules 62 and 65 and subject to the terms and conditions prescribed in rule 24 under the act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19436 Filed 11-10-72;8:49 am]

[812-3269]

GUARDIAN INSURANCE & ANNUITY COMPANY, INC., ET AL.

Notice of Application for Exemption

NOVEMBER 6, 1972.

Notice is hereby given that The Guardian Insurance & Annuity Company, Inc., 201 Park Avenue South, New York, NY 10003 (Guardian), a stock life insurance company organized under the laws of Delaware, The Guardian Variable Account 1 (VA-1), The Guardian Variable Account 2 (VA-2), separate accounts of Guardian registered as unit investment trusts under the Investment Company Act of 1940 (Act) and GLICOA Associates, Inc. (GLICOA), registered as a broker-dealer under the Securities Exchange Act of 1934 and the principal

underwriter of VA–1 and VA–2 (collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting applicants from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent noted below. 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.

VA–1 and VA–2 were established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts. VA–1 is used for purchasers who are qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code, and VA–2 for purchasers who are not so qualified for special tax treatment. Registration statements covering the proposed sale of these securities have been filed with the Commission.

The contracts are sold by persons who are registered representatives of GLICOA and who are also insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of The Guardian Life Insurance Company of America (Guardian Life).

Guardian and GLICOA are both wholly owned subsidiaries of Guardian Life. The assets of VA–1 and VA–2 are invested exclusively in the shares of The Guardian Park Ave. Fund, Inc. (Fund).

Hartford National Bank & Trust Co., Hartford, Conn., is the custodian for VA–1 and VA–2 and is also the custodian and transfer agent for the Fund.

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor and underwriter for the trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Such agreement must provide, inter alia, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B), and (C) of section 26(a)(2) until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed, (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services performed and reimbursement of expenses incurred as are provided for in the agreement, and (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself. An exemption is requested from the foregoing provisions to the extent necessary to permit such assets to be held in the custody of the sponsor company Guardian.

In support of the requested exemption from the foregoing provisions of the Act, applicants state that all of the assets of VA–1 and VA–2 will be invested in book shares of The Guardian Park Ave. Fund, Inc. The evidence of ownership will consist of confirmations only, thus making the duties of the custodian minimal. Due to the nature of the asset, applicants maintain that there is no possibility of these being lost or disposed of except on the basis of an application properly presented to the custodian for the Fund by authorized personnel of the sponsor company. Applicants also assert that they are subject to extensive supervision and control by the New York and Delaware Superintendents of Insurance which includes filing required reports to the superintendents and being subject to review or examination by the superintendents and their agents at all times. It is further maintained that VA–1 and VA–2 have been established pursuant to a Delaware law which provides that their assets shall not be chargeable with liabilities arising out of any other business Guardian may conduct and all obligations arising under contracts participating in VA–1 and VA–2 are, nevertheless, general obligations of Guardian and Guardian may not abrogate its obligations under such contracts. Applicants contend that the functions of the custodian of VA–1 and VA–2 can be handled by Guardian itself at less cost and without any diminution of the quality of the safekeeping arrangements in regard to the assets, so held.

Applicants have consented to the requested exemptions being subject to the following conditions:

1. That the charges to contract holders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

2. That the payment of sums and charges out of the assets of VA–1 and VA–2 shall not be deemed to be exempted from regulation by the Commission by reason of the order, provided that the applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of VA–1 and VA–2 other than charges for administrative services, and applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that 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 30, 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 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.72–19437 Filed 11–10–72;8:49 am]

VETERANS ADMINISTRATION

NEW VA HOSPITAL AND MODERNIZATION OF EXISTING BUILDINGS, COLUMBIA, S.C.

Notice of Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Statement for a Replacement 400 Bed Veterans Administration Hospital Building and Modernization of Existing Buildings for a Total Capacity of 580 Beds, Columbia, South Carolina," issued pursuant to the Veterans Administration's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 is being placed in the following office:

Mr. Arthur W. Farmer, Assistant Chief Medical Director for Administration and Facilities (13), Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420.

This project consists of a new 400 bed hospital building for Medical, Surgical, and Neurological nursing units, a new service support building, modernization of existing buildings to provide psychiatric and nursing home care beds, air conditioning five existing buildings, and relocating existing parking spaces. The

present Veterans Administration facility is 5 miles southeast of the center of Columbia, S.C. This statement discusses the environmental impact of our hospital replacement and modernization in that location. Included with the statement are the comments received from Federal agencies on the draft statement of which notice of availability was published in the FEDERAL REGISTER dated July 26, 1972 (37 F.R. 14910), and the Veterans Administration's response to these comments.

The Environmental Impact Statement, including the comments and the Veterans Administration's responses, will be furnished upon request addressed to the Assistant Chief Medical Director for Administration and Facilities (13) at the above address.

Dated: November 3, 1972.

[SEAL] DONALD E. JOHNSON,
Administrator.

[FR Doc.72-19439 Filed 11-10-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

WELPRO, INC.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of Welpro, Inc., Seabrook, N.H. (TEA-W-156). In view of the report and the responsibilities delegated to the Secretary of Labor under § 8 of Executive Order 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before November 21, 1972.

Signed at Washington, D.C., this 7th day of November 1972.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.72-19468 Filed 11-10-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Notice 115]

ASSIGNMENT OF HEARINGS

NOVEMBER 8, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 117940 Sub 54, Nationwide Carriers, Inc., now assigned November 8, 1972, at New York City, N.Y., is canceled and application dismissed.

MC-134776 Sub 20, Milton Trucking, Inc. now assigned November 16, 1972, at Washington, D.C., is postponed indefinitely.

MC-F-11361, Anderson Motor Lines, Inc.—Purchase (portion)—Glosson Motor Lines, Inc., now assigned continued hearing December 7, 1972, at Washington, D.C., advanced to November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-10774, K. L. Breeden & Sons, Inc.—Purchase (portion)—Marks Trucking Co., Inc., now assigned November 13, 1972, at Dallas, Tex., is advanced to November 9, 1972, in Room 3A-19, 1100 Commerce Street, Dallas, Tex.

MC-60196 Sub 7, Auto Express, Inc., now assigned December 4, 1972, will be held in Room 313, U.S. Post Office and Courthouse, North Washington Avenue and Linden Street, Scranton, Pa.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19460 Filed 11-10-72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 8, 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. 42564—*Iron or steel articles to Beasley, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-356), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from origins in various territories, to Beasley, Tex.

Grounds for relief—Rate relationship.

Tariff—Supplement 335 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on December 9, 1972.

FSA No. 42565—*Woodpulp to points in WTL territory.* Filed by Western Trunk Line Committee, agent (No. A-2679), for interested rail carriers. Rates on woodpulp, in box cars only, as described in the application, from Fort Frances, Ontario, Canada, to points in Illinois and western trunkline territories; also Kentucky.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 179 to Western Trunk Line Committee, agent, tariff ICC A-4669. Rates are published to become effective on December 10, 1972.

FSA No. 42566—*Rubber and related articles from Silsbee, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-358), for interested rail carriers. Rates on rubber, artificial, neoprene, or synthetic, crude, also rubber compounds, NOIBN, loose or in packages, in carloads, as described in the application, from Silsbee, Tex., to various points in Colorado, Georgia, Illinois, Louisiana, Missouri and New Jersey.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 42 to Southwestern Freight Bureau, agent, tariff ICC 4982. Rates are published to become effective on December 13, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19459 Filed 11-10-72;8:50 am]

[Notice 159]

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–73266. By order of October 30, the Motor Carrier Board on reconsideration approved the transfer to Carlton Repsher, Laceyville, Pa., of the operating rights in certificates Nos. MC–13659, MC–13659 (Sub-No. 9), and MC–13659 (Sub-No. 11) issued May 7, 1958, August 5, 1959, and December 20, 1961, respectively, to Palmer Transfer, Inc., Scranton, Pa., authorizing the transportation of ice cream mix, milk, and milk products, dry sugar, and flour, to and from specified points in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, New York, Massachusetts, and Connecticut. Dual operations were approved. Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, registered practitioner for applicants.

No. MC–FC–73927. By order entered October 30, 1972, the Motor Carrier Board approved the transfer to Fred Olson Co., Inc., Milwaukee, Wis., of those portions of the operating rights set forth in certificates Nos. MC–52673 and MC–52673 (Sub-No. 20), issued April 4, 1962, and May 7, 1965, respectively, to Fred Olson Motor Service Co., Milwaukee, Wis., authorizing the transportation of such commodities as require specialized handling or rigging because of size or weight, and iron articles and steel articles which because of size or weight require transportation by pole trailers, between Chicago, Ill., and Milwaukee, Wis., over specified highways, serving intermediate points, and the off-route points in Milwaukee County, Wis., and between specified areas in Illinois, Indiana, and Wisconsin. Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602, and Harold P. Boss, 1100 17th Street NW., Washington, DC 20005, attorneys for applicants.

No. MC–FC–73992. By order of October 31, 1972, the Motor Carrier Board approved the transfer to Olympic Trails Bus Co., Inc., Hillside, N.J., of a portion of certificate No. MC–946 issued to Ferdinand Arrigoni, Inc., Bronx, N.Y., authorizing the transportation of: Passengers and their baggage, in charter operations, from New York, N.Y., to points in New Jersey, Connecticut, and Pennsylvania, and return. Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021.

No. MC–FC–74019. By order entered October 30, 1972, the Motor Carrier Board approved the transfer to Stine's Towing Service, Inc., York, Pa., of the operating rights set forth in certificate No. MC–135433, issued September 19, 1972, to Oliver A. Miller, doing business as Stine's Towing Service, York, Pa., authorizing the transportation of: Wrecked and disabled motor vehicles, and replacement vehicles, by use of wrecker equipment, between points in York County, Pa., on the one hand, and, on the other, points in 19 specified States and the District of Columbia. Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–19461 Filed 11–10–72;8:50 am]

[Ex Parte No. MC–19; Sub-No. 19]

MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (CONSUMER PROTECTION)

Notice of Extension of Time

NOVEMBER 9, 1972.

Commissioner Murphy, Chairman of Division 1 of the Interstate Commerce Commission, has authorized, at the request of Reuben B. Robertson, III, representative of Grace Polk Stern, the extension of the time for filing representations in this proceeding (37 F.R. 15466 and 17638) from November 10, 1972, to December 11, 1972. This time extension includes an extension of the time on or before which petitioner, the Department of Transportation, is expected to comply with the request set forth in the original notice published August 2, 1972, (37 F.R. 15466), that it supply for the record the information and data upon which its petition is based.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–19536 Filed 11–10–72;8:52 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

1 CFR

Page

1 ... 23603
2 ... 23603
3 ... 23604
5 ... 23604
6 ... 23605
7 ... 23605
8 ... 23605
9 ... 23606
10 ... 23607
15 ... 23607
16 ... 23608
17 ... 23608
18 ... 23609
19 ... 23610
20 ... 23611
21 ... 23611
22 ... 23614
51 ... 23614

3 CFR

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Determination of Nov. 8, 1972 ... 23901

5 CFR

213 ... 23413, 23623, 24025
Ch. XI ... 23533

6 CFR

201 ... 23913, 24037
300 ... 23533, 23914
301 ... 23320
305 ... 23533, 23914
411 ... 23915
Rulings ... 23320, 23321, 23533, 23534

7 CFR

41 ... 23623
52 ... 23807
210 ... 23322
220 ... 23322
225 ... 24025
245 ... 23323
319 ... 23624
401 ... 23811–23817
402 ... 23818
403 ... 23818
404 ... 23818
406 ... 23818
408 ... 23818
409 ... 23818
410 ... 23818
413 ... 23818
722 ... 23819
725 ... 23241
726 ... 23244
729 ... 23413
811 ... 23545, 23624
831 ... 23903
906 ... 23546, 23626
907 ... 23323, 23819, 24025
908 ... 23324, 23546
909 ... 23819
910 ... 23546, 24025
912 ... 23547
913 ... 23547
929 ... 23248
984 ... 23415

7 CFR—Continued

Page

987 ... 23248, 23324, 23548
989 ... 23548, 23627
991 ... 24026
999 ... 23819
1071 ... 23683
1073 ... 23685
1097 ... 23687
1102 ... 23689
1104 ... 23690
1106 ... 23692
1108 ... 23694
1120 ... 23696
1121 ... 23903
1126 ... 23698
1127 ... 23700
1128 ... 23701
1129 ... 23703
1130 ... 23705
1132 ... 23707
1133 ... 24026
1138 ... 23709
1464 ... 23627
1864 ... 23628
1867 ... 23628
1873 ... 23628

PROPOSED RULES:

724 ... 23843
752 ... 23729
775 ... 23455
911 ... 23650
929 ... 24038
966 ... 23552
971 ... 23436
989 ... 23437
1036 ... 23342, 23782
1050 ... 23553
1065 ... 23438
1099 ... 23650
1121 ... 24038
1133 ... 23452
1421 ... 23455
1438 ... 23652
1464 ... 23456
1701 ... 23844

8 CFR

PROPOSED RULES:

212 ... 23274
299 ... 23274

9 CFR

75 ... 23534
76 ... 23315, 23416, 23821, 24028
82 ... 23417
318 ... 23822

PROPOSED RULES:

71 ... 24040
75 ... 23651
82 ... 23275
94 ... 24041
101 ... 23276
201 ... 23729
327 ... 23652

10 CFR

20 ... 23319
170 ... 24028

12 CFR

Page

204 ... 23249
210 ... 23249
265 ... 23329, 23534

PROPOSED RULES:

207 ... 23652
220 ... 23652
221 ... 23652

13 CFR

115 ... 23418

PROPOSED RULES:

120 ... 23733
122 ... 23733
123 ... 23733

14 CFR

39 ... 23418, 23535, 23536, 23630, 23710, 23711, 23903, 24029
71 ... 23249, 23250, 23329, 23420, 23536, 23631, 23823, 23904, 23905, 24030
73 ... 23250, 23330, 23904
75 ... 23330, 23420, 23631, 23905
95 ... 23823
97 ... 23331, 23825
302 ... 23332
372a ... 23250, 23711
399 ... 23333

PROPOSED RULES:

25 ... 23574
39 ... 23578
71 ... 23278, 23279, 23348, 23458, 23578, 23648, 23731, 23924, 23925, 24047
91 ... 23458
105 ... 23458
239 ... 23551
242 ... 23732
252 ... 23845
298 ... 23339

15 CFR

30 ... 23250

16 CFR

2 ... 23825
13 ... 23631

PROPOSED RULES:

434 ... 23363

17 CFR

200 ... 23826
201 ... 23827
202 ... 23829
230 ... 23636, 23829
239 ... 23637, 23829
240 ... 23637

PROPOSED RULES:

1 ... 23344
Ch. II ... 23850

18 CFR

Page

PROPOSED RULES:

2 ... 23360, 24048
3 ... 23849
4 ... 23360, 24048
101 ... 23363, 23733
104 ... 23363, 23733
141 ... 23733, 23850
154 ... 23363
201 ... 23363, 23733
204 ... 23363, 23733
260 ... 23363, 23550, 23551, 23733, 23849, 23850, 24048

19 CFR

22 ... 23712
153 ... 23715

20 CFR

401 ... 23252
615 ... 23835

21 CFR

1 ... 23253
3 ... 23537, 23644, 23715
27 ... 24031
121 ... 23538, 24031
135b ... 23905
135c ... 23420, 23905, 24031
135e ... 23538, 23906
135g ... 23906
141 ... 23716, 23906
141a ... 23254
146 ... 23254
146a ... 23254
148e ... 23836
149e ... 23254
149u ... 23906
308 ... 23420

PROPOSED RULES:

18 ... 23363
27 ... 23730
50 ... 23344
121 ... 23456
148m ... 23845
148v ... 23278
150d ... 23730
174 ... 23344
191 ... 23924
301 ... 23842
308 ... 23436, 23551

22 CFR

211 ... 24032
605 ... 23256

24 CFR

0 ... 23260
540 ... 23716
1914 ... 23539, 23638, 23912
1915 ... 23539, 23639, 23913

PROPOSED RULES:

1270 ... 23553

25 CFR

5 ... 23262
221 ... 23319

PROPOSED RULES:

47 ... 23274

26 CFR

1 ... 23423, 23916
3 ... 23917
53 ... 23918

26 CFR—Continued

Page

PROPOSED RULES:

