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PART I

(Part II begins on page 6949)

HIGHLIGHTS OF THIS ISSUE

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

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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, 1973, and specifies how they are affected.

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H.J. Res. 1 Pub. L. 93–1
Budget Message and Economic Report of the President (Jan. 19, 1973; 87 Stat. 3)

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International Clergy Week in the United States (Jan. 26, 1973; 87 Stat. 4)

H.J. Res. 246 Pub. L. 93–3
National Moment and Day of Prayer and Thanksgiving (Vietnam war truce) (Feb. 1, 1973; 87 Stat. 4)

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H.J. Res. 345 Pub. L. 93–9
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S.J. Res. 26 Pub. L. 93–4
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Lyndon B. Johnson Space Center, Houston, Tex. (Feb. 17, 1973; 87 Stat. 7)

S.J. Res. 42 Pub. L. 93–6
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Railway Labor Act (Penn Central work stoppage) (Feb. 9, 1973; 87 Stat. 5)

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Title 3—The President

PROCLAMATION 4194

Earth Week, 1973

By the President of the United States of America

A Proclamation

The first Earth Week in 1971 marked an important milestone for the cause of environmental protection. It also provided an important opportunity for all Americans to pay tribute to the qualities which have made our country great—individual initiative, voluntary action, and a deep sense of responsibility for the gifts of nature and the welfare of the community.

Our environment is the source of life upon which we all depend; its preservation has brought out the best in the American character. In thousands of communities, citizens have joined to improve the quality of their lives and those of their neighbors.

Our environmental problems have not been resolved since that first Earth Week, but we have done much and we will do more. While our new awareness has taught us that our natural resources are exhaustible, we know that our most important resource, the American spirit, is not.

We can never rest in the effort to preserve and improve our good earth. Earth Week, 1973 gives us the chance to affirm our dedication to that high calling.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning April 8, 1973, as Earth Week. I call upon Federal, State and local officials to foster the purposes of Earth Week and to arrange for its proper observance. I ask that special attention be given to personal voluntary activities and educational efforts directed toward protecting and enhancing our life-giving environment.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.73-5022 Filed 3-12-73;2:56 pm]

PROCLAMATION 4195

Small Business Week, 1973

By the President of the United States of America

A Proclamation

In no facet of our national life is the American genius for independence, innovation and self-improvement better displayed than in the small business community.

The instinct to create, sustain and expand an independent enterprise is as old as America herself—an impulse that brought the earliest settlers to our shores and motivated generation after generation of our citizens in their onward, upward march. Nowhere is it more clearly evident today than among our Nation's 8 million small businesses.

In the past year alone, more than 70 thousand new companies were started. Nineteen out of every twenty firms are considered small business, and they provide approximately 35 million jobs, and contribute more than $420 billion to the gross national product.

They also provide a ladder of opportunity to hard working, ambitious Americans of all races and creeds—the chance to harness individual initiative and ability to the mighty potentials of the free enterprise system. As long as America remains true to her heritage, the small businessman will continue as a mainstay of our economy and our society.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning May 13, 1973, as Small Business Week. I ask all Americans to share with me during this week a deep pride in the many accomplishments of our Nation's small businessmen and women, and in the invaluable contribution they have made to our free way of life.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.73-5023 Filed 3-12-73;2:57 pm]

EXECUTIVE ORDER 11707

Change in Boundaries of New England River Basins Commission

The Governors of the member States of the New England River Basins Commission and the Water Resources Council have requested that the jurisdiction of the Commission be extended to include those portions of the States of Vermont and Massachusetts which are not presently included within the area of the Commission's jurisdiction. I have determined that it would be in the public interest to comply with that request.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b) and as President of the United States, subsections (3) and (4) of section 2 of Executive Order No. 11371 of September 6, 1967, as amended, are hereby amended to read as follows:

"(3) The State of Vermont,

"(4) The State of Massachusetts,".

Richard Nixon

THE WHITE HOUSE,
March 12, 1973.

[FR Doc.73-5021 Filed 3-12-73;2:56 pm]

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3305 is amended to show that the following positions are excepted under Schedule C: One Secretary to the Assistant Secretary for Administration, one Executive Assistant to the Secretary, one Staff Assistant to the Deputy Under Secretary (Congressional Relations), and one Secretary to the Deputy Assistant to the Secretary for Legislative Affairs.

Effective on March 14, 1973, §§ 213.3305(a) (39), (40), (41), and (42) are added as set out below.

§ 213.3305 Treasury Department.

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

(39) One Secretary to the Assistant Secretary for Administration.

(40) One Executive Assistant to the Secretary.

(41) One Staff Assistant to the Deputy Under Secretary (Congressional Relations).

(42) One Secretary to the Deputy Assistant to the Secretary for Legislative Affairs.

* * * * *

(5 U.S.C. secs. 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.73-4873 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Private Secretary to the Principal Deputy Assistant Secretary (Health and Environment) is excepted under Schedule C.

Effective on March 14, 1973, § 213.3306(a)(49) is added as set out below.

§ 213.3306 Department of Defense.

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

(49) One Private Secretary to the Principal Deputy Assistant Secretary (Health and Environment).

* * * * *

(5 U.S.C. secs. 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.73-4875 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one position of Confidential Assistant to the Assistant Secretary for Rural Development is excepted under Schedule C.

Effective on March 14, 1973, § 213.3313 (a)(20) is added as set out below.

§ 213.3313 Department of Agriculture.

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

(20) One Confidential Assistant to the Assistant Secretary for Rural Development.

* * * * *

(15 U.S.C. secs. 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.73-4853 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that two additional positions of Confidential Assistant to the Assistant Secretary for Administration are excepted under Schedule C.

Effective on March 14, 1973, § 213.3314 (a)(8) is amended as set out below.

§ 213.3314 Department of Commerce.

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

(8) Three Confidential Assistants to the Assistant Secretary for Administration.

* * * * *

(5 U.S.C. secs. 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.73-4852 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

U.S. Information Agency

Section 213.3328 is amended to show that one position of Congressional and Legal Liaison Officer, Office of the General Counsel, is excepted under Schedule C.

Effective on March 14, 1973, § 213.3328 (i) is added as set out below.

§ 213.3328 U.S. Information Agency.

* * * * *

(i) One Congressional and Legal Liaison Officer, Office of the General Counsel.

(5 U.S.C. secs. 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.73-4874 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to reflect the following title change: from two Special Assistants to the Assistant Secretary for Policy and International Affairs to two Special Assistants to the Assistant Secretary for Policy, Plans, and International Affairs.

Effective on March 14, 1973, § 213.3394 (a)(21) is amended as set out below.

§ 213.3394 Department of Transportation.

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

(21) Two Special Assistants to the Assistant Secretary for Policy, Plans, and International Affairs.

* * * * *

(5 U.S.C. secs. 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.73-4850 Filed 3-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that the following positions are excepted under Schedule C: one Secretary to each of two Special Assistants to the Secretary and one Secretary to the Assistant Secretary for Policy, Plans, and International Affairs.

Effective on March 14, 1973, paragraphs (a)(33) and (a)(34) are added to § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

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

(33) One Secretary to each of two Special Assistants to the Secretary.

(34) One Secretary to the Assistant Secretary for Policy, Plans, and International Affairs.

* * * * *

(5 U.S.C. secs. 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.73–4851 Filed 3–13–73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 72–NE–25]

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

Alteration of Control Zone and Transition Area

Correction

In FR Doc. 73–3209 appearing on page 4709 in the issue for Wednesday, February 21, 1973, in the fourth and fifth lines of the description of the Presque Isle, Maine, control zone the words "zone to 10 tending" should be deleted and replaced with "course extending".

[Airspace Docket No. 72–RM–3]

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

Alteration of Control Zone

Correction

In FR Doc. 73–4069 appearing on page 5838 in the issue for Monday, March 5, 1973, in the third line of the description of the Sheridan, Wyo., control zone, the coordinates now reading "106°55'15" W." should read "106°58'15" W.".

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER Q—SPECIFICATIONS

[CGD 72–214R]

PART 162—ENGINEERING EQUIPMENT

Marine-Type Portable Fire Extinguishers

These amendments provide for:

(1) More rigorous salt spray testing requirements for marine-type portable fire extinguishers.

(2) Mandatory testing of all such extinguishers submitted for approval.

(3) Coast Guard review and approval both of test reports of a recognized laboratory and of quality control procedures of the manufacturers.

(4) Termination of listing or labeling of an extinguisher when service experience or a report from a recognized laboratory or the Coast Guard indicates that a product is unsatisfactory.

These amendments appeared as a notice of proposed rule making in the March 9, 1972, issue of the FEDERAL REGISTER (37 FR 5060–5061). A public hearing was held on April 18, 1972, in Washington, D.C., concerning the amendments. Interested persons were given the opportunity to submit written comments and to make oral comments at the public hearing.

The only comment received suggested that the revised salt spray test proposed by the Coast Guard was essentially identical to the salt spray test performed by Underwriters' Laboratories, Inc., and that the amendment should therefore allow evidence of compliance with the Underwriters' Laboratories test to constitute evidence of compliance with the Coast Guard test. Though the two tests are similar, the proposed Coast Guard test, as well as the other existing requirements contained in 46 CFR 162.028–3, are intended to provide the standards to which recognized laboratories are required to adhere in devising testing procedures and requirements. Thus, many similarities in requirements may occur between Coast Guard requirements and requirements followed by a recognized laboratory.

Two minor revisions of the proposed rule have been made for purposes of clarity: The last sentence of 46 CFR 162.028–3(g) has been incorporated into § 162.028–3(c)(6)(iv) of the proposed rule; and § 162.028–7 of the proposed rule has been reworded with no substantive changes.

In consideration of the foregoing, Part 162 of Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

1. By revising §§ 162.028–3 (c) (5) and (6), (g), and 162.028–7 to read as follows:

§ 162.028–3 Requirements.

* * * * *

(c) * * *

(5) *Suitability of materials.* All extinguishers submitted for approval shall undergo the salt spray test in accordance with subparagraph (6) of this paragraph.

(6) *Salt spray tests.* Expose the complete fully charged specimen extinguisher to a 20 percent sodium chloride solution spray at a temperature of 95° F. (35° C.) for a period of 240 hours. The procedures and apparatus described in Method 811 of Federal Test Method Standard No. 151 are suitable. Alternate methods may be found satisfactory if the results are comparable. Following the test, allow the specimen extinguisher to air dry for a period of 48 hours. Following the air drying—

(i) The extinguisher must be capable of being operated and recharged in a normal fashion;

(ii) Any coating required in this section to be corrosion resistant must remain intact and must not be removable (when such removal exposes a material subject to corrosion) by such action as washing or rubbing with a thumb or fingernail;

(iii) No galvanic corrosion may appear at the points of contact or close proximity of dissimilar metals;

(iv) The extinguisher and its bracket, if any, must not show any corrosion, except corrosion that can be easily wiped off after rinsing with tap water, on surfaces having no protective coating or paint; and,

(v) The gage on a stored pressure extinguisher must remain watertight throughout the test.

* * * * *

(g) *Mounting bracket.* Every portable fire extinguisher shall be supplied with a suitable bracket which will hold the extinguisher securely in its stowage location on vessels or boats, and which is arranged to provide quick and positive release of the extinguisher for immediate use.

* * * * *

2. By revising § 162.028–7 to read as follows:

§ 162.028–7 Procedure for listing and labeling.

(a) Manufacturers having a marine-type portable fire extinguisher which they consider has characteristics suitable for general use on merchant vessels and motorboats may make application for listing and labeling as a marine-type portable fire extinguisher by addressing a request directly to a recognized laboratory. The laboratory will inform the submitter as to the requirements for inspection, examinations, and testing necessary for such listing and labeling. The request shall include permission for the laboratory to furnish a complete test report together with a description of the quality control procedures to the Commandant.

(b) The U.S. Coast Guard will review the test report and quality control procedures to determine if the requirements in § 162.028–3 have been met. If this is the case, the Commandant will notify the laboratory that the extinguisher is approved and that when the extinguisher is listed and labeled, it may be marked as being U.S. Coast Guard approved.

(c) If disagreements concerning procedural, technical, or inspection questions arise over U.S. Coast Guard approval requirements between the manufacturer and the laboratory, the opinion of the Commandant shall be requested by the laboratory.

(d) The manufacturer or the laboratory may at any time request clarification or advice from the Commandant on any question which may arise regarding manufacturing and approval of approved devices.

3. By adding a new paragraph (a)(5) to § 162.028–8 to read as follows:

§ 162.028–8 Termination of listing or labeling.

(a) * * *

(5) When service experience or laboratory or U.S. Coast Guard reports indicate a product is unsatisfactory.

(46 U.S.C. 367, 390b, 391a, 404, 481, 526g, 526p, 1333, 49 U.S.C. 1655(b); 49 CFR 1.4(b), 1.46(b))

Effective date. These amendments shall become effective on June 18, 1973.

Dated: March 8, 1973.

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

[FR Doc.73-4878 Filed 3-13-73;8:45 am]

[CGD 72-215R]

PART 164—MATERIALS

Incombustible Materials for Merchant Vessels

This amendment provides for ready identification of Coast Guard approved incombustible materials. Manufacturers often sell two different products under the same brand name, one for marine industry and the other for the building trade. As a result, a product not suitable for marine industry may be unintentionally delivered and accepted. This amendment will enable marine inspectors, users, and suppliers to identify Coast Guard approved incombustible materials.

The amendment appeared as a notice of proposed rule making in the March 9, 1972, issue of the FEDERAL REGISTER (37 FR 5061). A public hearing was held on April 18, 1972, in Washington, D.C., on the amendment. Interested persons were given the opportunity to submit written comments and to make oral comments concerning the proposed amendment at the public hearing. No comments were received to the proposed amendment.

In consideration of the foregoing, Part 164 of Chapter I of Title 46 of the Code of Federal Regulations is amended by adding a new § 164.009-5 to read as follows:

§ 164.009-5 Marking.

(a) Approved incombustible materials shall be marked on the shipping container with the approval number and date of approval. Where practical, the product shall also be labeled with the approval number and date of approval. Determination of practicality shall be made by the Coast Guard at the time of application for approval.

(46 U.S.C. 367, 369, 390b, 391a, 404, 481, 1333; 49 U.S.C. 1655(b); 49 CFR 1.4(b), 1.46(b))

Effective date. These amendments shall become effective on June 18, 1973.

Dated: March 8, 1973.

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

[FR Doc.73-4879 Filed 3-13-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S. O. 1119]

PART 1033—CAR SERVICE

Demurrage on Freight Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the seventh day of March 1973.

It appearing, that an acute shortage of all types of railroad-owned freight cars exists throughout all sections of the country; that certain carriers are unable to furnish an adequate supply of freight cars to shippers located on their lines; that these shortages of freight cars are impeding the movement of many commodities; that many freight cars are ordered and held by shippers for loading which are later returned to the carrier without being used in transportation service; that such practices immobilize large numbers of freight cars needed by shippers for the transportation of other freight; and that the existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1119 Service Order No. 1119.

(a) *Demurrage on freight cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its demurrage rules and charges.

(b) *Description of cars subject to this section.* Except as otherwise provided in paragraph (c) of this section, this section shall apply to freight cars which are subject to demurrage rules applicable to detention of cars.

(c) *Exceptions.* (1) The provisions of this section shall not apply to freight cars listed in the Official Railway Equipment Register, ICC R.E.R. 386 issued by W. J. Trezise, or reissues thereof, as having the following descriptions and mechanical designations:

Mechanical designation. RA, RAM, RCD, RS, RSB, RSM, RSTC, and RSTM.
Mechanical designation. SA, SC, SD, SF, SH, SM, SP, and ST.
Mechanical designation. TA, TAI, TG, TGI, THI, TL, TLI, TM, TMI, TMU, TMUI, TP, TPI, TPA, TPAI, TR, TRI, TVI, TW, and TWI.
Mechanical designation. XT.

(2) The provisions of this section shall not apply to freight cars while subject to the provisions of Agent B. B. Maurer's Tariffs 8-0, ICC H-30; 551-L, ICC H-50; 552-P, ICC H-47; and 719-F, ICC H-53; nor to perishable protective charges published in Agent W. T. Jamison's National Perishable Protective Tariff No. 18, ICC; 73; supplements thereto, or reissues thereof.

(d) *Cars subject to this section.* (1) When empty cars placed on orders are not used in transportation service, demurrage will be charged for all detention, including Saturdays, Sundays, and holidays (see list in Item 25, Freight Tariff 4-I, ICC H-36), from actual or constructive placement until released, with no free time allowance.

(2) Charges for cars detained as described in paragraph (1) of this section shall be assessed at the following rates, until car is released:

$10 per car per day, or fraction of a day, for each of the first 4 days.
$20 per car per day, or fraction of a day, for each of the next 2 days.
$30 per car per day, or fraction of a day, for each of the next 2 days.
$50 per car per day for each subsequent day.

(3) In the application of this section, a demurrage day consists of a 24-hour period, or fraction thereof, computed from the hour of actual or constructive placement of the car, except that on cars placed in advance of the date for which ordered for loading, time will be computed from 7 a.m. of the day for which so ordered.

(4) When a car so ordered and placed on a public track or on an industrial interchange track is not used and no advice from the party who ordered the car has been received within 48 hours (2 days), exclusive of Saturdays, Sundays, and holidays (see list in Item 25, Freight Tariff 4-I, ICC H-36), from the first 7 a.m. after placement (see paragraph (d)(3) of this section), the car shall be removed and treated as released at the time of removal. Such cars shall be subjected to demurrage charges as provided herein.

(5) (i) In the event a car is rejected account not suitable for loading, this section will not apply if the party ordering the car advises the carrier of rejection and condition that caused the car to be rejected, within 24 hours (1 day) exclusive of Saturdays, Sundays, and holidays (see list in Item 25, Freight Tariff 4-I, ICC H-36) after actual placement (see paragraph (d)(3) of this section).

(ii) If rejection has not been made within time specified in paragraph (d)(5)(i) of this section, demurrage will be charged for all detention, computed under paragraphs (d) (1), (2), and (3) of this section.

(e) If the application of demurrage rules published in any tariff lawfully in effect results in demurrage charges greater than those provided in this order, such greater charges shall apply.

(f) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(g) *Regulations suspended—announcement required.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended and each railroad subject to this order, or its agent, shall publish, file, and post a supplement to its tariff affected hereby in substantial accordance with the provisions of Rule 9(k) of the Commission's Tariff Circular No. 20, announcing such suspension.

(h) *Effective date.* This order shall become effective at 7 a.m., March 16, 1973.

(i) *Expiration date.* This order shall expire at 6:59 a.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), 17(2))

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

By the Commission, Railroad Service Board.

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

[FR Doc.73-4932 Filed 3-13-73;8:45 am]

[Rev. S.O. 1121]

PART 1033—CAR SERVICE

Demurrage and Free Time at Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the seventh day of March 1973.

It appearing, that an acute shortage of covered hopper cars and plain boxcars exists throughout the country; that certain carriers are unable to furnish an adequate supply of these cars to shippers located on their lines; that these shortages of covered hopper cars and plain boxcars are impeding both the domestic and export movement of agricultural, mineral, forest, and manufactured products and other commodities; that certain existing tariff rules and regulations provide excessive free-time periods for loading or unloading at ports, and demurrage, detention, or storage rates at levels below those applicable to domestic freight; that such rules, regulations, and demurrage, detention, or storage rates are ineffective in securing prompt release of cars held at the ports. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1121 Service Order No. 1121.

(a) *Demurrage and free time at ports.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(ii) This section shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC R.E.R. 386, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1154 and 1155 under the headings:

Class "X"—boxcar type. "XL," "XLI," "XM," "XMI," only.
Class "G"—gondola car type. All Class "G" except "GW."
Class "L"—special car type. "LC," "LO", "LU", only.

(iii) Ocean, Great Lakes, or river ports are hereby defined as being any station at which shipments are transferred between rail carriers and water carriers, whether by direct car-vessel transfer or by intermediate handling through a port elevator, wharf, dock, or warehouse capable of both the loading and unloading of railcars and the loading and unloading of vessels.

(iv) Multiple-car shipments are hereby defined as shipments made under tariff provisions specifically requiring the loading of two or more cars in order to qualify for the rate.

(v) Constructive placement is hereby defined as the holding of a car by the carrier because of the inability of the consignee or shipper to receive it.

(vi) The terms "loading," "unloading," and "forwarding directions" as defined in Demurrage Rule 2, Item 905 of General Car Demurrage Tariff 4-I, ICC H-36, issued by B. B. Maurer, supplements thereto, or reissues thereof, shall apply to cars subject to this section.

(vii) The term "holidays" means holidays as listed in Item 25 of General Car Demurrage Tariff 4-I, ICC H-36, issued by B. B. Maurer, supplements thereto, or reissues thereof.

(viii) Exception. Exceptions to this order may be authorized to carriers by the Railroad Service Board. Request for exceptions must be submitted in writing to R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exemption is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(ix) Exception. This order shall not apply to cars of Mexican ownerships held at Texas gulf ports.

(x) Exception. This order shall not apply to emergency relief supplies, other than bulk grain or soybeans, when billed to an agency of the U.S. Government.

(2) *Free time.* (i) Not more than a total of 72 hours' free time, excluding Saturdays, Sundays, and holidays, shall be allowed for loading or unloading freight cars described in paragraph (a) (1) (ii) of this section at ocean, Great Lakes, or river ports with freight requiring transfer between rail and water carriers, either direct or through port elevators, wharves, docks, or warehouses.

(ii) When freight cars described in paragraph (a) (1) (ii) of this section are held by rail carriers at any point outside the port because of any condition attributable to the shipper or consignee, the combined total of the free time allowed at the port and at the point where cars are held shall not exceed 72 hours, excluding Saturdays, Sundays, and holidays.

(iii) If the maximum free time authorized in applicable tariffs is less than the 72-hour period described in paragraph (a) (2) (i) of this section, the free-time periods provided in such tariffs shall apply.

(3) *Demurrage, detention, or storage charges.* (i) After the expiration of the free-time period described in paragraph (a) (2) of this section, demurrage charges shall be assessed at the following rates, until car is released:

$10 per car per day, or fraction of a day, for each of the first 4 days.
$20 per car per day, or fraction of a day, for each of the next 2 days.
$30 per car per day, or fraction of a day, for each of the next 2 days.
$50 per car per day for each subsequent day.

Average demurrage agreement rules shall not apply.

(ii) The applicable demurrage charges provided in paragraph (a) (3) (i) of this section will accrue on all Saturdays, Sundays, and holidays subsequent to the second chargeable day including a Saturday, Sunday, or holiday immediately following the day on which the second chargeable day begins; except as otherwise provided in Rule 6, Section B, of General Car Demurrage Tariff 4-I, ICC H-36, issued by B. B. Maurer, supplements thereto, or reissues thereof.

(iii) Exception. If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described in paragraph (a) (3) (i) of this section, such higher rates shall apply.

(iv) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(v) The demurrage, detention, or storage rates provided in paragraph (a) (3) (i) of this section shall supersede all published storage charges expressed in cents per hundredweight, per bushel, or other unit of measure, for all freight held at ports in cars in excess of the free-time periods provided in paragraph (a) (2) of this section.

(4) *Notices of arrival, constructive placement, etc.* (i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, adjustment of runarounds, the giving of arrival or constructive

placement notice on freight destined for unloading or transhipment at the ports shall apply.

(ii) If no such rules with respect to arrival, runaround, or constructive placement are published in the applicable tariffs, the rules published in General Car Dumurrage Tariff 4–I, ICC H–36, issued by B. B. Maurer, supplements thereto, or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules, and free-time periods granted by authority of Part I, section 22 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 7 a.m., March 16, 1973.

(d) *Expiration date.* This order shall expire at 6:59 a.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.73-4934 Filed 3-13-73;8:45 am]

[S.O. 1125]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the eighth day of March 1973.

It appearing, that the St. Louis-San Francisco Railway Co. (SL–SF) is unable to operate over its spur track serving a paper mill at Ashdown, Ark., because of track conditions; that SL–SF service to this shipper can be accomplished by the use of certain tracks of The Kansas City Southern Railway Co. (KCS); that the KCS has consented to such use of its tracks by the SL–SF; that operation by the SL–SF over the aforementioned tracks of the KCS at Ashdown, Ark., is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1125 Service Order No. 1125.

(a) St. Louis-San Francisco Railway Co. authorized to operate over tracks of the Kansas City Southern Railway Co. The St. Louis-San Francisco Railway Co. (SL–SF) be, and it is hereby, authorized to operate over tracks of the Kansas City Southern Railway Co. (KCS) between KCS milepost 470.47 and KCS milepost 467.66, a distance of approximately 2.81 miles, in the vicinity of Ashdown, Ark.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the SL–SF over tracks of the KCS is deemed to be due to carrier's disability, the rates applicable to traffic moved by the SL–SF over these tracks of the KCS shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., March 12, 1973.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.73-4933 Filed 3-13-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Certain Wildlife Refuges in Nevada

The following special regulations are issued and are effective on March 14, 1973.

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

NEVADA

General conditions: Fishing shall be in accordance with applicable State regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps. The maps are available at the respective refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 3737, Portland, OR 97208.

Charles Sheldon Antelope Range—Headquarters: Post Office Box 111, Lakeview, OR 97630.

Special condition: Dufurrena Ponds closed to fishing March 1 through May 31.

Ruby Lake National Wildlife Refuge—Ruby Valley, Nev. 89833.

Stillwater National Wildlife Refuge—Post Office Box 592, Fallon, NV 89406.

Special condition: Refuge closed to fishing during the migratory hunting season.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

JOHN D. FINDLAY, *Regional Director, Bureau of Sport Fisheries and Wildlife.*

MARCH 6, 1973.

[FR Doc.73-4861 Filed 3-13-73;8:45 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 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Certain Cheese Products; Order Listing Xanthan Gum as an Optional Ingredient and Changes in Labeling Requirements

In the matter of amending the standards of identity for cream cheese, neuf-

chatel cheese, pasteurized process cheese spread, cream cheese with other foods, pasteurized neufchatel cheese spread with other foods, and cold-pack cheese food (21 CFR 19.515, 19.520, 19.775, 19.782, 19.783, and 19.787) to provide for xanthan gum as an optional ingredient by adding it to the list of stabilizing ingredients heretofore provided:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of September 15, 1972 (37 FR 18742), based on a petition filed jointly by Kelco Co., 1010 Second Avenue, San Diego, CA 92191, and the National Cheese Institute, Inc., 110 North Franklin Street, Chicago, IL 60606. Published along with the proposal regarding xanthan gum was a further proposal, on the initiative of the Commissioner of Food and Drugs, that all optional ingredients in cream cheese and neufchatel cheese be listed on an appropriate information panel of the package label. An order requiring label declaration of all ingredients used in pasteurized process and cold-pack cheese products was published in the FEDERAL REGISTER of July 7, 1972 (37 FR 13339).

Five comments were received in response to the proposal, all of which supported the use of xanthan gum as an optional ingredient in certain cheese products. Four of those who commented took exception to the labeling provisions proposed on the initiative of the Commissioner. The issues raised by these comments are as follows:

1. An ingredient statement is not necessary on standardized natural cheeses such as cream cheese and neufchatel cheese, since it is common knowledge that all cheese is made from milk through addition of a culture (e.g., bacteria or mold) and/or a suitable milk clotting enzyme.