1 ... 23921, 23922
13 ... 23921
148 ... 23922
240 ... 23339
301 ... 23922

29 CFR

20 ... 23421
Ch. II ... 23637
782 ... 23637
1910 ... 23718
1923 ... 23263
1951 ... 23263

PROPOSED RULES:

1910 ... 23646

30 CFR

PROPOSED RULES:

71 ... 23645

32 CFR

288 ... 23719
516 ... 23720
1001 ... 23909
1009 ... 23909
1281 ... 23267
1622 ... 23320
1631 ... 23421
1632 ... 23320
1706 ... 24032

PROPOSED RULES:

1626 ... 23926
1628 ... 23926
1631 ... 23926
1660 ... 23926

33 CFR

92 ... 23540
117 ... 23421, 23541
121 ... 23422
125 ... 23422

PROPOSED RULES:

26 ... 24043
117 ... 23731, 24044

36 CFR

7 ... 23334, 24033

PROPOSED RULES:

311 ... 23339
326 ... 23339
327 ... 23339

38 CFR

36 ... 24034

PROPOSED RULES:

3 ... 24049

39 CFR

951 ... 23422
952 ... 23422
953 ... 23422
954 ... 23422
955 ... 23422
957 ... 23422
958 ... 23422

40 CFR

11 ... 23541
52 ... 23836, 23837
180 ... 23334, 23335, 23837, 23838

40 CFR—Continued

Page

PROPOSED RULES:

85 ... 23778
124 ... 24088
180 ... 23349, 23846

41 CFR

1–1 ... 23337
1–3 ... 23544
3–1 ... 23272
3–3 ... 23723
5A–60 ... 23544
5A–73 ... 23544
105–735 ... 23338
114–26 ... 23422
114–38 ... 23422

42 CFR

85 ... 23639

43 CFR

PUBLIC LAND ORDERS:

1161 (revoked in part by PLO 5297) ... 23643
5265 ... 23838
5269 ... 23911
5295 ... 23643
5296 ... 23643
5297 ... 23643
5298 ... 23643

45 CFR

118 ... 24074
143 ... 24074
801 ... 23644
1202 ... 23919

46 CFR

110 ... 23838
146 ... 24034

PROPOSED RULES:

10 ... 23845
12 ... 23457
146 ... 24044

47 CFR

0 ... 23336
1 ... 23723
73 ... 23723
81 ... 23838
97 ... 23840

PROPOSED RULES:

73 ... 23349
78 ... 23846

49 CFR

571 ... 23272, 23536, 23727, 24035
574 ... 23727
1005 ... 23908
1033 ... 23273, 23336, 23728, 23840, 23841
1053 ... 24036

PROPOSED RULES:

71 ... 24048
393 ... 23550, 23925
571 ... 23460, 23731
573 ... 23649
575 ... 23732

50 CFR

28 ... 23423
32 ... 23336, 23841
33 ... 23841

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	Date
23235–23308	Nov. 1
23309–23406	2
23407–23525	3
23527–23615	4
23617–23676	Nov. 7
23677–23799	8
23801–23893	9
23895–24017	10
24019–24097	11

federal register

SATURDAY, NOVEMBER 11, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 219
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GUIDANCE, COUNSELING, AND TESTING PROGRAMS

Assistant to States

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING PROGRAMS

PART 143—GUIDANCE AND COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS—STATE PROGRAMS

Assistance to States

Notice of proposed rule making was published in the FEDERAL REGISTER on February 5, 1972, in 37 F.R. 2779, setting forth rules and standards for State plan programs authorized under title III of the Elementary and Secondary Education Act. Comments were received with respect to inclusion of an example of services for handicapped children (§ 118.26(c)), the inclusion of a copyright provision (§ 118.58), the strengthening of requirements for guidance, counseling, and testing programs or the elimination of such programs (§ 118.11), the elimination of the public junior colleges and technical institutes from the regulations (§§ 118.10–118.11), permission to reallocate to other States unused funds provided under section 306 of Public Law 91–230, and adding reference to Public Law 91–646, Uniform Relocation Act. Following review of the comments, the following changes were made:

A. *Summary of changes based on comments received.* 1. Section 118.26(c) has been amended to include an additional example of services available to handicapped children.

2. Section 118.58 has been included to add a copyright and patent provision to cover situations where copyrightable or patentable materials are developed under a title III program or project. This provision was omitted from the earlier regulations which were published in the FEDERAL REGISTER.

3. Section 118.42(r) was added to include the provisions of Public Law 91–646, the Uniform Relocation Act.

4. Other minor changes have been made, either to correct typographical errors or to effect solely technical matters.

B. *Summary of comments.* 1. A comment was received proposing that public junior colleges and technical institutes (§§ 118.10–118.11) be removed from the regulations because they weaken the original Act (Public Law 89–10). In most State educational agencies, the public junior colleges and technical institutes do not participate in the title III program. However, the statute makes it possible for junior colleges and technical institutes to participate in the guidance, counseling, and testing portion of title III only if an SEA elects to permit their participation.

2. A comment was received asking that the requirements for guidance, counseling, and testing programs be strengthened or such programs be eliminated. State educational agencies presently have the option to use the full title III approach (which includes regulatory criteria for innovative programs) or to use the modified approach (which combines a part of the regulatory criteria for innovative programs with additional criteria established by the States).

3. One comment proposes that the U.S. Commissioner of Education be given permission to reallocate to other States the unused decretionary funds provided under section 306 of Public Law 91–230. Such a proposal would require amending the legislation since the reallotment provision is explicit in the Act.

After consideration of the above comments, Title 45 of the Code of Federal Regulations is amended by revoking Part 143 and by revising Part 118 as set forth below.

Effective date. As appears from the above summary, the modifications do not involve any changes of a substantial nature from the provisions which were published in the FEDERAL REGISTER on February 5, 1972, as proposed rule making. Accordingly, these regulations shall be effective upon publication in the FEDERAL REGISTER (11–11–72).

Dated: July 27, 1972.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: November 3, 1972.

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

Subpart A—Scope of Regulations; Definitions

Sec.
118.1 Scope of regulations.
118.2 Definitions.

Subpart B—State Advisory Council

118.3 Establishment and certification.
118.4 Functions.
118.5 [Reserved]

Subpart C—The State Plan

118.6 Preparation of plan.
118.7 State educational agency.
118.8 General plan provisions.
118.9 Supplementary educational centers and services.
118.10 Testing.
118.11 Guidance and counseling.
118.12 Equitable distribution of assistance.
118.13 Special consideration for certain local educational agencies.
118.14 Percentage requirements regarding uses of funds.
118.15 Participation by private school children.
118.16 Reports and records.
118.17 Supplementary nature of projects.
118.18 Approval of State plans.
118.19 Inability or failure to serve private school children.
118.20 Operational noncompliance.

Subpart D—Program Requirements

Sec.
118.21 Purpose.
118.22 General requirements.
118.23 Applications from local educational agencies.
118.24 Criteria for review of project applications.
118.25 Innovative and exemplary projects.
118.26 Projects for handicapped children.
118.27 Amendment, continuation and termination of projects.
118.28–118.30 [Reserved]

Subpart E—Fiscal Procedures

118.31 Allotment availability.
118.32 Grant awards.
118.33 Federal fiscal audits.
118.34 Allowable expenditures for State and local educational agencies.
118.35 Accounting for guidance, counseling and testing expenditures.
118.36–118.40 [Reserved]

Subpart F—Equipment and Construction

118.41 Acquisition, maintenance, and disposition of equipment.
118.42 Grants involving construction.
118.43 Obligation of funds for construction.
118.44 Recovery of payments.
118.45 Leasing facilities.
118.46–118.50 [Reserved]

Subpart G—General Provisions

118.51 Payment of funds.
118.52 Reallotment.
118.53 Financial reports.
118.54 Annual and other reports.
118.55 Records.
118.56 Contracts for services.
118.57 Applicability of Civil Rights Regulation.
118.58 Copyright and patents.

AUTHORITY: The provisions of this Part 118 are issued under 20 U.S.C. 841–847a. Interpret or apply 20 U.S.C. 841–847a, 881, 885, and 1232–1232e.

Subpart A—Scope of Regulations; Definitions

§ 118.1 Scope of regulations.

The regulations published in this part are applicable to grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs. Regulations applicable to grants for such purposes by the U.S. Commissioner of Education directly to local educational agencies pursuant to section 306 of title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 344b), will be published in Part 126 of this title. Allotments of Federal funds under title III of the Act to the Departments of Interior and Defense pursuant to section 302(a)(1) of the Act (20 U.S.C. 842(a)(1)) shall be governed by such terms and conditions consistent with the Act as may be mutually agreed upon by these Departments and the Commissioner (20 U.S.C. 842(a)(1)).

§ 118.2 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965, Public Law 89–10, as amended (20 U.S.C. Ch. 24).

(b) "Commissioner" means the U.S. Commissioner of Education.

(c) "Construction" means (1) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (2) the acquisition of existing structures not owned by the agency making application for assistance under title III of the act; (3) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(d) "Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(e) "Department" means the U.S. Department of Health, Education, and Welfare.

(f) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(g) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facilty for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include consumable supplies.

(h) "Exemplary," as applied to an educational program, project, service, or activity, means designed to serve as a model for a regular school program.

(i) "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(j) "Guidance and counseling" in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), refers to (1) services to pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests in light of all applicable environmental factors, and (2) assistance in personal and social development, including the development of a positive self-concept.

(k) "Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired, and who by reason thereof require special education and related services.

(l) "Innovative," as applied to an educational program, project, service or activity, means new or improved ideas, practices, or techniques.

(m) "Junior college" means an institution of higher education which (1) is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited by a nationally recognized accrediting agency or association, or, if not so accredited (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency within a reasonable period of time, or (ii) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6) if a branch of an institution of higher education offering 4 or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(n) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. For the purposes of this definition, "service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(o) "Nonprofit," as applied to a school, agency, organization, or institution, means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(p) "Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State as having curricula similar to that required of comparable public schools.

(q) "Project period" means the total period of time for which a State proposes to fund a local project under title III of the Act.

(r) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include education beyond grade 12.

(s) "State" includes, in addition to the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(t) "State aid" means any contribution, no repayment for which is expected, by a State made to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education.

(u) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(v) "Technical institute" means an institution of higher education which (1) meets the requirements of subparagraphs (2) through (6) of the definition of "junior college" set forth in paragraph (m) of this section, and (2) is organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(w) "Testing," in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4), means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(x) "Works of art" means those items, which may be in the nature of fixtures, that are incorporated in school facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design. (20 U.S.C. 403, 485, 844, 881)

Subpart B—State Advisory Council

§ 118.3 Establishment and certification.

(a) Each State desiring to receive payments under title III of the Act and the regulations in this part for any fiscal year shall establish a State advisory council which is appointed by the State educational agency, and is broadly representative of the cultural and educational resources of the State (as defined in § 118.2(d)) and of the public, including persons representative of (1) elementary and secondary schools, (2) institutions of higher education, (3) areas of professional competence in dealing with children needing special education because of physical or mental handicaps, (4) areas of professional competence in guidance, counseling, and testing, and (5) children from low-income families and other low-income individuals.

(b) The Chief State School Officer and members of the State educational agency shall be ineligible to serve on the State advisory council either as chairman or as voting members.

(c) The State educational agency shall certify the establishment of, and membership of, its State advisory council to the Commissioner at least 90 days prior to the beginning of any fiscal year in which the State desires to receive a grant under title III of the Act and these regulations. The certification shall include the name, education, experience, and current position of each person serving on the State advisory council and shall specify which interest under paragraph (a) of this section each person represents. (20 U.S.C. 844a(a))

§ 118.4 Functions.

(a) The functions of the State advisory council shall include: (1) Advising the State educational agency on the preparation of, and policy matters arising in the administration of the State plan and in the development of the policies and procedures required by these regulations, including the criteria for approval of applications under the State plan; (2) reviewing and making recommendations to the State educational agency on the action to be taken with respect to each application for a grant under the State plan; (3) evaluating programs and projects assisted under title III of the Act; and (4) preparing and submitting through the State educational agency annual reports of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council on Supplementary Centers and Services established pursuant to section 309 of the Act. (20 U..S.C. 847a)

(b) The State advisory council shall meet and select a chairman from its membership within 30 days after certification under § 118.3(c) has been accepted by the Commissioner, and shall meet at such other times throughout the year as may be necessary to fulfill its functions under paragraph (a) of this section. The time, place, and manner of such meetings shall be determined by the council, except that it shall hold not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of title III of the Act.

(c) The State advisory council shall be authorized to obtain (with funds paid to the State under section 307(b) of the Act (20 U.S.C. 845(b)) the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under paragraph (a) of this section, and to contract for such services as may be necessary to enable it to carry out its evaluation functions. (20 U.S.C. 844a(a))

§ 118.5 [Reserved]

Subpart C—The State Plan

§ 118.6 Preparation of plan.

(a) *General.* Any State desiring to receive funds under title III of the Act for any fiscal year shall, as a condition to the receipt of such funds, submit a State plan to the Commissioner, in accordance with such forms and instructions as he shall furnish, which meets the requirements of the Act and these regulations.

(b) *Submission.* The State plan shall be prepared and submitted annually and shall be developed in the light of all relevant information obtained, in the prior year or in the process of preparing the new plan, from reassessments of educational needs, evaluations of programs and projects funded under title III of the Act, and reports and recommendations of the State advisory council.

(c) *Certifications*—(1) *By State educational agency.* The State plan and each amendment thereto shall include as an attachment a certificate by an officer of the State educational agency authorized to submit the plan to the effect that the State plan or amendment thereto has been adopted by the State educational agency and that the State plan, or plan as amended, will constitute the basis for operation and administration of the title III program.

(2) *By the State Attorney General.* The State plan and each amendment thereto shall include as an attachment a certificate by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency named in the plan is a "State educational agency" as defined in § 118.2(u), that it has the legal authority ascribed to it in the State plan pursuant to § 118.7, and that all the provisions of the State plan may be carried out in the State.

(d) *Review by the State Governor.* In accordance with § 118.22(b)(2), the State plan and each amendment thereto shall include as an attachment the comments, if any, of the Governor of the State concerning coordination of title III programs and projects under the State plan with other State and Federal programs and projects, or a statement from the chief State school officer that the Governor has reviewed the plan but no comments were made.

(e) *Amendments.* Whenever there is any change in the content or administration of the program set forth in the approved State plan, or whenever there is any change in pertinent State law or in the organization, policies, or operations of the State educational agency which materially affects the program under the plan, the State plan shall be appropriately amended and such amendment shall be submitted to the Commissioner for his approval. (20 U.S.C. 844a(a)(1)(C))

§ 118.7 State educational agency.

(a) *Designation.* The State plan shall give the official name of the State educational agency which will be, either directly or through arrangements with other State or local public agencies, the sole agency responsible for administering the plan.

(b) *Authority.* The State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer and supervise the programs set forth therein.

(c) *Organization.* The State plan shall set forth the administrative organization and procedures of the State educational agency staff responsible for administration of the State plan, and the qualifications of all staff members involved in the administration of the State plan.

(d) *Fiscal control.* The State plan shall designate the officer or officers of the State educational agency who will have legal authority to receive all funds granted to the State and to authorize their expenditure or transfer to local educational agencies. The State plan shall also set forth the fiscal control and fund accounting procedures (consistent with Subpart E of the regulations in this part) under which the designated officer or officers will assure proper disbursement of and accounting for Federal funds paid to the State under title III of the Act. (20 U.S.C. 844a(b)(2) and (10))

§ 118.8 General plan provisions.

(a) *Assessment of educational needs.* The State plan shall identify the critical educational needs of the State as a whole and the critical educational needs of the various geographic areas and population groups within the State, and shall describe the process by which such needs were identified. This process shall be based upon the use of objective criteria and measurements and shall include procedures for collecting, analyzing, and validating relevant data and translating such data into determinations of critical educational needs. These determinations and the data upon which they are based shall be periodically reviewed and updated, and the State plan shall indicate the most recent date of such review and updating.

(b) *Developing evaluation strategies.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the evaluation by

the State advisory council, at least annually, of the effectiveness of the programs and projects funded under the State plan in meeting the purposes of title III of the Act.