2. The option for label declaration of gum karaya, gum tragacanth, carob bean gum, guar gum, and oat gum, or mixtures of these by the collective term "vegetable gum," should not be terminated.

3. Provision should be made for label declaration of bacterial cultures used in cheesemaking as "culture."

4. The type size required for the ingredient statement on cream cheese and neufchatel cheese labels is too large and would crowd the labels, particularly in the case of any package the principal display panel of which has an area of 5 square inches or less.

5. Label declaration of cheese whey used to adjust the fat and moisture content of cream cheese should not be required, since whey is a normal component of all cheese products.

The order published in the January 19, 1973 FEDERAL REGISTER (38 FR 1237) affirmed the intention of the Food and Drug Administration to amend the definitions and standards of identity of food by setting into motion as rapidly as possible the provisions of section 401 of the Federal Food, Drug, and Cosmetic Act to require label declaration of all optional ingredients with the exception of optional spices, flavorings, and colorings which may continue to be designated as such without specific ingredient declaration. It is the opinion of the Commissioner that there is significant consumer interest that the labels of cheese products, including cream cheese and neufchatel cheese, bear complete information of the ingredients contained, including the specific names of any vegetable gums used. Therefore, he concludes that the changes to the proposal suggested by items (1) and (2) above should not be made.

Regarding label declaration of bacterial and mold cultures used in cheesemaking, the Commissioner concludes that "cheese culture" would be a suitable designation, and the order set forth below provides for this term.

Concerning the type size required for the ingredients statement, a new § 1.8d, Food Labeling; Information Panel (21 CFR 1.8), was established by an order published in the January 19, 1973, FEDERAL REGISTER (38 FR 2124). This section required that certain required label information, including the ingredient statement, must appear on the label with the prominence and conspicuousness required by section 403(f) of the act and § 1.9 (21 CFR 1.9), but in no case may the letters be less than 1/16th inch in height. Also paragraph (e) of § 1.8d contains a provision for petitioning for the exemption of small-size packages of food from the type size requirements of that section. Accordingly, the proposed provisions regarding the prominence with which ingredient statements must appear on cream cheese and neufchatel cheese packages have been deleted from §§ 19.515 and 19.520 (21 CFR 19.515, 19.520) on the basis that these are now covered by Part I regulations and with the understanding that the Commissioner will consider appropriate petitions for exemptions pursuant to § 1.8d(e).

The Commissioner agrees that label declaration of cheese whey in liquid, concentrated, or dried form should not be required. Whey is used to standardize the fat and moisture contents of the finished foods prior to packaging, and is added back to the cheeses only in those cases where too much whey was drained away in the make process. Therefore, the declaration of added whey would seem to indicate a compositional difference in the finished product, when in fact no such difference exists.

When the cream cheese standard was amended to list liquid, concentrated, dried, and reconstituted cheese whey as optional dairy ingredients (34 FR 14070, September 5, 1969), no such amendment of the neufchatel cheese standard was petitioned for. However, the practice of adding back whey to standardize the fat and moisture content of the curd from which too much whey has been drained is as necessary with neufchatel cheese as it is with cream cheese. We have therefore amended the neufchatel cheese standard to make it consistent with the cream cheese standard.

The cream cheese standard in § 19.515 (b)(1) states that cream cheese curd is made from cream or a mixture of cream with one or more of the other dairy ingredients listed in § 19.515(b)(3). The current practice is to make cream cheese curd from a mixture of dairy ingredients, such mixture having a fat content ranging from 10–14 percent. In the hot-pack method of cream cheese manufacture, the curd may be made from milk or a dairy ingredient mixture containing from 4–6 percent fat, and then blended with a high fat content cream to standardize the fat level of the finished product. Therefore, in order to fully inform consumers about ingredients used in the manufacture of cream cheese and to reflect current industry practice, the Commissioner concludes that § 19.515 (b) and (c) should be amended to make cream having a minimum of 18 percent milkfat and plastic cream optional ingredients of cream cheese curd, and that § 19.515 (c) should be amended to require that cream used in cream cheese manufacture be declared as an ingredient. Changes have been made in the neufchatel cheese standard so that it corresponds to the cream cheese standard as amended.

On the basis of the information given in the proposal, the comments received, and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the modified proposal, as set forth below. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sections 401, 701, 52 Stat. 1046, 1055–1056, as amended 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, that Part 19 be amended as follows:

1. In § 19.515 by revising paragraphs (b) and (c), as follows:

§ 19.515 Cream cheese; identity; label statement of optional ingredients.

* * * * *

(b)(1) One or a mixture of two or more of the dairy ingredients specified in subparagraph (3) of this paragraph is pasteurized and may be homogenized. To such ingredient or mixture harmless lactic-acid-producing bacteria, with or without rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, are added and it is held until it becomes coagulated. The coagulated mass may be warmed; it may be stirred; it is then drained. The moisture content may be adjusted with cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey. The curd may be pressed, chilled, worked, seasoned with salt; it may be heated, with or without addition of one or more of the dairy ingredients specified in subparagraph (3) of this paragraph, until it becomes fluid, and it may then be homogenized or otherwise mixed.

(2)(i) In the preparation of cream cheese, one or any mixture of two or more of the optional ingredients gum karaya, gum tragacanth, carob bean gum, guar gum, carrageenan, gelatin,

algin (sodium alginate), propylene glycol alginate, or xanthan gum may be used; but the quantity of any such ingredient or mixture is such that the total weight of solids contained therein is not more than 0.5 percent by weight of the finished cream cheese.

(ii) * * *

(3) The dairy ingredients referred to in subparagraph (1) of this paragraph are cream, plastic cream, milk, skim milk, concentrated milk, concentrated skim milk, and nonfat dry milk. If concentrated milk, concentrated skim milk, or nonfat dry milk is used, water may be added in a quantity not in excess of that removed when the milk or skim milk was concentrated or dried.

(4) * * *

(c) When used in the food, salt, bacterial culture, and enzymes as provided for in paragraph (b)(1) of this section and each of the ingredients listed in paragraph (b) (2) and (3) of this section shall be declared by common name on the label as required by the applicable sections of Part I of this chapter except that:

(1) Any cream as defined in Part 18 of this chapter and plastic cream may be declared as "cream".

(2) Concentrated milk and reconstituted milk prepared by addition of water to concentrated milk may be declared as "milk".

(3) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(4) Bacterial cultures may be declared as "cheese culture" or by the word "cultured" followed by the name of the substrate, e.g., "made from cultured cream".

(5) Milk clotting enzymes may be declared by the word "enzymes".

2. In § 19.520 by revising paragraphs (b) and (c) as follows:

§ 19.520 Neufchatel cheese; identity; label statement of optional ingredients.

* * * * *

(b)(1) One or a mixture of two or more of the dairy ingredients specified in subparagraph (3) of this paragraph is pasteurized and may be homogenized. To such ingredient or mixture harmless lactic-acid-producing bacteria, with or without rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, are added and it is held until it becomes coagulated. The coagulated mass may be warmed; it may be stirred; it is then drained. The moisture content may be adjusted with cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey. The curd may be pressed, chilled, worked, seasoned with salt; it may be heated, with or without addition of one or more of the dairy ingredients specified in subparagraph (3) of this paragraph, until it becomes fluid, and it may then be homogenized or otherwise mixed.

(2)(i) In the preparation of neufchatel cheese, one or any mixture of two or more of the optional ingredients gum karaya, gum tragacanth, carob bean gum, guar gum, carrageenan, gelatin, algin (sodium alginate), propylene glycol alginate, or xanthan gum may be used; but the quantity of any such ingredient or mixture is such that the total weight of solids contained therein is not more than 0.5 percent by weight of the finished neufchatel cheese.

(ii) * * *

(3) The dairy ingredients referred to in subparagraph (1) of this paragraph are cream, plastic cream, milk, skim milk, concentrated milk, concentrated skim milk, and nonfat dry milk. If concentrated milk, concentrated skim milk, or nonfat dry milk is used, water may be added in a quantity not in excess of that removed when the milk or skim milk was concentrated or dried.

(4) * * *

(c) When used in the food, salt, bacterial culture, and enzymes as provided for in paragraph (b)(1) of this section and each of the ingredients listed in paragraph (b) (2) and (3) of this section shall be declared by common name on the label as required by the applicable sections of Part I of this chapter except that:

(1) Any cream as defined in Part 18 of this chapter and plastic cream may be declared as "cream".

(2) Concentrated milk and reconstituted milk prepared by addition of water to concentrated milk may be declared as "milk".

(3) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(4) Bacterial cultures may be declared as "cheese culture" or by the word "cultured" followed by the name of the substrate, e.g., "made from cultured cream".

(5) Milk clotting enzymes may be declared by the word "enzymes".

3. In § 19.775 by revising paragraph (f)(1)(i), as follows:

§ 19.775 Pasteurized process cheese spread; identity; label statement of optional ingredients.

* * * * *

(f) * * *

(1)(i) One or any mixture of two or more of the following: Carob bean gum, gum karaya, gum tragacanth, guar gum, gelatin, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, algin (sodium alginate), propylene glycol alginate, or xanthan gum. The total weight of such substances is not more than 0.8 percent of the weight of the finished food.

* * * * *

4. In § 19.782 by revising paragraph (a)(1)(i), as follows:

§ 19.782 Cream cheese with other foods; identity; label statement of optional ingredients.

(a) * * *

(1)(i) One or any mixture of two or more of the following optional ingredients: Gum karaya, gum tragacanth, carob bean gum, gelatin, guar gum, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, algin (sodium alginate), propylene glycol alginate, or xanthan gum. The total quantity of any such substances, including that contained in the cream cheese, is not more than 0.8 percent by weight of the finished food.

* * * * *

5. § 19.783 by revising paragraph (b)(1)(i), as follows:

§ 19.783 Pasteurized neufchatel cheese spread with other foods; identity; label statement of optional ingredients.

* * * * *

(b) * * *

(1)(i) One or any mixture of two or more of the following: Gum karaya, gum tragacanth, carob bean gum, gelatin, algin (sodium alginate), propylene glycol alginate, guar gum, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, or xanthan gum. The total quantity of any such substances, including that contained in the neufchatel cheese, is not more than 0.8 percent by weight of the finished food.

* * * * *

6. In § 19.787 by revising paragraph (e)(8), as follows:

§ 19.787 Cold-pack cheese food; identity; label statement of optional ingredients.

* * * * *

(e) * * *

(8) In the preparation of cold-pack cheese food, guar gum, or xanthan gum, or both may be used, but the total quantity of such ingredient or combination is not to exceed 0.3 percent of the weight of the finished food. When one or both such optional ingredients is used, dioctyl sodium sulfosuccinate complying with the requirements of § 121.1137 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredient or ingredients.

* * * * *

Any person who will be adversely affected by the foregoing order may at anytime on or before April 13, 1973 file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Compliance with this order, which shall include any labeling changes required, may begin on May 14, 1973, and all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: March 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4889 Filed 3-13-73;8:45 am]

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Cottage Cheese Dry Curd, Cottage Cheese, and Lowfat Cottage Cheese; Standards of Identity; Direct Acidification by Vat Method With Appropriate Product Labeling

In the matter of amending the standards of identity for cottage cheese dry curd, cottage cheese, and lowfat cottage cheese (21 CFR 19.525, 19.530, and 19.531, respectively) to permit the manufacturing procedure of direct acidification by the vat method utilizing Glucono-delta-lactone with appropriate product labeling:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of September 16, 1972 (37 FR 18924), based on a petition submitted by the Milk Industry Foundation, 910 17th Street NW., Washington, DC 20006. The petition proposed that direct acidification by the vat method, utilizing the acidulant Glucono-delta-lactone, be permitted as an alternate procedure for the production of cottage cheese dry curd, cottage cheese and lowfat cottage cheese, with appropriate product labeling. The purpose of the new procedure would be:

(1) To eliminate bacterial starter culture failures;

(2) To give greater product uniformity;

(3) To increase efficiency in cheese production; and

(4) To provide longer keeping quality to the finished product.

Eight letters of comment were received. Seven of the respondents, all of whom were producers or distributors of cottage cheese, were in favor of the proposal. The one unfavorable comment came from a consumer who considers cottage cheese dry curd to be a reasonably natural food and would not care to see anything added to it. For consumers who may share a similar opinion there is a provision in the standards that requires the label of such foods to bear appropriate designations. Therefore, the choice of accepting or rejecting such a product is made available to the consumer.

In the opinion of the Commissioner of Food and Drugs, consumers and manufacturers alike should share in the benefits anticipated from this technological development in that (1) efficiency of production should increase, (2) product uniformity should improve, and (3) shelf life should increase, all of which should help to hold down the cost of these products as a valuable food and increase its availability. This is in keeping with the legislative intent of the Food Additives Amendment of 1958 (Public Law 85–929), which indicated that the use of safe and suitable additives for the purpose of assisting the Nation to make use of advances in technology to increase and improve our food supplies was one of the primary purposes of the amendment. This matter was elaborated upon in an order amending the standard for creamed cottage cheese (21 CFR 19.530) published in the FEDERAL REGISTER on July 17, 1972 (37 FR 12065).

Having considered the information submitted by the petitioner, the comments received and other relevant material, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal to amend the standards of identity for cottage cheese dry curd, cottage cheese, and lowfat cottage cheese as set forth below.

Therefore, 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 (21 CFR 2.120): *It is ordered*, That § 19.525 be amended by adding a new subdivision (iii) to paragraph (b)(1) and revising paragraph (d); and that § 19.530(d) be revised to read as follows:

§ 19.525 Cottage cheese dry curd; identity; identity label statement of optional ingredients.

* * * * *

(b) * * *

(1) * * *

(iii) Food grade acids as provided in subdivision (ii) of this subparagraph, D-Glucono-delta-lactone with or without rennet, and/or other safe and suitable milk clotting enzyme that produces equivalent curd formation, are added in such amounts as to reach a final pH value in the range of 4.5–4.8, and it is held until it becomes coagulated. The coagulated mass may be cut; it may be warmed; it may be stirred; it is then drained. The curd is then washed with water, and further drained. It may be pressed, chilled, worked, and seasoned with salt.

* * * * *

(d) When either of the optional processes described in paragraph (b)(1)(ii) or (iii) of this section is used to make cottage cheese dry curd, the label shall bear the statement "Directly set" or "Curd set by direct acidification." Wherever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statement specified in this paragraph, showing the optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 19.530 Cottage cheese; identity; label statement of optional ingredients.

* * * * *

(d) When the optional process described in § 19.525(b)(1)(ii) or (iii) is used to make the cottage cheese dry curd used in cottage cheese, the label shall bear the statement "Directly set" or "Curd set by direct acidification." Wherever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statement specified in this paragraph, showing the optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

* * * * *

By cross-reference, the above amendments have the effect of providing for the optional use of Glucono-delta-lactone in the manufacture of lowfat cottage cheese (21 CFR 19.531).

Any person who will be adversely affected by the foregoing order may at any time on or before April 13, 1973 file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Compliance with this order, which shall include any labeling changes required, may begin on May 14, 1973, and all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: March 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4888 Filed 3-13-73;8:45 am]

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Grated Cheeses; Identity Standard; Microcrystalline Cellulose as Optional Anticaking Agent

In the matter of amending the standard of identity for grated cheeses (21 CFR 19.791) to permit the optional use of microcrystalline cellulose as an anticaking agent in grated cheeses:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of September 27, 1972 (37 FR 20183), based on a petition submitted by the National Cheese Institute, Inc., 110 North Franklin Street, Chicago, IL 60606. The petition proposed to add microcrystalline cellulose to the present list of anticaking agents used in grated cheeses. The total amount of anticaking agents that could be used would not be increased. Also the requirement that the names of anticaking agents must be declared on the label, would be retained.

Seven letters of comment were received concerning the proposal, all of which were from consumers. Two of the respondents stated they had no objections to the proposal. Two others said they thought it proper that all ingredients used in foods should be declared on the label. One respondent opposed the proposal because it was thought that the total amount of permissible anticaking agent was being increased.

Another opposed the proposal because they did not think there was a functional need for additives in foods and the final respondent opposed the proposal because they had no information as to its safety.

An analysis of these letters of comment showed that they contained no information which refutes the grounds presented by the petitioner in support of the petition or which casts doubt on the safety or functionality of the proposed anticaking agent.

In answer to the comments received, the standard already requires the names of the anticaking agents to be declared on the label when used and the total amount that can be used is limited to 2 percent. The use of microcrystalline cellulose in foods has long been established and the use of additives for functional purposes is in keeping with the legislative intent of the Food Additives Amendment of 1958 (Public Law 85-929). This matter was elaborated upon in an order amending the standard for creamed cottage cheese (21 CFR 19.530) published in the FEDERAL REGISTER on June 17, 1972 (37 FR 12065). The Commissioner has no information which would cause him to question the proposed safe use of the subject ingredient.

Having considered the information submitted by the petitioner, the comments received, and other relevant material, the Commissioner of Food and Drugs concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal to amend the standard of identity for grated cheeses as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120); *It is ordered*, That § 19.791 be amended by revising paragraph (b)(2), as follows:

§ 19.791 Grated cheeses; identity; label statement of optional ingredients.

* * * * *

(b) * * *

(2) An anticaking agent consisting of silicon dioxide (complying with the provisions of § 121.1058 of this chapter), calcium silicate (complying with the provisions of § 121.1135 of this chapter), sodium silicoaluminate, microcrystalline cellulose, or any combination of two or more of these in an amount not to exceed 2 percent by weight of the finished food.

* * * * *

Any person who will be adversely affected by the foregoing order may, at any time on or before April 13, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective May 14, 1973, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: March 8, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4868 Filed 3-13-73;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated the data in a petition (1B2648) filed by Union Carbide Corp., Chemicals and Plastics, River Road, Bound Brook, N.J. 08805, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of vinyl chloride-acetate-2,3-epoxypropyl methacrylate copolymers as a coating or as a component of coatings of articles intended for use in contact with fatty foods.

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), § 121.2514 is amended in subparagraph (3)(xv) of paragraph (b) by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xv) Vinyl resinous substance, as the basic polymers:

* * * * *

Vinyl chloride - acetate - 2,3 - epoxypropyl methacrylate copolymers containing not more than 10 weight percent of total polymer units derived from 2,3-epoxypropyl methacrylate and not more than 0.1 weight percent of unreacted 2,3-epoxypropyl methacrylate monomer for use in coatings for containers intended to contact food only, of the types identified in paragraph (d) of this section, Table 1, under Categories IV–A, V, VII, and VIII.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before April 13, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on March 14, 1973.

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

Dated: March 7, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4867: Filed 3-13-73;8:45 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Phenylbutazone

The Commissioner of Food and Drugs has evaluated new animal drug applications (46-78V and 49-187V) filed by Anthony Veterinary Products Co., 11634 McBean Drive, El Monte, CA 91732, proposing the safe and effective use of phenylbutazone injection and phenylbutazone tablets for the treatment of horses. The applications are approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

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), Parts 135, 135b, and 135c are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code No. 092 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
092	Anthony Veterinary Products Co., 11634 McBean Dr., El Monte, CA 91732.

2. Part 135b is amended in § 135b.47 by adding a new paragraph (g) as follows:

§ 135b.47 Phenylbutazone injection.

* * * * *

(g) (1) *Specifications.* Phenylbutazone injection contains 200 milligrams of phenylbutazone in each milliliter of sterile aqueous solution.

(2) *Sponsor.* See code No. 092 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is indicated for the treatment of acute inflammatory conditions of horses. These include musculoskeletal conditions involving inflammation.

(ii) It is administered intravenously to horses at a dosage level of 1 to 2 grams per 1,000 pounds of animal weight per day. Administration should be limited to 5 consecutive days. An initial high dose is recommended to obtain a prompt effect. As the symptoms regress, the dose should be reduced.

(iii) Not for use in horses intended for food.

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

3. Part 135c is amended in § 135c.57 by adding a new paragraph (g) as follows:

§ 135c.57 Phenylbutazone tablets and boluses.

* * * * *

(g)(1) *Specifications.* The drug is in tablet form with each tablet containing 1 gram of phenylbutazone.

(2) *Sponsor.* See code No. 092 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is indicated for the treatment of acute inflammatory conditions of horses. These include musculoskeletal conditions involving inflammation.

(ii) It is administered orally to horses at a dosage level of 2 to 4 grams per 1,000 pounds of body weight per day. The total daily dose should be limited to 4 grams per day. Because of the relatively short half-life of the drug, administration every 8 hours is the most satisfactory schedule. If there is no significant clinical effect in 5 days, a reevaluation of the diagnosis and treatment should be made.

(iii) Not for use in horses intended for food.

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

Effective date. This order shall be effective March 14, 1973.

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

Dated: March 8, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4890 Filed 3-13-73;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Thialbarbitone Sodium for Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (8-932V) filed by Fort Dodge Laboratories, Fort Dodge, Iowa 50501, proposing revised labeling for the safe and effective use of thialbarbitone sodium for injection, veterinary for use as a general anesthetic in dogs, cats, horses, cattle, swine, and sheep. 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 135b is amended by adding a new section as follows:

§ 135b.79 Thialbarbitone sodium for injection, veterinary.

(a) *Specifications.* Thialbarbitone sodium for injection, veterinary when reconstituted with sterile distilled water provides 94 milligrams of thialbarbitone sodium per milliliter of solution.

(b) *Sponsor.* See code No. 017 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is administered as a general anesthetic in surgical procedures on dogs, cats, swine, sheep, cattle, and horses. The drug is used for procedures of relatively short duration. However, the period of anesthesia can be lengthened by slower initial injection and supplemental administration during surgery.

(2) It is administered intravenously. The drug is injected slowly to dogs, cats, cattle, sheep, and swine. For horses, it is recommended that a pre-anesthetic sedation be administered to the horse 30 minutes before the drug is administered. The drug is then injected rapidly and completely. The drug is used at the following dosage levels:

Species	Weight of animal in pounds	Dosage in milligrams per pound
Dog	Over 50	14.1
Do.	30-50	18.8
Do.	10-30	23.5
Do.	Under 10	28.2
Cat		31.3-37.6
Horse		6.3-7.8
Cattle and swine		6.7-9.4
Calves and sheep		9.4-11.8

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

Effective date. This order shall be effective on March 14, 1973.

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

Dated: March 7, 1973.

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

[FR Doc.73-4722 Filed 3-13-73;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Coumaphos

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (15-965V) filed by Chemagro, Division of Baychem Corp., Post Office Box 4913, Kansas City, MO 64120, proposing revisions in use of coumaphos for beef and dairy cattle for control of gastrointestinal roundworms. 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), section 135e.39 is amended in paragraph (f) by revising item 2 in the table to read as follows:

§ 135e.39 Coumaphos.

* * * * *

(f) *Conditions of use.* It is used as follows:

Amount	Limitations	Indications for use
...	...	...
Coumaphos..... 0.0002 lb. (0.091 gram) per 100 lb. body weight per day.	For beef and dairy cattle; feed 0.0002 lb. (0.091 gram) per 100 lb. body weight per day for 6 consecutive days in the normal grain ration to which the animals are accustomed but not in rations containing more than 0.1 percent coumaphos; do not feed to animals less than 3 months old; do not feed to sick animals or animals under stress, such as those just shipped, dehorned, castrated, or weaned within the last 3 weeks; do not feed in conjunction with oral drenches or with feeds containing phenothiazine. Should conditions warrant, repeat treatment at 30-day intervals.	Control of gastrointestinal roundworms (*Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Trichostrongylus spp.*).
...	...	...

Effective date. This order shall be effective on March 14, 1973.

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

Dated: March 7, 1973.

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

[FR Doc.73-4723 Filed 3-13-73;8:45 am]

CARBENICILLIN INDANYL SODIUM

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug carbenicillin indanyl sodium.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141, 145 and 149y are amended as follows to provide for certification of the antibiotic carbenicillin indanyl sodium:

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

1. Part 141 is amended:

a. In § 141.5(b) by alphabetically inserting a new item in the table, as follows:

§ 141.5 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in §141.3)	Test dose		Route of administration as described in paragraph (c) of this section
		Concentration in milligrams of activity per milliliter	Volume in milliliters to be administered to each mouse	
...	...	...	...	...
Carbenicillin indanyl sodium.....	3	100	0.5	Oral
...	...	...	...	...

b. By adding two new sections, as follows:

§ 141.522 Polarimetric assay of carbenicillin indanyl sodium.

(a) *Equipment.* Polarimeter capable of measuring optical rotatory activity at 365 nanometers: Perkin-Elmer Model 141 or equivalent, with a suitable 1-decimeter polarimeter tube.

(b) *Reagents*—(1) *4-methyl-2-pentanone.* Meets ACS specifications.

(2) *Phosphate-citrate buffer.* Dissolve 61.0 grams of anhydrous disodium phosphate and 11.0 grams of citric acid in 950 milliliters of distilled water. Adjust the pH to 6.0 with 6*N* hydrochloric acid. Dilute to 1,000 milliliters with distilled water.

(c) *Preparation of carbenicillin indanyl sodium sample and working standard solutions.* Accurately weigh approximately 125 milligrams of the carbenicillin indanyl sodium sample or working standard into a 25-milliliter volumetric flask. Dissolve and dilute to volume with distilled water. Transfer a 5-milliliter aliquot to a 50-milliliter glass-stoppered centrifuge tube. Add 15 milliliters of the phosphate-citrate buffer and 20 milliliters of 4-methyl-2-pentanone; stopper and shake the tube for 10 seconds. Centrifuge at 2,000 revolutions per minute for 10 minutes to separate the phases. Remove about 15 milliliters of the upper (4-methyl-2-pentanone solvent) phase and proceed as directed in paragraph (e) of this section.

(d) *Preparation of the blank.* Place a 5-milliliter aliquot of distilled water into a 50-milliliter glass-stoppered centrifuge tube, add 15 milliliters of phosphate-citrate buffer and 20 milliliters of 4-methyl-2-pentanone; stopper and shake the tube for 10 seconds. Centrifuge at 2,000 revolutions per minute for 10 minutes to separate the phases. Remove about 15 milliliters of the upper phase and proceed as directed in paragraph (e) of this section.

(e) *Procedure.* Fill the polarimeter tube with the blank solution prepared as described in paragraph (d) of this section. Place the tube in the polarimeter. Adjust the polarimeter to zero rotation using a light source with a wavelength of 365 nanometers. Use the same procedure to determine the optical rotation of both the sample solution and the working standard solution prepared as directed in paragraph (c) of this section.

(f) *Calculations.* Calculate the carbenicillin content (potency) of the sample on an anhydrous basis as follows:

$$\frac{\text{Micrograms of carbenicillin per milligram of sample}}{\text{Degrees of rotation of sample solution}} = \frac{\text{Degrees of rotation of working standard solution} \times \text{weight of sample} \times (100-m)}{\text{weight of working standard} \times 100 \times \text{micrograms of carbenicillin in each milligram of the working standard}},$$

where: m = moisture content of the sample.

§ 141.555 Thin layer chromatography identity test for carbenicillin indanyl.