(c) *Dissemination of information.* The State plan shall provide for, and describe the objectives of and procedures to be used in, the statewide dissemination of the results of evaluations performed under paragraph (b) of this section and of other information concerning those programs and projects which are determined through such evaluations to be innovative, exemplary, and of high quality.

(d) *Adoption and adaptation of promising practices.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the adoption and adaptation within the State of promising educational practices developed through programs or projects funded under title III of the Act.

(e) *Reviewing local project applications.* The State plan shall (1) list and describe any criteria, other than those required by § 118.24(a), which the State educational agency will use in reviewing local project applications (including applications for guidance, counseling, and testing projects) submitted under § 118.23; and (2) provide that final action regarding the proposed final disposition of any local project application (or amendment thereof) shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing before a board or official designated by the State educational agency for such purpose, and specified in the State plan.

(f) *Commingling of funds.* The State plan shall set forth policies and procedures which assure that funds made available under title III of the Act for programs and projects for any fiscal year will not be so commingled with State or local funds as to lose their identity as title III funds.

(g) *State aid.* The State plan shall contain adequate assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under title III of the Act will not be taken into consideration. (20 U.S.C. 844a (b) (1) (A), (6), (9) (A), (12), and (13))

§ 118.9 Supplementary educational centers and services.

The State plan shall set forth a program for improving education in the State through grants to local educational agencies for supplementary educational centers and services, which program (a) shall be based upon the critical educational needs of the State as determined under § 118.8 (a), and (b) shall describe how funds paid to the State under title III of the Act will be used to demonstrate how such educational needs may be met. Such program shall be related to and coordinated with the program for testing under § 118.10 and the program of guidance and counseling under § 118.11. (20 U.S.C. 844a (b) (1) (A))

§ 118.10 Testing.

(a) The State plan shall set forth a program for testing students in the public and private elementary and secondary schools of the State or in the public and private junior colleges and technical institutes of the State. In so doing, the plan shall (1) describe the primary objectives of the program, (2) identify the grade levels of students to be tested, and (3) describe the types of tests to be utilized for the measurement of aptitudes and abilities.

(b) The testing program set forth in paragraph (a) of this section shall include at least one test for students not beyond grade 12, and shall be utilized to (1) identify students with outstanding aptitudes and abilities; (2) provide such information about the aptitudes and abilities of students as may be needed in connection with the guidance and counseling program required by § 118.11; and (3) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

(c) In fulfilling the requirements of this section, the State educational agency may provide services at the State level, make arrangements with local educational agencies or other appropriate local or State agencies, or contract with public or private nonprofit institutions, agencies, or individuals, for the provision of services consistent with the State's responsibilities under these regulations. (20 U.S.C. 843(b) (4), 844a(b) (1) (B) (1))

§ 118.11 Guidance and counseling.

(a) The State plan shall set forth a program of guidance and counseling designed to improve such services at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of the State and, to the extent required by § 118.15, in the private elementary and secondary schools of the State. Such program shall serve to advise students regarding courses of study best suited to their abilities, aptitudes and skills, the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, as well as to encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils.

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services under the State plan. Such activities shall include the assessment of other Federal and State programs (such as titles I and V of the Act, part B of the Education of the Handicapped Act, and the Vocational Education Act of 1963) where there may be need for State level supervision and leadership with respect to guidance and counseling, and the development of procedures for determining how these various programs and sources of funds can be coordinated to provide for strong leadership in the area of guidance and counseling.

(d) In addition to the activities set forth in paragraph (c) of this section, the program set forth under paragraph (a) of this section may also include the provision of services at the State level, through arrangements (including project grants under paragraph (e) of this section) with local educational agencies or other appropriate local or State agencies, or through contracts with public or private nonprofit institutions, agencies, or individuals, which are consistent with the State's responsibilities under these regulations.

(e) Project grants may be made to local educational agencies under this section for the following purposes: (1) Planning programs and projects designed to provide the services and activities described in subparagraphs (2) and (3) of this paragraph, including pilot projects designed to test the effectiveness of such plans; (2) establishing or expanding innovative and exemplary guidance and counseling programs and projects for the purpose of stimulating the adoption of new programs; and (3) establishing, maintaining, and improving guidance and counseling services and activities, especially through new and improved approaches consistent with the purposes of title III of the Act. (20 U.S.C. 843(b) (4), 844a(b) (1) (B) (ii))

§ 118.12 Equitable distribution of assistance.

The State plan shall set forth criteria for achieving an equitable distribution of assistance made available under title III of the Act and these regulations. Such criteria shall be based on a consideration of (a) the size and population of the

State, (b) the geographical distribution and density of the population within the State, (c) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities to be provided under the plan, and (d) the relative financial abilities of local educational agencies within the State to provide such services and activities. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

§ 118.13 Special consideration for certain local educational agencies.

The State plan shall provide for giving special consideration, in approving applications for title III programs and projects, to applications submitted by local educational agencies (a) that are making a reasonable tax effort but are unable to meet critical educational needs (including preschool and bilingual education) because some or all of its schools are seriously overcrowded, obsolete, or unsafe; or (b) whose proposed program or project was planned with funds made available under title III of the Act. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part. (20 U.S.C. 844a(b) (4) and (5))

§ 118.14 Percentage requirements regarding uses of funds.

The State plan shall provide that, of the funds made available under title III of the Act for any fiscal year to carry out the State plan:

(a) An amount equal to at least 50 percent of such funds shall be expended for planning, establishing, and expanding innovative and exemplary programs and activities in accordance with § 118.25;

(b) An amount equal to at least 15 percent of such funds shall be expended for special programs or projects for the education of handicapped children in accordance with § 118.26; and

(c) For fiscal years ending prior to July 1, 1973, an amount equal to at least 50 percent of the amount expended by the State under title V–A of the National Defense Education Act of 1958 (20 U.S.C. 401 et seq.) from funds appropriated under such title for fiscal year 1970 shall be expended for guidance, counseling, and testing programs of the types set forth in §§ 118.10 and 118.11. (20 U.S.C. 844a(b) (7) and (8), 844a note)

§ 118.15 Participation by private school children.

(a) The State plan shall contain satisfactory assurances that each local educational agency receiving funds under title III of the Act will provide for the effective participation in its title III program or projects, on an equitable basis, by children enrolled in private schools in the areas to be served whose educational needs are of the type which the program or project is designed to meet. The number of such children to be served, in relation to the total number of such children, shall be consistent with the number of public school children to be served in relation to the total number of public school children in the area served with educational needs of the type the program or project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include (1) the payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control, (2) financing of the existing level of instruction in private schools, (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day, or (4) the construction of facilities for private schools. None of the funds made available under the Act may be used for religious worship or instruction.

(d) The State educational agency shall require that every project application submitted to it by a local educational agency under § 118.23 shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools in the grades to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under subparagraph (2) of this paragraph); (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which and methods by which private school children will be served in accordance with the requirements of paragraphs (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for such differences. (20 U.S.C. 844(b) (2) (B), 885)

§ 118.16 Reports and records.

The State Plan shall provide that the State educational agency will submit to the Commissioner reports in accordance with §§ 118.53 and 118.54; and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports, including those records required by §§ 118.41(c) and 118.56. (20 U.S.C. 844a(b) (11))

§ 118.17 Supplementary nature of projects.

(a) The State plan shall set forth policies and procedures for assuring that funds made available under title III of the Act for any fiscal year will be used to supplement and, to the extent practical, increase (1) the fiscal effort which each local educational agency receiving title III funds would have made in the absence of such funds, for that fiscal year for educational purposes, as required by section 305(b) (9) of the Act (20 U.S.C. 844a(b) (9)), and (2) the level of funds which each local educational agency receiving title III funds and each participating school would have made available in the absence of such funds, for that fiscal year for the purposes described in section 303(b) of the Act, as required by section 304(a) (3) of the Act, 20 U.S.C. 844(a) (3)).

(b) For the purposes of paragraph (a) (1) of this section, fiscal effort of a local educational agency for educational purposes shall be determined by the State educational agency on the basis of the amount of expenditures per pupil of the local educational agency from State and local funds; or in the event of a decrease of such expenditures, on the basis of the ratio between the total expenditures of the local educational agency from State and local funds and the wealth of the local educational agency as measured by the equalized assessed valuation of taxable property, per capita income, or other such indices as appropriate. (20 U.S.C. 844(a) (3), 844a (b) (9) (B))

§ 118.18 Approval of State plans.

(a) *Full approval or disapproval.* The Commissioner will review each State plan or amendment thereto submitted under § 118.7, and approve those plans and amendments which he determines to meet the requirements of title III of the Act and these regulations. Except as provided in paragraph (b) of this section, the Commissioner will disapprove a plan which fails to comply with such requirements.

(b) *Partial approval.* If the Commissioner finds that a State plan submitted under § 118.6 for any fiscal year ending prior to July 1, 1973, is in substantial compliance with title III of the Act and these regulations, but fails to adequately provide for one of the programs required by section 305(b) of the Act (20 U.S.C. 844a(b)) or for some specific requirement (such as participation of private schoolchildren) pertaining to such programs, or is otherwise unapprovable in any other identifiable part, he may approve that part of the plan which he determines to be in compliance with title III of the Act and the regulations in this

part. In such a case, the Commissioner will make available to the State that part of its allotment which he determines to be necessary to carry out the approved part of its State plan. The remainder of the amount the State is eligible to receive may be made available to the State only when the unapproved portion of its State plan is so modified as to bring the plan into compliance with title III of the Act and the regulations in this part. The amount made available to a State pursuant to this subsection may not be less than 50 percent of the maximum amount which the State is eligible to receive under paragraph (f) of this section.

(c) *Effect of State plan.* The State plan, as approved by the Commissioner under this section, will constitute the basis on which Federal grants are made, and the basis for determining the propriety of expenditures of grant funds. The administration of the title III program shall be kept in conformity with the approved plan.

(d) *Effective date of the State plan.* The effective date of the State plan or any amendment thereto shall be the date on which such plan or amendment is received by the Commissioner in substantially approvable form, but no earlier than July 1 of the fiscal year for which the plan or amendment is submitted.

(e) *Notice and opportunity for hearing.* No final action under this section other than one of full approval will be taken by the Commissioner until he first notifies the State educational agency of his proposed action and affords the State educational agency a reasonable opportunity for a hearing.

(f) *Maximum funding level.* A State whose State plan has been approved under this section for any fiscal year may receive, for the purpose of carrying out such plan, an amount not in excess of 85 percent of its allotment under section 302 of the Act. (20 U.S.C. 844a (b), (c), (d), (e)(1))

§ 118.19 Inability or failure to serve private school children.

(a) In any State in which the Commissioner determines under § 118.18(b) that the State plan is approvable except that (1) no State agency is authorized by law to provide, or (2) there has been a substantial failure to provide, for effective participation on an equitable basis by private schoolchildren enrolled in any one or more private elementary or secondary schools in the areas served by programs or projects funded under title III of the Act, as required by § 118.10(a), § 118.11(a), or § 118.15, the Commissioner will arrange for the provision of title III services to such children on an equitable basis.

(b) The costs of services provided in any fiscal year under paragraph (a) of this section will be paid out of the affected State's allotment for that fiscal year. In determining the amount to be withheld, the Commissioner will take into account (1) the number of private schoolchildren in the affected area or areas who are excluded from effective participation in title III programs or projects and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of teachers that would reasonably have been required to serve such children, and (3) the nature and extent of services being provided to public schoolchildren in the affected area by the programs or projects in which private schoolchildren are denied effective participation.

(c) In any case where the State alleges that no State agency is authorized by law to provide for the effective participation of private schoolchildren as required by § 118.10(a), § 118.11(a), or § 118.15, the State shall provide the Commissioner with a written statement signed by the State Attorney General or other appropriate State legal officer setting forth the constitutional and statutory provisions, and case law, which in his opinion prevent the State from so serving private schoolchildren.

(d) In determining whether there has been a "substantial failure" under paragraph (a) of this section, the Commissioner (1) will first consult the affected State educational agency and ask it to provide information concerning the alleged failure, and (2) will consider all acts or omissions of the State, or a local educational agency or other political subdivision thereof, or of any individual acting for or on behalf of such entities, in the process of assessing educational needs and planning, approving, conducting, and monitoring programs and projects under title III of the Act and these regulations, which have the effect of (*a*) preventing, discouraging, or otherwise limiting in any manner the effective participation by any eligible private school child in the operation of the program or project serving the area in which his private school is located, or (*b*) not affording private school representatives the opportunity for effective participation in the planning and development of any program or project in which private schoolchildren are eligible to participate. (20 U.S.C. 845(f))

§ 118.20 Operational noncompliance.

Whenever the Commissioner, after affording the State educational agency reasonable notice and opportunity for a hearing, finds that in the operation or administration of its State plan there has been a failure to comply substantially with (a) any provision of title III of the Act and the regulations in this part, (b) any requirement set forth in the plan of that State as approved under § 118.18, or (c) any requirement set forth in an application of one of the State's local educational agencies as approved under § 118.23, he will notify the State educational agency that further payments will not be made to the State under title III of the Act, or that the State educational agency may not make further payments under title III of the Act to specified local educational agencies affected by the failure, until he is satisfied that there is no longer any such failure to comply. (20 U.S.C. 844a(e)(2))

Subpart D—Program Requirements

§ 118.21 Purpose.

This subpart sets forth various program requirements to which each State educational agency shall adhere in administering the educational programs described in its approved State plan and in implementing the provisions of such plan. The policies, procedures, and criteria developed by the State under this subpart shall be set forth in writing and shall be available for inspection at reasonable times and places by the Commissioner or his delegate and by interested parties in the general public. (20 U.S.C. 844, 844a (a)(1) and (b))

§ 118.22 General requirements.

(a) *Long-range strategy for advancing education.* The State shall develop a long-range strategy for advancing education in the State in ensuing years through programs and projects funded under title III of the Act. Such strategy shall be directed toward the critical educational needs of the State as periodically assessed under § 118.9(a) and shall provide for the coordination of title III programs and projects with other public and private programs and projects as required by paragraph (b) of this section.

(b) *Coordination with other aid programs.* (1) To the extent not inconsistent with the prohibition against commingling of funds in § 118.8(f), the State shall establish effective procedures for coordinating the development and operation of programs and projects carried out under title III of the Act and these regulations with other public and private programs having the same or similar purposes. (2) The State plan and amendments thereto which the State educational agency submits to the Commissioner under § 118.6 and the periodic reports which it submits to the Commissioner under §§ 118.53 and 118.54 shall first be submitted to the Governor of the State for his review and comments (if any) on the relationship of title III programs and projects to, and coordination with, State comprehensive plans and State plans in related Federal programs. The Governor shall be given a period of up to 45 days, if necessary, to make such comments. His comments shall accompany the plan, amendment, or report when submitted to the Commissioner, or, if the Governor has no comments, a statement to this effect from the State educational agency official authorized to submit the plan shall accompany the documents.

(c) *State leadership.* The State educational agency shall establish policies and procedures for appropriate professional staff development of State and local administrative, supervisory, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under title III of the Act, including those personnel involved in program or projects for handicapped children.

(d) *On-site evaluation of projects.* The State educational agency shall develop procedures and criteria for the on-site evaluation, at least annually, of all title III projects in the State. Such procedures shall indicate the role of the State educational agency staff in the evaluation process and the relationship between its functions under this subsection and the functions of the State advisory council under §§ 118.4(a)(3) and 118.8(a). Such procedures shall also provide for incorporation into the affected projects of recommendations made as a result of on-site evaluations and for followup methods to insure proper implementation.

(e) *Construction.* The State educational agency shall establish (1) criteria for determining the conditions under which the construction of facilities for use in a title III program or project is consistent with the educational programs set forth in the State plan and necessary to the efficient operation of the program or project, and (2) procedures for the submission of construction requests by local educational agencies and the review of such requests, in accordance with the provisions of § 118.42 and the criteria established under subparagraph (1) of this paragraph, by the State educational agency and other interested State agencies.

(f) *Conflicts of interests.* The State educational agency shall establish procedures which insure that no board or staff member of the State educational agency, the State advisory council, or a local educational agency will participate in or make recommendations concerning an administrative decision or action involving a program or project under title III of the Act, if such decision or action may reasonably be expected to result in any fee, royalty, commission, remuneration, or other benefit to him or to any member of his immediate family.