Using the sample solution prepared as described in the section for the antibiotic drug to be tested, proceed as described in paragraphs (a), (b), (c), and (d) of this section.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank, approximately 9 x 9 x 3.5 inches lined with filter paper (3 millimeters in thickness).

(2) *Iodine vapor chamber.* A rectangular tank approximately 9 x 9 x 3.5 inches, with a suitable cover, containing iodine crystals.

(3) *Plates.* Use 20 x 20 centimeters thin layer chromatography plates coated with silica gel G or equivalent to a thickness of 250 microns.

(b) *Reagents*—(1) *Extraction solvent.* Mix ethyl acetate, acetone, pyridine, water, and acetic acid in volumetric proportions of 100:200:25:75:1.5 respectively.

(2) *Developing solvent.* Mix ethyl acetate, acetone, pyridine, water, and acetic acid in volumetric proportions of 300:400:25:75:2 respectively.

(3) *Ferric chloride-potassium ferricyanide reagent.* Immediately before use, mix 100 milliliters of a 1 percent ferric chloride solution in 1 percent hydrochloric acid with 100 milliliters of a 1 percent potassium ferricyanide solution and 75 milliliters of methanol.

(c) *Preparation of working standard solution.* Weigh an amount of the carbenicillin indanyl working standard equivalent to approximately 10 milligrams of carbenicillin into a 50-milliliter Erlenmeyer flask. Dissolve the material in sufficient extraction solvent to make a solution containing 1 milligram carbenicillin per milliliter.

(d) *Procedure.* Pour developing solvent into the bottom of the chromatography tank. Cover and seal the tank. Allow it to equilibrate for 1 hour. Prepare a plate as follows: On a line 2 centimeters from the base of the silica gel plate, and at intervals of 2 centimeters, spot 10 microliters of the standard solu-

tion and the sample solution. The plate should be air dried for 30 minutes. Place the plate into the chromatography tank. Allow the solvent front to travel about 15 centimeters from the starting line and then remove the plate from the tank. Heat the plate for 30 minutes at 80° C. in a circulating air oven and then allow the plate to cool to room temperature. Place the plate in the iodine vapor chamber for about 30 seconds, remove the plate and spray it with the ferric chloride-potassium ferricyanide reagent. Carbenicillin indanyl appears as a blue spot on a yellow-green background at an R_f of about 0.5. The test is satisfactory if the sample compares qualitatively with the standard.

PART 145—ANTIBIOTIC DRUGS; DEFINITIONS AND INTERPRETATIVE REGULATIONS

2. Part 145 is amended:

a. In § 145.3 by adding a new subparagraph (49) to paragraph (a) and a new subparagraph (49) to paragraph (b), as follows:

§ 145.3 Definitions of master and working standards.

(a) * * *

(49) *Carbenicillin indanyl.* The term "carbenicillin indanyl master standard" means a specific lot of carbenicillin indanyl designated by the Commissioner as the standard of comparison in determining the potency of the carbenicillin indanyl working standard.

(b) * * *

(49) *Carbenicillin indanyl.* The term "carbenicillin indanyl working standard" means a specific lot of a homogeneous preparation of carbenicillin indanyl.

b. In § 145.4(b) by adding a new subparagraph (52), as follows:

§ 145.4 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(52) *Carbenicillin indanyl.* The term "microgram" applied to carbenicillin indanyl means the carbenicillin activity (potency) contained in 1.4204 micrograms of the carbenicillin indanyl master standard.

PART 149y—CARBENICILLIN

3. Part 149y is amended by adding the following new sections:

§ 149y.2 Carbenicillin indanyl sodium.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Carbenicillin indanyl sodium is the monosodium salt of *N*-(2-carboxy-3,3-dimethyl-7-oxo - 4 - thia-1-azabicyclo [3.2.0] hept-6-yl)-2-phenylmalonamic acid, 1-(5-indanyl) ester. It is so purified and dried that:

(i) Its potency is not less than 659 micrograms and not more than 769 micrograms of carbenicillin per milligram on an anhydrous basis at the time of certification, and not less than 630 micrograms of carbenicillin per milligram on an anhydrous basis at any time during the expiration period.

(ii) It passes the safety test.

(iii) Its moisture content is not more than 2.0 percent.

(iv) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 5.0 nor more than 8.0.

(v) It gives a positive result to the identity test for carbenicillin indanyl sodium.

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

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

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

(ii) Samples required: Five packages, each containing approximately 1.0 gram and one package containing approximately 2.5 grams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.522 of this chapter.

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

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

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(5) *Identity.* Proceed as directed in § 141.521 of this chapter, using the 0.5-percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

§ 149y.11 Carbenicillin indanyl sodium tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Carbenicillin indanyl sodium tablets are composed of carbenicillin indanyl sodium and one or more suitable and harmless diluents, binders, lubricants, colorings, and coating substances. Each tablet contains carbenicillin indanyl sodium equivalent to 382 milligrams of carbenicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of carbenicillin that it is represented to contain. Its moisture content is not more than 2.0 percent. It gives a positive identity test for carbenicillin indanyl sodium. The tablets shall disintegrate within 1 hour. The carbenicillin indanyl sodium used conforms to the standards prescribed by § 149y.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 146.2 of this chapter.

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

(i) Results of tests and assays on:

(*a*) The carbenicillin indanyl sodium used in making the batch for potency, safety, moisture, pH, and identity.

(*b*) The batch for potency, moisture, identity, and disintegration time.

(ii) Samples required:

(*a*) The carbenicillin indanyl sodium used in making the batch: Five packages, each containing approximately 1 gram and one package containing approximately 2.5 grams.

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

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.522 of this chapter, except:

(i) *Preparation of the sample.* Accurately weight 20 tablets and determine the average tablet weight. Using a mortar and pestle, grind the tablets to a fine powder. Accurately weight a portion of the powder approximately equivalent to the weight of one tablet and transfer it into a 100-milliliter volumetric flask. Add approximately 70 milliliters of distilled water and shake the flask for 5 minutes. Dilute to volume and mix well. Transfer a 5-milliliter aliquot of the stock solution to a 50-milliliter glass-stoppered centrifuge tube. (The solution will be slightly turbid.) Add 15 milliliters of phosphate-citrate buffer and 20 milliliters of 4-methyl-2-pentanone to the tube. Stopper the tube and shake it for 10 seconds. Centrifuge at 2,000 revolutions per minute to separate the phases. Remove about 15 milliliters of the upper phase and proceed as directed in § 141.522(e) of this chapter.

(ii) *Calculations.* Calculate the carbenicillin content (potency) of the tablets as follows:

$$\text{Milligrams of carbenicillin per tablet} = \frac{\text{Degrees rotation of sample solution} \times \text{weight of working standard} \times \text{average tablet weight} \times 100 \times \text{micrograms of carbenicillin in each milligram of the working standard}}{\text{Degrees rotation of working standard} \times \text{weight of sample} \times 25 \times 1{,}000};$$

where:
100 and 25 = the volume of the sample and working standard solutions, respectively;
1,000 = factor to correct micrograms to milligrams.

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

(3) *Identity.* Proceed as directed in § 141.555 of this chapter, preparing the sample as follows: Using a mortar and pestle, grind a representative number of tablets into a fine powder. Dissolve a weighed amount of this powder in sufficient extraction solvent (described in § 141.555(b)(1) of this chapter) to give 10 milligrams of carbenicillin per milliliter. Shake the mixture for 5 minutes and promptly dilute an aliquot in extraction solvent to obtain a final concentration of 1 milligram carbenicillin per milliliter.

(4) *Disintegration time.* Proceed as directed in § 141.540 of this chapter, using the procedure described in paragraph (e)(2) of that section.

Since the conditions prerequisite to providing for certification of subject

antibiotic have been complied with and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective on March 14, 1973.

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

Dated: March 7, 1973.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.73-4725: Filed 3-13-73;8:45 am]

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

Procaine Penicillin G in Oil

In the FEDERAL REGISTER of November 29, 1972 (37 FR 25240), the Commissioner of Food and Drugs proposed, on the basis of a petition from G. C. Hanford Manufacturing Co., Post Office Box 1655, Syracuse, NY 13201, that the regulations for procaine penicillin G in oil be amended to delete the requirement that inactive ingredients be listed on the labeling for such products intended for udder instillation in cattle. The Commissioner, based on an evaluation of the petition and other available data, concluded that the exemption should be granted as requested since the inactive ingredients in such formulations are not of concern to the user and such exemption would not be contrary to the public interest. No comments were received on the proposal.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(n), (5), 82 Stat. 351; 21 U.S.C. 360b(n)(5)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 146a is amended in § 146a.45 (c)(2)(i) as follows:

1. Part 146a is amended as follows:

§ 146a.45 **Procaine penicillin G in oil.**

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) If it does not contain adrenocorticotropic hormone, it shall comply with subparagraph (1) of this paragraph, except in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include adequate directions and warnings for the veterinary use of the drug by the laity. If it is intended for udder instillation in cattle it shall be exempt from the requirements of § 1.106(b)(2)(v) of this chapter.

* * * * *

Effective date. This order shall become effective April 13, 1973.

(Sec. 512(n), (5), 82 Stat. 351; 21 U.S.C. 360b(n)(5))

Dated: March 8, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4891 Filed 3-13-73;8:45 am]

[DESI 6485]

PART 146e—BACITRACIN

Bacitracin With Phenacaine Hydrochloride Ophthalmic Ointment: Revocation of Certification

In the FEDERAL REGISTER of April 13, 1972 (37 FR 7355), the Commissioner of Food and Drugs announced (DESI 6485) 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 the following drug for ophthalmic use:

Baciguent Ophthalmic Ointment containing bacitracin and phenacaine hydrochloride; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49001 (NDA 60-734).

The notice stated that the drug was regarded as possibly effective for the labeled indications relating to use in superficial ocular infections. These indications have been reclassified as lacking substantial evidence of effectiveness in that no data have been submitted pursuant to the notice of April 13, 1972.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification or release of such antibiotic drugs for human use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 146e is amended in § 146e.402 by revising the second sentence in paragraph (a) to read as follows:

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

(a) *Standards of identity, strength, quality, and purity.* * * * It may contain a suitable local anesthetic (if it is not intended for ophthalmic use), cortisone, or a suitable derivative of cortisone, one or more suitable sulfonamides, one or more suitable proteolytic enzymes, and if it is intended solely for veterinary use and is conspicuously so labeled, one or more suitable antifungal agents or rotenone. * * *

* * * * *

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order and request a hearing, showing reasonable grounds therefor. The statement of reasonable grounds and request for a hearing shall be submitted in writing on or before April 13, 1973, shall state the reasons why the antibiotic regulations should not be so amended, and shall include a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) (21 U.S.C. 371 (f) and (g)) of the Federal Food, Drug, and Cosmetic Act (35 FR 7250, May 8, 1970).

Objections and requests for a hearing should be filed (preferable in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective April 23, 1973. If objections are filed, the effective date will be extended as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050-1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: March 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4892 Filed 3-13-73;8:45 am]

[DESI 10106]

PART 148i—NEOMYCIN SULFATE

Certain Antibiotic-Containing Ophthalmic Combination Drugs; Revocation of Certification

In the FEDERAL REGISTER of October 15, 1970 (35 FR 16198), the Commissioner of Food and Drugs announced (DESI 10106) the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study

Group, on the following combination drugs for topical ophthalmic use:

1. Statrol Ophthalmic Preparation containing neomycin sulfate, polymyxin B sulfate, and phenylephrine hydrochloride; Alcon Laboratories, Inc., 6201 South Freeway, Fort Worth, TX 76134 (NDA 11-515).

2. OP-Isophrin-AB Ophthalmic Solution containing neomycin sulfate, polymyxin B sulfate, and phenylephrine hydrochloride; Broemmel Pharmaceuticals, 1235 Sutter Street, San Francisco, CA 94109 (NDA 12-512).

3. Biomydrin Ophthalmic Solution containing neomycin sulfate, gramicidin, thonzylamine hydrochloride, boric acid, and phenylephrine hydrochloride; Warner-Chilcott Laboratories Division, Warner-Lambert Co., 201 Tabor Road, Morris Plains, NJ 07950 (NDA 10-106).

The notice stated that these drugs were regarded as possibly effective for their labeled indications. These indications have been reclassified as lacking substantial evidence of effectiveness in that such evidence has not been submitted pursuant to the notice of October 15, 1970.

Currently pending before the Administration is a new drug application submitted by Alcon Laboratories to provide for a reformulated Statrol Ophthalmic Preparation. Agency action on that new drug application will be taken upon completion of review of the data submitted.

Accordingly the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification or release of such antibiotic drugs for human use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 148i is amended as follows:

1. In § 148i.15 by revising the section heading, by deleting the words "solution or" in the first sentence of paragraph (a)(1), by deleting paragraphs (a)(1)(i) and (a)(1)(iii), and by redesignating paragraphs (a)(1)(ii) as (a)(1)(i) and (a)(1)(iv) as (a)(1)(ii). The section heading and subparagraph (1) of paragraph (a) are hereby revised to read as follows:

§ 148i.15 Neomycin sulfate—polymyxin B sulfate _____ ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* The drug is a suspension in a suitable and harmless aqueous vehicle containing, in each milliliter, neomycin sulfate, polymyxin B sulfate, and other active ingredients in the following amounts:

(i) 3.5 milligrams of neomycin, 16,250 units of polymyxin B, and either 5 milligrams or 15 milligrams of hydrocortisone acetate; or

(ii) 5 milligrams of neomycin, 15,000 units of polymyxin B, and 2.5 milligrams of hydrocortisone.

It may contain one or more suitable and harmless irrigants, dispersants, buffers, and preservatives. It is sterile. its pH is not less than 5.0 and not more than 7.0. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1)(i), (iv), (vi), and (vii). The polymyxin B sulfate used conforms to the standards prescribed by § 148p.1(a)(1)(i), (iv), (vi), (vii), and (ix) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

2. In § 148i.23 by deleting paragraph (a)(1)(i), by redesignating paragraphs (a)(1)(ii) as (a)(1)(i), and paragraph (a)(1)(iii) as (a)1)(ii), and by revising subparagraph (2) of paragraph (b). Subparagraph (1) of paragraph (a), and subparagraph (2) of paragraph (b) are hereby revised to read as follows:

§ 148i.23 Neomycin sulfate—gramicidin_____ ophthalmic solution; neomycin sulfate—gramicidin_____ ophthalmic suspension (the blanks being filled in with the established name(s) of the other ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* The drug is a solution or suspension in a suitable and harmless aqueous vehicle containing, in each milliliter, the following:

(i) 2.5 milligrams of neomycin, 0.025 milligram of gramicidin, and 1 milligram of fluorocortisone acetate; or

(ii) 2.5 milligrams of neomycin, 0.025 milligram of gramicidin, and 1.14 milligrams of fluorocortisone hemisuccinate.

It may also contain suitable and harmless buffers, dispersants, irrigants, and preservatives. It is sterile. Its pH is not less than 5.0 nor more than 7.5. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1)(i), (iv), (vi), and (vii). The gramicidin used conforms to the standards prescribed by § 148f.1(a)(1)(i), (ii), (iv), and (vi) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 0.25 milliliter of sample in lieu of 1.0 milliliter.

* * * * *

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order and request a hearing, showing reasonable grounds therefor. The statement of reasonable grounds and request for a hearing shall be submitted in writing on or before April 13, 1973, shall state the reasons why the antibiotic regulations should not be so amended, and shall include a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) (21 U.S.C. 371 (f) and (g)) of the Federal Food, Drug, and Cosmetic Act (35 FR 7250, May 8, 1970).

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare (CC-20), Room 6-88, 5600 Fishers Lane, Rockville, MD 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective on April 23, 1973. If objections are filed, the effective date will be extended as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050-1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: March 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4893 Filed 3-13-73;8:45 am]

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Exemption of Certain Effervescent Aspirin-Containing Preparations From Child Protection Packaging Standards; Correction

In FR Doc. 73-2241 appearing on page 3403 in the FEDERAL REGISTER in the issue of Tuesday, February 6, 1973, in the fifth line, paragraph (a)(1)(i) of § 295.2 the word "of" following the words "LD-50" is deleted and the words "in rats of" is added thereto.

Dated: March 7, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4866 Filed 3-13-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7262]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Disallowance of Interest on Certain Indebtedness Incurred by Corporations To Acquire Stock or Assets of Another Corporation

Correction

In FR Doc. 73-4097 appearing at page 5842 in the issue for Monday, March 5, 1973, in § 1.279-4(b)(1) in the ninth line from the end the following should be inserted between the words "indebtedness" and "for": "such obligation will continue to be deemed corporate acquisition indebtedness".

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order 504-73]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Establishing the Office of Legislative Affairs

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, there is hereby established in the Department of Justice the Office of Legislative Affairs, to be headed by an Assistant Attorney General. The functions of the Office include maintaining liaison between the Department and the Congress, reviewing and submitting departmental legislative reports, coordinating the preparation of proposed departmental legislation, and performing such other duties respecting legislative matters as may be assigned by the Attorney General or the Deputy Attorney General. Accordingly Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

§ 0.1 [Amended]

1. Section 0.1 of Subpart A, which lists the organizational units of the Department, is amended by adding "Office of Legislative Affairs" immediately after "Office of Legal Counsel."

2. Section 0.15 of Subpart C, which sets forth the functions of the Deputy Attorney General, is amended by deleting paragraph (a) and revising paragraph (h) to read as follows:

§ 0.15 Deputy Attorney General.

* * * * *

(h) Generally supervise the submissions of proposed departmental legislation and reports and recommendations on pending legislation (except as provided in § 0.105(h) in response to requests of congressional committees or other agencies and on enrolled bills.

* * * * *

3. A new Subpart E-1 is added immediately after Subpart E, to read as follows:

Subpart E-1—Office of Legislative Affairs

§ 0.27 General functions.

Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Office of Legislative Affairs:

(a) Maintaining liaison between the Department and the Congress.

(b) Reviewing, coordinating and submitting departmental legislative reports.

(c) Coordinating the preparation and submission of proposed departmental legislation.

(d) Performing such other duties respecting legislative matters as may be assigned by the Attorney General or the Deputy Attorney General.

This order is effective as of February 2, 1973.

Dated: March 5, 1973.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.73-4841 Filed 3-13-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER B—SALES AND SERVICES

PART 814a—CONTRACT FUNDS STATUS REPORT (CFSR)

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended by deleting Part 814a. This part has been superseded by a Department of Defense instruction which will be published in Chapter I of Title 32 in the near future.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-4657 Filed 3-13-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72-230R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Biscayne Bay, Fla.

This amendment changes the regulations for the Venetian Causeway drawbridges to reduce the periods that the draws may remain closed to the passage of vessels. This amendment was circulated as a public notice dated December 4, 1972, by the Commander, Seventh Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 72-230P) on November 28, 1972 (37 FR 25174). Five comments were received and each endorsed the proposed change.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.447 to read as follows:

§ 117.447 Biscayne Bay, Fla., MacArthur Causeway, and east and west spans of the Venetian Causeway; bridges.

(a) MacArthur Causeway: The draws shall open promptly on signal; however, from November 1 through April 30 from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. the draws need open only on the hour and half hour if any vessels are waiting to pass.

(b) West span Venetian Causeway: The draws shall open promptly on signal; however, from November 1 through April 30, from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, the draws need open only on the hour and half hour if any vessels are waiting to pass. The draws shall open promptly on signal on Thanksgiving, Christmas, New Year's Day, and Washington's Birthday.

(c) East Span Venetian Causeway: The draws shall open promptly on signal; however, the draws need not open from November 1 through April 30, from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m., Monday through Friday, except that the draws shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m., if any vessels are waiting to pass during this period. The draws shall open promptly on signal on Thanksgiving, Christmas, New Year's Day, and Washington's Birthday.

(d) The draws of these bridges shall open at any time for passage of public vessels of the United States, tugs with tows, regularly scheduled cruise boats and vessels in distress. The opening signal from these vessels shall be four blasts of a whistle, horn, other sound producing device, or by shouting.

(e) The owner of or agency controlling the bridges shall post notices containing the substance of these regulations, both upstream and downstream, on the bridges or elsewhere, in such a manner that they can easily be read at all times from an approaching vessel.

(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))

Effective date. This revision shall become effective on May 1, 1973.

Dated: March 8, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.73-4880 Filed 3-13-73;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 145—PERMIT IMPRINTS

Experimental Methods of Paying Postage

The Postal Service has changed its regulations so as to provide for the establishment of experiments to evaluate new methods of payment of postage.

Accordingly, § 145.9 is added, effective on March 14, 1973, to read as follows:

§ 145.9 Experimental negotiated procedures.

Notwithstanding any other provision of the regulations of the Postal Service, the Mail Classification Division may authorize contracts with individual mailers to provide for experimental methods of paying postage whenever the adoption of such methods would be in the best interests of the Postal Service. Such contracts may provide for surcharges to cover damages suffered by the Postal Service from the incorrect payment of postage.

(39 U.S.C. 401(3), 404(2), 2008(c))

ROGER P. CRAIG,
Deputy General Counsel.

MARCH 8, 1973.

[FR Doc.73-4896 Filed 3-13-73;8:45 am]

Title 45—Public Welfare

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

Subpart 1067.3—Control Over Cash in the Hands of Grantees

Subpart 1067.4—Grant Processing Instructions During the OEO Phaseout Period

Subpart 1067.5—Additional Funding Instructions

Subpart 1067.6—Funding Periods for Grant Actions

Notice is hereby given that the regulations set forth below are promulgated as interim regulations by the Acting Director of the Office of Economic Opportunity. As a result of the prospective delegation of certain programs to other Federal departments, prospective funding changes, and changes in the management and administration of certain programs, the Office of Economic Opportunity has been required to institute emergency guidelines and instructions in advance of 30-day prior notice in the FEDERAL REGISTER. Accordingly, the regulations published below are effective on the dates indicated therein. Moreover, in view of the nature of the problems which these regulations are designed to remedy, having been advised by counsel, I find that to publish them in the FEDERAL REGISTER 30 days prior to their effective date would be impracticable and contrary to the public interest.

The regulations below will remain in effect unless and until superseded by permanent regulations published in the FEDERAL REGISTER. Interested persons wishing to comment before permanent regulations are promulgated may submit written data, views, and comments by mailing them to the Acting Director, Policy Regulation, Office of Program Review, Office of Economic Opportunity, 1200 19th Street NW., Washington, DC 20506, in time to arrive on or before April 15, 1973.

After careful consideration is given to all relevant material submitted, and to such other information as may be available, the Acting Director of OEO may modify these interim regulations as he deems appropriate and publish them as permanent regulations in the FEDERAL REGISTER.

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding four new subparts, reading as follows:

Subpart 1067.3—Control Over Cash in the Hands of Grantees

Sec.
1067.3-1 Applicability of this subpart.
1067.3-2 Policy.
1067.3-3 Effective date.

AUTHORITY: Sec. 602(n), 78 Stat. 530; 42 U.S.C. 2942.

Subpart 1067.3—Control Over Cash in the Hands of Grantees

§ 1067.3-1 Applicability of this subpart.

This subpart applies to grantees receiving financial assistance under titles II, III-B and VII of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by OEO.

§ 1067.3-2 Policy.

The provisions of OEO Instruction 6714-1 concerning Letter of Credit withdrawals will be strictly observed. In no case will a grantee exceed a 30-day cash requirement. Those grantees demonstrating excessive drawdowns will have their Letters of Credit revoked. There will be no further utilization of the Letter of Credit method for advancing Federal funds to grantees. Future funding will be accomplished on a monthly check issuance basis. All advances previously scheduled upon a quarterly check issuance basis are revised accordingly.

§ 1067.3-3 Effective date.

This subpart is effective on February 8, 1973.

Subpart 1067.4—Grant Processing Instruction During the OEO Phaseout Period

Sec.
1067.4-1 Purpose.
1067.4-2 Applicability.
1067.4-3 Effective date.
1067.4-4 Policy.
1067.4-5 Procedures.

AUTHORITY: Sec. 602(n), 78 Stat. 530 42 U.S.C. 2942.

Subpart 1067.4—Grant Processing Instruction During the OEO Phaseout Period

§ 1067.4-1 Purpose.

The purpose of this subpart is to establish detailed procedures to be used in processing OEO grants during the phaseout period of the agency. These procedures serve to amplify the general guidelines previously provided.

§ 1067.4-2 Applicability.

This subpart applies to all OEO Headquarters and Regional Offices funding grants under the Economic Opportunity Act of 1964, as amended.

§ 1067.4-3 Effective date.

This subpart is effective on February 8, 1973.

§ 1067.4-4 Policy.

(a) In view of the recent decision to transfer functions, phase out this agency, and terminate all funding by June 30, 1973, revised funding procedures are being issued to establish Headquarters control and assure an orderly transition and continuation of operations. As part of this effort, all grants must be submitted to the OEO Headquarters for review and approval by the Acting Director of OEO before funds may be obligated. For refunding the amount of funds requested must not exceed the current average monthly level of funding for the grantee for which funds are being requested. Grant packages that request funding in excess of this average funding level will not be accepted for review by the Acting Director of OEO, and will be returned to the originating office.

(b) Grant packages submitted to the Acting Director must contain all audit and evaluation reports dated within 18 months prior to the date of submission of the grant package to the Office of the Acting Director, together with a statement signed by both the OEO project manager and his supervisor indicating in detail what actions were (were not) taken with respect to each recommendation or problem area contained in such reports and the reasons for such action (inaction). No grant package will be accepted by the Acting Director without such a statement.

(c) If an audit or an evaluation has not been performed during the 18-month period referred to above, the grant package must contain a statement to this effect along with the reasons for such.

§ 1067.4-5 Procedures.

(a) *Submission of grant packages to the Central Grants Control Branch, OEO Headquarters.* (1) All Headquarters and Regionally processed grant packages will be processed in accordance with existing OEO procedures up to the point where they are ready for the final Assistant, Associate, or Regional Director's signoff.

(2) Grants ready for final signoff must be submitted prior to such signoff to the Acting Director of OEO for his approval and signature on the OEO Form 314. This should be done at least 60 days, but in no event less than 30 days prior to the end of the current funding period.

(i) The grants shall be submitted in two parts under one cover, together with an index of contents of each part. Grants submitted from Regional Offices shall be mailed to OEO (via pouch mail to minimize travel time) and shall be addressed to the Central Grants Control Branch, Office of Grants and Contracts Review, OEO, 1200 19th Street NW., Washington, DC 20506, and shall be labeled "Grant Package Expedite."

(3) The contents of Part I of each grant package must contain a highlight statement and the proposed OEO Form 314, Statement of OEO Grant. All grants expected to be the final awards to a particular grantee must contain a termination date in column 12 of OEO Form 314. Part I shall also contain the following, plus such other papers as may be appropriate:

(i) CAP Form 29, Special Conditions.

(ii) OEO Form 301, Summary of Grant Application (for applications re-

ceived in accordance with OEO Instruction 7570–1, dated January 7, 1972).

(iii) CAP Form 10, Highlight Memorandum.