(g) *List of projects funded.* The State educational agency shall maintain a list identifying each local project it is funding under title III of the Act, which shall include for each such project (1) the project number, (2) a title or description by which the project may be easily identified, (3) the amount of the current grant, (4) the proposed level of funding for the portion of the project period remaining after expiration of the current grant, (5) the amount of grant funds to be expended in each project for guidance and counseling under § 118.11 or for testing under § 118.10, and (6) the amount of grant funds to be expended in each project for the education of handicapped children under § 118.26 broken down by type of handicap.

(h) *Participation of students in junior colleges and technical institutes.* Participation in title III programs or projects by students enrolled in junior colleges and technical institutes in a State shall be limited to participation in guidance, counseling, and testing programs or projects established under §§ 118.10 and 118.11. (20 U.S.C. 843(b)(4), 844a(a)(1) and (b)(1)(B)(i) and (ii), 883)

§ 118.23 Applications from local educational agencies.

(a) *Solicitation and submission.* The State educational agency shall establish procedures to stimulate the submission of applications for funds under title III of the Act by all local educational agencies in the State that have educational needs of the type which the State has identified and determined to serve under § 118.9. Such procedures shall include (1) the statewide dissemination of information concerning the purposes and provisions of title III of the Act and these regulations and of the educational program which the State proposes to conduct under its State plan; (2) the establishment of cutoff dates for submission of applications and notifications to all local educational agencies of such dates; and (3) the development of solicitation techniques designed to insure that title III funds are equitably distributed as required by § 118.12 and that applications are submitted by local educational agencies deserving special consideration under § 118.13. The State shall not establish methods or procedures which have the effect of excluding the eligibility of any otherwise eligible local educational agency to apply for and receive grants under this part.

(b) *Content of applications.* Each project application submitted to the State educational agency shall set forth a proposal for carrying out one or more of the purposes described in section 303(b) of the Act (20 U.S.C. 843(b)) in accordance with the provisions of title III of the Act and these regulations. Such applications shall:

(1) Provide that the services and activities for which title III funds are sought will be administered by or under the supervision of the applicant, and provide (i) such methods of administration as are necessary for the proper and efficient operation of the project, and (ii) such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for title III funds paid to the applicant;

(2) Set forth policies and procedures which assure that funds made available for the project for any fiscal year will supplement and not supplant State and local funds in accordance with § 118.17(a);

(3) Set forth, in the case of an application which includes construction as part of the proposed project, the assurances required by § 118.42(e) and such other information as the State educational agency shall require in fulfilling the requirements of § 118.22(e);

(4) Provide for making such financial reports, annual reports, and other reports, and for keeping and allowing access to such records relating thereto, as the State educational agency may reasonably require to assure compliance with the reports and records requirements in §§ 118.54 to 118.56 and to otherwise carry out its functions under title III of the Act and these regulations;

(5) Set forth the information regarding participation of private schoolchildren which is required by § 118.15(d); and

(6) Contain such other information as the State educational agency may reasonably require to apply the criteria for reviewing project applications set forth in § 118.24.

(c) *Panel of experts.* The State educational agency shall establish a panel of experts, consisting of persons who are not officers or employees of the State educational agency, or the State advisory council to review all local project applications prior to their approval or other disposition. The State educational agency shall determine the number of experts to be utilized and the qualifications to be required of such experts (including one or more experts in the education of handicapped children and one or more experts in guidance, counseling, and testing) and shall establish procedures for selecting the panel.

(d) *Approval of applications.* The State educational agency shall establish procedures for review and disposition of local project applications in accordance with the requirements of title III of the Act and these regulations. Such procedures shall provide for coordinating the roles of the State advisory council (under § 118.4(a)(2)) and the panel of experts (under paragraph (c) of this section) with the role of the State educational agency. Such procedures shall also assure that no application will be approved or renewed by the State educational agency unless it is specifically found to meet the requirements for participation of private school children under § 118.15 and each of the requirements of paragraph (b) of this section, and has been evaluated in terms of the criteria set forth in § 118.24. (20 U.S.C. 844)

(e) *Hearings.* The State educational agency shall develop procedures for a hearing in accordance with § 118.8(e)(2) for any applicant whose application (or amendment thereto) the State educational agency proposes not to approve. (20 U.S.C. 844)

§ 118.24 Criteria for review of project applications.

(a) *Supplementary educational centers and services.* The State educational agency shall establish the criteria to be used in reviewing project applications from local educational agencies under § 118.9. Such criteria shall be applied in conjunction with the special criteria developed by the State educational agency under §§ 118.12 and 118.13, and shall include the following criteria for determining the extent to which the proposal includes:

(1) Evidence that it is designed to demonstrate solutions to identified critical educational needs and will substantially increase the educational opportunities of children in the area of the State to be served;

(2) Provisions for the development of concepts, practices, and techniques

which can be adapted or adopted elsewhere;

(3) Promising concepts or practices recognized as unique, original, unusual, innovative, or exemplary;

(4) Concepts or practices which are economically feasible and effective;

(5) Evaluation strategies and procedures based on valid methodology which will provide evidence of the extent to which performance of the participants is improved;

(6) Performance objectives which are measurable, and appropriate activities which facilitate achieving them;

(7) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(8) Provisions for staff with professional qualifications adequate to achieve the project's stated objectives;

(9) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which show a direct relationship in facilitating the achievement of the stated objectives;

(10) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be, (i) utilization of the best available talents and resources and (ii) participation of students, teachers, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served;

(11) Provisions for dissemination of information about the proposed project which are appropriate and adequate for the area to be served.

(b) *Guidance and counseling.* The State educational agency shall establish the criteria to be used in reviewing applications for guidance and counseling programs and projects under § 118.11. A State educational agency may elect to apply all criteria in paragraph (a) of this section to guidance and counseling programs and projects. However, at least those criteria set forth in §§ 118.12 and 118.13 and those required by paragraph (a) (4) through (11) of this section shall be applicable to all such programs or projects.

(c) *Additional criteria.* If the State educational agency establishes criteria for the review of project applications in addition to those specified in paragraphs (a) and (b) of this section, it shall list such additional criteria in its State plan in accordance with § 118.8(e)(11), (20 U.S.C. 844)

§ 118.25 Innovative and exemplary projects.

The State educational agency shall establish policies and procedures under which it will use at least 50 percent of the funds that it receives to carry out its State plan in each fiscal year to:

(a) Plan for and take other steps leading to the development of innovative and exemplary programs and projects, including pilot projects designed to test the effectiveness of such plans; and

(b) Establish or expand innovative and exemplary programs and projects (including dual enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs, including special programs for handicapped children and programs such as those described in section 503(4) of the Act, in the schools of the State. (20 U.S.C. 844a(b)(7))

§ 118.26 Projects for handicapped children.

The State educational agency shall establish policies and procedures under which it will use at least 15 percent of the funds that it receives to carry out its State plan in each fiscal year for: (a) Planning programs or projects referred to in paragraphs (b) and (c) of this section; (b) establishing or expanding innovative and exemplary educational programs for the purpose of stimulating the adoption of new educational programs to demonstrate ways to meet the special needs of handicapped children; or (c) establishing, maintaining, operating, or expanding services or activities which utilize new and improved approaches which demonstrate ways to meet the special educational needs of handicapped children. The State educational agency shall also establish procedures which assure that such activities will be coordinated with other Federal, State, and local programs and projects for the education of handicapped children, such as title I of the Act, the Education of the Handicapped Act the Developmental Disabilities Services and Facilities Construction Act, and the State shall also establish procedures whereby appropriate State education agency personnel responsible for the education of handicapped children shall review and make recommendations relating to all parts of the State plan which pertain to handicapped children. (20 U.S.C. 844a(b)(8))

§ 118.27 Amendment, continuation, and termination of projects.

(a) *Project period.* The State educational agency shall establish a project period for projects funded under title III of the Act and shall establish procedures for continuing the funding of promising projects throughout the project period, subject to the availability of title III funds, on the basis of evaluations under § 118.22(d) and other periodic reviews which demonstrate that the project is being operated in compliance with all the requirements of title III of the Act and these regulations.

(b) *Amendment of project applications.* The State educational agency shall establish procedures for reviewing requests from grantees to amend project applications and alter projects during the project period and for assuring that such amendments and alterations are fully consistent with the requirements of title III of the Act and these regulations. Whenever the proposed amendment or alteration would involve significant changes in the content, design, or funding level of the project, the review procedures utilized shall conform to the requirements of § 118.23(d).

(c) *Costs of continuation.* If the costs to the State for any fiscal year of continuing projects under this section would exceed the amount of funds available to the State to carry out its State plan for that fiscal year, the State educational agency may request that the Commissioner provide funds to meet such excess costs under section 306 of the Act (20 U.S.C. 344b) and Part 126 of this chapter. The Commissioner will consider such a request only if he specifically determines that the project requiring funds is worthy of continuation and holds promise of making a substantial contribution to the solution of critical education problems common to all or several States.

(d) *Termination of projects.* The State educational agency shall establish procedures for termination, during the project period, of unsuccessful programs and projects which are not operating in substantial compliance with (1) any provision of title III of the Act and these regulations or (2) any requirement set forth in the approved State plan or in the approved project application. In the event of such termination the grantee shall be afforded reasonable notice of the proposed action and opportunity for a hearing. (20 U.S.C. 844)

§§ 118.28–118.30 [Reserved]

Subpart E—Fiscal Procedures

§ 118.31 Allotment availability.

(a) *General.* Funds alloted to States under title III of the Act for any fiscal year shall be available for use by States (as determined pursuant to paragraphs (a) and (b) of this section) only during such fiscal year, except that the following allotments (or portions thereof) shall also be available for use during the succeeding fiscal year (unless otherwise provided for in appropriation acts):

(1) Funds realloted to States pursuant to section 302(d) of the Act.

(2) Funds allotted to States for any fiscal year beginning on July 1, 1969 and ending prior to July 1, 1973.

(b) *Use for State-level activities.* A use of funds under title III of the Act for the administration of State plans (including the administration of guidance, counseling, and testing programs), the activities of State advisory councils, and evaluation and dissemination activities will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been used as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(c) *Use by State agency for local projects.* A use of funds under title III of the Act for local projects shall be determined by the issuance of a grant award document by the State educational agency to a local educational agency. Funds so obligated by the State educational agency shall remain available for expenditure by the local educational agency during the period for which the grant was awarded, as determined pursuant to paragraph (d) of this section, which period shall not extend beyond the end of the fiscal year following the fiscal year in which the grant is awarded. The obligation recorded by the State educational agency shall be adjusted and the grant award amended whenever the amount obligated is determined to be at variance with amounts actually expended by the local educational agency.

(d) *Expenditures by local educational agencies.* For the purpose of paragraph (c) of this section, the expenditure of funds under title III of the Act by local educational agencies shall be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property, the construction of school facilities, or the performance of work; except that funds for personal services, for services performed by public utilities, for travel, and for rental of equipment and facilities shall be considered to have been expended as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively. In the case of funds to be used for administrative activities in connection with the completion of a project, such as evaluation and auditing activities, expenditures may also be determined on the basis of documentary evidence of a specific reservation of funds for the purpose. (20 U.S.C. 1225(b), 31 U.S.C. 200)

(e) *Liquidations of obligations.* An obligation entered into by the State educational agency pursuant to paragraph (b) of this section or LEA pursuant to paragraph (d) of this section and payable out of funds under title III of the Act shall be liquidated by the end of the fiscal year following the fiscal year in which the obligation was incurred unless prior to the end of that following fiscal year the State educational agency determines for good cause that the time for liquidating a particular obligation will be extended and so notifies the Commissioner.

§ 118.32 Grant awards.

In all cases where the State educational agency makes grants under title III of the Act to local educational agencies, it shall award such grants for specified budget periods on the basis of applications which have been approved in accordance with § 118.23. All grant awards shall be in writing and shall set forth the amount of funds granted and the budget period during which such funds are available for expenditure, and shall specify the anticipated length of the project period. (20 U.S.C. 843(a))

§ 118.33 Federal fiscal audits.

All records of the State educational agency and of local agencies receiving title III funds which relate to program or administrative expenditures under title III of the Act shall be subject to periodic audit by the Department and the Comptroller General of the United States, or his duly authorized representative, to assure that the State has properly used and accounted for Federal funds. Such records shall be maintained and be accessible in accordance with § 118.55, and otherwise be adequate to permit an accurate and expeditious audit of the State's title III program. (20 U.S.C. 1232c)

§ 118.34 Allowable expenditures for State and local educational agencies.

(a) *General.* Expenditures for which funds provided under title III of the Act may be used are those which are (1) consistent with title III of the Act, these regulations, and the provisions of the State plan, and reasonably necessary to the operation of title III programs and projects, (2) incurred on or after the effective date of the State plan under § 118.18 (d), and (3) either direct costs which can be identified specifically with the title III program or project benefited, or indirect costs which are incurred for a common or joint purpose benefiting more than one cost objective but are allocable to a title III program or project on the basis of relative benefit received, as computed in accordance with a plan submitted by the State and approved by the Department pursuant to OMB Circular No. A–87, implementing instructions of the Department, and the provisions of Grants Administration Manual Chapter 5–60, "Costs Principles for State and Local Government Agencies." They may be ordered from the Government Printing Office as GPO 894–523.

(b) *Specific expenditures allowed.* To the extent consistent with paragraph (a) of this section, expenditures for which funds provided under title III of the Act may be used are cited in the Grants Administration Manual Chapter 5–60 and OMB Circular No. A–87. Among allowable expenditures are the following:

(1) Establishing and maintaining accounting, auditing, and other information systems required for the management of programs and projects under title III of the Act;

(2) Reasonable compensation for personal services of employees and consultants, including wages, salaries, and supplementary compensation and benefits;

(3) Personnel administration and payroll preparation;

(4) Insurance coverage, to the extent consistent with the general policies of the State educational agency or local educational agency and with sound business practice; and the bonding of employees who handle title III funds;

(5) Communications services;

(6) The acquisition of consumable supplies and printed and published materials for the use of persons administering, supervising, or participating in title III programs or projects;

(7) Printing and reproduction;

(8) Travel and transportation;

(9) Data processing services;

(10) Acquisition (including rental) of office equipment and other equipment required for supervisory and program functions;

(11) Rental of office space in privately or publicly owned buildings, provided that:

(i) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(ii) The State will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) The expenditures represent a current cost; and

(v) In the case of a publicly owned building, like charges are made to other State or local agencies occupying similar space for similar purposes.

(12) Utilities, security, janitorial, and similar services to the extent not otherwise included in rental or other charges for space;

(13) Maintenance and repair of property to the extent necessary to keep such property in an efficient operating condition;

(14) Renovation and minor remodeling of previously completed building space, where such space is needed for the administration or operation of title III programs or projects and renovation or remodeling is necessary to make the space suitable for such use; and

(15) Construction or major structural alteration of buildings and facilities, where undertaken by a local educational agency with funds provided under section 307(a) of the Act after having been specifically approved by the State educational agency under § 118.22(e).

(c) *Proration of costs.* In situations where an expenditure otherwise allowable under paragraphs (a) and (b) of this section is incurred in part for purposes other than the administration or operation of programs and projects under title III of the Act, title III funds shall be available only for that portion of the cost which is fairly attributable to the administration or operation of title III programs and projects. The State educational agency shall establish procedures for prorating costs and for maintaining fully documented records to substantiate prorations of costs for items such as salaries, travel, rent, and equipment. In the case of proration of costs for salaries, such records shall be documented on a before-and-after-the-fact basis. All such records shall be maintained in accordance with § 118.55. (20

U.S.C. 1231c(b); OMB Circular No. A–87, May 9, 1968)

§ 118.35 Accounting for guidance, counseling, and testing expenditures.

(a) Funds expended for the continuation of guidance, counseling, and testing projects initiated under title III of the Act (but not under title V–A of the National Defense Education Act of 1958) prior to fiscal year 1971 shall not be considered in computing the amount of funds which are required to be expended for such purposes under § 118.14(c).

(b) Allowable expenditures incurred by the State educational agency in administering guidance, counseling, and testing programs or projects under the State plan shall be met with administrative funds available to the State under section 307(b) of the Act (20 U.S.C. 845(b)). (20 U.S.C. 844a note, 845 (a) and (b))

§§ 118.36–118.40 [Reserved]

Subpart F—Equipment and Construction

§ 118.41 Acquisition, maintenance, and disposition of equipment.