(iv) An analysis which relates the grantee's current monthly level of expenditures reported during the last 12 months to be projected average monthly funding levels contained in the grant package. In no event shall the recommended monthly funding level exceed the grantee's average monthly expenditure rate for the past 12 months. The analysis should be in the following format:

Total expenditures (prior 12 months)	XXX
Average expenditures per month	XXX
Proposed funding per grant action	XXX
Projected average monthly funding level	XXX

(v) Copies of all audit, and evaluation reports together with a statement indicating what actions were (were not) taken with respect to each recommendation or problem area contained in such reports and the reasons for such action (inaction).

(vi) A certification as follows:

I hereby certify that funds are available for (identify the grant action as it will be recorded on Agency ledgers) (signed) _____ Regional Director.

(b) *Receipt and review of grants by the Central Grants Control Branch.* (1) All grants received will be logged in, indicating the date received and the submitting Headquarters or Regional Office.

(2) The Central Grants Control Branch will review the grant package to assure that it is complete. A determination will be made as to whether or not the package has been properly submitted in two parts, as specified above, and that it includes all required forms and statements. Incorrectly submitted Headquarters grant packages will be returned to the Headquarters funding office for correction.

(3) Regions will be notified by TWX of those grant packages not properly submitted and the reason for their rejection to enable prompt correction of the erroneous or incomplete information.

(4) A priority will be assigned to the individual grant package by the Central Grants Control Branch to identify whether or not the grant package is a late refunding, Priority A; an on-time refunding, Priority B; an advance refunding, Priority C; or a new grant, Priority X. The priority given to the grant package will be identified on the outside of the package so that it will be readily apparent to those processing the grant.

(5) Accepted grant packages will be handcarried to the Review Branch, Office of Grants and Contracts Review for their consideration and submission to the Acting Director of OEO for his approval.

(6) Grant packages that have been reviewed and approved by the Acting Director of OEO will be returned to the Central Grants Control Branch for return to the Headquarters or Regional Offices.

(7) Upon return of the grant package, the funding office will continue the processing of the grant package in accordance with existing procedures.

Subpart 1067.5—Additional Funding Instructions

Sec.
1067.5–1 Applicability.
1067.5–2 Effective date.
1067.5–3 Purpose.
1067.5–4 Policy.

AUTHORITY: Sec. 602(n), 78 Stat. 530; 42 U.S.C. 2942.

Subpart 1067.5—Additional Funding Instructions

§ 1067.5–1 Applicability.

This subpart applies to all OEO Headquarters and Regional Offices funding grants under the Economic Opportunity Act of 1964, as amended.

§ 1067.5–2 Effective date.

This subpart is effective on February 8, 1973.

§ 1067.5–3 Purpose.

This subpart is to clarify and supersede two existing memoranda entitled Funding Instructions—I and Funding Instructions—II, both dated January 31, 1973, and respond to questions raised by various Regional Offices concerning these new policies.

§ 1067.5–4 Policy.

(a) Existing grants already obligated prior to January 28, 1973, but for which funds have not yet been released will be honored, but on a 30-day check issue basis in accordance with OEO Notice 6710–5 (Subpart 1067.3 of this part). No Letters of Credit will be issued for these grants. A grant obligation occurs when a grant is mailed to a Governor and/or grantee.

(b) For those grants which have been signed prior to January 28, 1973, but not yet sent to the Governor and/or grantee, an OEO Form 314 will be prepared for a 1-month funding period for the signature of the Acting Director. These OEO Forms 314 will be processed in accordance with the instructions in OEO Staff Instruction 6710–1, Change 8 (Subpart 1067.4 of this part).

(c) For these grants, it will also be necessary to prepare an OEO Form 314 to delete them from the 2826 Report. These grants will subsequently be reinstituted on the 2826 Report by the applicable Headquarters or Regional Director for a 1-month funding period after they are approved by the Acting Director.

(d) For those grantees whose funding period ends after January 28, 1973, and before February 28, 1973, an OEO Form 314 for a 1-month funding period will be prepared and processed in accordance with OEO Staff Instruction 6710–1, Change 8 (Subpart 1067.4 of this part) if the grantee does not have sufficient funds to operate through February 28, 1973.

(e) For those grants whose funding ends after February 28, 1973, all processing should be completed as required by OEO Staff Instruction 6710–1, Change 8 (Subpart 1067.4 of this part). Note that all documents and statements required by OEO Staff Instruction 6710–1, Change 8 (Subpart 1067.4 of this part) must be completed for these grants. These grants will be retained in the applicable Headquarters or Program Office until additional instructions are received from this headquarters.

Subpart 1067.6—Funding Periods for Grant Actions

Sec.
1067.6–1 Applicability.
1067.6–2 Purpose.
1067.6–3 Reinstatement of grant obligating authority of Regional Directors.
1067.6–4 General limitation on funding periods.
1067.6–5 Grant actions signed before February 28, 1973.
1067.6–6 Specification of funding periods for project continuation grant actions.
1067.6–7 Phaseout provisions of project continuation grant actions.
1067.6–8 Supersession of prior directives.
1067.6–9 Effective date.

AUTHORITY: Sec. 602(n), 78 State. 530; 42 U.S.C. 2942.

Subpart 1067.6—Funding Periods for Grant Actions

§ 1067.6–1 Applicability.

This subpart applies to all OEO funding offices.

§ 1067.6–2 Purpose.

As indicated shortly after the announcement of the fiscal year 1974 budget, certain interim procedures were instituted on a 30-day basis to conclude on February 28, 1973. Subsequent to that date, the following funding procedures will be applicable within the fiscal year 1974 budget guidelines.

§ 1067.6–3 Reinstatement of grant obligating authority of Regional Directors.

The applicability of OEO Staff Instruction 6710–1, Change 8 (Subpart 1067.4 of this part) (except the limitation of funding to the grantee's current average level) to grant actions within the preexisting authority of the Regional Directors is hereby terminated and such authority is herewith reinstated by separate delegation of authority.

§ 1067.6–4 General limitation on funding periods.

Except as stated in § 1067.6–6 hereof, no grant action for any program account shall be made with a funding period ending more than 12 months after the end of the last funding period for that program account that ended before January 1, 1973.

§ 1067.6–5 Grant actions signed before February 28, 1973.

Subject to § 1067.6–4 hereof, obligation of funds shall proceed on all grant actions signed before February 28, 1973. If the funding period of any such grant action on which the funds have not heretofore been obligated does not conform to § 1067.6–4 hereof, the grant action shall be revised to conform to that section.

§ 1067.6–6 Specification of funding periods for project continuation grant actions.

(a) All project continuation grant actions renewing, extending or supplementing funds provided by grant action under section 221 (except a grant action administered through the Indian Programs Branch), 226 or 228 of the Economic Opportunity Act of 1964, as amended (the Act), shall be made with a funding period of 6 months, except that such funding shall not expire before August 31, 1973, or after December 31, 1973, unless reason appears to the funding office why the grant action should be made for a shorter period. No grant action shall be made under this paragraph renewing, extending or supplementing funding provided by a grant action made or extended after the date hereof or the funding period of which expires after June 30, 1973.

(b) All project continuation grant actions renewing, extending or supplementing, without change of program account, funding provided by grant actions made (1) under section 221 of the Act and administered through the Indian Programs Branch, or (2) under sections 222, 231, 232, 312, or 314 of the Act, shall be made with a funding period expiring 12 months after the end of the funding period of the last grant action under which funds were obligated, or by which funding was extended, before the date hereof, except that such funding period shall not expire before December 31, 1973, or after June 30, 1974, unless reason appears to the funding office why the grant action should be made for a shorter period.

(c) Grant actions made under title VII of the Act for continuation of economic development projects shall be made with a funding period expiring 12 months after the end of the funding period of the last grant action under which funds were obligated, or by which funding was extended, for the economic development project before the date hereof, unless reason appears to the funding office why the grant action should be made for a shorter or longer period. If for a longer funding period, the funding period shall expire not later than June 30, 1975, or 24 months after the end of the funding period of the last grant action under which funds were obligated, or by which funding was extended, before the date hereof, whichever is earlier. "Economic development project" means a project for which the last grant action under which funds were obligated before the date hereof was (1) made under title I–D or title VII of the Act or (2) made by a Headquarters funding office under section 232 of the Act for Program Account 84 and provided funds under budget category 2.5 specifically for investment of provided funds for the administration of a project for which funds had previously been so provided.

(d) Grant actions renewing, extending or supplementing funding provided by grant action under section 230 of the Act shall not be made without the specific written approval of the Acting Director.

(e) The specification of funding periods in this § 1067.6–6 applies only to projects for which the funding office considers it appropriate to provide funding for project continuation. In the case of all other projects the funding period shall comprise only the period of time necessary to phase out the Federal interest and to secure the return of funds due to the Government and the proper disposition of property subject to Government disposition.

§ 1067.6–7 Phaseout provisions of project continuation grant actions.

Any grant action expected to be the final grant action for a program account must have a termination date in column 12 of the OEO Form 314 and must contain appropriate terms to secure an orderly phaseout and the return of funds due to the Government and proper disposition of property subject to Government disposition. It is expected that an OEO staff instruction will be issued soon identifying the grant actions, by sections of the Act or program accounts, that must be terminal grant actions and prescribing required provisions for them. At present all grant actions made under section 221 of the Act, except grant actions renewing, extending, or supplementing funding provided by grant actions administered through the Indian Programs Branch, are identified as required to be terminal grant actions.

§ 1067.6–8 Supersession of prior directives.

Except as noted in § 1067.6–3 hereof, Subparts 1067.4 and 1067.5 of this part are hereby superseded.

§ 1067.6–9 Effective date.

This subpart shall be effective on March 1, 1973.

HOWARD PHILLIPS,
Acting Director.

[FR Doc.73–4872 Filed 3–13–73;8:45 am]

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Subpart 1069.5—Policy Guidance on Lobbying Activities (OEO Instruction 6907–01)

This subpart, except for § 1069.5–2(a)(5), was published essentially as it now appears on June 10, 1967, by the Office of Economic Opportunity as Community Action Memorandum No. 66, to become effective on June 20, 1967. When OEO's system of directives was reorganized, it became OEO Instruction 6907–01. It was not published in the FEDERAL REGISTER.

On February 9, 1973, OEO Instruction 6907–01 was amended by adding thereto § 1069.5–2(a)(5) of this subpart. However, the Office of Economic Opportunity was not able to publish this amendment to OEO Instruction 6907–01 in the FEDERAL REGISTER 30 days prior to its effective date. Accordingly, the amendment contained in § 1069.5–2(a)(5) is effective February 9, 1973. In view of the emergency nature of the problem which this amendment is designed to remedy, having been advised by counsel, I find that to publish it in the FEDERAL REGISTER 30 days prior to its effective date would be impracticable and contrary to the public interest.

OEO Instruction 6907–01, as amended, is published herewith in its entirety. It forbids the use of OEO grant funds, as well as non-Federal share in support thereof, if any, to be used for certain specified lobbying activities. In particular, § 1069.5–2(a)(5) forbids such funds to be used to pay dues to or otherwise support any organization or group which devotes any of its resources to any activity whose purpose is to influence legislation or politicize.

Part 1069 of Chapter X of Title 45 of the Code of Federal Regulations is revised by adding a new Subpart 1069.5 as follows:

Subpart 1069.5—Policy Guidance on Lobbying Activities (OEO Instruction 6907–01)

Sec.
1069.5–1 Applicability of this subpart.
1069.5–2 Purpose of this subpart.
1069.5–3 Effective date.

AUTHORITY: Sec. 602(n), 78 Stat. 530; 42 U.S.C. 2942.

Subpart 1069.5—Policy Guidance on Lobbying Activities (OEO Instruction 6907–01)

§ 1069.5–1 Applicability of this subpart.

This subpart applies to all grants made under the authority of titles II, III–B and VII of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by OEO.

§ 1069.5–2 Purpose of this subpart.

Many of the problems which cause or aggravate poverty are bound up with harsh or outmoded laws. Others can be most effectively attacked by the passage of new legislation. Community action is thus inevitably concerned with the shape of the laws which affect the poor. On the other hand, there are necessarily very sharp limitations on the use of project funds by grantee and delegate agencies to influence the passage or defeat of legislation. Moreover, there are certain kinds of lobbying which interfere with the work of legislatures and thus impair the basic processes of democratic self-government. The primary purpose of this support is to identify essential restrictions on lobbying activities by grantees and delegate agencies that receive OEO funds under titles II, III–B, and VII of the Economic Opportunity Act. The subpart also serves as a reminder that under Federal (and many State) tax laws, private nonprofit agencies may endanger their capacity to receive tax-deductible contributions if they engage in substantial lobbying activities.

(a) *Restrictions on lobbying with project funds.* Project funds may not be used to support any of the following:

(1) Any activity which is planned and carried out in such a manner as to disrupt the orderly conduct of business by Congress or any other legislative body. This includes, but is not limited to, any disruptive action carried on in the chambers of Congress or any other legislative body or in any capitol or legislative office building.

(2) Any demonstration, rally, picketing, or other form of direct action aimed at the family or home of a member of

a legislative body for the purpose of influencing his actions as a member of that body.

(3) Any campaign of advertising carried on through commercial media for the purpose of influencing the passage or defeat of legislation.

(4) Any campaign of letter writing, of other mass communications, or of mass visits to individual members of Congress or State legislatures for the purpose of influencing the passage or defeat of legislation. This restriction does not prohibit purely informational and educational activities involving target areas and groups.

(5) Project funds may not be used to pay dues or to support any organization or group which devotes or contributes any of its resources from whatever source to any activity, the purpose of which is to influence legislation or to politicize. For purposes of the above, the amount of resources devoted to such activity is immaterial.

These restrictions on use of project funds apply to Federal and matching non-Federal shares of approved program budgets under titles II, III–B and VII of the Economic Opportunity Act and include the use of equipment, material, and facilities and employee time and services which are either paid for with project funds or contributed to project funds. These restrictions are not intended to limit the rights of individuals to express their personal views on public issues so long as they do so in their capacity as private citizens rather than employees. Nor are they intended to limit the freedom of local agencies to express their views on legislation so long as project funds are not used in violation of the foregoing limitations.

(b) *Reminder concerning tax implications of lobbying.* Under Federal income, estate, and gift tax laws, gifts made to private nonprofit organizations which devote a substantial part of their activities to carrying on propaganda or other activities aimed at influencing legislation, are not considered tax deductible "charitable contributions." This applies not only to Federal and State legislation but also to the legislative actions of county and city councils and similar local bodies. Many State tax laws contain similar provisions.

(1) In view of these tax laws, private nonprofit grantee and delegate agencies should bear in mind that if they devote any substantial part of their activities to lobbying efforts, they may be endangering their ability to receive tax-deductible contributions. Such contributions may represent an important means of providing the non-Federal share required in programs assisted under sections 221 and 222(a) of the Economic Opportunity Act. They also enable many local agencies to carry out other programs of assistance to the poor, apart from the Act.

(2) There are no published rules defining what is meant under the Federal tax laws by the term "substantial" lobbying activities. In cases of doubt local agencies should seek private tax counsel or contact the nearest field offices of the Internal Revenue Service and State tax authorities.

§ 1069.5–3 Effective date.

Section 1069.5–2(a)(5) of this subpart is effective on February 9, 1973. The other portions of this subpart took effect on June 20, 1967.

HOWARD PHILLIPS,
Acting Director.

[FR Doc.73-4871 Filed 3-13-73;8:45 am]

Proposed Rule Making

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 319]

FRANKFURTERS AND CERTAIN OTHER COOKED SAUSAGE PRODUCTS

Substitute Proposal for Standards

Statement of considerations. On December 23, 1972, there appeared in the FEDERAL REGISTER (37 FR 28430) a notice of proposed rule making under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) to amend the standard for frankfurters and certain other cooked sausage products to designate different ingredient and labeling requirements for the specified kinds of cooked sausages. A notice on the same subject, to correct typographical errors in the December 23 notice, was published in the December 28, 1972, FEDERAL REGISTER (37 FR 28636). This document contains a substitute proposal for such standards.

The proposal in the notice was to provide for implementation of the order of the U.S. District Court for the District of Columbia as modified by the U.S. Court of Appeals for the District of Columbia in the case of Federation of Homemakers v. Earl L. Butz, et al. (No. 71-1611). The order, as modified, enjoins the Department from permitting the term "All Meat" or "All (Species)" to be included on labels for sausages within the meaning of § 319.180 of the Federal meat inspection regulations, and requires the Secretary "to develop, prescribe and submit to the District Court revised labels that accurately and without deception distinguish the different types of frankfurters from each other and from competitive meats." Compliance with the principal provisions of the order was originally required by March 19, 1973, but this period was later extended by the District Court for 180 days, i.e. from March 6, 1973, through September 2, 1973. In order to comply with such order, it is necessary to consider what ingredients will be permitted in the various sausage products, so that a proper decision can be made with respect to their labeling. In that connection, the notice sought comments on the ingredients to be included in the various cooked sausages, including the merits of a standard that would ban byproducts from cooked sausages and require that they be made from skeletal muscle meat with, optionally, up to 15 percent poultry meat. Background information concerning the proposal was included in the notice.

A total in excess of 3,100 written submissions with views and opinions on the proposal were received during the 60-day comment period provided for in the notices and which expired February 21, 1973. The comments were principally from consumers (including a significant number of consumer comments with multiple signatures) and meatpackers or their trade associations but some were also submitted by State government officials, organizations representing consumers in several localities, poultry processors and poultry trade organizations, and food scientists associated with a number of universities.

Considerable information on the nutritional values of various meats and meat byproducts, along with comparative costs of such items and consumer products in which they are ingredients, was presented with a number of the comments in support of the views and arguments expressed therein.

The proposal to discontinue the label usage of the term "All Meat" or "All (Species)," in accordance with the court orders, received but limited attention in the comments with nearly a total absence of opposition. The comments on the proposed ingredients to be included in the various cooked sausages were varied in nature but generally could be grouped as follows:

1. Agreement with the composition requirements contained in the proposal.

2. Opposition to any change in the current standard for the cooked sausages as related to permitted ingredients, and a recommendation that byproducts continue to be acceptable in cooked sausage formulas with explicit requirements included in the standard to provide prominent, distinctive, and informative labeling of the products, to assure that such ingredients are effectively identified.

The objections expressed in the comments to proposed changes in current cooked sausage ingredient requirements or in support of provisions to permit the continued use of byproducts in such products were generally based on the following suppositions:

1. The interest in changing such ingredient restrictions has been generated by a relatively few vocally effective individuals or groups whose efforts have distorted the perspective of the matter considerably, and the opinions of the majority of consumers are not represented.

2. Byproducts are nutritious and wholesome and have been traditional ingredients of frankfurters and similar cooked sausages. The present opposition to their usage is based on esthetics and has no relationship to the nature of such ingredients and their contributions of value to the nutrition, taste, and texture of the consumer products. The opinion was frequently stated that standards should not be used to control matters of esthetics. Such judgments should, it was indicated, be made by individual consumers through informative labeling.

3. The use of byproducts provides cooked sausages with protein content that is significant and of benefit to the diets of many consumers of limited income. The elimination of the byproducts would adversely hinder such persons and families in preparing nutritionally adequate meals.

The views and opinions expressed in the comments indicate that the public generally considers byproducts to be nutritious and wholesome; that there is an awareness that various kinds of byproducts have been traditional ingredients of products such as frankfurters, wieners, bologna, and garlic bologna. It appears from the comments, also, that the public considers hearts and tongues to be byproducts when used as ingredients of cooked sausages. It further appears that the term "variety meats" has significant meaning through long-time usage as a class designation for byproducts in a number of geographical areas.

The comments which suggested that an additional identification be provided by regulation to allow for the use of byproducts in cooked sausages that would be distinctively labeled, were based mainly on the following contentions:

1. A ban on byproducts would increase the selling price of the sausages which would most profoundly affect low-income families and further reduce their access to nutritionally beneficial protein foods.

2. Analytical data show that sausages containing nonskeletal meat products are nutritionally equivalent and not infrequently superior to similar products that contain only skeletal meat.

3. A ban on byproducts would greatly stimulate competition for muscle meat and aggravate an already serious scarcity problem, both domestically and worldwide, resulting in increased prices for raw materials and subsequently consumer products.

4. The sausages with byproducts can be effectively identified with distinctive and specific labeling so that consumers can be quickly informed on the composition of competing products, so as to permit selections on the basis of ingredient preferences.

In consideration of the importance of cooked sausages to the protein food supply of this country and the obvious differences in opinions as to ingredients suitable for use in their formulas, it now appears that the interest in general of all persons concerned can best be served through standards that would cover the several types of products that have the different ingredients desired by various segments of the public, and which re-

quire distinctive and prominent labeling for the sausages that contain byproducts or binders so that consumers can be fully aware of their contents.

Accordingly, it is now proposed to amend the regulations to provide for the following identifications of cooked sausages:

1. A cooked sausage made primarily with raw skeletal muscle meat, but which could also include up to 15 percent raw or cooked poultry meat, combined with required functional agents such as water, salt, sweeteners, and curing substances would be required to be labeled by its generic name, e.g., frankfurter, wiener, bologna, vienna, garlic bologna, or knockwurst.

2. A cooked sausage made with at least 15 percent raw skeletal muscle meat combined with raw byproducts, or made with at least 15 percent raw skeletal muscle meat combined with raw byproducts and up to 15 percent raw or cooked poultry products, combined with required functional agents such as water, salt, sweeteners, and curing substances would be required to be labeled by its generic name, e.g., frankfurter, wiener, bologna, vienna, garlic bologna, or knockwurst, in conjunction with the phrase "with byproducts" or "with variety meats," and with all terms in such description being given equal prominence.

3. A cooked sausage made with the ingredients described in items 1 or 2 above but which contains one or more of the approved nonmeat binder materials that are functionally distinctive ingredients, such as "calcium reduced dried skim milk," would be required to be labeled with the generic name of the cooked sausage together with a name of the binder, e.g., "Frankfurter, Calcium Reduced Dried Skim Milk Added," and with a reference to byproducts if present, e.g. "Bologna, with Variety Meats, Soy Flour Added."

Although these provisions relate to matters within the scope of the notices of rule making, they differ substantially from the specific proposals set forth in the notices. In view of this fact and the widespread interest in this subject, it is deemed necessary to publish these provisions in another notice of rule making so as to afford the public opportunity to comment thereon. Accordingly, the following amendments of the regulations in 9 CFR Part 319 are proposed:

1. Subpart G would be amended to read: "Subpart G—Cooked Sausage" and Subpart H would be reserved.

2. Section 319.180 would be amended to read:

§ 319.180 Frankfurter, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

(a) Frankfurter, wiener, bologna, vienna, garlic bologna, knockwurst, and similar cooked sausages are comminuted, semisolid sausages prepared from one or more kinds of raw skeletal muscle meat or raw skeletal muscle meat and poultry meat, and seasoned and cured, using one or more of the curing agents in accordance with § 318.7(c) of this chapter. They may or may not be smoked. The finished products shall not contain more than 30 percent fat. Water and/or ice may be used to facilitate chopping or mixing or to dissolve the curing ingredients, but the sausage shall contain no more than 10 percent of added water. These sausage products may contain uncooked, cured pork from primal parts, as defined in § 316.9(b) of this chapter, which do not contain any phosphates or contain only phosphates approved under Part 318 of this chapter. Such products may also contain raw or cooked poultry meat not in excess of 15 percent of the total ingredients, excluding water, in the sausage. Such poultry meat ingredients shall be designated in the ingredient statement on the label of such sausage in accordance with the provisions of § 381.118 of this chapter.

(b) Frankfurter, wiener, bologna, vienna, garlic bologna, knockwurst and similar cooked sausages that are labeled with the phrase "with byproducts" or "with variety meats" in the product name are comminuted, semisolid sausages consisting of not less than 15 percent of one or more kinds of raw skeletal muscle meat with raw meat byproducts, or not less than 15 percent of one or more kinds of raw skeletal muscle meat with raw meat byproducts and raw or cooked poultry products; and seasoned and cured, using one or more of the curing ingredients in accordance with § 318.7(c) of this chapter. They may or may not be smoked. Partially defatted pork fatty tissue or partially defatted beef fatty tissue, or a combination of both, may be used in an amount not exceeding 15 percent of the meat and meat by products, or meat, meat byproducts and poultry products ingredients. The finished products shall not contain more than 30 percent fat. Water and/or ice may be used to facilitate chopping or mixing or to dissolve the curing and seasoning ingredients, but the sausage shall contain no more than 10 percent of added water. These sausage products may contain uncooked, cured pork which does not contain any phosphates or contains only phosphates approved under Part 318 of this chapter. These sausage products may contain poultry products, individually or in combination, not in excess of 15 percent of the total ingredients, excluding water, in the sausage. Such poultry products shall not contain kidneys or sex glands. The amount of poultry skin present in the sausage must not exceed the natural proportion of skin present on the whole carcass of the kind of poultry used in the sausage, as specified in § 381.117(d) of this chapter. The poultry products used in the sausage shall be designated in the ingredient statement on the label of such sausage in accordance with the provisions of § 381.118 of this chapter. Meat byproducts used in the sausage shall be designated individually in the ingredient statement on the label for such sausage in accordance with § 317.2 of this chapter.

(c) A cooked sausage as defined in paragraph (a) of this section shall be labeled by its generic name, e.g., frankfurter, wiener, bologna, vienna, garlic bologna, or knockwurst.

(d) A cooked sausage, as defined in paragraph (b) of this section shall be labeled by its generic name, e.g., frankfurter, wiener, bologna, vienna, garlic bologna, or knockwurst, in combination with the phrase "with byproducts" or "with variety meats" shown with equal prominence as the generic name in the product name.

(e) With appropriate labeling as required by § 317.8(b)(16) of this chapter, e.g., "Frankfurter, Calcium Reduced Dried Skim Milk Added" or "Bologna with Byproducts (or 'Variety Meats'), Soy Flour Added," one or more of the following binders may be used in a cooked sausage otherwise complying with paragraph (a) or (b) of this section, provided such ingredients individually or collectively, do not exceed 3½ percent of the finished product, except that 2 percent of isolated soy protein shall be deemed to be the equivalent of 3½ percent of any one or more of the other binders: Dried milk, calcium reduced dried skim milk, nonfat dry milk, cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, and isolated soy protein.

(f) Cooked sausages shall not be labeled with terms such as "All Meat" or "All (Species)," or otherwise to indicate they do not contain nonmeat ingredients or are prepared only from meat.

(g) For the purposes of this section: Poultry meat means deboned chicken meat or turkey meat, or both, without skin or added fat; poultry products means chicken or turkey, or chicken meat or turkey meat, as defined in § 381.118 of this chapter, or poultry byproducts as defined in § 381.1 of this chapter; and meat byproducts means pork stomachs or snouts, beef, veal, lamb or goat tripe, and beef, veal, lamb, goat or pork hearts, tongues, fat, lips, weasands and spleens, and partially defatted pork fatty tissue, or partially defatted beef fatty tissue.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, before April 17, 1973.

Any person desiring opportunity for oral presentation of views on the proposal should address such requests to the Product Standards Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the

staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on March 9, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-5011 Filed 3-13-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3110]

SIMULTANEOUS OFFERS

Noncompetitive Leases; Oil and Gas Leasing; Time Extension for Comments

Correction

In FR Doc. 73-4298 appearing on page 6188 in the issue for Wednesday, March 7, 1973, the final date for comments appearing in the last line of the first paragraph, now reading "May 1, 1973", should read "May 15, 1973".

Bureau of Mines

[30 CFR Part 75]

UNDERGROUND COAL MINES

Proposed Mandatory Safety Standards; Objections Filed and Hearing Requested

Pursuant to the authority contained in section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 745; 30 U.S.C. 811(a)), there was published, as proposed rulemaking, in the FEDERAL REGISTER for December 12, 1972 (37 FR 26422) §§ 75.524, 75.1001-1, 75.1003-2, 75.1101-23, 75.1600-1, 75.1600-2, and 75.1704-2 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, setting forth mandatory standards which would: (1) Establish a requirement that electric current permitted to exist between frames of electric equipment be limited to not more than 1 ampere; (2) provide for frequent testing and calibration of devices for overcurrent protection; (3) specify requirements for movement of off-track mining equipment in areas where energized trolley wires or trolley feeder wires are present; (4) provide for instruction in the location and use of firefighting equipment, escapeways, exits, routes of travel and for fire drills; (5) improve two-way communication between working sections and the surface; and (6) require improved escapeways and periodic drills in their use.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to these proposed mandatory safety standards, stating the grounds therefor, and to request a public hearing on such objections.

Section 101(f) of the Act directs the Secretary to publish in the FEDERAL REGISTER, as soon as practicable after the period for filing objections has expired, a notice specifying proposed mandatory safety standards to which objections have been filed and a hearing requested.

Notice is hereby given that written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a hearing on proposed §§ 75.524, 75.1001-1, 75.1003-2, 75.1101-23, 75.1600-1, 75.1600-2, and 75.1704-2.

Pursuant to section 101(g) of the Act, the Secretary shall, promptly after publication of this notice in the FEDERAL REGISTER, issue notice of the time and place at which a public hearing will be held for the purpose of receiving evidence relevant to the objections received.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

MARCH 9, 1973.

[FR Doc.73-4914 Filed 3-13-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 1, 177]

[CGD 73-40PH]

ESPECIALLY HAZARDOUS CONDITIONS

Notice of Proposed Rule Making

The Coast Guard is considering issuing the following regulations:

1. A regulation to amend Part 177 of Subchapter S, Chapter I of Title 33, Code of Federal Regulations to provide for the termination of use, under the authority of section 13 of the Federal Boat Safety Act of 1971, of recreational boats designated unsafe for a specific voyage on a specific body of water.

2. A regulation to amend Subchapter A, Chapter I of Title 33, Code of Federal Regulations by adding a paragraph to § 1.05-1 redelegating from the Commandant to each district commander, the authority under section 13 of the Federal Boat Safety Act of 1971 to issue regulations designating specific recreational boats unsafe for certain voyages.

Section 13 of the Federal Boat Safety Act of 1971 provides that if a Coast Guard Boarding Officer observes a boat being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition as defined in regulations of the Secretary, and in his judgment such use creates an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.

Marine Casualty and Search and Rescue Statistics indicate that vessels of unique design and construction, vessels in poor condition, and vessels improperly manned and equipped often depart on voyages, especially extended ocean voyages, for which they are manifestly unsuited. Operation of such craft on waters for which they are not suitable not only endanger the lives of the occupants but often result in enormous unnecessary expenditure of effort and expense for searches conducted by both military and commercial craft. The lives of the persons conducting the search efforts are also often endangered.

The termination of use of vessels in this category would be accomplished by a regulation issued by the district commander (under the redelegated authority proposed in 33 CFR 1.05-1(d)) applicable only to a specific unseaworthy vessel. The regulation would specifically identify the vessel and specify the reasons why the vessel is considered unsafe for the voyage and body of water on which the vessel is to be used. The regulation issued by the district commander to the user of the vessel would apply only to that vessel for the voyage and body of water indicated. The boarding officer could then take corrective action including termination of use of the vessel if in his judgment such use with this unsafe condition creates an especially hazardous condition, as authorized by section 13 of the Act.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered concerning the need for these proposed regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which the need for these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, D.C. 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

In consideration of the foregoing the Coast Guard proposes to amend Parts 1 and 177 of Title 33 of the Code of Federal Regulations as follows:

1. Section 1.05-1 is proposed to be amended by adding paragraph (d) as follows:

§ 1.05-1 General.

* * * * *

(d) The Commandant redelegates to each Coast Guard District Commander, with the reservation that this authority shall not be further redelegated, the authority, under section 13 of the Federal Boat Safety Act of 1971, to issue rules and regulations applicable to a specific recreational vessel within his jurisdiction designating that vessel unsafe for a specific voyage on a specific body of water when it is determined, under the

provisions of 33 CFR 177.07(f), that an unsafe condition exists.

2. Section 177.07 is proposed to be amended by adding paragraph (f) as follows:

§ 177.07 **Other unsafe conditions.**

* * * * *

(f) Designated unsafe for a specific voyage on a specific body of water due to:

(1) Design or configuration, or

(2) Construction or material condition, or

(3) Operational or safety equipment, or

(4) Operator competency and manning, and

set forth in a regulation issued by a district commander under the authority of 33 CFR 1.05-1(d).

Any interested person may submit written data, views, comments, suggestions, and arguments to the U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received by May 14, 1973, will be considered before action is taken on the proposed regulations. Each person submitting comments should include their name and address, identify this notice [CGD 73-40PH], and give reasons and supporting data for their recommendations. All comments will be available for examination in Room 8234.

On May 8, 1973, at 10 a.m. a public hearing to receive the views of interested persons on the proposed regulations will be held in Room 2230, 400 Seventh Street SW., Washington, DC 20590. Each person who wishes to make an oral statement is requested to notify the U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, before 1 May 1973, and indicate the amount of time required for initial statement. The hearing will be an informal hearing conducted by a designated representative of the U.S. Coast Guard. It will not be a judicial or evidentiary type hearing so there will be no cross-examination of persons presenting statements. After all initial statements have been completed those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

These regulations are proposed under the authority of the Federal Boat Safety Act of 1971 (P.L. 92-75). The authority and responsibilities vested in the Secretary of the Department of Transportation by this Act were delegated to the Commandant of the Coast Guard on 5 October 1971 (49 CFR 1.46(o)(1)).

Dated: March 9, 1973.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.73-4881 Filed 3-13-73;8:45 am]

[33 CFR Part 117]

[CGD 73-51 P]

WHITCOMB BAYOU, FLA.

Proposed Drawbridge Operation Regulations

At the request of the Pinellas County Board of County Commissioners the Coast Guard is considering amending the regulations for the North Spring Boulevard (Beckett) drawbridge across Whitcomb Bayou in Tarpon Springs to require that the draw open on signal from 9 a.m. to 6 p.m. on Saturdays and Sundays and at all other times if at least 4 hours' notice is given. The draw is presently opened on signal. This change is being considered because of limited requests for openings during the proposed restricted times. Data submitted shows that of 88 openings from November 1971 through October 1972, 72 were on Saturday or Sunday from 9 a.m. to 6 p.m. There were no openings in June, October, November, and December, other than Saturdays or Sundays.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130.

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, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before April 17, 1973, 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 adding a new subparagraph (5-a) immediately after subparagraph (5) of paragraph (i) 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.**

* * * * *

(i) * * *

(5-a) *Whitcomb Bayou, Fla.* The draw shall open on signal from 9 a.m. to 6 p.m. on Saturdays and Sundays. At all other times the draw shall open on signal if at least 4 hours notice is given.

* * * * *

(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: March 9, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.73-4884 Filed 3-13-73;8:45 am]

[33 CFR Part 117]

[CGD 73-52 P]

HALIFAX RIVER, AIWW, FLORIDA

Proposed Drawbridge Operation Regulations

At the request of the Volusia County Commissioners, the Coast Guard is considering revising the regulations for the Ormond Beach Bridge (State Road 40) and the Port Orange Bridge (U.S. AIA) across the Atlantic Intracoastal Waterway (Halifax River). This revision would allow closed periods from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Saturday, with the proviso that the draws shall open at 8 a.m. and 5 p.m. if any vessels are waiting to pass the closed draw. The draws are presently required to open on signal at any time. This revision is being considered because of a substantial increase in vehicular traffic during these periods.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. 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, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before April 17, 1973, 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 adding a new § 117.433 immediately after § 117.432a to read as follows:

§ 117.433 **Ormond Beach bridge (State Road 40) and Port Orange bridge (U.S. AIA), AIWW, Volusia County, Fla.**

(a) The draws of these bridges shall open on signal except that from 7:30

a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draws may remain closed to the passage of vessels. The draws shall open at 8 a.m. and 5 p.m. during this period if any vessels are waiting to pass. The draws shall open on signal on Federal and Florida State holidays.

(b) Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time. The opening signal from these vessels is 4 blasts of a whistle, horn, or other sound producing device or by shouting.

(c) During periods when storm signals are displayed in the Daytona Beach area, the draws shall open on signal. Storm signals are displayed upon notification by the National Weather Service that winds of up to 33 knots or more and/or sea conditions considered dangerous to small craft are expected. The opening signal is three blasts of a whistle, horn or other sound producing device or by shouting.

(d) The owners of or agents controlling these bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such a manner that they can be easily read at any time from an approaching vessel, signs stating the regulations in this section.

(Sec. 5, 28 Stat, 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: March 9, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.73-4883 Filed 3-13-73;8:45 am]

[33 CFR Part 177]

[CGD 73-41PH]

ESPECIALLY HAZARDOUS CONDITIONS

Notice of Proposed Rule Making

The Coast Guard is considering issuing regulations to amend Part 177 of Subchapter S, Chapter I of Title 33, Code of Federal Regulations, to provide for the termination of use of recreational vessels during especially hazardous conditions on certain river bars and coastal inlets along the Pacific coastline of the States of Washington and Oregon.

Section 13 of the Federal Boat Safety Act of 1971 provides that if a Coast Guard boarding officer observes a boat being used without sufficient lifesaving or firefighting devices, or in an overloaded or other unsafe condition as defined in regulations of the Secretary, and in his judgment such use creates an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.

For purposes of section 13 of the Federal Boat Safety Act, the proposed § 177.07(g) will define additional unsafe conditions for recreational boats being used in certain areas along the coastlines of Washington and Oregon. The addition of § 177.08, designating the Regulated Recreational Boating Areas in these States to which § 177.07(g) would apply is also proposed.

The bars and inlets along the coastlines of Oregon and Washington have certain characteristics which make them at times hazardous to navigation and each year a large number of fatalities of recreational boatmen occur in these areas. Oregon's State Boating Law Administrator and the Governors of the States of Oregon and Washington have expressed a great concern over these boating casualties and have petitioned the U.S. Coast Guard to issue more effective boating safety regulations for the hazardous areas.

The primary areas of potential hazard are just seaward of jetties which extend out through the surf zone over the longshore bars and also in and around channel entrances. When the ebbing tidal currents, occurring twice daily, of the rivers clash with the landward moving ocean waves in the shallow bar area, a very turbulent, heavy sea can be produced. This condition can happen very abruptly with no warning and even on seemingly calm, clear days. Other factors which can cause these bar areas to be hazardous are the high velocity tidal currents caused by a constriction of flow inside the jetties, wave refraction, and wave reflection off the jetties and the eddying effects caused by longshore ocean currents outside the jetties. All of these conditions can cause extremely difficult vessel handling problems in those areas.

Statistics compiled by the Office of Boating Safety, U.S. Coast Guard, indicate that vessel capsizings have consistently accounted for more of the lives lost in boating accidents in those areas of potential hazard along the coastlines of Washington and Oregon, each year than any other type of casualty. The ignoring of weather warnings, proceeding under unfavorable sea conditions, and operating in waters which exceed the limits of the craft or operator's training are major causes of these casualties.

Section 177.07 of Subchapter S, Chapter I of Title 33, Code of Federal Regulations, lists certain unsafe conditions for the purpose of termination of use of a vessel authorized by section 13 of the Federal Boat Safety Act of 1971. The proposed regulations would give the boarding officer another useful definition of an unsafe condition in the specifically designated areas. Since the ignoring of weather and sea conditions and proceeding under unfavorable conditions in these areas are major causes of boating fatalities the Coast Guard takes the position that there should be a way to prevent the use of boats under such conditions when this amounts to an especially hazardous condition.

Section 177.07(g) stipulates certain factors which would create for the purpose of this part, an unsafe condition in a "Regulated Recreational Boating Area." A wave height of 4 feet or greater in a "Regulated Recreational Boating Area" is designated as an unsafe condition for any size recreational vessel for the purpose of section 13 of the Federal Boat Safety Act of 1971. The decision as to whether this situation would create an especially hazardous condition is left to the judgment of the boarding officer in accordance with section 13 of the Act. A wave height of less than 4 feet in regulated recreational boating areas would create an especially hazardous condition for some types of recreational vessels, especially some of the smaller boats. A formula has been developed to define an unsafe condition for these smaller, less seaworthy boats when the wave height in a "Regulated Recreational Boating Area" is less than 4 feet. The formula takes into account the overall length of a boat and its minimum freeboard. A surface current of 4 knots or greater would also create an unsafe condition in these areas for any size recreational vessel. Reduced navigability and the threat of an underpowered or disabled vessel being swept into the turbulent surf zone were key factors in making that determination.

It should be emphasized that the mere existence of an unsafe condition does not preclude the use of these areas by a recreational boat. Section 13 of the Federal Boat Safety Act of 1971 requires that the unsafe condition must be deemed, in the judgment of the boarding officer, to create an especially hazardous condition before he may require action to correct the condition.

Section 177.08 lists the specific "Regulated Recreational Boating Areas" to which the provisions of § 177.07(g) will apply. These areas were taken from local Coast Guard Auxiliary Bar Guides and State Recreational Boating Guides.

The Boating Safety Advisory Council has been consulted concerning the need for these proposed regulations and its opinions and advice have been considered in their formulation. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council, at this address.

In consideration of the foregoing, the Coast Guard proposes to amend Part 177 of Title 33 of the Code of Federal Regulations as follows:

1. Section 177.07 is proposed to be amended by adding paragraph (g) as follows:

§ 177.07 Other unsafe conditions.

* * * * *

(g) Is operated in a Regulated Recreational Boating Area as described in 177.08 when—

(1) The wave height within the Regulated Recreational Boating Area is 4 feet or greater; or

(2) The wave height within the Regulated Recreational Boating Area is less than 4 feet but is equal to or greater than the wave height determined by the formula $\frac{L}{10}+F=W$ where:

L=Overall length of a boat measured in feet in a straight horizontal line along and parallel with the centerline between the intersections of this line with the vertical planes of the stem and stern profiles excluding deckhouses and equipment.

F=The minimum freeboard when measured in feet from the lowest point along the upper strake edge to the surface of the water.

W=Maximum wave height in feet to the nearest highest whole number; or

(3) The surface current is greater than 4 knots within the Regulated Recreational Boating Area.

2. By adding § 177.08 as follows:

§ 177.08 Regulated recreational boating areas.

For the purpose of this part the following are regulated recreational boating areas.

(a) *Quillayute River Entrance, Wash.* From the west end of James Island 47°54'23" N., 124°39'05" W. southward to buoy No. 2 at 47°53'42" N., 124°38'42" W. eastward to the shoreline at 47°53'42" N., 124°37'51" W., thence northward along the shoreline to 47°54'29" N., 124°38'20" W. thence northward to 47°54'36" N., 124°38'22" W. thence westward to the beginning.

(b) *Grays Harbor Entrance, Wash.* From a point on the shoreline at 46°59'00" N., 124°10'10" W. westward to 46°59'00" N., 124°15'30" W. thence southward to 46°51'00" N., 124°15'30" W. thence eastward to a point on the shoreline at 46°51'00" N., 124°06'40" W. thence northward along the shoreline to a point at the south jetty 46°54'20" N., 124°08'07" W. thence eastward to 46°54'10" N., 124°05'00" W. thence northward to 46°55'00" N., 124°03'30" W. thence northwestward to Damon Point at 46°56'50" N., 124°06'30" W. thence westward along the north shoreline of the harbor to the north jetty at 46°55'40" N., 124°10'27" W. thence northward along the shoreline to the beginning.

(c) *Willapa Bay, Wash.* From a point on the shoreline at 46°46'00" N., 124°05'40" W. westward to 46°44'00" N., 124°10'45" W. thence southward to 46°35'00" N., 124°10'45" W. thence eastward to a point on the shoreline at 46°35'00" N., 124°03'45" W. thence northward along the shoreline around the north end of Leadbetter Point thence southward along the east shoreline of Leadbetter Point to 46°36'00" N., 124°02'15" W. thence eastward to 46°36'00" N., 124°00'00" W. thence northward to Toke Point at 46°42'15" N., 123°58'00" W. thence westward along the north shoreline of the harbor and northward along the seaward shoreline to the beginning.

(d) *Columbia River Bar, Wash.-Oreg.* From a point on the shoreline at 46°18'-00" N., 124°04'39" W. thence westward to 46°18'00" N., 124°09'30" W. thence southward to 46°12'00" N., 124°09'30" W. thence eastward to a point on the shoreline at 46°12'00" N., 123°59'33" W. thence northeastward to Chinook Point at 46°15'08" N., 123°55'25" W. thence northwestward to the north end of Sand Island at 46°17'29" N., 124°01'25" W. thence southwestward to a point on the north shoreline of the harbor at 46°16'-25" N., 124°02'28" W. thence eastward along the north shoreline of the harbor and northward along the seaward shoreline to the beginning.

(e) *Nehalem River Bar, Oreg.* From a point on the shoreline 45°41'25" N., 123°-56'16" W. thence westward 45°41'25" N., 123°59'00" W. thence southward to 45°37'25" N., 123°59'00" W. thence eastward to a point on the shoreline at 45°-37'25" N., 123°56'38" W. thence northward along the shoreline to the north end of the south jetty at 45°39'40" N., 123°-55'45" W. thence westward to a point on the shoreline at 45°39'45" N., 123°56'-19" W. thence northward along the shoreline to the beginning.

(f) *Tillamook Bay Bar, Oreg.* From a point on the shoreline at 45°35'15" N., 123°57'05" W. thence westward 45°35'15" N., 124°00'00" W. thence southward to 45°30'00" N., 124°00'00" W. thence eastward to a point on the shoreline at 45°30'00" N., 123°57'40" W. thence northward along the shoreline to the north end of Kincheloe Point at 45°33'30" N., 123°56'05" W. thence northward to a point on the north shoreline of the harbor at 45°33'40" N., 123°55'59" W. thence westward along the north shoreline of the harbor then northward along the seaward shoreline to the beginning.

(g) *Netarts Bay Bar, Oreg.* From a point on the shoreline at 45°28'05" N. thence westward to 45°28'05" N., 124°00'00" W. thence southward to 45°24'00" N., 124°00'00" W. thence eastward to a point on the shoreline at 45°24'00" N., 123°57'45" W. thence northward along the shoreline to 45°26'03" N., 123°57'15" W. thence eastward to a point on the north shoreline of the harbor at 45°26'00" N., 123°56'57" W. thence northward along the shoreline to the beginning.

(h) *Siletz Bay Bar, Oreg.* From a point on the shoreline at 44°56'32" N., 124°-01'29" W. thence westward to 44°56'32" N., 124°03'00" W. thence southward to 44°54'40" N., 124°03'15" W. thence eastward to a point on the shoreline at 44°54'40" N., 124°01'55" W. thence northward along the shoreline to 44°55'-35" N., 124°01'25" W. thence northward to a point on the north shoreline of the harbor at 44°55'45" N., 124°01'20" W. thence westward and northward along the shoreline to the beginning.

(i) *Depoe Bay Bar, Oreg.* From a point on the shoreline at 44°49'15" N., 124°04'00" W. thence westward to 44°49'15" N., 124°04'35" W. thence southward to 44°47'55" N., 124°04'55" W. thence eastward to a point on the shoreline at 44°-47'53" N., 124°04'25" W. thence northward along the shoreline and eastward along the south bank of the entrance channel to the highway bridge thence northward to the north bank at the bridge thence westward along the north bank of the entrance channel and northward along the seaward shoreline to the beginning.

(j) *Yaquina Bay Bar, Oreg.* From a point on the shoreline at 44°38'11" N., 124°03'47" W. thence westward to 44°-38'11" N., 124°05'55" W. thence southward to 44°35'15" N., 124°06'05" W. thence eastward to a point on the shoreline at 44°35'15" N., 124°04'02" W. thence northward along the shoreline and eastward along the south bank of the entrance channel to the highway bridge thence northward to the north bank of the entrance channel at the bridge thence westward along the north bank of the entrance channel and northward along the seaway shoreline to the beginning.

(k) *Siuslaw River Bar, Oreg.* From a point on the shoreline at 44°02'00" N., 124°08'00" W. thence westward to 44°-02'00" N., 124°09'30" W. thence southward to 44°00'00" N., 124°09'30" W. thence eastward to a point on the shoreline at 44°00'00" N., 124°08'12" W. thence northward along the shoreline and southward along the west bank of the entrance channel to 44°00'35" N., 124°07'48" W. thence southeastward to a point on the east bank of the entrance channel at 44°00'20" N., 124°07'31" W. thence northward along the east bank of the entrance channel and northward along the seaward shoreline to the beginning.

(l) *Umpqua River Bar, Oreg.* From a point on the shoreline at 43°41'20" N., 124°11'58" W. thence westward to 43°-41'20" N., 124°13'32" W. thence southward to 43°38'35" N., 124°14'25" W. thence eastward to a point on the shoreline at 43°38'35" N., 124°12'35" W. thence northward along the shoreline to the north end of the training jetty at 43°40'15" N., 124°11'45" W. thence northward to a point on the west bank of the entrance channel at 43°40'40" N., 124°11'41" W. thence southwestward along the west bank of the entrance channel thence northward along the seaward shoreline to the beginning.

(m) *Coos Bay Bar, Oreg.* From a point on the shoreline at 43°22'15" N., 124°19'-34" W. thence westward to 43°22'20" N., 124°22'28" W. thence southwestward to 43°21'00" N., 124°23'35" W. thence southeastward to a point on the shoreline at 43°20'25" N., 124°22'28" W. thence northward along the shoreline and eastward along the south shore of the entrance channel to a point on the shoreline at 43°20'52" N., 124°19'12" W. thence eastward to a point on the east shoreline of the harbor at 43°21'00" N., 124°18'50" W. thence northward to a point on the west shoreline of the harbor at 43°21'45" N., 124°19'10" W. thence south and west along the west shoreline of the harbor thence northward along the seaward shoreline to the beginning.

(n) *Coquille River Bar, Oreg.*—From a point on the shoreline at 43°08'25" N., 124°25'04" W. thence southwestward to 43°07'50" N., 124°27'05" W. thence southwestward to 43°07'03" N., 124°28'-25" W. thence eastward to a point on the shoreline at 43°06'00" N., 124°25'55" W. thence northward along the shoreline and eastward along the south shoreline of the channel entrance to 43°07'17" N., 124°25'00" W. thence northward to the

east end of the north jetty at 43°07'24" N., 124°24'59" W. thence westward along the north shoreline of the entrance channel and northward along the seaward shoreline to the beginning.

(o) *Rogue River Bar, Oreg.*—From a point on the shoreline at 42°26'25" N., 124°26'03" W. thence westward to 42°-26'10" N., 124°27'05" W. thence southward to 42°24'15" N., 124°27'05" W. thence eastward to a point on the shoreline at 42°24'15" N., 124°25'30" W. thence northward along the shoreline and eastward along the south shoreline of the entrance channel to the highway bridge thence northward across the inner harbor jetty to a point on the north shoreline of the entrance channel at the highway bridge thence westward along the north shoreline of the entrance channel thence northward along the seaward shoreline to the beginning.

(p) *Chetco River Bar, Oreg.*—From a point on the shoreline at 42°02'35" N., 124°17'20" W. thence southeastward to 42°01'45" N., 124°16'30" W. thence northwestward to a point on the shoreline at 42°02'10" N., 124°15'35" W. thence northwestward along the shoreline thence northward along the east shoreline of the channel entrance to 42°-02'47" N., 124°16'03" W. thence northward along the west face of the inner jetty and east shoreline of the channel entrance to the highway bridge thence westward to the west shoreline of the channel at the highway bridge thence southward along the west shoreline of the channel thence westward along the seaward shoreline to the beginning.

Any interest person may submit written comments and suggestions to the U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before May 1, 1973, will be considered before action is taken on the proposed regulations. Each person submitting comments should include their name and address, identify this notice (CGD 73-41PH) and give reasons and supporting data for their recommendations. All comments will be available for examination in Room 8234.

Public hearings to receive the views of interested persons on the proposed regulations will be held on April 17, 1973, at 10 a.m. in the Orcas Room, Seattle Center, Seattle, Wash., and on April 19, 1973, at 10 a.m. in the Bonneville Power Administration Auditorium Lloyd Center, Portland, Oreg. The hearings will be informal, conducted by a designated representative of the U.S. Coast Guard. They will not be judicial or evidentiary type hearings, so there will be no cross-examination of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statement.

These regulations are proposed under the authority of the Federal Boat Safety Act of 1971 (Public Law 92-75). The authority and responsibilities vested in the Secretary of the Department of Transportation by this Act were delegated to the Commandant of the Coast Guard on October 5, 1971 (49 CFR 1.46 (o)(1)).

Dated: March 9, 1973.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.73-4882 Filed 3-13-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 10]

ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Proposed Procedures

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. sections 2671-2680), the Environmental Protection Agency (EPA) is considering an amendment to 40 CFR by adding a new Part 10, Administrative Claims under Federal Tort Claims Act.

The proposed regulations would establish the means whereby persons who believe they have a valid tort claim against EPA can present that claim to EPA, and the procedures under which the Agency will process that claim, compromise the claim, compromise the claim after consulting the Department of Justice, or reject the claim and inform the claimant of his right to bring suit on the claim in Federal court. The proposed regulations specify the evidence that may have to be submitted in support of a claim, and the time limits that must be obeyed. The proposed regulations are very similar to those of several other agencies, and are designed to conform to and supplement both the requirements of the Federal Tort Claims Act and the regulations issued by the Department of Justice concerning it, which are set forth at 28 CFR Part 14.

Interested parties may submit, in triplicate, written comments concerning the proposed amendment, to the Claims Officer, Environmental Protection Agency, Room 3712-A, Waterside Mall, Washington, D.C. 20460. Communications received on or before April 30, 1973 will be considered prior to adoption of the final regulation. A copy of each communication received will be placed on file for public inspection in Room 3712-A, Waterside Mall, Washington, D.C. 20460.

Dated: March 5, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator.

PART 10—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Subpart A—General

Subpart B—Procedures

AUTHORITY: Sec. 1, 80 Stat. 306; 28 U.S.C. 2672; 28 CFR Part 14.

Subpart A—General

§ 10.1 Scope of regulations.

The regulations in this part shall apply only to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. sections 2671-2680, accruing on or after January 18, 1967, for money damages against the United States for damage to or loss of property or personal injury or death, caused by the negligent or wrongful act or omission of any employee of the Environmental Protection Agency (EPA) while acting within the scope of his office of employment.

Subpart B—Procedures

§ 10.2 Administrative claim; when presented; place of filing.