(a) *Use of equipment.* All equipment acquired under title III of the Act shall be used during the expected useful life of the equipment for the purposes specified in the approved project application, or after the expiration of the project for the purposes set forth in section 303(b) of the Act.

(b) *Title and control of equipment.* Title to equipment acquired with funds made available under title III of the Act shall be vested in, and retained by, a State or local educational agency, and such equipment shall be subject to the administrative control of the State or local educational agency at all times until the end of its useful life or its disposition, whichever is earlier.

(c) *Inventories.* Each State and local educational agency shall maintain inventories of all items of equipment acquired with title III funds which have an initial acquisition cost of $300 or more per unit. Such inventories shall be maintained for the useful life of the equipment or until its disposition, whichever is earlier, and records of such inventories shall be kept intact and accessible for 3 years thereafter.

(d) *Maintenance and repair.* Each State and local educational agency shall make reasonable provision for the maintenance and repair of equipment acquired with title III funds, and shall be responsible for replacing or repairing (with State or local funds) equipment that is lost, damaged, or destroyed due to the negligence of the State or local agency.

(e) *Disposition of equipment.* Whenever equipment acquired with title III funds is no longer used for the purposes prescribed in paragraph (a) of this section or is sold and the proceeds from such sale are not used for such purposes, the Federal Government shall be credited with its proportionate share of the value of such equipment at the time of such diversion or sale. Such value shall be determined on the basis of the sale price in the case of a bona fide sale or the fair market value in the case of a diversion of use. (20 U.S.C. 844(a))

§ 118.42 Grants involving construction.

Where applications are submitted under title III of the Act by local educational agencies for programs or projects which involve construction, such construction shall be approved by the State educational agency only if:

(a) The applicant has notified the State and regional or local clearinghouses designated under OMB Circular A–95, of its intent to submit an application, and

(b) The applicants have included with the application when submitted to the State educational agency:

(1) Any comments made by or through the clearinghouse(s) together with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the A–95 clearinghouse procedures have been followed and that no comments have been received; and

(c) The applicant provides the HEW Regional Office its assessment of the impact on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and Executive Order No. 11514 (42 U.S.C. 4321 note) and will comply with such procedures in that regard as may be established by the Department; and

(d) The application contains the following assurances and provisions:

(1) The applicant has or will have a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the expected useful life of the facility;

(2) The final working drawings and specifications will be submitted to the State educational agency before the construction is approved and the project is placed on the market for bidding;

(3) Construction approved pursuant to the project proposal will be undertaken promptly;

(4) In developing plans for school facilities, the local and State codes with regard to fire and safety will be observed, and in situations where local and State codes do not apply, recognized codes shall be observed;

(e) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11296 (31 F.R. 10663) and such rules and regulations as may be issued by the Department of Health, Education, and Welfare to carry out its provisions, evaluate flood hazards in connection with such school facilities and, as far as practicable avoid the uneconomic hazardous, or unnecessary use of flood plains in connection with such construction;

(f) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11288 of July 2, 1966 (33 U.S.C. 466 note) and such rules and regulations as may be issued by the Department to carry out its provisions, evaluate the effect of construction and operation of such school facilities on water pollution and, as far as practicable, avoid such harmful effects as may exist;

(g) Architectural or engineering supervision and inspection will be provided at the construction site to insure that the completed work conforms to the approved plans and specifications;

(h) Representatives of the State educational agency will have access at all reasonable times, for the purpose of inspection, to all construction work being done with title III funds, and the contractor will be required to facilitate such access and inspection;

(i) The grantee will furnish progress reports and such other information relating to the proposed construction and the grant as the State educational agency may require;

(j) Except as otherwise provided in the regulations issued by the Administrator of General Services (41 CFR Part 101–17) to implement Public Law 90–480 (42 U.S.C. ch. 51), all school facilities designed, constructed or altered with funds made available under title III of the Act shall be so designed, constructed, or altered as to be in accordance with the minimum standards contained in "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable By the Physically Handicapped" approved by the American Standards Association, Inc. (Subsequently the United States of America Standards Institute) on October 31, 1961;

(k) Reasonable provision has been made, consistent with the other uses to be made of the facilities or areas in such facilities which are adaptable for artistic and cultural activities;

(l) In developing plans for the construction, the applicant has given and will give due consideration to excellence of the architecture and design and to the inclusion of works of art, for which funds under title III of the Act will be available for not in excess of 1 percent of the cost of the project;

(m) Upon completion of the construction, title to the facilities will be in and retained by a State or local educational agency, and the building will be operated and used for the educational and related purposes for which it was constructed for a period of not less than 20 years;

(n) All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under title III of the Act shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary

of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276–5); and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (40 U.S.C. 327–333), and such contractors and subcontractors shall comply with the regulations in 29 CFR Part 3 and 29 CFR 5.5 (a) and (c);

(o) All contracts for construction work or modification thereof, as defined in Executive Order No. 11246 shall incorporate the nondiscrimination clause prescribed by Executive Order No. 11246 of September 24, 1965 (42 U.S.C. 2000e note); and the State or local educational agency undertaking the construction shall otherwise comply with the requirements of section 301 of said Executive order.

(p) Manner of construction: Construction undertaken with funds under title III of the Act shall be functional, shall be undertaken in an economical manner consistent with the architectural and design considerations in paragraphs (e), (j), (k), and (l) of this section, and shall not be elaborate in design or extravagent in the use of materials in comparison with school facilities of a similar type constructed in the State within recent years.

(q) All contracts for construction shall be awarded to the lowest qualified bidder on the basis of open competitive bidding obtained through public advertising except that, if one or more items of construction are covered by an established alternative procedure, consistent with State and local laws and regulations, which is approved by the State educational agency and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed.

(r) Programs or projects receiving Federal financial assistance for construction pursuant to this part are subject to the regulations on Relocation Assistance and Real Property Acquisition Policies contained in part 15 of this title, and prior to approval a State agency (as defined in § 15.4(b) of this title) must notify the Department Regional Office of all such projects affected by Part 15 (36 F.R. 18838, September 22, 1971).

(20 U.S.C. 844(a)(4), 847, 1232b; 33 U.S.C. 466 and 701 note; 40 U.S.C. 327–333, 42 U.S.C. 2000 e note, 4151–56, 4321–47)

§ 118.43 Obligation of funds for construction.

Funds made available for construction pursuant to a grant under title III of the Act shall be obligated by the local educational agency within 12 months from the effective date of the project, except that a longer period may be allowed by the State educational agency upon a showing of good cause. (31 U.S.C. 200)

§ 118.44 Recovery of payments.

If within 20 years after the completion of any construction undertaken pursuant to a grant under title III of the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction in accordance with the provisions of section 308 of the Act.

§ 118.45 Leasing facilities.

Where a State or local educational agency proposes to lease a facility with funds provided under title III of the Act, it shall obtain the right to occupy and operate and if necessary to maintain and improve, the premises to be leased during the proposed period of the project. (20 U.S.C. 843)

§§ 118.46–118.50 [Reserved]

Subpart G—General Provisions

§ 118.51 Payment of funds.

(a) From its allotment under section 302 of the Act for any fiscal year, the Commissioner will pay to each State, either in advance or by way of reimbursement, amounts equal to the sums necessary for current expenditures by the State under an approved State plan for (1) grants to local educational agencies for supplementary educational centers and services, and (2) guidance, counseling, and testing programs.

(b) The payment of funds under title III of the Act will be limited to the maximum funding level established in § 118.18(f); and the funding of partially approved State plans is further subject to the limitations set forth in § 118.18(b).

(c) The Commissioner will pay additional sums to each State receiving funds under paragraph (a) of this section for administration of the State plan, activities of the State advisory council, and evaluation and dissemination activities. In no case will the amount paid to a State for such activities for any fiscal year exceed an amount equal to 7½ percent of its allotment for that fiscal year or $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater. Of the funds available to any State for such activities during any fiscal year, the amount paid for administration of the State plan shall not exceed an amount equal to 5 percent of the State's allotment for that fiscal year or $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater (20 U.S.C. 843(a), 845, 1232d)

(d) No payments will be made by the Commissioner to a State under title III of the Act for any fiscal year unless the Commissioner determines that the amount of State aid per pupil with respect to the provision of free public education in that State for the preceding fiscal year was not less than the amount of such State per pupil aid for the second preceding fiscal year.

§ 118.52 Reallotment.

(a) *General.* The amount of any State's allotment under title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be available for grants pursuant to section 306 of the Act (20 U.S.C. 8446) and Part 126 of this title (special grants made directly by the Commissioner) in such State. If the Commissioner further determines that the amount is not needed in such State for grants pursuant to section 306 of the Act, that amount may, in the Commissioner's discretion, either be used for grants pursuant to section 306 in other States or reallotted to other States. Funds may be reallotted from time to time, during the period for which they are available, on such dates as the Commissioner may fix, among other States in proportion to the amounts of their respective original allotments for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the respective State needs and will be able to use during the period for which the funds are available. Funds available due to such reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State from funds appropriated pursuant to section 301 of the Act (20 U.S.C. 841) for any fiscal year will be deemed to be a part of the amount allotted to it under section 302 of the Act (20 U.S.C. 842) for that year.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment of funds by the Commissioner pursuant to this section, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need for the funds previously allotted during the period for which such funds are available, or any amount needed to be added thereto by reallotment. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements. (20 U.S.C. 842)

§ 118.53 Financial reports.

Each State educational agency shall submit in accordance with procedures established by the Commissioner: (a) A report following the end of any fiscal year of the total expenditures made under the State plan during that fiscal year including a breakdown of expenditures for handicapped children by type of handicap; and (b) such other reports as are periodically required by the Commissioner to account properly for title III funds. (20 U.S.C. 844a(b)(11))

§ 118.54 **Annual and other reports.**

The State educational agency shall make an annual report and such other reports containing such information (including copies of project applications approved under § 118.23(d)) as the Commissioner may reasonably require to carry out his functions under title III of the Act and to determine the extent to which funds provided under title III of the Act have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State as a whole. Information about programs funded under § 118.14(b) shall be reported by type of handicap. The annual report shall include an evaluation made in accordance with objective measurements to determine the extent to which critical educational needs identified in the State plan have been met and an evaluation of the effectiveness of projects funded for that fiscal year under title III of the Act. The State shall also keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports. (20 U.S.C. 844a(b)(11))

§ 118.55 **Records.**

(a) Each State and local educational agency receiving funds under title III of the Act shall keep intact and accessible all records relating to receipt and expenditure of such funds, including records which substantiate direct and indirect costs charged to the grant activities and which fully disclose the amount of funds received and the disposition thereof by the recipient, the cost of each program or project for which title III funds are used, and the amount of the cost of each such program or project supplied by other sources (including records relating to the use of consultants, and a breakdown of expenditures for the education of handicapped children by type of handicap).

(b) Except as otherwise provided for inventory records in § 118.41(c), all records required by paragraph (a) of this section shall be retained for 3 years after the close of the period during which the expenditures were made or if an audit has not occurred by that time, such records shall be maintained until (1) the State educational agency has been notified of the completion of the Federal audit, or (2) 5 years after the end of the fiscal year in which the expenditure was made, whichever is earlier.

(c) In cases where there is an audit irregularity, all records regarding the questioned expenditures shall be maintained until its resolution. The Department and the Comptroller General of the United States, or his duly authorized representatives, shall have access for the purposes of audit and examination to all such records and to any other books, documents, or papers of the recipient that are pertinent to the expenditure being questioned. (20 U.S.C. 844a(b)(11), 1232c)

§ 118.56 **Contracts for services.**

The State educational agency, and local educational agencies if approved by the State educational agency, may enter into contracts or agreements (to the extent permitted by State and local law and consistent with the approved State plan) for the provision by other appropriate public or private agencies, organizations, or institutions of a portion of the services to be provided under a title III program or project. Such contract or agreement shall describe the services to be provided by the agency or institution, shall incorporate the standards and requirements of title III of the Act and these regulations, and shall contain provisions assuring that the State or local educational agency will retain administrative supervision and control over the provision of services under the contract. Where a local educational agency proposes to contract for services, such services shall be specified in the project application or an amendment thereto, and the proposed contract shall be submitted to the State educational agency for approval. All contracts and agreements entered into pursuant to this section shall be in writing, and copies shall be maintained in accordance with § 118.56. (20 U.S.C. 843)

§ 118.57 **Applicability of civil rights regulation.**

Federal financial assistance under this part is subject to the requirements of title VI of the Civil Rights Act of 1964, approved July 2, 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d et seq.). Section 601 of that Act provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. Therefore, Federal financial assistance pursuant to this part is subject to the regulation set forth in Part 80 of this title. (42 U.S.C. 2000d et seq.)

§ 118.58 **Copyrights and patents.**

(a) If a copyright is obtained on materials produced with financial assistance under title III of the Act, the Federal Government shall be granted a nonexclusive, irrevocable, royalty-free license to reproduce and publish the materials so copyrighted, including the power to sublicense, for all governmental purposes.

(b) Any materials of a patentable nature produced through a project with financial assistance under title III of the Act shall be subject to the provisions of Parts 6 and 8 of this title. (20 U.S.C. 841)

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Guidelines

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 124]

STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Guidelines

Notice is hereby given that the guidelines set forth in tentative form below are proposed by the Environmental Protection Agency. The proposed guidelines describe, pursuant to the authority contained in section 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. — (1972)) (hereinafter referred to as the "Act"), the minimum procedural and other elements of any State programs under section 402 of the Act.

Section 402 of the Act creates a National Pollutant Discharge Elimination System under which the Administrator of the Environmental Protection Agency may, after opportunity for public hearing, issue permits for the discharge of any pollutant or combination of pollutants, upon condition that such discharge will meet all applicable requirements of the Act relating to effluent limitations, water quality standards and implementation plans, new source performance standards, toxic and pretreatment effluent standards, inspections, monitoring and entry provisions, and guidelines establishing ocean discharge criteria. Section 402 also provides that States desiring to administer their own permit programs may submit a full and complete description of such a program to the Administrator for approval. The Administrator is to approve a State's program, and suspend issuance of permits under section 402, unless he determines that the State does not possess adequate authority to perform certain acts detailed in 402(b) of the Act. In general terms, the State must have authority to (a) issue permits for terms not exceeding 5 years upon the same conditions relating to effluent limitations and water quality standards as are applicable to permits issued by the Administrator; (b) adequately notify members of the public, other States, and the Secretary of the Army of pending permit applications; (c) abate violations of permits, including civil and criminal penalties; (d) insure that the State permitting agency receive adequate notice of new introductions or substantial changes in the volume or character of pollutants introduced into publicly-owned treatment works; and (e) to insure that any industrial user of publicly-owned treatment works compiles with pretreatment effluent standards and other requirements. The State also must have an approved continuing planning process under section 303(e) of the Act before approval of its permit program can be granted. In addition to these requirements, a State permit program cannot be approved unless it conforms to guidelines issued under section 304(h)(2) of the Act prescribing minimum procedural and other elements of any State program under section 402. These guidelines, which are the subject of this notice, must include, but are not limited to, monitoring and reporting requirements (including procedures to make information available to the public), enforcement provisions, and requirements for funding, personnel qualifications, and manpower.

Prior to the adoption of the proposed guidelines, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Office of Enforcement and General Counsel, Washington, D.C. 20460, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: November 3, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart A—General

Sec.
124.1 Definitions.
124.2 Scope and purpose.

Subpart B—Prohibition of Discharges of Pollutants

124.10 Prohibition of discharges into State waters.

Subpart C—Acquisition of Data

124.21 Application for NPDES permit.
124.22 Receipt and use of Federal data.
124.23 Transmission of data to Regional Administrator.
124.24 Identity of signatories to NPDES forms.

Subpart D—Notice and Public Participation

124.31 Formulation of tentative determinations.
124.32 Public Notice.
124.33 Fact sheets.
124.34 Notice to other Government agencies.
124.35 Public access to information.
124.36 Public hearings.
124.37 Public notice of public hearings.