(a) For purpose of the regulations in this part, a claim shall be deemed to have been presented when the Environmental Protection Agency receives, at a place designated in paragraph (c) of this section, an executed Standard Form 95 or other written notification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, for personal injury, or for death, alleged to have occurred by reason of the incident. A claim which should have been presented to EPA, but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to EPA as of the date that the claim is received by EPA. A claim mistakenly addressed to or filed with EPA shall forthwith be transferred to the appropriate Federal agency, if ascertainable or returned to the claimant.

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final action by the Administrator, or his designee, or prior to the exercise of the claimant's option to bring suit under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, EPA shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

(c) Forms may be obtained and claims may be filed with the office, local, regional, or headquarters, of the constituent organization having jurisdiction over the employee involved in the accident or incident, or with the EPA Claims Officer, Room 3712-A, Waterside Mall Building,

401 M Street SW., Washington, D.C. 20460.

§ 10.3 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his duly authorized agent, or his legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or his legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, he shall present with his claim appropriate evidence that he has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 10.4 Administrative claim; evidence to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payments for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed or designated by EPA. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that the claimant has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made or agrees in writing to make available to EPA any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, hospital and related expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected duration of and expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on the responsibility of the United States for either the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, market value of the property as of date of damage, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on the responsibility of the United States either for the injury to or loss of property or for the damages claimed.

(d) *Time limit.* All evidence required to be submitted by this section shall be furnished by the claimant within a reasonable time. Failure of a claimant to furnish evidence necessary to a determination of his claim within 3 months after a request therefor has been mailed to his last known address may be deemed an abandonment of the claim. The claim may be thereupon disallowed.

§ 10.5 Investigation, examination, and determination of claims.

When a claim is received, the constituent unit out of whose activities the claim arose shall make such investigation as may be necessary or appropriate for a determination of the validity of the claim. A full account of this investigation, together with all pertinent documentary materials, the claim itself, and a recommendation based on the merits of the case, shall be forwarded through regular supervisory channels to the EPA Claims Officer, Washington, D.C. 20460, to whom authority has been delegated to adjust, determine, compromise, and settle tort claims under the direction of the Director, Data and Support Systems Division, and with the advice of the General Counsel or his designee.

§ 10.6 Final denial of claim.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with EPA's action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

(b) Prior to the commencement of suit and prior to the expiration of the 6-month period after the date of mailing by certified or registered mail of notice of final denial of the claim as provided in 28 U.S.C. 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request with the EPA for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration, EPA shall have 6 months from the date of filing in which to make a final disposition of the claim and the claimant's option under 28 U.S.C. 2675(a) to bring suit shall not accrue until 6 months after the filing of a request for reconsideration. Final action on a request for reconsideration shall be effected in accordance with the provisions of paragraph (a) of this section.

§ 10.7 Payment of approved claims.

(a) Upon allowance of his claim, claimant or his duly authorized agent shall sign the voucher for payment, Standard Form 1145, before payment is made.

(b) When the claimant is represented by an attorney, the voucher for payment (SF 1145) shall designate both the claimant and his attorney as "payees." The check shall be delivered to the at-

torney whose address shall appear on the voucher.

(c) No attorney shall charge fees in excess of 25 percent of a judgment or settlement after litigation, or in excess of 20 percent of administrative settlements (28 U.S.C. 2678).

§ 10.8 Release.

Acceptance by the claimant, his agent, or legal representative of any award, compromise or settlement made hereunder, shall be final and conclusive on the claimant, his agent, or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of all claims against either the United States or any employee of the Government arising out of the same subject matter.

§ 10.9 Penalties.

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than $10,000 or to imprisonment of not more than 5 years, or both (18 U.S.C. 287, 1001), and, in addition, to a forfeiture of $2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C. 231).

§ 10.10 Limitations on Environmental Protection Agency's authority.

(a) An award, compromise or settlement of a claim hereunder in excess of $25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled hereunder only after consultation with the Department of Justice when, in the opinion of the Environmental Protection Agency:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Agency is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled by EPA hereunder only after consultation with the Department of Justice when EPA is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 10.11 Relationship to other Agency regulations.

(a) The regulations in this part supplement the Attorney General's regulations in Part 14 of Chapter 1 of Title 28, Code of Federal Regulations, as amended. Those regulations, including subsequent amendments thereto, and the regulations in this part apply to the consideration by the Environmental Protection Agency of administrative claims under the Federal Tort Claims Act.

(b) Each of the four preexisting agencies that contributed parts of its organization to the Environmental Protection Agency had published regulations to govern the administrative disposition of claims under the Federal Tort Claims Act at the time Reorganization Plan No. 3 of 1970 became effective: Namely, Department of the Interior (43 CFR Part 22); Department of Health, Education, and Welfare (45 CFR Part 35); Department of Agriculture (7 CFR Part 1, Subchapter D); and Atomic Energy Commission (10 CFR Part 14). These regulations that are currently applicable to the various constituent units of the Environmental Protection Agency are hereby repealed upon publication of the Agency's regulations with respect to claims asserted under the Federal Tort Claims Act involving employees of the Agency within scope of employment.

[FR Doc.73-4839 Filed 3-13-73;8:45 am]

[40 CFR Part 85]

LIGHT DUTY TRUCKS

Air Pollution Control; Standards and Test Procedures

The U.S. Court of Appeals decision regarding the suspension of 1975 model year light duty vehicle emission standards, issued on February 10, 1973, ordered EPA to remove light duty trucks from the light duty vehicle category.

The decision states that when this had been done "these light weight trucks will be governed by the standards duly promulgated by EPA for 'trucks and buses and other commercial vehicles'."

The interior quote in this sentence is taken from a passage in the legislative history of the Clean Air Act which the Court relied on as showing that the fundamental distinction Congress had in mind in establishing legislative standards for "light duty vehicles" was the distinction between "passenger cars" on the one hand and "trucks and buses and other commercial vehicles" on the other. EPA believes that by making this distinction the Court did not mean to preclude the making by EPA of further distinctions, for regulatory purposes, among the often widely differing vehicles in the second category. Since light duty trucks currently on sale, and those now being certified for sale next year, already meet stricter emissions standards than will be required of other classes of trucks for several more years, to view the Court's opinion as precluding distinctions within the class of "trunks and buses and other commercial vehicles" would lead to the paradoxical and insupportable conclusion that the Court has mandated a relaxation in emission control levels that no one disputes have already been satisfactorily achieved by these vehicles.

Since I conclude that discretion exists under the Court's opinion to regulate light duty trucks as a separate category of vehicles for emission control purposes, it is my responsibility to examine these vehicles in the light of the standards specified in section 202(a) of the Clean Air Act, and the more general goals of that statute, to determine whether new standards for them should be established, and if so, what the level of those standards should be.

In conducting this examination, it is my further responsibility to review the relevant information available to me, including information which has only recently become available, testimony given at the suspension hearings for 1975 model year light duty vehicles and any comments received in response to this notice of proposed rule making.

For the purpose of this proposed rule making, a light duty truck is defined as "a motor vehicle, rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the transportation of property and is capable of being equipped to seat no more than three persons for safe and reasonably comfortable transport."

Studies conducted by the Federal Highway Administration (FHA) of the Department of Transportation indicate that 57 percent of all pickup trucks and panel trucks (including campers) carried no cargo at all when weighed at various weighing stations throughout the country. Of the 43 percent which carried at least some cargo, the average load was about 1,000 pounds. An unloaded pickup or panel truck weighs about 4,000 pounds. A loaded one, therefore, would weigh an average of 5,000 pounds. In either case, the weight of these vehicles is similar to the average weight of passenger-carrying light duty vehicles when operating on the highway. Therefore, though light duty trucks may be used to haul heavy loads, they are not commonly used in that capacity.

A study by the State of California in 1971 (Reference Supplement to "Commercial Vehicle Taxation in California" by Richard M. Zettel and Eric A. Mohr, report submitted to the State Department of Motor Vehicles) of commercial vehicles, i.e., station wagons or vans on a truck chassis, pickup trucks, and panel trucks, indicated that less than 6 percent of the 4,938 vehicles in the survey weighed in at over 6,000 pounds and 37 percent of the total vehicles in the survey carried no cargo at all. Since both the FHA and California studies included trucks weighing over 6,000 pounds as well as those under 6,000 pounds, it may be concluded that the actual operating weight of light duty trucks (i.e., those under 6,000 pounds) is actually even closer to that of passenger-carrying light duty vehicles than these data indicate.

Limited data is available on the extent of use of light-duty trucks in urban driving, in comparison to their use in nonurban areas. The California study cited above shows that 74 percent of all commercial vehicles surveyed through-

out the State were being used for personal use (driving to work, shopping, visiting friends) rather than work-related use (deliveries, sales, or service calls). Also, a 1967 Wilbur Smith and Associates report to the Automobile Manufacturers Association entitled "Motor Trucks in the Metropolis" states "* * * motor truck travel, like passenger car travel, tends to concentrate in urban places; and * * * there is clear differentiation between the roles of light and heavy trucks. Light trucks are predominantly urban oriented in an urban area, while the smaller vehicles perform the convenience trip making * * * the light truck class of vehicle acts and operates in traffic in a fashion similar to the average automobile."

Therefore, EPA concludes that even though light-duty trucks may be designed for different purposes than light-duty vehicles, and therefore may be considered as a separate class of vehicles, the standards applied to light-duty trucks should, in terms of actual use, be similar to those applied to light-duty vehicles.

Such a position is also supported by the estimated impact of light duty truck emissions on air quality. Over 11 percent of all vehicles sold nationally (and 15–20 percent of vehicles sold in California), which are presently considered in the light duty vehicle category, are light duty trucks. These trucks are currently meeting 1973/74 standards which are 3.4 grams per mile (g.p.m.) hydrocarbons, 39 g.p.m. carbon monoxide, and 3 g.p.m. oxides of nitrogen. The 1975 light duty vehicle standards, measured by a slightly different test procedure, are .41 g.p.m. hydrocarbons, 3.4 g.p.m. carbon monoxide, and 3.1 oxides of nitrogen. If light duty trucks continue to meet 1973–74 standards, the net effect would be to double the total emissions from under-6,000 pound 1975 model year vehicles (assuming that the current 1975 standards will be met by all other under-6,000 pound vehicles). The difference in magnitude is the result of one-tenth of all under-6,000 pound vehicles meeting a standard approximately 10 times less stringent than the standard being met by the other nine-tenths of under-6,000 vehicles. If light duty trucks were required to meet current heavy duty engine standards, which are substantially less stringent than current light duty vehicle standards, the effect on air quality would be even more adverse.

EPA considers that data available to it at this time indicate that emission control technology is as available for light duty trucks to meet 1975 light duty standards as it is for light duty vehicles. In fact, some specific data has very recently become available to show that a light duty truck can meet the 1975 light duty standards (Ford Motor Co. "Submission upon Remand" to EPA, March 5, 1973, figure 2–37).

I have also considered the general question of the economic impact of additional costs that may be associated with a requirement to control light duty trucks as stringently as light duty passenger cars. To the extent that such light duty trucks are actually used for commercial purposes, it is held that their owners are better able to absorb any additional costs that may arise out of the more stringent emission control requirements; conversely, to the extent that light duty trucks are used primarily for the transportation of passengers, there is no equity in a situation which would allow their owners to avoid costs that are imposed on all other owners of passenger-carrying light duty vehicles.

EPA will consider testimony given at the suspension hearings for 1975 model year light duty vehicles, as well as comments submitted formally to the Administrator in response to this notice of proposed rule making, in making its final decision regarding the standards which are technologically feasible for light duty trucks. The range which will be considered in making this final determination will be, at minimum, the current 1974 model year light duty vehicle standards and, at maximum, the current 1975 model year light duty vehicle standards.

40 CFR Part 85 as amended by this amendment to Subpart A and by the addition of Subpart C would become effective 30 days after promulgation and would be applicable to 1975 and subsequent model year light duty trucks. The current regulations which appear at 40 CFR 85.073 would remain in effect for the purpose of their applicability to 1974 and earlier model year light duty trucks.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Mobile Source Air Pollution Control Program, Office of Air and Water Programs, Washington, D.C. 20460. All relevant material received on or before April 13, 1973 will be considered. The Administrator will also consider all testimony submitted at the 1975 model year light duty vehicle standards suspension hearings beginning in Washington, D.C. on March 12, 1973.

Comments submitted in response to the proposed regulations will be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, Fourth and M Streets SW., Washington, D.C. 20460.

This notice of proposed rule making is issued under the authority of section 202 of the Clean Air Act, as amended (42 U.S.C. 1857f–1).

Dated: March 9, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator.

1. Subpart A of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty vehicles is proposed to be amended as follows:

§ 85.002 **Definitions.**

* * * * *

(5) "Light duty vehicle" means a motor vehicle which is designed primarily for the transportation of persons and is capable of being equipped to seat 12 or fewer persons for safe and reasonably comfortable transport.

2. Subpart C of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty trucks is proposed to be added as follows:

Subpart C—Emission Regulations for New Light Duty Trucks

§ 85.201 **General applicability.**

(a) The provisions of this subpart are applicable to 1975 and later model year light duty trucks. For purposes of this subpart, "light duty truck" means a motor vehicle, rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purpose of transporting property and is capable of being equipped to seat no more than three persons for safe and reasonable comfortable transport.

(b) The provisions of Subpart A of this part applicable to 1975 model year new gasoline-fueled light duty vehicles, with the exception of § 85.075–1, are applicable to 1975 and later model year light duty trucks.

[FR Doc.73–4913 Filed 3–13–73;8:45 am]

[40 CFR Part 135]

PRIOR NOTICE OF CITIZEN SUITS

Procedures for Giving Notice of Civil Actions

Section 505 of the Federal Water Pollution Control Act as amended by Public Law 92–500 (October 18, 1972) authorizes any citizen to commence a civil action against (1) any person alleged to be in violation of an effluent standard or limitation under the Act or in violation of an order with respect to such limitation issued by the Administrator of the Environmental Protection Agency or a State or, (2) the Administrator, where there is alleged a failure of the Administrator to perform any nondiscretionary act or duty under the Act. Except in certain cases, no action may be commenced against the Administrator pursuant to section 505 prior to 60 days after the plaintiff gives notice of such action to the Administrator. In the case of actions against persons other than the Administrator, section 505 requires that notice of the violation be given to the Administrator, to the State in which the violation is alleged to have occurred, and to the alleged violator, at least 60 days prior to commencement of the action. Section 505 directs the Administrator to prescribe by regulation the manner in which such notices shall be given.

Part 135, as proposed below, prescribes the maner in which such notice shall be given.

Interested persons may submit written comments on the proposed regulations, in triplicate, to the Administrator, Environmental Protection Agency, Waterside Mall Building, 401 M Street SW., Washington, DC 20460. All relevant comments received on or before April 13, 1973 will be considered.

This notice of proposed rulemaking is issued under the authority of section 505 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500, 86 Stat. 816).

WILLIAM D. RUCKELSHAUS,
Administrator.

MARCH 9, 1973.

A new Part 135 would be added to Subchapter D, Chapter 1, Title 40 Code of Federal Regulations as follows:

PART 135—PRIOR NOTICE OF CITIZEN SUITS

Sec.
135.1 Purpose.
135.2 Service of notices.
135.3 Contents of notice.

AUTHORITY: Sec. 505, Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, 86 Stat. 816.

§ 135.1 Purpose.

Section 505 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter "the Act") authorizes the actions by any citizen to enforce the Act or to enforce certain requirements promulgated pursuant to the Act. The purpose of this part is to prescribe procedures governing the giving of notice required by subsection 505(b) of the Act as a prerequisite to the commencement of such actions.

§ 135.2 Service of notices.

(a) Notice of intent to file suit pursuant to section 505(a)(1) of the Act shall be served upon an alleged violator of an effluent standard, or limitation under the Act, or an order issued by the Administrator or a State with respect to such a standard or limitation, in the following manner:

(1) If the alleged violator is an individual, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the owner or managing agent of the building, plant, installation, vessel, facility, or activity alleged to be in violation. If the alleged violator is a corporation, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the owner or managing agent of the building, plant, installation, vessel, facility or activity alleged to be in violation. A copy of such notice shall be mailed to the registered agent, if any, of such corporation in the State where such violation is alleged to have occurred. In such instance, a copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, and the chief administrative officer of the water pollution control agency for the State where the violation is alleged to have occurred.

(2) If the alleged violator is a State or local agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the chief administrative officer of the water pollution control agency for the State where the violation is alleged to have occurred, the Administrator of the Environmental Protection Agency, and the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred.

(3) If the alleged violator is a Federal agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, the Attorney General of the United States, and the chief administrative officer of the water pollution control agency for the State where the violation is alleged to have occurred.

(b) Service of notice of intent to file suit pursuant to section 505(a)(2) of the Act shall be accomplished by certified mail addressed to, or by personal service upon, the Administrator, Environmental Protection Agency, Washington, D.C. 20460. A copy of such notice shall be mailed to the Attorney General of the United States.

(c) Notice given in accordance with the provisions of this part shall be deemed to have been served on the postmark date if mailed, or on the date of receipt if served personally.

§ 135.3 Contents of notice.

(a) *Failure to act.* Notice regarding an alleged failure of the Administrator to perform any act or duty under the Act which is not discretionary with the Administrator shall identify the provision of the Act which requires such act or creates such duty, shall describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform such act or duty, and shall state the full name and address of the person giving the notice.

(b) *Violation of standard, limitation or order.* Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the specific standard, limitation, or order alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of such violation, and the full name and address of the person giving notice.

(c) *Identification of counsel.* The notice shall state the name, address, and telephone number of the legal counsel, if any, representing the person giving the notice.

[FR Doc. 73-4912 Filed 3-13-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 546, 563, 563b, 571]

[No. 73-395]

CONVERSIONS OF MUTUAL ASSOCIATIONS TO STOCK FORM

Extension of Comment Period

Notice was given by the Federal Home Loan Bank Board on January 11, 1973 (38 FR 1334) that the Board would receive until March 12, 1973 public comments regarding its proposed regulations relating to conversions to the stock form by mutual savings and loan associations, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Notice was also given by the Board on February 7, 1973 (38 FR 3527) that the Board would hold public hearings on the proposed conversion regulations on March 12 and 13, 1973.

Notice is hereby given that the abovementioned comment period on the proposed conversion regulations is extended until March 19, 1973. The Board intends to revise the proposed conversion regulations after considering comments received during the comment period and the views presented at the public hearings, and intends thereafter to issue revised conversion regulations with an additional comment period of not less than 30 days.

Washington, D.C., March 8, 1973.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73-4911 Filed 3-13-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

ASIAN-AMERICAN FREE LABOR INSTITUTE, INC.

Register of Voluntary Foreign Aid Agencies

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a Certificate of Registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

Asian-American Free Labor Institute, Inc., 1775 K Street NW., Washington, DC 20006.

Dated: March 5, 1973.

JAROLD A. KIEFFER,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.73-4860 Filed 3-13-73;8:45 am]

CODEL (COOPERATION IN DEVELOPMENT), INC.

Register of Voluntary Foreign Aid Agencies

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a Certificate of Registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

CODEL (Cooperation in Development), Inc., 79 Madison Avenue, New York, NY 10016.

Dated: March 5, 1973.

JAROLD A. KIEFFER,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.73-4859 Filed 3-13-73;8:45 am]

LIST OF INELIGIBLE SUPPLIERS

The following list of ineligible suppliers under AID Regulation 8 is currently in effect. All persons who anticipate AID financing for a transaction involving any person whose name appears on this list should take special notice of its contents.

LIST OF INELIGIBLE SUPPLIERS

SECTION 1. *Purpose of the list.* The list of ineligible suppliers implements the provisions of AID Regulation 8, Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing (22 CFR Part 208). Subject to the conditions described below AID will not make funds available to finance the cost of commodities or commodity-related services furnished by any supplier whose name appears on the list. A debarred supplier whose name appears in section 4 of a printed or published list has been placed thereon for the causes specified in § 208.5 of Regulation 8; a suspended supplier whose name appears in section 4 of a printed or published list has been placed thereon for the causes specified in § 208.7 of Regulation 8. AID has taken such action in accordance with the procedures described in Subpart D of Regulation 8.

With respect to the interest of any U.S. bank which holds an AID Letter of Commitment, special attention is called to the fact that the list as periodically modified by AID constitutes a special amendment to every Letter of Commitment to the effect that AID will not provide reimbursement to a bank for payment to any supplier whose name appears on the list, excepting only (a) a payment made to a supplier on or before the initial date of suspension indicated for that supplier under an AID Letter of Commitment issued prior to that date, and (b) a payment made to a supplier under an irrevocable Letter of Credit opened or confirmed on or before the initial date of suspension indicated for that supplier under an AID Letter of Commitment issued prior to that date. A bank which receives copies of the list and the periodic modifications thereto shall be held in its relationship with AID to the standard of care described in § 201.73(f) of Regulation 1 (22 CFR 201.73(f)) with respect to every transaction governed by an AID Letter of Commitment issued to that bank.

SEC. 2. *Contents of the list.* The list of ineligible suppliers consists of all suppliers and affiliates who have been debarred or suspended by AID. Additions to or deletions from the list are communicated directly to every U.S. bank holding an AID Letter of Commitment as they occur. AID endeavors to keep printed and published lists as current as possible by superseding or supplementary issuance. No prejudice whatsoever shall attach to a supplier whose name has been removed from this list.

SEC. 3. *Suppliers DEBARRED from AID financing.*

NAME, ADDRESS, INITIAL DATE OF SUSPENSION, AND PERIOD OF DEBARMENT

Liao, Mr. J. Y. (aka Liao, Chi Yo), President, Summid Corp., 7-2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970, 5/7/71-5/7/74.

Mane Fils, Inc., 250 Park Avenue S., New York, NY, January 7, 1969, 2/6/70-2/6/73.

Summid Corp., 7-2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970, 5/7/71-5/7/74.

SEC. 4. *Suppliers SUSPENDED from AID financing.* The following suppliers have been suspended from AID financing until further notice pending completion of an AID investigation of facts which may lead to the eventual debarment of such suppliers:

NAME, ADDRESS, AND INITIAL DATE OF SUSPENSION

Archifar Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.

Associated Chemo-Pharm Industries, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.

Bershad, Mrs. Carolyn, 8211 Streamwood Drive, Baltimore, MD 21208, September 26, 1967.

Bershad, Mr. Irving, 8211 Streamwood Drive, Baltimore, MD 21208, September 26, 1967.

Cathay Steel Export Corp., 160 Broadway, New York, NY 10038, September 26, 1967.

Colony Steel Co., 122 East 42d Street, New York, NY, March 26, 1968.

Concepcion, Mr. Segismundo, 160 Broadway, New York, NY 10038, April 22, 1969.

Concrete Pipe Machinery Co., Post Office Box 1708, Sioux City, IA 51102, August 10, 1970.

Corrigan-Gonzalez Export Corp., 4001 Northwest 25th Street, Miami, FL, November 17, 1970.

Corrigan & Sons, Inc., Post Office Box 218, San Antonio, FL, November 17, 1970.

Dixie Chick Co., 510 Davis Street SW., Gainesville, GA 30501, March 5, 1969.

Domestic Export Corp., 288 New York Avenue, Huntington, NY, February 14, 1972.

Eastar Trading Co., 1830 West Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.

Gubbay, Mr. Clement, 20 Exchange Place, New York, NY 10005, November 9, 1966.

Higgins, Thomas Edison, Enterprise, Inc., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

Higgins, Mrs. Mabel, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

Higgins, Mr. Thomas Edison, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.

International Engineering, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.

International Enterprises, 160 Broadway, New York, NY 10038, April 22, 1969.

Kim, Mr. Peter, Eastar Trading Co., 1830 West Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.

LeVita Industries, 35 LaPatera Lane, Goleta, CA 93016, November 2, 1971.
LeVita, Mr. Frank O., North American Steel Co., Pontiac State Bank Building, Pontiac, Mich. 48058, November 2, 1971.
Lowens, Mr. Ernest, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Marclem, S. A., c/o Buffete Tapia, Calle 31 3-80 Panama City, Republic of Panama, October 25, 1967.
Meoni, Mr. A., 20 Exchange Place, New York, NY 10005, November 9, 1966.
McElroy, Mr. Roy H., President, International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
Navarro, Mr. Ben, 20 Exchange Place, New York, NY 10005, November 9, 1966.
North American Steel Co., Pontiac State Bank Building, Pontiac, Mich. 48058, November 2, 1971.
North Georgia Feed & Poultry, Inc., 514 Davis Street SW., Gainesville, GA 30501, March 5, 1969.
Pharma Scienta, 156 Rue de Damas, Imm. Homis, Beirut, Lebanon, December 19, 1966.
R & Z Co., Inc., 2041-67 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Richter Gedeon, Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.
Rogers, Mr. Henry, 2041-47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Rolquin, Mr. E. R., President, Domestic Export Corp., 288 New York Avenue, Huntington, NY, February 14, 1972.
Scheinis, Mr. Samuel, 122 East 42d Street, New York, NY 10017, March 25, 1971.
Shalom, Mr. Raleigh, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Societe des Laboratories Reunis (SOLAR), 156 Rue de Damas, Imm. Homis, Beirut, Lebanon, December 19, 1966.
Spe-D-Magic Co., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Surplus Steel Exchange, Inc., 227 Fulton Street, New York, NY 10007, January 16, 1968.
Tricon International, Inc., 160 Broadway, New York, NY 10038, April 22, 1969.
United Pharmacal Laboratories, Post Office Box 1718, Lot 28, Foreign Trade Zone, Mayaguez, PR, December 19, 1966.
White Magic Co., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Wolff, Mr. Tom G., 787 Tucker Road, North Dartmouth, MA, October 23, 1969.
Zubof, Mr. Samuel, 2041-47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.

Dated: March 5, 1973.

JAMES F. CAMPBELL,
Assistant Administrator for Program and Management Services.

[FR Doc.73-4858 Filed 3-13-73;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-12]

STUDY GROUP 7 OF U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE

Notice of Meeting

The Department of State announces that Study Group 7 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on March 10, 1973, at 9:30 a.m. in Room N13 of Building 12, Goddard Space Flight Center, National Aeronautics and Space Administration (NASA), Greenbelt, Md. Study Group 7 deals with questions relating to the standard-frequency and time-signal services. The agenda for the meeting will include the following matters:

a. Discussion of issues related to the international meeting of Study Group 7 in 1974;
b. Work programs for the development of U.S. contributions to the international meeting in 1974.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. In that regard, entrance to the Goddard Space Flight Center is controlled and all non-NASA representatives will be required to register at which ever gate is used for entry to the area. Entry for members of the general public may be facilitated if arrangements are made in advance of the meeting. Therefore, it is suggested that prior to March 30, 1973, members of the general public who plan to attend the meeting should inform their name, affiliation, and address to Mr. Hugh Fosque, NASA Headquarters; the telephone number is area code 202—755-2434.

Dated: March 8, 1973.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.73-4899 Filed 3-13-73;8:45 am]

[Public Notice CM-13]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

Notice of Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10 a.m. on Saturday, March 24, 1973, in room 5519 of the Department of State. The Committee meeting will be open to the public.