Subpart E—Terms and Conditions of NPDES Permits

124.41 Prohibited discharges.
124.42 Application of effluent standards and limitations, water quality standards and other requirements.
124.43 Effluent limitations in issued NPDES permits.
124.44 Schedules of compliance in issued NPDES permits.
124.45 Other terms and conditions of issued NPDES permits.
124.46 Transmission to Regional Administrator of proposed NPDES permits.
124.47 Transmission to Regional Administrator of issued NPDES permits.

Subpart F—Duration and Review of NPDES Permits

124.51 Duration of issued NPDES permits.
124.52 Reissuance of NPDES permits.

Subpart G—Monitoring, Recording, and Reporting

124.61 Monitoring.
124.62 Recording of monitoring activities and results.
124.63 Reporting of monitoring results.
124.64 NPDES monitoring, recording, and reporting requirements.

Subpart H—Enforcement Provisions

124.71 Receipt and followup of notifications and reports.
124.72 Modification, suspension and revocation of NPDES permits.
124.73 Enforcement.

Subpart I—Disposal of Pollutants Into Wells

124.80 Control of disposal of pollutants into wells.

Subpart J—Resources, Planning and Other Requirements

124.91 Availability of resources.
124.92 Inspection and surveillance support for NPDES permits.
124.93 Continuing planning process.
124.94 Agency Board membership.

Subpart K—NPDES Application and Reporting Forms [Reserved]

Appendix A—Sample Public Notice.
Appendix B—Sample Fact Sheet.
Appendix C—Sample Public Notice for Public Hearings.

Subpart A—General

§ 124.1 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. ____, et seq.

(b) The term "Refuse Act" means section 13 of the River and Harbor Act of March 3, 1899.

(c) The term "EPA" means the U.S. Environmental Protection Agency.

(d) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(e) The term "Regional Administrator" means one of the EPA Regional Administrators.

(f) The term "Director" means the chief administrative officer of a State water pollution control agency or interstate agency. In the event responsibility for water pollution control and enforcement is divided among two or more State or interstate agencies, the term "Director" means the administrative officer authorized to perform the particular procedure to which reference is made.

(g) The term "National Pollutant Discharge Elimination System (NPDES)" means the national system for the issuance of permits under section 402 of the Act and includes any State or interstate program which has been approved by the Administrator, in whole or in part, pursuant to section 402 of the Act.

(h) The term "NPDES application" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for application for an NPDES permit.

(i) The term "NPDES reporting form" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for reporting data and information pursuant

to monitoring and other conditions of NPDES permits.

(j) The term "NPDES permit" means any permit or equivalent document or requirements issued by the Administrator, or, where appropriate, by the Director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to section 402 of the Act.

(k) The term "NPDES form" means any issued NPDES permit and any uniform national form developed for use in the NPDES and prescribed in regulations promulgated by the Administrator, including the NPDES application and the NPDES reporting forms.

(l) The term "Refuse Act application" means the application for a permit under the Refuse Act.

(m) The term "Refuse Act permit" means any permit issued under the Refuse Act.

(n) The definitions of the following terms contained in section 502 of the Act shall be applicable to such terms as used in this part unless the context otherwise requires: "State water pollution control agency (referred to herein as 'State agency')," "interstate agency," "State," "municipality," "person," "pollutant," "navigable waters," "territorial seas," "contiguous zone," "ocean," "effluent limitations," "discharge of a pollutant," "toxic pollutant," "pot source," "biological monitoring," "discharge," "schedule of compliance," "industrial user," and "pollution."

(o) The term "national data bank" means a facility or system established or to be established by the Administrator for the purposes of assembling, organizing, and analyzing data pertaining to water quality and the discharge of pollutants.

(p) The term "applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (1) approved or permitted to remain in effect by the Administrator following submission to him pursuant to section 303(a) of the Act, or (2) promulgated by the Administrator pursuant to section 303(b) or 303(c) of the Act.

(q) The term "applicable effluent standards and limitations" means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

§ 124.2 Scope and purpose.

(a) This part establishes guidelines specifying procedural and other elements which must be present in a State or interstate program in order to obtain approval of the Administrator pursuant to section 402 of the Federal Water Pollution Control Act, as amended, 86 Stat. 816, 33 U.S.C. ____.

(b) A submitted State or interstate program which conforms to the guidelines of this part and which meets the requirements of section 402 of the Act shall be approved by the Administrator. Upon approval, the Administrator shall suspend his issuance of NPDES permits as to those point sources subject to such approved program.

(c) Any State program which obtains the approval of the Administrator pursuant to section 402 of the Act shall at all times be in accordance with section 402 and the guidelines contained in this part.

Subpart B—Prohibition of Discharges of Pollutants

§ 124.10 Prohibition of discharges into State waters.

Any State or interstate program participating in the NPDES must have a statute or regulation, enforceable in State courts, which prohibits discharges of pollutants by any person, except as authorized pursuant to an NPDES permit.

(*Comment.* For the purposes of this subpart, a State or interstate program shall qualify for participation in the NPDES if it prohibits discharges of pollutants to the same extent such discharges are prohibited in section 301(a) of the Act. It is recognized that some State or interstate programs presently exempt or exclude certain categories, types, or sizes of point sources from the general prohibition of the unauthorized discharge of pollutants or from the requirement of obtaining a permit. Other States have in effect "grandfather" clauses which either exempt discharges already in existence or provide for automatic issuance of a permit to existing dischargers. Exceptions to the general prohibition cannot be approved. Depending on their scope and nature, any such exceptions will either (1) constitute grounds for withholding approval of the entire submitted program until such time as the State or interstate agency revises or modifies its program to conform to this subpart, or (2) constitute categories, types, or sizes of point sources for which the Administrator will not suspend the issuance of NPDES permits. In the latter case, the Administrator will issue NPDES permits for those point sources not subject to the State or interstate agency's authority.)

Subpart C—Acquisition of Data

§ 124.21 Application for NPDES permit.

Procedures of any State or interstate agency participating in the NPDES shall insure that every applicant for an NPDES permit complies with NPDES filing requirements. Such procedures and requirements shall include the following:

(a) A requirement that any person discharging pollutants must:

(1) Have filed a complete Refuse Act application; or,

(2) File a complete NPDES application no later than 60 days following receipt by the applicant of notice from the Director that the applicant's previously filed Refuse Act application is so deficient as not to have satisfied the filing requirements; or,

(3) File a complete NPDES application within a stated period, not to exceed any applicable periods specified in Federal regulations for persons filing under the NPDES (40 CFR ——).

(*Comment.* Federal filing requirements for the NPDES include the timely filing of a properly completed Refuse Act or NPDES application form. State and interstate agencies may specify, where necessary, additional filing requirements such as the submission of engineering reports, plans, and specifications for present or proposed treatment or control of discharges of pollutants. While duplication should be avoided, the Administrator recognizes that the NPDES application form may not by itself satisfy the needs of every participating program.)

(b) A requirement that any person wishing to commence discharges of pollutants after the applicable period in paragraph (a)(3) of this section, must file a complete NPDES application either (1) no less than 180 days in advance of the date on which it is desired to commence the discharge of pollutants, or (2) in sufficient time prior to the commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the Act and any other applicable water quality standards and applicable effluent standards and limitations.

(*Comment.* The purpose of this requirement is to insure that the Director has sufficient time to examine applications from new sources of discharge of pollutants and to apply standards of performance without unnecessarily delaying scheduled startup. The sooner the Director can specify requirements for new sources, the more easily the applicant can modify his plans, if necessary, without disruption and waste. Those State or interstate agencies which begin review at the planning stages of a new project are in the best position to insure orderly compliance with new source standards.)

(c) Procedures which (1) enable the Director to require the submission of additional information after a Refuse Act or an NPDES application has been filed, and (2) insure that, if a Refuse Act or NPDES application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

(*Comment.* The Director may find he needs information other than that initially filed by the applicant in order to make a permit decision. The Director should not hesitate to go back to the applicant for further information. In some cases, nothing less than an on-site inspection of an applicant's pollution control technology and practices will suffice.

No NPDES permit should be issued until the applicant has fully complied with the filing requirements specified in this subpart. If an applicant fails or refuses to correct deficiencies in his NPDES application form, the Director should take timely enforcement action.)

§ 124.22 Receipt and use of Federal data.

Each State or interstate agency participating in the NPDES shall receive any relevant data collected by the Regional Administrator prior to such agency's participation in the NPDES in such manner as the Director and the Regional Administrator shall agree. Any

agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Director from the Regional Administrator of copies of any Refuse Act applications, NPDES applications, or other relevant data collected by the Regional Administrator prior to the State or interstate agency's participation in the NPDES; and

(b) A procedure to insure that the Director will not issue an NPDES permit on the basis of any Refuse Act or NPDES application received from the Regional Administrator which the Regional Administrator has identified as incomplete or otherwise deficient until the Director receives information sufficient to correct the deficiency to the satisfaction of the Regional Administrator.

(*Comment.* The two purposes of this section are: (1) To provide for the transfer of data bearing on NPDES permit determinations from the Federal Government to the participating State or interstate agencies, and (2) to insure that any deficiencies in the transferred NPDES forms will be corrected prior to issuance of an NPDES permit. The "agreement" mechanism allows flexibility in achieving both purposes. Time and manner of transfer can be worked out by each participating agency and the Regional Administrator. If agreed upon, deficient applications could either be retained by the Regional Administrator until completed or be transferred with the satisfactory applications. If the Director prefers to receive and correct deficient applications, the agreement could provide for the forwarding to the Regional Administrator of the information necessary to correct the deficiency.)

§ 124.23 Transmission of data to Regional Administrator.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES forms received by the State or interstate agency in such manner as the Director and Regional Administrator shall agree. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Regional Administrator of a complete copy of any NPDES form received by the State or interstate agency;

(b) Procedures for the transmittal to the national data bank of a complete copy, or relevant portions thereof, of any appropriate NPDES form received by the State or interstate agency;

(c) Procedures for acting on the Regional Administrator's written waiver, if any, of his rights to receive copies of NPDES forms with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and,

(d) An opportunity for the Regional Administrator to object in writing to deficiencies in any NPDES application or reporting form received by him and to have such deficiency corrected. If the Regional Administrator's objection relates to an NPDES application, the Director shall send the Regional Administrator any information necessary to correct the deficiency and shall, if the Regional Administrator so requests, not issue the NPDES permit until he receives notice from the Regional Administrator that the deficiency has been corrected.

§ 124.24 Identity of Signatories to NPDES forms.

Any State or interstate program participating in the NPDES shall require that any NPDES form submitted to the Director be signed as follows:

(a) In the case of corporations, by a principal executive officer of at least the level of vice president.

(b) In the case of a partnership, by a general partner.

(c) In the case of a sole proprietorship, by the proprietor.

(d) In the case of publicly owned treatment works; by the official having responsibility for the overall operation of the treatment works.

Subpart D—Notice and Public Participation

(*Comment.* Section 101(e) of the Act provides that public participation shall be "provided for, encouraged, and assisted by the Administrator and the States." Section 402(b)(3) of the Act further calls upon State and interstate agencies participating in the NPDES "to insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application." This subpart specifies certain procedures to be following by all participating State and interstate agencies to insure national uniformity in the quality of public participation in NPDES permit determinations. Each State or interstate agency may devise additional procedures and means by which effective and constructive public participation may be enhanced.)

§ 124.31 Formulation of tentative determinations.

Any State or interstate agency participating in the NPDES shall formulate and prepare tentative determinations with respect to a Refuse Act or NPDES application in advance of public notice of the proposed issuance or denial of an NPDES permit. Such tentative determinations shall include at least the following:

(a) A proposed determination to issue or deny an NPDES permit for the discharge described in the Refuse Act or NPDES application; and,

(b) If the determination proposed in paragraph (a) of this section is to issue the NPDES permit, the following additional tentative determinations:

(1) Proposed effluent limitations, identified pursuant to §§ 124.42 and 124.43, for those pollutants proposed to be limited;

(2) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations, identified pursuant to § 124.44; and

(3) A brief description of any other proposed special conditions (other than those required in § 124.45) which will have a significant impact upon the discharge described in the NPDES application.

§ 124.32 Public notice.

(a) Public notice of every complete application for an NPDES permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed discharge; such circulation may include any or all of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting near the entrance to the applicant's premises and in nearby places; and

(iii) Publishing in local newspapers and periodicals, or, if the local newspaper is not a daily newspaper, in a daily newspaper of general circulation;

(2) Notice shall be mailed to any person or group upon request; and

(3) The Director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all NPDES applications within the State or within a certain geographical area.

(b) The Director shall provide a period of not less than thirty (30) days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the 30-day comment period shall be retained by the Director and considered in the formulation of his final determinations with respect to the NPDES application.

(c) The contents of public notice of applications for NPDES permits shall include at least the following (See Appendix A to this part for a sample public notice which meets the requirements of this section.):

(1) Name, address, phone number of agency issuing the public notice;

(2) Name and address of each applicant;

(3) Brief description of each applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(5) A statement of the Director's tentative determination to issue or deny an NPDES permit for the discharge described in the NPDES application;

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations; and

(7) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet described in § 124.33, and inspect and copy NPDES forms and related documents.

§ 124.33 Fact sheets.

Prior to issuance of public notice the Director shall prepare and, following public notice, shall send, upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information (see Appendix B to this part for a sample fact sheet which meets the requirements of this section):

(a) A sketch or detailed description of the location of the discharge described in the NPDES application;

(b) A quantitative description of the discharge described in the NPDES application which includes at least the following:

(1) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day;

(2) For thermal discharges subject to limitation under the Act, the average summer and winter temperatures in degrees Fahrenheit; and

(3) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under sections 301, 302, 306, or 307 of the Act and regulations published thereunder;

(c) The tentative determinations required under § 124.31;

(d) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge; and

(e) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including:

(1) The 30-day comment period required by § 124.32(b);

(2) Procedures for requesting a public hearing and the nature thereof; and

(3) Any other procedures by which the public may participate in the formulation of the final determinations.

§ 124.34 Notice to other Government agencies.

Any State or interstate agency participating in the NPDES shall notify other appropriate Government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Procedures for such notification shall include the following:

(a) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to any other States whose waters may be affected by the issuance of an NPDES permit and, upon request, providing such States with a copy of the NPDES application. Each affected State shall be afforded an opportunity to submit written recommendations to the Director and to the Regional Administrator which the Director may incorporate into the permit if issued. Should the Director fail to incorporate any written recommendations thus received, he shall provide to the affected State or States (and to the Regional Administrator) a written explanation of his reasons for failing to accept any of the written recommendations.

(b) A procedure, similar to paragraph (a) of this section, for notifying any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit.

(c) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to the Chief of Engineers of the Army Corps of Engineers of each application for an NPDES permit to discharge pollutants into navigable waters.

(d) A procedure for mailing copies of public notice (or upon specific request, copies of fact sheets) for application for NPDES permits to any other Federal, State, or local agency upon request, and providing such agencies an opportunity to respond, comment, or request a public hearing pursuant to § 124.36. Such agencies shall include at least the following:

(1) The agency responsible for the preparation of an approved plan pursuant to section 208(b) of the Act; and

(2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under section 303(e) of the Act, unless such agency is under the supervision of the Director.

(e) Procedures for notice to and coordination with appropriate public health agencies for the purpose of assisting the applicant in coordinating the applicable requirements of the Act with any applicable requirements of such public health agencies.

§ 124.35 Public access to information.

(a) Any State or interstate agency participating in the NPDES shall insure that any NPDES forms or any public comment upon those forms pursuant to § 124.32(b) shall be available to the public for inspection and copying. The Director, in his discretion, may also make available to the public any other records, reports, plans, or information obtained by the State or interstate agency pursuant to its participation in the NPDES.

(b) The Director may protect any information (other than effluent data) contained in such NPDES form, or other records, reports, or plans as confidential upon a showing by any person that such information if made public would divulge methods of processes entitled to protection as trade secrets of such person. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Director shall forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not concur that all of the information being considered for confidential treatment merits such protection and so notifies the Director in writing, the Director shall make available to the public that information for which the Regional Administrator withheld his concurrence.

(c) Any information accorded confidential status, whether or not contained in an NPDES form, shall be disclosed, upon request, to the Regional Administrator, or his authorized representative, who shall maintain the disclosed information as confidential.

(d) The Director shall provide facilities for the inspection of information relating to NPDES forms and shall insure that State employees honor requests for such inspection promptly without undue requirements or restrictions. The Director shall either (1) insure that a machine or device for the copying of papers and documents is available for a reasonable fee, or (2) otherwise provide for or coordinate with copying facilities or services such that requests for copies of nonconfidential documents may be honored promptly.