The principal topic of the meeting will be consideration of positions to be taken by the United States at the Sixth Session of the United Nations Commission on International Trade Law (UNCITRAL) to be held in Geneva April 1-13, 1973. In formulating these positions the Committee will be considering reports on recent meetings of UNCITRAL working groups on international sale of goods, maritime bills of lading and international negotiable instruments.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to March 24, 1973, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Robert E. Dalton, Office of the Legal Adviser, Department of State; the telephone number is area code 202, 632-2107. All non-Government attendees at the meeting should use the C Street entrance to the building.

Dated: March 8, 1973.

ROBERT E. DALTON,
Executive Director.

[FR Doc.73-4900 Filed 3-13-73;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

BLUE RIDGE PARKWAY

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 on April 13, 1973, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Northwest Trading Post, Inc., authorizing it to provide concession facilities and services for the public near Milepost 260 on the Blue Ridge Parkway, N.C., 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 on or before April 13, 1973.

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

Dated: February 27, 1973.

JOSEPH C. RUMBERG, Jr.,
Deputy Associate Director, National Park Service.

[FR Doc.73-4847 Filed 3-13-73;8:45 am]

Office of the Secretary

CHARLES A. CAMPBELL

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 6, 1973.

Dated: February 6, 1973.

CHARLES A. CAMPBELL.

[FR Doc.73-4812 Filed 3-13-73;8:45 am]

GLENN J. HALL

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) FMC Corp., Howmet Corp., Morrison-Knudsen Co., General Electric Co., Amalgamated Sugar Co., Idaho Power Co., First Security Bank Corp., Union Carbide Corp., Pacific Power & Light Co., Utah Power & Light Co., Union Pacific Corp., Portland GE Co., Washington Water Power Co., Montana Power Co., Westinghouse Electric Corp., Puget Sound Power & Light Co., Pfizer Corp., Anaconda, Gulf Oil, A.T. & T. Co., Sawtooth Development Co., Arizona Public Service Co., and Boise Cascade Corp.
(3) No change.
(4) No change.

This statement is made as of February 12, 1973.

Dated: February 12, 1973.

GLENN J. HALL.

[FR Doc.73-4813 Filed 3-13-73;8:45 am]

ROBERT L. HUFMAN

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 5, 1973.

Dated: February 5, 1973.

ROBERT L. HUFMAN.

[FR Doc.73-4814 Filed 3-13-73;8:45 am]

DAVID G. JETER

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) No change.
(3) No change.
(4) No change.

This statement is made as of January 1, 1973.

Dated: February 2, 1973.

DAVID G. JETER.

[FR Doc.73-4815 Filed 3-13-73;8:45 am]

J. W. KEPNER

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 22, 1973.

Dated: February 22, 1973.

J. W. KEPNER.

[FR Doc.73-4816 Filed 3-13-73;8:45 am]

WILLIAM M. KIEFER

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 9, 1973.

Dated: February 9, 1973.

WILLIAM M. KIEFER.

[FR Doc.73-4817 Filed 3-13-73;8:45 am]

ROBERT McLAGAN

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 1, 1973.

Dated: February 6, 1973.

ROBERT R. MCLAGAN.

[FR Doc.73-4818 Filed 3-13-73;8:45 am]

HARRY H. MOCHON, JR.

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 2, 1973.

Dated: February 2, 1973.

HARRY H. MOCHON, Jr.

[FR Doc.73-4819 Filed 3-13-73;8:45 am]

JULIO A. NEGRONI

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 6, 1973.

Dated: February 6, 1973.

JULIO A. NEGRONI.

[FR Doc.73-4820 Filed 3-13-73;8:45 am]

WILLIAM K. PENCE

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 February 14, 1973.

Dated: February 16, 1973.

WILLIAM K. PENCE.

[FR Doc.73-4821 Filed 3-13-73;8:45 am]

LEROY J. SCHULTZ

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) No change.
(3) No change.
(4) No change.

This statement is made as of February 5, 1973.

Dated: February 5, 1973.

LEROY J. SCHULTZ.

[FR Doc.73-4822 Filed 3-13-73;8:45 am]

CHARLES W. WATSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Pro-

duction 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) No change.
(3) No change.
(4) No change.

This statement is made as of February 1, 1973.

Dated: February 1, 1973.

CHARLES W. WATSON.

[FR Doc.73-4823 Filed 3-13-73;8:45 am]

ROBERT W. WINFREE

Report of Appointment and Statement of Financial Interests

MARCH 7, 1973.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee. Robert W. Winfree.

Name of employing agency. Department of the Interior, Defense Electric Power Administration.

The title of the appointee's position. Deputy Director, DEPA Area 4.

The name of the appointee's private employer or employers. Georgia Power Co.

The statement of "financial interests" for the above appointee is enclosed.

ROGERS C. B. MORTON,
Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on January 11, 1973, as Deputy Director, Area 4, Defense Electric Power Administration, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

None.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

ROBERT W. WINFREE.

JANUARY 23, 1973.

[FR Doc.73-4746 Filed 3-13-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[PPQ-639]

SOIL SAMPLES

List of Approved Laboratories

Correction

In FR Doc. 73-3850 appearing at page 5915 in the issue of Monday, March 5, 1973, the following changes should be made:

1. On page 5915:

a. In the second column, the footnote 3, which appears after the second to last entry under "A", should be "footnote 2".

b. In the 10th entry in the third column, the fourth word "Kervorkian", should read "Kevorkian".

c. The first name "Coenan", in the last entry under "C" in the third column, should read "Coenen".

2. In the third column on page 5917, change the footnote 4, which appears after the 10th entry to be "footnote 3".

3. In the second column on page 5918:

a. In the fourth to the last entry under "R", the word "Univesrity", should read "University".

b. Directly above the second to the last entry under "R", delete "Rutgers, the State University, Department of".

c. Under "S", the first word of the 14th entry "Shillstone", should read "Shilstone".

4. In the third column on page 5918, the first word "Smithsonia", should read "Smithsonian".

5. In the second column on page 5919, in the 11th entry from the bottom of the page, in the third line of this 11th entry, delete "Marietta, Ga.' (6-30-77).", and insert in lieu of, "Sausalito, Ca.' (6-30-73)".

Commodity Credit Corporation

[Amdt. 8]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1973); Amendment

The CCC Monthly Sales List for the fiscal year ending June 30, 1973, published in 37 FR 13352 is amended as follows:

1. The provisions of section 44 entitled "Linseed Oil—unrestricted use sales" published in 37 FR 13355, as amended in 37 FR 19389, are deleted.

Effective date: 2:30 p.m. e.s.t., February 28, 1973.

Signed at Washington, D.C., on March 8, 1973.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.73-4935 Filed 3-13-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

TANKER CONSTRUCTION PROGRAM

Draft Environmental Impact Statement; Notice of Availability

Notice is hereby given that copies of the U.S. Department of Commerce draft environmental impact statement on the Maritime Administration Tanker Construction Program will be filed with the Council on Environmental Quality and available to the public on March 15, 1973. Copies of the statement will be available for public inspection at the following locations:

Maritime Administration, Office of Public Affairs, Room 4889, Department of Commerce, Washington, D.C. 20235.
Maritime Administration, Eastern Regional Office, 26 Federal Plaza, New York, N.Y. 10007.
Maritime Administration, Central Regional Office, 701 Loyola Avenue, New Orleans, La. 70152.
Maritime Administration, Western Regional Office, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Any questions concerning the statement should be directed to Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202—967-4335. Persons desiring to file written comments should submit same to Dr. Galler prior to May 15, 1973.

The draft statement entitled, "Maritime Administration Tanker Construction Program," refers to proposed assistance to private industry to aid in the construction in the United States of a fleet of modern tankers and other oil carrying vessels during the decade of the 1970's. Vessel classes included range from approximately 35,000 d.w.t. to 400,000 d.w.t.

Copies of the statement may be purchased from the National Technical Information Service, Ordering Department, 5285 Port Royal Road, Springfield, VA 22151, or from the Environmental Law Institute, Document Service, 1346 Connecticut Avenue NW., Washington, DC 20036 (approximately 700 pages including appendixes) (NTIS Order No. EIS 73 0392-D) (ELR Order No. 00392).

Dated: March 12, 1973.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

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

[FR Doc.73-5020 Filed 3-13-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-609; NADA No. 8-525V]

CHEVRON CHEMICAL CO.

Ortho Tack Wash; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of September 5, 1970 (35 FR 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 Ortho Tack Wash (Ortho Fungicide 45 and R-Cide 45), new animal drug application (NADA) No. 8-525V; marketed by Chevron Chemical Co., Ortho Division, 940 Hensley Street, Richmond, CA 94804.

Chevron Chemical Co. responded to said announcement by waiving the opportunity for a hearing and requesting that approval of NADA No. 8-525V be withdrawn.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that approval of said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 8-525V, including all amendments and supplements thereto is hereby withdrawn effective on March 14, 1973.

Dated: March 7, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4863 Filed 3-13-73;8:45 am]

[Docket No. FDC-D-610; NADA No. 2-678V]

PITMAN-MOORE, INC.

Phenazoid Liquid; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of December 9, 1970 (35 FR 18688, DESI 2302V), 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 Phenazoid Liquid, new animal drug application (NADA) No. 2-678V; marketed by Pitman-Moore, Inc., Washington Crossing, N.J. 08560.

Pitman-Moore, Inc., responded to the announcement by advising the Commissioner that said drug has been deleted from the market and requesting that approval of NADA No. 2-678V be withdrawn.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that approval of said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 2-678V, including all amendments and supplements thereto, is hereby withdrawn effective on March 14, 1973.

Dated: March 7, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4863 Filed 3-13-73;8:45 am]

[DESI 6566; Docket No. FDC-D-578; NDA 11-467 et al.]

WINTHROP LABORATORIES

Chlormezanone and Chlormezanone with Aspirin; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications; Correction

In the FEDERAL REGISTER Doc. 73-1672, appearing on page 2779, in the issue of Tuesday, January 30, 1973, in the table, delete the first entry which is NDA 11-467 for Trancopal Caplets.

Dated: March 8, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-4864 Filed 3-13-73;8:45 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY BODIES

Notice of Meetings

The Acting Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of March 1973:

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Mental Health Council.	Mar. 19-20, 9:30 a.m., Parklawn Bldg., Conference Room 14-105, 5600 Fishers Lane, Rockville, Md.	Mar. 19—Open, Mar. 20—Closed, Contact K. P. Okura, Room 17C-26, 5600 Fishers Lane, Rockville, Md. Code 301—443-4597 or Mrs. Barbara O'Konek, Room 9C-05, 5600 Fishers Lane, Rockville, Md. Code 301—443-4335.

Purpose. Reviews applications for grants-in-aid relating to research, training, and instructions in the field of psychiatric disorders. Advises on matters of program planning and evaluation relevant to mental health programs.

Agenda. March 19 will be devoted to a discussion of policy issues. Agenda items will include a report by the Director of NIMH on administrative and legislative developments, the Social Security Amendments, and new directions in mental health training programs. On March 20 the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public, in accordance with the determination by the Acting Administrator, Health Services and Mental Health Administration, pursuant to the provisions of Public Law 92-463, section 10(d).

Committee name	Date, time, place	Type of meeting and/or contact person
Board of Scientific Counselors, NIMH.	Mar. 30-31, 9:30 a.m., National Institutes of Health, Building 36, Room 1B-07, Bethesda, Md.	Open—9:30-10 a.m. on Mar. 30. Closed—remainder of meeting. Contact Dr. John C. Eberhart, Room 1A-05, National Institutes of Health, Building 36, Bethesda, Md. Code 301-496-3501.

Purpose. The committee provides expert advice to the Director, National Institute of Mental Health, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda. The open portion of the meeting will consist of a report by the Director and Deputy Director for Intramural Research, National Institute of Mental Health, on recent administrative developments. The remainder of the 2-day session will be devoted to the review of intramural research projects and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Acting Administrator, Health Services and Mental Health Administration, pursuant to the provisions of Public Law 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding open sessions may be obtained from the contact persons listed above.

Dated: March 7, 1973.

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

[FR Doc.73-4743 Filed 3-13-73;8:45 am]

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of a subcommittee of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on March 20, 1973. This panel was established by the Assistant Secretary for Health to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health requested the panel to advise him on spe-

cific aspects of the Tuskegee syphilis study, including a determination whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This subcommittee meeting is for the purpose of reviewing current policy and recommendations to assist the panel in preparing its response to this charge. Within the facilities available the meeting will be open to observers. Observers may not participate in the proceedings of the meeting. Observers may not take photographs or visual recordings of proceedings. Observers may not occupy seats at the conference table or place any object on the table during the meeting. Written statements or documentary contributions from observers will be received before or after the meeting by the Executive Secretary for inclusion in the panel's records.

The meeting will begin at 1:30 p.m., in Conference Room 3835C at 26 Federal Plaza, New York, N.Y. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin, 202—962-7906, room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: March 5, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73-4854 Filed 3-13-73;8:45 am]

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of a subcommittee of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on March 22, 1973. This panel was established by the Assistant Secretary for Health to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health requested the panel to advise him on specific aspects of the Tuskegee syphilis study, including a determination whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

This subcommittee meeting is for the purpose of obtaining information from persons who may be able to assist the panel in preparing its response to this charge. Within the facilities available the meeting will be open to observers. Observers may not participate in the proceedings of the meeting. Observers may not take photographs or visual recordings of proceedings. Observers may not occupy seats at the conference table or place any object on the table during the meeting. Written statements or documentary contributions from observers will be received before or after the meeting by the Executive Secretary for inclusion in the panel's records.

The meeting will begin at 10 a.m., in Conference Room 3835C, at 26 Federal Plaza, New York, N.Y. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin, 202—962-7906, room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: March 5, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73-4855 Filed 3-13-73;8:45 am]

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on March 28, 1973. This panel was established by the Assistant Secretary for Health to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health requested the panel to advise him on certain specific aspects of the Tuskegee syphilis study including a determination whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available; a recommendation whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants; and a determination whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

The agenda for this meeting provides for panel discussion on these charges. Within the facilities available the meeting will be open to observers. Observers may not participate in the proceedings of the meeting. Observers may not take photographs or visual recordings of proceedings. Observers may not occupy seats at the conference table or place any object on the table during the meeting. Written statements or documentary contributions from observers will be received before or after the meeting by the Executive Secretary for inclusion in the panel's records.

This meeting will begin at 10 a.m., in Conference Room 3, Building 31, National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin, 202—962-7906, room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: March 5, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73-4856 Filed 3-13-73;8:45 am]

CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

Notice of Early Childhood Study Section Meeting

The Early Childhood Study Section of the Child and Family Development Research Review Committee will meet on March 19, 20, and 21, 1973. Each day the study section will meet from 9 a.m. until 5:30 p.m. in the Directors Room of the Shoreham Hotel, 2500 Calvert Street NW., Washington, DC. The meetings will be closed to the public. The purpose of the Child and Family Development Research Review Committee is to review applications of research and demonstration projects and to make recommendations to the Director of the Office of Child Development as to which projects should be funded. A list of committee members and a summary of the meeting may be obtained from:

Barbara Rosengard, Research and Evaluation Division, Office of Child Development, Post Office Box 1182, Washington, DC 20013, 202—755-7758.

Dated: March 7, 1973.

BARBARA ROSENGARD,
Executive Secretary.

[FR Doc.73-4857 Filed 3-13-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-248R]

FEDERAL BOAT SAFETY ACT OF 1971

Exemption to Supersede Existing Exemption

A notice was published in the January 3, 1973 issue of the FEDERAL REGISTER (38 FR 71) proposing to supersede the exemption of August 11, 1971 (36 FR 15764 Aug. 18, 1971) to section 10 of the Federal Boat Safety Act of 1971 by issuing a more limited exemption.

The August 11, 1971 exemption exempted each State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia and political subdivisions thereof from the provisions of section 10 of the Federal Boat Safety Act of 1971. That exemption applied only to laws and regulations in effect on the effective date of the Federal Boat Safety Act of 1971 (Aug. 20, 1971) and was to remain in effect until expressly superseded, revoked, or otherwise terminated (36 FR 15764, Aug. 18, 1971).

This exemption which will supersede the exemption of August 11, 1971, will principally affect State statutes and regulations by preempting those concerning boat performance or safety standards

such as requirements for capacity plates, hull identification numbers, and flotation.

The exemption will continue to exempt State laws concerning performance or other safety standards for associated equipment and requirements for associated equipment.

During the written comment period no comments on the proposed exemption were received.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this exemption. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

In consideration of the foregoing the exemption of August 11, 1971, to section 10 of the Federal Boat Safety Act of 1971 is superseded by a more limited exemption as follows:

Under the authority vested in me by sections 9 and 10 of the Federal Boat Safety Act of 1971 and 49 CFR 1.46 (o)(1), I hereby exempt each State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia and political subdivisions thereof from those provisions of section 10 of the Federal Boat Safety Act of 1971 that prohibit any of those jurisdictions from continuing in effect or enforcing any provision of law or regulation which establishes any associated equipment performance or safety standard, or which imposes any requirement for associated equipment that is not identical to a Federal regulation. This exemption applies only to laws and regulations in effect on the effective date of the Federal Boat Safety Act of 1971 and remains in effect until expressly superseded, revoked, or otherwise terminated.

Dated: March 8, 1973.

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

[FR Doc.73-4877 Filed 3-13-73;8:45 am]

[CGD 73-46N]

SAN FRANCISCO VESSEL TRAFFIC SYSTEM

Operating Procedures

The Commander, Twelfth Coast Guard District, San Francisco, Calif., has issued Public Notice No. 12-55 on March 1, 1973, containing operating procedures to implement the San Francisco Vessel Traffic System, as authorized by the Ports and Waterways Safety Act of 1972, Public Law 92-340, 86 Stat. 424 (July 10, 1972).

The operating procedures describe a system of voluntary traffic separation on San Francisco Bay applicable to all commercial and public vessels. The system is effective on March 15, 1973.

Copies of Public Notice No. 12-55 are available to the public at the Office of the Commander, Twelfth Coast Guard District, 630 Sansome Street, San Francisco, CA 94126.

Dated: March 9, 1973.

W. M. BENHERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.73-4938 Filed 3-13-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 27-47]

CHEM-NUCLEAR SERVICES, INC.

Notice of Issuance of Amendment of Byproduct, Source, and Special Nuclear Material License

A notice of proposed amendment of Byproduct, Source, and Special Nuclear Material License which would amend License No. 46-13536-01, held by Chem-Nuclear Services, Inc., to authorize Chem-Nuclear Services, Inc., to possess up to 850 grams of uranium-235 and to dispose of the uranium-235 by land burial at its facility near Barnwell, S.C., was published in the FEDERAL REGISTER on October 14, 1972, 37 FR 21866.

No request for a hearing or petition for leave to intervene has been filed following publication of the notice of proposed amendment. The Commission has found that the application for amendment of License No. 46-13536-01 complies with the requirements of the Atomic Energy Act of 1954, as amended and of the Commission's regulations in Chapter I, Title 10, of the Code of Federal Regulations. Accordingly, the Atomic Energy Commission has this date issued Amendment No. 04 to License No. 46-13536-01 held by Chem-Nuclear Services, Inc.

For the Atomic Energy Commission.

Dated at Bethesda, Md., February 21, 1973.

RICHARD E. CUNNINGHAM,
Acting Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.73-4848 Filed 3-13-73;8:45 am]

[Dockets Nos. 50-282; 50-306]

NORTHERN STATES POWER CO.

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Alan S. Rosenthal, Chairman.
Dr. John H. Buck, Member.
William C. Parler, Member.

Dated: March 7, 1973.

MARGARET E. DUFLO,
Secretary to the Appeal Board.

[FR Doc.73-4862 Filed 3-13-73;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The guide is in Division 1, "Power Reactor Guides." Regulatory Guide 1.10, "Mechanical (Cadweld) Splices in Reinforcing Bars of Category I Concrete Structures," is a revision of Safety Guide 10 and is being reissued in the new series.

Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Copies of issued guides may be obtained by request to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Regulatory Standards.

Other Division 1 Regulatory Guides currently being developed include the following:

Operating Status Indication for Nuclear Powerplant Safety Systems.
Availability of Electric Power Sources.
Preoperational Testing of Redundant Onsite Electric Power Sources to Verify Proper Load Group Assignments.
Qualification Tests of Continuous-Duty Motors Installed Inside the Containment of Nuclear Powerplants.
Requirements for Instrumentation to Assess Nuclear Powerplant Conditions During and Following an Accident for Water-Cooled Reactors.
Shared Emergency and Shutdown Power Systems at Multiunit Sites.
Physical Independence of Safety Related Electric Systems.
Isolating Low Pressure Systems Connected to the Reactor Coolant Pressure Boundary.
Assumptions for Evaluating a Control Rod Ejection Accident for Pressurized Water Reactors.
Assumptions for Evaluating a Control Rod Drop Accident for Boiling Water Reactors.
Quality Assurance Requirements for Cleaning of Fluid Systems and Associated Components of Nuclear Powerplants.
Quality Assurance Requirements for Packaging, Shipping, Receiving, Storage, and Handling of Items for Nuclear Powerplants.
Housekeeping Requirements for Nuclear Powerplants.
Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Powerplants.
Requirements for Assessing Ability of Material Underneath Nuclear Powerplant Foundations to Withstand Safe Shutdown Earthquake.
Design Basis Floods for Nuclear Powerplants.
Design Phase Quality Assurance Requirements for Nuclear Powerplants.
Qualification Tests of Electric Valve Operators for Use in Nuclear Powerplants.
Fire Protection Criteria for Nuclear Powerplants.
Protective Coatings for Nuclear Reactor Containment Facilities.

Quality Assurance for Protective Coatings Applied to Nuclear Powerplants.
Application of the Single Failure Criteria to Nuclear Power Generating Station Protective Systems.
Protection Against Pipe Whip Inside Containment.
Additional Material Requirements for Bolting.
Inservice Surveillance of Ungrouted Prestressing Tendons.
Inservice Surveillance of Grouted Prestressing Tendons.
Stainless Steel Overlay Welding.
Design Loading Combinations for Fluid System Components.
Design Loading Combinations for Primary Metal Containment Systems.
Reactor Coolant Pressure Boundary Leak Detection System.
Requirements for Thermal Insulation Used with Stainless Steel.
Concrete Placement in Category I Structures.
Control of Sensitized Stainless Steel.
Design Spectra for Seismic Design of Nuclear Power Stations.
Seismic Input Motion to Uncoupled Structural Model.
Control of Preheat Temperature for Low Alloy Steel Welding.
Rules for Inservice Inspection of Class 3 and Class C Nuclear Powerplant Components.
Primary Reactor Containment (Concrete) Design and Analysis.
Preservice Testing of In-Situ Components.
Preheat Temperature Control During Low Alloy Steel Welding.
Installation of Over-Pressure Devices.
Nondestructive Examination of Tubular Products.
Category I Structural Foundations.
Maintenance of Water Purity in BWRs.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 5th day of March 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-4849 Filed 3-13-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23486; Order 73-3-14]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority on March 7, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned CAB Agreement No. 23524.

The agreement would permit AVIANCA to allocate the maximum number of seats on its B-720b aircraft introduced on its service between Bogotá-São Paulo/Rio de Janeiro into a maximum of four inaugural flights of not less than 40 seats per flight: *Provided*, That such flights shall be operated not later than July 31, 1973.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.14:

It is not found that Resolution 100 (Mail 920) 200h, which is incorporated in Agreement C.A.B. 23524, affects air transportation within the meaning of the Act.

Accordingly, it is ordered, That:

Jurisdiction is disclaimed with respect to Agreement C.A.B. 23524.

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.73-4910 Filed 3-13-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

MICHIGAN STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a subcommittee meeting of the Michigan State Advisory Committee will convene at 10 a.m. on March 16, 1973, at the Kellogg Center of the Michigan State University, East Lansing, Mich. 48823. This subcommittee will meet with an ad hoc committee of Michigan State officials and Michigan University officials. This meeting shall be open to the public and the press.

The purpose of this meeting shall be to discuss the design of a proposed conference to be held in June 1973, which will deal with the impact of national priorities in the State of Michigan as they relate to the operation, role, and function of State, local, and private agencies.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-4904 Filed 3-13-73;8:45 am]

MICHIGAN STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan State Advisory Committee will convene at 6:15 p.m. on March 16, 1973, at the Kellogg Center, Michigan State University, East Lansing, Mich. 48823. This meeting shall be open to the public and the press.

The purpose of this meeting shall be to receive a report from a Joint State Advisory Committee Conference Subcommittee and an ad hoc Committee of Michigan State and Michigan University officials. This report will concern a proposed conference of Michigan State Advisory Committee members, State and local human relations officials, and other civil rights workers in the State of Michigan.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.4905 Filed 3-13-73;8:45 am]

NEW HAMPSHIRE STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire State Advisory Committee will convene at 8 p.m. on March 27, 1973, at the New Hampshire Highway Motel, Concord, N.H. 03301. This meeting shall be open to the public and the press.

The purposes of this meeting shall be to (1) plan for the distribution of and followup to the Committee's report on the New Hampshire Employment Project, and (2) discuss a proposed Joint Meeting of the New Hampshire State Advisory Committee and the New Hampshire Commission for Human Rights.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-4907 Filed 3-13-73;8:45 am]

NEW JERSEY STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey State Advisory Committee will convene at 7:30 p.m. on March 22, 1973, in room 730, Federal Building, 970 Broad Street, Newark, N.J. 07102. This meeting shall be open to the public and the press.

The purpose of this meeting shall be to review all field operations performed between March 12 and March 16, in connection with the New Jersey Committee's Prison Project.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.73-4906 Filed 3-13-73;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee will convene at 4 p.m. on March 27, 1973, in Room 1639, 26 Federal Plaza, New York, NY 10007. This meeting shall be open to the public and the press.

The purpose of this meeting shall be to define project plans for a proposed open meeting concerning the New York State University System.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.73-4908 Filed 3-13-73;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee will convene at 6 p.m. on March 27, 1973, in Room 1639, 26 Federal Plaza, New York, NY 10007. This meeting shall be open to the public and the press.

The purpose of this meeting shall be to further define the New York Advisory Committee's project proposals to be undertaken by the Sex Discrimination Subcommittee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 8, 1973.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.73-4909 Filed 3-13-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

BENZOYL CHLORIDE (2,4,6-TRICHOLORPHENYL)HYDRAZONE

Reextension of Temporary Tolerance

The Upjohn Co., Kalamazoo, Mich. 49001, was granted a temporary tolerance (PP 0G0962) for residues of the insecticide benzoyl chloride (2,4,6-trichlorophenyl) hydrazone and its metabolite benzoic acid (2,4,6-trichlorophenyl) hydrazide in or on the raw agricultural commodity citrus fruit as 1 part per million on May 18, 1971 (notice was published in the FEDERAL REGISTER of June 23, 1971 (36 FR 11957)). The firm received a 1-year extension of the temporary tolerance on May 18, 1972 (notice was published in the FEDERAL REGISTER of May 19, 1972 (37 FR 10097)).

The firm has requested a 1-year reextension of the temporary tolerance for residues of the insecticide in or on citrus fruit at 1 part per million to obtain additional experimental data.