§ 124.36 Public hearings.

The Director shall provide an opportunity for the applicant, any affected State, any affected interstate agency, the Regional Administrator, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to the NPDES application. Any hearing brought pursuant to this section shall be held in the geographical area (or, if facilities for a proper hearing in the immediate vicinity are not available, in another suitable accessible location) of the proposed discharge.

§ 124.37 Public notice of public hearings.

(a) Public notice of any hearing held pursuant to section 124.36 above shall be circulated at least as widely as was the notice of the NPDES application. Procedures for the circulation of public notice for hearings held under § 124.36 shall include at least the following:

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and Government agencies which received a copy of the notice or the fact sheet for the NPDES application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice shall be effected pursuant to subparagraphs (1) and (3) of this paragraph at least thirty (30) days in advance of the hearing.

(b) The contents of public notice of any hearing held pursuant to § 124.36 shall include at least the following (see Appendix C to this part for a sample hearing notice which meets the requirements of this section:

(1) Name, address, and phone number of agency holding the public hearing;

(2) Name and address of applicant:

(3) Name of waterway to which discharge is made and a short description of the location of the discharge on the waterway;

(4) A brief reference to the public notice issued for the NPDES application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the persons requesting the hearing;

(8) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet described in § 124.33, and inspect and copy NPDES forms and related documents; and

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

Subpart E—Terms and Conditions of NPDES Permits

§ 124.41 Prohibited discharges.

Any State or interstate agency participating in the NPDES shall insure that no permit shall be issued authorizing any of the following discharges:

(a) The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

(b) Any discharge which the Secretary of the Army acting through the chief of engineers finds would substantially impair anchorage and navigation;

(c) Any discharge to which the Regional Administrator has objected in writing pursuant to any right to object provided the Administrator in section 402(d) of the Act; and

(d) Any discharge from a point source which is in conflict with a plan approved pursuant to section 208(b) of the Act.

§ 124.42 Application of effluent standards and limitations, water quality standards, and other requirements.

Procedures for any State or interstate program participating in the NPDES must insure that the terms and conditions of each issued NPDES permit apply and insure compliance with all of the following, whenever applicable:

(a) Effluent limitations under sections 301 and 302 of the Act;

(b) Standards of performance for new sources under section 306 of the Act;

(c) Effluent standards, effluent prohibitions, and pretreatment standards under section 307 of the Act;

(d) Any more stringent limitation, including those (1) necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510), or (2) necessary to meet any other Federal law or regulation, or (3) required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to a continuing planning process approved under section 303(e);

(e) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the Act; and

(f) Prior to promulgation by the Administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307, effluent limitations designed to achieve the requirements of section 301(b) of the Act.

(*Comment.* The House Committee Print states: "The Committee points out, as it did in the discussion of section 401, that the term 'applicable' used in section 402 has two meanings. It means that the requirement which the term 'applicable' refers to must be pertinent and apply to the activity and the requirement must be in existence by having been promulgated or implemented.")

§ 124.43 Effluent limitations in issued NPDES permits.

In the application of effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight).

(*Comment.* The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges may be limited by daily loading figures. Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every 3 weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) minimum time period for completion of discharge (e.g., to be discharged over a period of not less than 12 hours), and (iv) limitation or prohibition of specified pollutants (e.g., shall not contain more than 15 p.p.m. BOD or 10 pounds of lead). Other intermittent discharges such as recirculation blowdown should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.)

§ 124.44 Schedules of compliance in issued NPDES permits.

In addition to the application of the effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall follow the following procedures in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements:

(a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in § 124.42 (d) and (e), the permittee shall be required to take specific steps to achieve compliance with the following:

(1) In accordance with any legally applicable schedule of compliance contained in:

(i) Applicable effluent standards and limitations;

(ii) If more stringent, water quality standards; or,

(iii) If more stringent, legally applicable requirements listed in § 124.42 (d) and (e); or,

(2) In the absence of any legally applicable schedule of compliance, in the shortest, reasonable period of time, such period not to extend beyond July 1, 1977.

(b) In any case where the period of time for compliance specified in paragraph (a) of this section exceeds 9 months, one or more interim dates shall be specified for which the permittee shall have achieved interim requirements; in no event shall more than 9 months elapse between interim dates.

(*Comment.* Certain interim requirements such as the submission of preliminary or final plans often require less than 9 months and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into 9-month intervals. Long-term interim requirements should nonetheless be subdivided into intervals not longer than 9 months at which the permittee is required to report his progress to the Director pursuant to § 124.44(c).)

(c) Either before or up to fourteen (14) days following each interim date and the final date of compliance the permittee shall provide the Director with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(d) If the permittee fails or refuses to comply with an interim or final requirement or if the permittee fails or refuses to notify the Director of compliance or noncompliance with each interim date requirement, the Director shall notify the Regional Administrator of such failure or refusal by the permittee within 30 days of the elapsed interim or final date.

(e) If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit such noncompliance shall constitute a violation of the permit for which the Director may, pursuant to Subpart H of this part suspend or revoke the permit or take direct enforcement action.

§ 124.45 Other terms and conditions of issued NPDES permits.

In addition to the requirements of §§ 124.42, 124.43, and 124.44, procedures of any State or interstate agency participating in the NPDES must insure that the terms and conditions of each issued NPDES permit provide for and insure the following:

(a) That all discharges authorized by the NPDES permit shall be consistent

with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submitting a new NPDES application; that the discharge of any pollutant not identified and authorized by the NPDES permit or the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(b) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(1) Violation of any terms or conditions of the permit;

(2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and,

(3) A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge;

(c) That the permittee shall permit the Director or his authorized representative, upon the presentation of his credentials:

(1) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or,

(4) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the Director of the following:

(1) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the Act if such source were discharging pollutants;

(2) Any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the Act if such source were discharging pollutants; and,

(3) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on (i) the quality and quantity of effluent to be introduced into such treatment works and (ii) any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works. See Appendix D to this part for sample permit conditions for provision of notice pursuant to this paragraph.

(e) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of sections 204(b), 307, and 308 of the Act. As a means of insuring such compliance, the permittee shall require of each industrial user subject to the requirements of section 307 of the Act and shall forward a copy to the Director periodic notice (over intervals not to exceed nine months) of progress towards full compliance with section 307 requirements. See Appendix E for sample permit conditions for provisions of notice pursuant to this paragraph.

(f) That the permit may not be transferred to a third party without the prior written approval of the Director.

(g) That the permittee at all times shall maintain in good working order and operate at maximum efficiency any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

§ 124.46 Transmission to Regional Administrator of proposed NPDES permits.

Any State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES permits proposed to be issued by such agency in such manner as the Director and Regional Administrator shall agree upon. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Except as waived pursuant to paragraph (c) of this section, the transmission by the Director of any and all terms, conditions, requirements, or documents which are a part of the proposed permit or which affect the authorization by the proposed permit of the discharge of pollutants;

(b) A period of time (up to 90 days) in which the Regional Administrator, pursuant to any right to object provided in section 402(d)(2) of the Act, may comment upon, object to, or make recommendations with respect to the proposed permit; and

(c) Any written waiver by the Regional Administrator of his rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources.

§ 124.47 Transmission to Regional Administrator of issued NPDES permits.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator a copy of every issued NPDES permit, immediately following issuance, along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants.

Subpart F—Duration and Review of NPDES Permits

§ 124.51 Duration of issued NPDES permits.

Any State or interstate agency participating in the NPDES shall provide that each issued NPDES permit shall have a fixed term not to exceed 5 years.

(*Comment.* The term of an NPDES permit may extend beyond the time for compliance specified pursuant to § 124.44. The time for compliance shall be that dictated by (i) effluent standards and limitations, or (ii) if more stringent, water quality standards, or (iii) if more stringent, other legally applicable requirements such as those listed in § 124.42 (d) and (e). The term of the NPDES permit may extend beyond the final deadline for compliance, except that the term may not exceed 5 years. Failure to comply with the permit schedule of compliance, including interim and final requirements, as provided in §124.44(e), is a violation of the permit for which the Director may take Subpart H of this part enforcement action.)

§ 124.52 Reissuance of NPDES permits.

(a) Any State or interstate agency participating in the NPDES shall maintain procedures for the review of applications for reissuance of NPDES permits. Such review procedures shall require, and the Director shall so notify the permittee, that any permittee who wishes to continue to discharge after the expiration date of his NPDES permit must file for reissuance of his permit at least 180 days prior to its expiration. The filing requirements for reissuance shall be determined by the State or interstate agency and may range from a simple written request for reissuance to submission of all NPDES and State or interstate forms.

(b) The scope and manner of any review of an application for reissuance of an NPDES permit shall be within the discretion of the State or interstate agency but shall be sufficiently detailed as to insure the following:

(1) That the permittee is in compliance with or has substantially complied with all the terms, conditions, requirements, and schedules of compliance of the expired NPDES permit;

(2) That the Director has up-to-date information on the nature, contents, and frequency of permittee's discharge, either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports submitted to the Director by the permittee; and,

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in § 124.42, including any additions to, or revisions or modifications of such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(c) State or interstate agency notice and public participation procedures for reissuance of the NPDES permit shall be those specified in Subpart D of this part.

Subpart G—Monitoring, Recording, and Reporting

§ 124.61 Monitoring.

Procedures of any State or interstate agency participating in the NPDES for the monitoring of any discharge authorized by an NPDES permit shall be consistent with the following:

(a) Any discharge authorized by an NPDES permit may be subject to such monitoring requirements as may be reasonably required by the Director, including the installation, use, and maintenance of monitoring equipment or

methods (including, where appropriate, biological monitoring methods).

(b) Any discharge authorized by an NPDES permit which (1) averages more than 50,000-gallons-per-operating day, (2) the Regional Administrator requests, in writing, be monitored, or (3) contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to section 307(a) of the Act, shall be monitored by the permittee for at least the following:

(i) Flow (in gallons per day); and,

(ii) All of the following pollutants:

(*a*) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

(*b*) Pollutants which the Director finds, on the basis of information available to him, could have a significant impact on the quality of navigable waters;

(*c*) Pollutants specified by the Administrator, in regulations issued pursuant to the Act, as subject to monitoring; and,

(*d*) Any pollutants in addition to the above which the Regional Administrator requests, in writing, be monitored.

(c) Each effluent flow or pollutant required to be monitored pursuant to paragraph (b) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

§ 124.62 Recording of monitoring activities and results.

Any State or interstate agency participating in the NPDES shall specify the following recording requirements for any NPDES permit which requires monitoring of the authorized discharge:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his NPDES permit;

(b) Any records of monitoring activities and results shall include for all samples: (1) The date, exact place, and time of sampling; (2) the dates analyses were performed; (3) who performed the analyses; (4) the analytical techniques/methods used; and, (5) the results of such analyses; and,

(c) The permittee shall be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Director or Regional Administrator.

§ 124.63 Reporting of monitoring results.

Any State or interstate agency participating in the NPDES shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring results obtained by a permittee pursuant to monitoring requirements in an NPDES permit. In addition to the NPDES reporting form, the Director in his discretion may require submission of such other information regarding monitoring results as he determines to be necessary.

(*Comment.* Reporting frequency, as with monitoring frequency, depends upon the nature and impact of the discharge. Annual report submission is sufficient for small cooling water discharges. Discharges for which more frequent, even monthly, reporting is desirable include variable discharges, major, including municipal, discharges, and discharges for which new treatment or control methods are being applied. Reporting frequency should correspond with administrative capability to evaluate the reports as they come in.)

§ 124.64 NPDES monitoring, recording, and reporting requirements.

Any State or interstate agency participating in the NPDES shall adopt procedures consistent with any national monitoring, recording, and reporting requirements specified by the Administrator in regulations issued pursuant to the Act.

Subpart H—Enforcement Provisions

§ 124.71 Receipt and followup of notifications and reports.

(a) Any State or interstate agency participating in the NPDES shall have the procedures and the capability for the receipt, evaluation, and investigatory followup for possible enforcement or remedial action of all notices and reports required of permittees including, but not limited to, the following:

(1) Reports from industrial users of progress towards compliance with the requirements of section 307, submitted pursuant to § 124.45(e);

(2) Notifications (or failure to notify) from permittees of compliance or noncompliance with interim requirements specified in NPDES permit schedules of compliance pursuant to § 124.44; and,

(3) Data submitted by permittees in NPDES reporting forms and other forms supplying monitoring data, pursuant to Subpart G of this part.

(b) Any such reports or notifications received by the Director pursuant to paragraph (a) of this section shall: (1) Constitute information available to the Director and (2) if forwarded to the Regional Administrator pursuant to the provisions of this part shall constitute information available to the Administrator within the meaning of section 309 of the Act.

(c) Any State or interstate agency participating in the NPDES shall have similar procedures and capability for the receipt and evaluation of notices (relating to new introductions or changes in the volume or character of pollutants introduced into publicly owned treatment works) submitted by permittees which are publicly owned treatment works, pursuant to § 124.45(d), for possible violation of the terms and conditions of the NPDES permit. If the Director determines that any condition of the permit is violated, he shall notify the Regional Administrator and consider taking action under section 402(h) of the Act (relating to proceedings to restrict or prohibit the introduction of pollutants into treatment works).

§ 124.72 Modification, suspension, and revocation of NPDES permits.

Any State or interstate agency participating in the NPDES shall insure that any permit issued under the NPDES can be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the causes listed in § 124.45(b) or for failure or refusal of the permittee to carry out the requirements of § 124.45(c).

§ 124.73 Enforcement.

Any State or interstate agency participating in the NPDES shall have such powers and procedures and such recourse to criminal, civil, and civil injunctive remedies as to insure the following ways and means are available to protect, maintain, and enhance water quality:

(a) Procedures which enable the Director to require compliance with (1) any violated effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, or (5) any rules or regulations issued by the Director either pursuant to orders issued by the Director, court actions, or both;

(b) Procedures which enable the Director to immediately and effectively halt or eliminate any imminant or substantial endangerments to the health or welfare of persons resulting from the discharge of pollutants (1) by an order or suit in the appropriate State court to immediately restrain any person causing or contributing to the discharge of pollutants or to take such other action as may be necessary, or (2) by a procedure for the immediate telephonic notice to the Regional Administrator of any actual or threatened endangerments to the health or welfare of persons resulting from the discharge of pollutants;

(c) Procedures which enable the Director to sue in competent courts to enjoin any threatened or continuing violations of any NPDES permits or conditions thereof without the necessity of a prior revocation of the permit;

(d) Procedures which enable the Director to enter any premises in which an effluent source is located or in which records are required to be kept under terms or conditions of a permit and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards or effluent standards and limitations or of NPDES permits or terms or conditions thereof;

(e) Procedures which enable the Director to assess or to sue to recover in court, such civil fines, penalties, and

other civil relief as may be appropriate for the violation by any person of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, (5) any order issued by the Director under paragraph (a) of this section, or (6) any rules, regulations, or orders issued by the Director;

(f) Procedures which enable the Director to seek criminal fines for the willful or negligent violation by such persons of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, or (4) any order issued by the Director under paragraph (a) of this section; and,

(g) The maximum civil penalties and criminal fines recoverable by the Director pursuant to paragraphs (e) and (f) of this section shall (1) be comparable to similar maximum amounts recoverable by the Regional Administrator under section 309 or (2) represent an actual and substantial economic deterrent to the actions for which they are assessed or levied. Such civil penalties or criminal fines shall be assessable up to the maximum amounts for each violation specified in paragraphs (e) and (f) of this section, or, if the violation is a continuous discharge, assessable for each day the discharge occurs.

(*Comment.* It is understood that in many States the Director will be represented in State courts by the State attorney general or other appropriate legal officer. While the Director need not appear in court actions under this subpart, he should have the power to request that such actions be brought.

The following enforcement options, while not mandatory, are highly recommended as means not only for compelling compliance but also for providing additional funds to State or interstate program efforts:

(1) Procedures for assessment by the Director or by a State court of any violator for the costs of an investigation, inspection, or monitoring survey which led to the establishment of the violation;

(2) Procedures which enable the Director to assess or to sue any persons for any expenses incurred by the State in removing, correcting, or terminating any adverse effects upon water quality resulting from the unauthorized discharge of pollutants, whether or not accidental; and,

(3) Procedures which enable the Director to sue for compensation for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized discharge of pollutants, either for the State, for any residents of the State who are directly aggrieved by the unauthorized discharge of pollutants, or both.)

Subpart I—Disposal of Pollutants Into Wells

§ 124.80 Control of disposal of pollutants into wells.

Any State or interstate agency participating in the NPDES shall have procedures which control the disposal of pollutants into wells. Any such disposal shall be sufficiently controlled to protect the public health and welfare and to prevent pollution of ground and surface waters.

(a) If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the Director shall specify additional terms and conditions in the final NPDES permit which shall (1) prohibit the proposed disposal, or (2) control the proposed disposal in order to prevent pollution of ground and surface waters and to protect the public health and welfare.

(b) A State agency participating in the NPDES shall have procedures to prohibit or control through the issuance of permits all other proposed disposals of pollutants into wells. Following approval of the Administrator of a State program pursuant to section 402 of the Act, the Director shall permit no uncontrolled disposals of pollutants into wells within the State.

Subpart J—Resources, Planning and Other Requirements

§ 124.91 Availability of resources.

(a) Any State or interstate agency participating in the NPDES shall, in submitting its program description pursuant to section 402(b) of the Act, provide information regarding funding and manpower appropriated for the use of the program proposed to be established and administered under State law or under an interstate compact. Such information shall include the following:

(1) A description of all full-time and part-time employees who will be engaged in carrying out the State permit program, including information on the qualifications and functions of such employees.

(2) A list of the proposed costs and expenses of establishing and administering the program described in the program description, including (i) wages and salaries of the personnel listed in (1) above, (ii) cost of administrative support (such as office space and supplies, computer time, vehicles, notice and hearing procedures, etc), and (iii) cost of technical support (such as laboratory space and supplies, vehicles, watercraft, etc.). Such estimate of costs and expenses shall include the cost and expense of carrying out the procedures and requirements contained in this part;

(3) A description of the funding available to the Director to meet the costs and expenses listed in subparagraph (2) of this paragraph including any restrictions or limitations upon such funding; and

(4) A list of categories and sizes of all point sources (e.g., major industrial, minor industrial, minor municipal, major feedlot, irrigation return flow, shopping centers and subdivisions, etc.) to which the Director proposes to issue permits under the Act. For each category, the following information shall be given:

(i) Estimated numbers of point sources within such category which are required to file for an NPDES permit; and

(ii) Number and percent of point sources within each category for which the State has already issued a State permit or equivalent document regulating the discharge of pollutants.

(b) The Regional Administrator and the Administrator shall review the information submitted by the Director pursuant to paragraph (a) of this section in order to determine whether the Director has resources available to him which will enable him to carry out the program described in the program description submitted pursuant to section 402(b) and the procedures contained in this part. Such a determination shall be based upon an examination of criteria which shall include the following:

(1) Whether there are a sufficient number of employees to process NPDES applications and issue NPDES permits in sufficient time to allow permittees to attain effluent limitations which will achieve the July 1, 1977 goal specified in section 301(b) of the Act;

(2) Whether the employees of the Director have sufficient expertise and experience for the proper specification of terms and conditions of NPDES permits pursuant to the requirements of subpart E of this part;

(3) Whether the employees of the Director have sufficient administrative and technical support and resources, including funding, to enable the Director to carry out his duties under this part and section 402 of the Act;

(4) The number, location, and kinds of point sources which constitute major sources of discharge of pollutants within the State or interstate area; and

(5) The quality of navigable waters within the State or subject to the authority of the interstate agency.

§ 124.92 Inspection and surveillance support for NPDES permits.

Any State or interstate agency participating in the NPDES shall have the funding, qualified personnel, and other resources necessary to support NPDES permits with inspection and surveillance procedures which will determine, independent of information supplied by applicants and permittees, compliance or noncompliance with applicable effluent standards and limitations, water quality standards, NPDES filing requirements, and issued NPDES permits or terms or conditions thereof. Such surveillance and inspection support procedures shall include the following:

(a) A supporting survey program with sufficient capability to make systematic, on-the-spot, comprehensive surveys of all waters subject to the Director's authority in order to identify and locate all point sources subject to NPDES filing requirements. Any compilation, index, or inventory of point sources shall be made available to the Regional Administrator or his authorized representative upon request;

(b) A supporting inspection program for the periodic inspection (to be performed not less than once every year for each major point source) of discharges of pollutants from point sources and facilities for the treatment and control of such discharges of pollutants. Such inspections shall determine compliance or noncompliance with issued NPDES permits or terms or conditions thereof and, in particular, compliance or noncompliance with specific effluent limitations and schedules of compliance in such NPDES permits;

(c) A supporting surveillance program with sufficient capability for the random sampling and analysis of discharges for the purpose of identifying occasional and continuing violations of permit conditions or terms or conditions thereof and the accuracy of information submitted by permittees in NPDES reporting forms and other forms supplying monitoring data; and

(d) A supporting program for the purpose of following up evidence of violations of applicable effluent standards and limitations and water quality standards, NPDES filing requirements, or issued NPDES permits or terms or conditions thereof indicated by reports and notifications evaluated pursuant to § 124.71 above or by survey, inspection, and surveillance activities in paragraphs (a)–(c) of this section. The taking of samples and other information shall be performed with sufficient care as to produce evidence admissible in an enforcement proceeding or in court should the follow-up indicate a violation of applicable effluent standards and limitations and water quality standards or issued NPDES permits or terms or conditions thereof.

§ 124.93 Continuing planning process.

Any State or interstate program participating in the NPDES must have an approved continuing planning process pursuant to section 303(e) of the Act and must assure that its approved planning process is at all times consistent with the Act.

§ 124.94 Agency Board membership.

Each State or interstate agency participating in the NPDES shall insure that any board or body which approves NPDES permit applications or portions thereof shall not include as a member, any person who receives, or has during the previous 2 years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit.

(a) For the purposes of this section, the term "board or body" does not refer to the Director or any employee of the Director.

(b) For the purposes of this section, the term "significant portion of his income" shall mean 20 percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement.

(c) For the purposes of this section, the term "permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of a State government, such as a Director of Parks or a Director of Fish and Wildlife.

(d) For the purposes of this section, the term "income" includes retirement benefits, consultant fees, and stock dividends.

Subpart K—NPDES Application and Reporting Forms [Reserved]

(Reserved for NPDES application and reporting forms, along with guidelines and instructions for their use by applicants for NPDES permits and by State and interstate programs participating in the NPDES.)

APPENDIX A

SAMPLE PUBLIC NOTICE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER QUALITY AND RESOURCES,
1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

AUGUST 12, 1973.

NOTICE—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two discharges are described in the application: One of the utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are to Martin Creek one-half-mile upstream from Whitehall Bay.

On the basis of preliminary staff review and application of lawful standards and regulations, the Division of Water Quality and Resources proposes to issue a permit to discharge subject to certain effluent limitations and special conditions. These proposed determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of this notice. A public hearing may be held if response to this notice indicates significant public interest.

The application, related documents, proposed effluent limitations and special conditions, fact sheets, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday.

APPENDIX B

SAMPLE FACT SHEET FOR MAILING TO INTERESTED AND POTENTIALLY INTERESTED PERSONS AND GOVERNMENT AGENCIES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER QUALITY AND RESOURCES,
1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

FACT SHEET—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

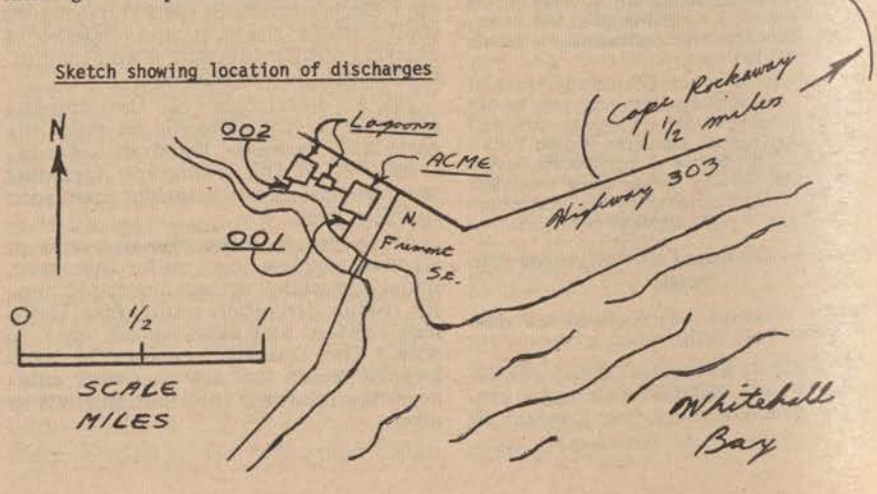
Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two discharges are described in the application: One of utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are to Martin Creek one-half-mile upstream from Whitehall Bay. The receiving waters are classified for industrial and navigation use, contact recreation, and propagation of fish and wildlife. A more complete description of the discharges and a sketch of their location follow below.

The application, related documents, proposed effluent limitations and special conditions, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday.

The proposed staff determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of public notice. As described more fully below, a public hearing may be held if response to public notice indicates significant public interest.

Sketch showing location of discharges



Description of proposed discharges—Discharge 001. Utility waste water from steam generating plant.

AVERAGE FLOW: 500,000 GALLONS PER OPERATING DAY

Average temperatures:	Intake	Discharge
Summer	85° F	95° F.
Winter	38° F	55° F.

Discharge 002. Process wastes from manufacture of pulp and paper.

AVERAGE FLOW: 24,300,000 GALLONS PER OPERATING DAY

Constituents	Milligrams per liter	Pounds per day
BOD	90	18,000
Suspended solids	110	22,000
Phenols	0.5	100
Mercury	0.0025	0.5

Proposed determinations. The Division of Water Quality and Resources has examined the above application. On the basis of applicable effluent limitations and water quality standards, the State Water Quality and Resources Act of 1971, as amended, and regulations issued thereunder, the Division proposes to issue the applicant a permit to discharge subject to effluent limitations and certain other conditions. The following is a brief description of the proposed effluent limitations and special conditions:

(1) *Proposed effluent limitations.*

Discharge 001. none

Discharge 002. visible foam and visible floating solids prohibited. The following discharge constituents shall be limited as follows:

Constituents	Milligrans per liter	Pounds per day
BOD	27.5	5,500
Suspended solids	25	5,000
Phenols	0.10	20
Mercury	0.0005	0.10

(2) *Proposed schedule for compliance.* The applicant shall achieve the effluent levels described in subsection (1) above in accordance with the following schedule:

Submission of final plans to Director by: November 15, 1973.

Commencement of construction by: January 15, 1974.

Completion of construction by: September 15, 1974.

Operational level attained by: November 1, 1974.

(3) *Proposed special conditions.* The applicant is required to operate his treatment facilities at maximum efficiency at all times. The applicant is required to monitor his discharges on a regular basis and report the results every 3 months. The monitoring results will be available to the public. The applicant is required to conduct studies of possible adverse effects of his heated water discharge 001 upon free floating marine life and shellfish in Martin Creek and Whitehall Bay. If applicant's study or independent information supplied to the Director indicate an adverse effect, the applicant will be required to take additional measures to minimize the adverse impact.

Applicable effluent limitations and water quality standards. The following are the effluent limitations and water quality standards which were applied to applicant's discharge in the formulation of the above proposed determinations:

(1) All effluent limitations except mercury are based upon effluent guidelines for the pulp and paper industry, manufacture of bleached paper grades from kraft pulp. See 40 CFR 128.74, 128.89, and 128.91(c).

(2) The mercury limitation is based upon effluent limitations for toxic substances. See 40 CFR 136.22 (b) and (c).

(3) For water quality standards for Martin Creek and Whitehall Bay, See 40 CFR 42.66 et. seq. Both are classified for the following uses: Industrial use, navigational use, contact recreation, and propagation of fish and wildlife.

Written comments. Interested persons are invited to submit written comments upon the proposed discharge and the Director's proposed determinations. Comments should be submitted by September 12, 1973, either in person or by mail to:

Director, Division of Water Quality and Resources, Attention: Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (ZIP).

The application number should appear next to the above address on the envelope and on the first page of any submitted comments. All comments received by September 12, 1973, will be considered in the formulation of final determinations. If no written objections are received, the Director will issue his final determinations no later than 60 days following the date of this notice.

Information and copying. Persons wishing further information may write to the above address or call the Office of Permit Processing at 307 445-8922. Copies of the application, proposed effluent limitations and special conditions, and other documents (other than those which the Director maintains as confidential) are available at the Office of Permit Processing for inspection and copying. A copying machine is available for public use at a charge of $0.15 per copy sheet.

Register of interested persons. Any person interested in a particular application of group of applications may leave his name, address, and phone number as part of the file for an application. The list of names will be maintained as a means for persons with an interest in an application to contact others with similar interests.

Public hearings. If submitted comments indicate a significant public interest in the application or if he believes useful information may be produced thereby, the Director, in his discretion, may hold a public hearing on the application. Any person may request the Director to hold a public hearing on the application.

Public notice of a hearing will be circulated at least 30 days in advance of the hearing. The hearing will be held in the vicinity of the discharge. Thereafter, the Director will formulate his final determinations within 60 days. Further information regarding the conduct and nature of public hearings concerning discharge permits may be obtained by writing or visiting the Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (zip).

APPENDIX C

SAMPLE PUBLIC NOTICE FOR PUBLIC HEARINGS HELD IN REGARD TO NPDES APPLICATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER QUALITY AND RESOURCES, 1616 COURTHOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP-72-301-PH-24; Application No. CIY-400-60-301]

NOTICE—ANNOUNCEMENT OF PUBLIC HEARING ON APPLICATION OF ACME PAPER PRODUCTS TO DISCHARGE POLLUTANTS INTO MARTIN CREEK NEAR WHITEHALL BAY, CAPE ROCKAWAY, EDWARDS COUNTY, STATE

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into Martin Creek one-half mile upstream from Whitehall Bay. The discharge and the Department's proposed determinations have been previously described in Public Notice No. OPP-72-301, dated August 12, 1973. Due to numerous comments received concerning the application, the filing of several petitions requesting a hearing, and the likelihood that information may be presented which will assist the Department in the formulation of final determinations regarding the application, the Director of the Department of Environmental Protection will hold a public hearing at the time and place stated below:

Hearing to be held at 7 p.m., on September 30, 1973, in Center High School Gymnasium, 2171 Furlong Avenue, Cape Rockaway, State (ZIP).

Some of the issues to be considered at the hearing are as follows:

(1) Do the Department's proposed effluent limitations for the applicant's discharge No. 002 represent a proper application of industrial effluent guidelines to the applicant's industrial processes.

(2) Do related water quality or environmental factors require the specification of stricter effluent limitations, additional requirements, or particular methods of treatment or control. In particular,

(a) Will the Department's proposed effluent limitations, if met, restore uncontaminated shellfish populations in Whitehall Bay (water quality standards classify Whitehall Bay for propagation of fish and shellfish).

(b) Does contamination of subsurface wells and water supplies of adjacent home and cottage owners result from leaks in applicant's treatment lagoons. If so, does the Department have the authority to require the applicant (i) to repair the leaks, and (ii) to compensate the adjacent home and cottage owners for damages resulting from the contamination of the subsurface wells and water supplies.

(c) Does the Department have the authority to control the manner in which the applicant utilizes adjoining marshes and wetlands as additional treatment lagoons in order to meet the Department's proposed effluent limitations. If so, what measures can be taken by the applicant to minimize any harmful effects to adjoining wetlands and fish and wildlife habitats therein.

All interested parties are invited to be present or to be represented to express their views on these and other issues relating to the above application. Parties making presentations are urged to address their statements to the above stated issues. Oral statements will be heard, but, for the accuracy of the record, all important testimony should be submitted in writing. Oral statements should summarize any extensive written material so there will be time for all interested parties to be heard.

The application, related documents, the Department's proposed limitations, and all comments and petitions received are on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday. Copies of public notice OPP-72-301 are available at the above address or by calling the Office of Permit Processing at 307—445-8922.

Please bring the foregoing to the attention of persons whom you know would be interested in this matter.

[FR Doc.72-19011 Filed 11-10-72;8:45 am]

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