It is concluded that such reextension will protect the public health. The tolerance is therefore reextended on condition that the insecticide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Upjohn name.

This temporary tolerance expires May 18, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs.

Dated: March 9, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-4923 Filed 3-13-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19503, 19506; FCC 73R-99]

ST. CROSS BROADCASTING CO. AND PROGRESSIVE BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of St. Cross Broadcasting, Inc., Santa Cruz, Calif., Docket No. 19503, File No. BP-18014; James B. Fenton, Grant R. Wrathall, Jr., Lawrence M. Wrathall, and Loretta Wrathall, doing business as Progressive Docket No. 19506, File No. BP-18221; for construction permits.

1. Before the Review Board is a motion, filed June 19, 1972, by Progressive Broadcasting Co. (Progressive), requesting waiver of § 1.229 of the rules and the addition of a Suburban issue against St. Cross Broadcasting, Inc. (St. Cross).[1] The petition was not filed within the time limit specified by § 1.229(b) of the rules, and the Board does not find that Progressive has established good cause for the untimeliness.[2] However, the motion does raise serious public interest questions and the likelihood of proving the allegations contained therein is sufficient to meet the test set forth in The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (1966). The Board will accordingly entertain Progressive's motion on its merits.

2. In its motion, Progressive alleges that the ascertainment efforts of St. Cross are defective, in that St. Cross principals did not conduct the surveys, the surveys were not of community leaders, certain community groups were excluded from the survey, the St. Cross demographic study was submitted after the surveys and the list of ascertainment needs submitted by St. Cross did not reflect its surveys. St. Cross opposes the motion and contests each allegation. The Broadcast Bureau acknowledges that there are deficiencies in St. Cross' Suburban showing, but opposes the motion on the ground that the deficiencies are not so great as to warrant specification of an issue.

3. The Board will add the requested issue. In general, the pleadings raise a substantial question as to the adequacy of St. Cross' ascertainment efforts pursuant to the "Primer on Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1507 (1971). First, it is not clear whether principals, management-level employees, or prospective management-level employees have consulted with leaders of significant groups in the community in order to ascertain community problems, needs, and interests.[3] With regard to the December 1967 and February 1969 surveys, it appears that they may have been directed solely to and resulted solely in ascertainment of programing interests and format preferences. See paragraph 17 of the "Report and Order" adopting the "Primer, supra. Cf. Estate of John C. Mullins," 36 FCC 2d 78, 25 RR 2d 73 (1972). With respect to the September 1969 survey, it is unclear whether it was conducted by a principal, management-level employee, or prospective management-level employee. See Q. & A. 11(b) of the "Primer, supra. Cf. Childress Broadcasting Corp. of West Jefferson (WKSK)," 37 FCC 2d 766, 25 RR 2d 711 (1972). While the August 1970 survey apparently was conducted by a principal, it has not been established that it was of community leaders rather than of the general public. See Q. & A. 4 of the

[1] Also before the Board are: (a) Opposition filed July 5, 1972, by the Broadcast Bureau; (b) reply opposing motion [opposition], filed July 5, 1972, by St. Cross; (c) reply, filed July 13, 1972, by Progressive; (d) a letter, received July 14, 1972, from Progressive; (e) a letter, received July 14, 1972, from St. Cross; and (f) clarification of paragraph 6 of (c), filed July 14, 1972, by Progressive. A previous memorandum opinion and order in this matter was published at 38 FR 4690, Feb. 20, 1973.

[2] In support of its claim for good cause, Progressive states that it discovered evidence supporting its motion while preparing an opposition to a St. Cross motion to enlarge issues against Progressive and that the burden of preparing that opposition prevented earlier completion and filing of its own motion.

[3] Results of its surveys were filed by St. Cross with the Commission on Dec. 14, 1967; Feb. 25, 1969; Sept. 29, 1969; and Aug. 3, 1970. On Dec. 17, 1971, a description of the three counties contained within its proposed 0.5 mv./m. contour, a "recapping" of ascertained needs, and programing proposals were filed by St. Cross.

"Primer, supra." Mere membership in a profession, involvement in education, business, or agriculture; or employment in Government or social service do not automatically make an individual a "community leader." An applicant must make at least a minimal showing that either the interviewee is a leader of that group or organization of which he is a member, or that he, by virtue of his position or otherwise, should be considered a leader of some other portion of the community or of the community as a whole.[4] Thus, it must be resolved at the hearing whether St. Cross has shown that a dialog has been established and will be maintained between the community and the decisionmaking personnel of the applicant. "WPIX, Inc. (WPIX)," 34 FCC 2d 419, 422, 24 RR 2d 59, 63 (1972), review denied FCC 72-616 (1972).[5]

4. Also, St. Cross does not appear to have contacted leaders of all significant groups in the community and this raises additional questions as to the adequacy of the survey. See paragraph 44 of the "Report and Order" and Q. & A. 16 of the "Primer, supra." St. Cross reveals in its demographic study (see note 3, supra) that 5 percent of the population within its proposed 0.5 mv./m. contour is Oriental; yet it appears to have made no effort at all to ascertain the needs of this group by consulting with its leaders.[6] Progressive raises this question, as well, with regard to the Mexican-American minority (8 percent–9 percent) within this area. Moreover, we find persuasive Progressive's contentions that St. Cross, in some instances, contacted only individuals who work with or have knowledge of certain groups (e.g., farm laborers) rather than leaders of those groups themselves. A question exists, too, whether St. Cross has consulted with the "rank and file" of certain groups, construing "representative," as used in the heading of paragraph 44 of the "Report and Order, supra," to mean "sample" rather than "leader" or "spokesman." Paragraph 38 of the "Report and Order" explains that such an interpretation and procedure is improper. Also see "Qunnipiac Valley Service, Inc.," FCC 73-174, ------ FCC 2d ------, released February 23, 1973.

5. Finally, the demographic study submitted by St. Cross (see note 3, supra), too, appears to be insufficient. The major function of such a study, regardless of when it is filed, is to indicate to the Commission the composition of the community, so that the Commission can intelligently evaluate the sufficiency of the applicant's ascertainment efforts. See "WPIX, Inc. (WPIX), supra." The necessity for such information is obvious in this proceeding. The very general description of the proposed 0.5 mv./m. service area does not appear to comply with Q. & A. 9 of the Primer and, thus, prevents a satisfactory conclusion with regard to St. Cross' "Surburban" showing. "William R. Gaston," 35 FCC 2d 624, 24 RR 2d 779 (1972). Moreover, the "recapping" of ascertained needs presented by St. Cross appears to be more closely attuned to the demographic study than to the interviews St. Cross has reported.[7] In sum, sufficient questions have been raised regarding St. Cross' showing to convince us that an issue is necessary to determine the efforts undertaken by St. Cross to ascertain the needs of its specified community and whether it proposes programing designed to help meet those ascertained needs.

6. *Accordingly, it is ordered*, That the motion for waiver of § 1.229 and motion to enlarge issues, filed June 19, 1972, by Progressive Broadcasting Co., is granted; and that the issues in this proceeding are enlarged to include the following:

To determine the efforts made by St. Cross Broadcasting, Inc., to ascertain the community needs and interests of the area to be served and the means by which it proposes to meet those needs and interests; and

7. *It is further ordered*, That the burden of proceeding with the introduction of evidence and proof under the issue added herein shall be on St. Cross Broadcasting, Inc.

Adopted: March 6, 1973.

Released: March 8, 1973.

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

[FR Doc.73-4885 Filed 3-13-73;8:45 am]

[FCC 73-230]

"CLIPPING" OF RADIO AND TELEVISION NETWORK PROGRAMS

Interpretation Regarding Licensees' Obligations

MARCH 2, 1973.

Affiliation contracts between broadcast stations and networks typically provide that the station will be compensated for carrying specific network programs, commercials, and other material, including, but not limited to, network identifications, credit announcements, or promotional material. In order to collect payment, the station periodically submits a statement to the network certifying that the specified network material has been broadcast. A certification form usually has space to indicate deletions or cancellations of network material. If deletions or cancellations are indicated by the station, the amount of payment received from the network may be reduced. "Network clipping" means that the licensee has not fulfilled its contractual obligation to the network, by certifying that specified network material was broadcast in full when there were, in fact, cancellations or deletions. Because of the number of complaints that have been filed with the Commission on network clipping, often confirmed upon investigation, this public notice is being issued to clarify further the Commission's policy in this area, as well as pertinent rules and Commission cases dealing with network clipping.

Licensees are cautioned that as a general proposition the Commission considers falsely certifying that network material has been carried to be a use of a licensed facility for fraudulent purposes, which raises serious questions as to a licensee's qualifications to hold a broadcast authorization. The Commission's concern exists regardless of whether the clipped material consists of advertising, program content, or other material provided by the network, and regardless of whether network clipping exists because of the licensee's knowing participation, its indifference, of its failure to adequately supervise or control its employees or agents.

One party has indicated that it believes that the Commission's concern as to network clipping expressed above is a change from the policy set out in Radio Station WSOC, Inc., 21 FCC 887, 943, 12 RR 953, 1007 (1956). In the WSOC decision, the Commission did not award a demerit in a comparative hearing where an applicant had deleted network material (not program content), because the deletions were made with the full knowledge of the network. Network clipping, as defined above, refers only to situations where the network is not aware of the clipping because of false certifications submitted by the affiliated station. Thus, there is no inconsistency between the WSOC case and the Commission's statement here.

Where the clipped material contains advertising, licensees are subject to forfeitures under the fraudulent billing rule, § 73.1205. See, for example, "Radiozark Broadcasting of Louisiana," 32 FCC 2d 603 (1971). Licensees should note that the material appearing at the end of certain television contest or quiz programs disclosing the receipt of payment for the use of merchandise on the program is a commercial announcement, unless the announcement comes under the terms of the proviso clause of section 317(a) of the Communications Act, "National Broadcasting Co.," 27 FCC 2d 75, 20 RR 2d 901 (1970), affirmed on

[4] We also note that St. Cross has not interviewed a single member of the government of Santa Cruz City, its prospective community of license.

[5] The public policy underlying the requirement that consultation with community leaders must be done by means of a person-to-person dialog between them and the decisionmaking personnel of the applicant has been articulated by the Commission in paragraph 33 of the Report and Order, supra. See also Fisher's Blend Station, Inc., 30 FCC 2d 37, 21 RR 2d 1220 (1971), clarified 30 FCC 2d 705, 22 RR 2d 385 (1971), reconsideration denied 31 FCC 2d 148, 22 RR 2d 684 (1971).

[6] Absent an adequate description of the specific community of license (see paragraph 5, infra), we will assume that it reflects the population characteristics given for the counties.

[7] While the needs of military personnel are noted in the "recap" and appropriate programing proposed, nowhere in any survey are contained interviews with members of that group or even mention of the military by other interviewees. We also have found no mention in the interviews of the exodus of young adults due to lack of employment opportunities, of the endangered species that exist in the area, or of the tourist influx during the summer months.

reconsideration; American Broadcasting Co., 30 FCC 2d 827, 22 RR 2d 220 (1971). Clipping of such commercial material, while certifying to the network that it was broadcast, has resulted in the assessment of a forfeiture, "Channel 13 of Las Vegas, Inc.," 37 FCC 2d 518, 25 RR 2d 286 (1972). Clipped material at the end of programs may also contain the sponsor identification required by section 317 of the Communications Act and by §§ 73.119, 73.289 and 73.654 of the Commission's rules, providing another basis for the imposition of forfeitures or other sanctions.

In some situations, primarily involving television stations, the network may determine that no payments to the station are warranted because of the station's limited audience. The network may, however, agree to pay all or part of the costs of providing its programing to the station by wire or microwave transmission. The assumption of these costs constitutes consideration. Licensees in these circumstances should carefully read their affiliation contracts to assure that no certifications are issued to the network that provide false information as to the station's compliance with the terms of the contract.

Nothing in this notice should be interpreted to place any limitation on the licensee's discretion to delete any material that it believes to be indecent, profane, obscene, in bad taste, or otherwise contrary to the public interest. The notice is intended to emphasize that such deletions or cancellations should be accurately disclosed in the certifications to the network. This notice is not intended to apply to clipping of a few seconds duration that occasionally results from switching or other technical problems. Finally, this notice is directed toward the obligations of the licensee. The licensee is not responsible for material deleted by the network; for example, the editing of films by a network to conform to time requirements, or returning to a sports event after a network commercial when play was resumed during the commercial.

The above refers to situations in which fraudulent certifications are given to networks. In some circumstances, licensees may delete portions of network program content in order to insert local commercial announcements, but notify the network of the deletions. If information coming to the attention of the Commission indicates that this is a frequent practice, the Commission will consider, on the facts presented, whether the licensee has subordinated the public's interest in viewing or hearing programs in their entirety to the licensee's private interest in maximizing the sale of commercial time.

Action by the Commission March 2, 1973.[1]

[1] Commissioners Burch (Chairman), Robert E. Lee, Johnson, H. Rex Lee, Reid, Wiley and Hooks.

Sent to all broadcast licensees.

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

[FR Doc.73-4886 Filed 3-13-73;8:45 am]

FEDERAL MARITIME COMMISSION

AUSTRALIA/U.S. AND ATLANTIC GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 26, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esq., Bebchick, Sher & Kushnick, 919 18th Street NW., Washington, DC 20006.

Agreement No. 9450-7 has been entered into by the member lines of the Australia/U.S. Atlantic and Gulf Conference, to modify the presently approved agreement of that conference by incorporating therein a more extensive self-policing system, to be implemented through a neutral body under terms and conditions set forth therein.

Dated: March 8, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4918 Filed 3-13-73;8:45 am]

CITY OF LONG BEACH AND HUMBLE OIL & REFINING CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 3, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Leonard Putnam, City Attorney, City of Long Beach, Suite 600 City Hall, Long Beach, Calif. 90802.

Agreement No. T-2652, between the City of Long Beach (City) and Humble Oil & Refining Co. (Humble), provides for the 38-year lease to Humble of approximately 13.732 acres at Berth 202, Long Beach, Calif.; 3.693 acres of inland area; an exclusive license to construct and maintain pipelines on Piers A, B, C, D, F, G, and J for bunkering purposes; and a nonexclusive option for a license to construct and maintain pipelines on a tanker wharf to be constructed at a later date. This proposed wharf is leased to Humble as part of the premises leased under this agreement. The premises are to be for the receipt, handling, loading, unloading, transporting, and storage of Humble's petroleum products in connection with its oil-bunkering services at Long Beach. The agreement specifically provides in paragraph 4(e) that Humble's activities are to be restricted to either that of (1) a proprietary operation in connection with common carriers by water and other vessels whereby only Humble's products will be handled, or (2) in connection with vessels that are not common carriers by water, whereby Humble may handle products of others

who wish to use the facility. In any event, the agreement provides that Humble will not use the pipelines covered by this agreement as common carriers pipelines, nor hold them out to the public for the transportation of liquids other than those owned by Humble. The agreement prohibits Humble from operating a public warehouse or storage business utilizing the premises or the pipelines. The agreement also prohibits Humble from furnishing warehouses, storage, or other terminal facilities in connection with common carriers by water, except for bunkers, vessels' supplies, and water. The agreement provides that both Humble and City are to construct certain improvements to the premises. As compensation, the City is to receive rental as set forth in detail in the agreement. The City is to also receive tariff charges on Humble's operations. When the wharfage and dockage charges paid to the City meet Humble's guaranteed minimum annual rental for Parcels III and IIIA, Humble will pay the City 75 percent of the applicable dockage and wharfage charges accruing in the next 2½ million tons, and 50 percent of the applicable dockage and wharfage charges on all commodities exceeding 10 million tons annually.

Dated: March 8, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4920 Filed 3-13-73;8:45 am]

MATSON NAVIGATION CO. AND KOPPEL BULK TERMINAL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 3, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

David V. Ainsworth, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. T-2753, between Matson Navigation Co. (Matson) and Koppel Bulk Terminal (Koppel), is an agreement whereby Koppel will perform loading and unloading services with respect to containerized cargo on behalf of Matson. The facility at which these services are to be performed is the Container Freight Station (CFS), located at 305 Henry Ford Avenue, Long Beach, CA. For the performance of such services Matson shall pay to Koppel all costs for the operation, based upon the actual cost, including supervision and overhead, plus 5 percent. The parties understand that there will be no rental charged at the outset for CFS facilities. Rental will be negotiated and mutually agreed upon at a later date. Koppel will have complete control and supervision of activity at the CFS and Matson will have no right or duty to control the detail of the work of any employee of Koppel. This agreement will continue in effect from year to year unless terminated by either party upon 30 days' written notice to the other party.

Dated: March 8, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4919 Filed 3-13-73;8:45 am]

SOUTH JERSEY PORT CORP. AND NACIREMA OPERATING CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 26, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Francis A. Scanlan, Esq., Kelly, Deasey & Scanlan, 926 Four Penn Center Plaza, Philadelphia, PA 19103.

Agreement No. T-2561-1, between South Jersey Port Corp. (Port) and Nacirema Operating Co., Inc. (Nacirema), is a modification of Agreement No. T-2561. The purpose of the modification is to delete certain areas from the original agreement. In addition, the modified operating agreement shall apply to Pier 2, and Buildings C and D, and any other buildings as mutually agreed upon by the parties. Port will collect all dockage and wharfage under its terminal tariff and will also receive wharfage from vessels berthed at Pier 1 or 1A, where cargo is placed in buildings not covered under the lease for those facilities. Wharfage in the same amount as set forth in Port's tariff shall be remitted by Nacirema to Port. Nacirema shall collect for such wharfage under its tariff. Port shall receive a portion of revenue from line tending and from storage.

Dated: March 9, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4916 Filed 3-13-73;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/Operator and Vessel*
01034---	Graff-Wang Evjen:
	Seaheron.
01092---	Thor Dahls Hvalfangerselskap A/S:
	Thorshavn.
01145---	Det Bergenske Dampskibsselskab:
	Crux.
01187---	Skibsaktieselskapet Gyife:
	Gefion.
01271---	N. V. Nederlandsch Amerikaansche Stoomvaart Maatschappij:
	Poeldyk.
	Katsedyk.
	Gaasterdyk.
	Grotedyk.
	Grebbedyk.
	Gorredyk.
	Moerdyk.
	Bilderdyke.
	Atlantic Crown.
	Atlantic Star.
	Statendam.
	Nieuw Amsterdam.
01305---	Royal Mail Lines Ltd.:
	Cotopaxi.

Certificate No.	Owner/Operator and Vessel
01421---	Bibby Line Ltd.:
	Worcestershire.
	Derbyshire.
	Toronto City.
	Coventry City.
01428---	The Ocean Steam Ship Co. Ltd.:
	Dardanus.
	Astyanax.
	Perseus.
01557---	Knut Knutsen O.A.S.:
	Hilda Knudsen.
01574---	Fearnley & Eger:
	Ferngate.
01641---	The Bank Line Ltd.:
	Laganbank.
01645---	Compania Corinthia de Navegacion S.A. Panama:
	Alouette.
01685---	Zushi Shipping Corp. S.A.:
	Cali.
01861---	B. P. Tanker Co., Ltd.:
	British Vigilance.
	British Glory.
	British Courage.
01878---	Messana-Societa Di Navigazione, SPA:
	Angelo Scinicariello.
01910---	Deutsche Dampfschifffahrts-Gesellschaft "Hansa":
	Ehrenfels.
01935---	SS Co. Svendborg Ltd. & SS Co. of 1912 Ltd.:
	Maren Maersk.
01988---	Angfartygs AB Tirfing:
	Lappland.
	Hemland.
	Sydland.
02152---	A. P. Klaveness & Co. A/S:
	Stiklestad.
02156---	Lorentzens Skibs A/S:
	Robert Stove.
02198---	The Peninsular & Oriental Steam Navigation Co.:
	Advocate.
02202---	Humble Oil & Refining Co.:
	Humble DB-1 (173).
	Humble ST-10.
	Humble ST-12.
	Esso 222.
	Esso 31.
	Esso 220.
	Esso 236.
	Esso 237.
	Humble 847.
	Esso 238.
	Esso 32.
	Esso 221.
	Esso 229.
	Esso 230.
	Esso 241.
	Esso 213.
	Esso 214.
	Esso 233.
	Esso 234.
	Esso 227.
	Esso BBR.
	Esso 228.
	Esso 239.
	Esso 242.
	Esso 235.
	Esso 225.
	Esso 226.
	Esso 219.
	Esso 217.
	Esso 218.
	Esso 205.
	Esso 210.
	Esso 211.
	Esso 212.
	Esso 201.
	Esso 206.
	Esso 224.
	Esso 266.
	Esso 267.
	Esso 24.
	Esso 25.
	Esso 26.
	Esso 223.
	Esso 231.
	Esso 232.
	Esso 240.
	Esso 215.
	Esso 216.
	Esso Baton Rouge.
	Esso Philadelphia.
	Esso San Francisco.
	Esso Houston.
	Esso New Orleans.
	Esso Boston.
	Esso Baltimore.
	Esso Lexington.
	Esso Jamestown.
	Esso Washington.
	Esso Gettysburg.
	Esso Seattle.
	Esso Huntington.
	Esso Florence.
	Esso Newark.
	Esso Bangor.
	Esso Chester.
	Esso Miami.
	Enco Port Everglades.
	Esso 5.
	Enco 100.
	Esso 268.
	Esso Connecticut.
	Esso 30.
	Esso 29.
	Esso 118.
	Esso 119.
	Esso Tow #1.
	Esso 204.
	Esso 209.
	Esso 202.
	Esso 203.
	Esso 207.
	Esso 208.
	Esso Pennsylvania.
	Esso W. Virginia.
	Esso 9.
	Esso 12.
	Esso 13.
	Esso 14.
	Esso 16.
	Esso 17.
	Esso 22.
	Esso 23.
	Esso Tennessee.
	Esso 257.
	Esso 111.
	Esso 117.
	Humble 823.
	Humble 866.
	Humble 839.
	Humble 840.
	Humble 841.
	Humble 120.
	Humble 101.
	Humble 831.
	Humble 832.
	Humble 833.
	Humble 834.
	Humble 835.
	Humble 836.
	Humble 837.
	Humble 838.
	Esso 110.
	Esso 33.
	Liz Brent.
	Ellis 2003.
	Ellis 2004.
	Humble 6939.
	Esso 108.
	Esso 109.
02242---	Dal Deutsche Afrika-Linien G.m.b.H. & Co.:
	Woermann Sassandra.
02278---	Argo Compania Maritima S.A. of Panama:
	Armonikos.
02292---	Pacific Marine Transport Co., Ltd.:
	Hongkong Friendship.
	Hongkong Evergreen.
	Hongkong Beauty.
	Hongkong Alliance.
02293---	China Marine Investment Co., Ltd.:
	Liberty Manufacturer.
	Liberty Exporter.
	Liberty Retailer.
	Liberty Importer.
	Hongkong Gallantry.
02355---	Van Nievelt, Goudriaan & Co.'s Stoomvaart Maatschappij N.V.:
	Astron.
	Asterope.
	Asmidiske.
	Aikes.
	Alcor.
	Algorab.
	Algol.
	Subra.
	Nieuwland.
	Markab II.
	Situla.
	Adara.
	Villarrica.
	Rochab.
	Marian Maria.
	Asuncion.
02501---	Standard Oil Co. of California:
	Standard Oiler.
02557---	Fanny Shipping Co.:
	Fanny.
02666---	Reederei Hans H. Schmidt K.G.:
	Cadiz.
02702---	Partenreederei M/S "Vulkan":
	Vulkan.
02707---	Ernst Komrowski Rederei:
	Montan.
02864---	Refineria de Petroleos de Escombreras S. A. (Repesa):
	Puentes de Garcia Rodriguez.
02876---	Kabushiki Kaisha Hokkaido Gyogyo Kosha:
	Ryoyo Maru No. 2.
02925---	Exemplar Steamship Co.:
	Exemplar.
02945---	American Trading and Production Corp.:
	Washington Trader.
03256---	Upper Mississippi Towing Corp.:
	UM-79B.
03289---	Det Forenede Dampskibsselskab A/S:
	Freesia.
	Wisconsin.
	Nebraska.
03441---	Japan Line K. K.:
	Daiwa Maru.
03459---	Meiji Kaiun K. K.:
	Meiryu Maru.
03470---	Nikko Kaiji K. K.:
	Hakuyo Maru.
	Kiyo Maru.
03499---	El-Yam Bulk Carriers (1967) Ltd., Israel:
	Har Tabor.
	Har Carmel.
	Har Gilboa.
03501---	Osaka Shosen Mitsui Senpaku K. K.:
	Hakonesan Maru.
03509---	Taiyo Shosen K. K.:
	Senyo Maru.
03534---	Zapata Naess (Holland) B.V.:
	Carbo Dragon.
03705---	Grundstads Rederi A/S:
	Granega.
03841---	American Export Lines:
	Exchester.
03923---	Shinwa Kaium Kaisha, Ltd.:
	Taga Maru.
03956---	The Apex Shipping Co., Ltd.:
	World Yuri.
03971---	Korea Shipping Corp., Ltd.:
	Mok Po.

Certificate No.	Owner/Operator and Vessel
04094	Kommandiittiyhtio Paikki Oy & Co: Saara Aarnio. Annukka Aarnio.
04358	Holland Bulk Transport N. V.: Stolt Munttoren.
04398	Hapag-Lloyd Aktiengesellschaft: Tannstein. Torstein. Weimar. Wien. Worms. Isarstein. Neckerstein. Havelstein.
04468	Kotoshiromaru Gyogyo Kabushiki Kaisha: Kotoshiromaru No. 18.
04470	Sankomaru Gyogyo Kabushiki Kaisha: Sanko Maru.
04471	Chiyomaru Gyogyo Kabushiki Kaisha: Chiyomaru No. 15.
04478	Takiguchi Gyogyo Kabushiki Kaisha: Taiyomaru No. 25.
04487	Sanwa Enyo Gyogyo Seisan Kumiai: Sanwamamaru No. 2.
04502	Kotoshiro Gyogyo Kabushiki Kaisha: Kotoshiromaru No. 1. Kotoshiromaru No. 7.
04504	Sumiyoshi Gyogyo Kabushiki Kaisha: Sumiyoshimaru No. 3. Sumiyoshimaru No. 38.
04508	Akiyama Gyogyo Kabushiki Kaisha: Matsuseimaru No. 1.
04511	Showa Gyogyo Kabushiki Kaisha: Showamaru No. 12.
04512	Seiju Gyogyo Kabushiki Kaisha: Seijumaru No. 5. Seishumaru No. 21.
04546	Mr. Toshikazu Miki: Kyowamaru No. 2.
04564	Yamashita Shinnihon Kisen Kaisha: Shigaharu Maru. Tagaharu Maru.
04782	Karfas Shipping Corporation Monrovia: Belloria.
05017	Amerada Hess Corp.: Hess 6.
05150	United Philippine Lines, Inc.: Don Antonio.
05235	Gulfcoast Transit Co.: Deloris Rogers.
05304	Caribbean Cement Co., Ltd.: Carib Carrier.
05336	Genimar Development Corp.: Genimar.
05512	Union Barge Line Corp.: Bluebird. 324. 343. 347. 348. 350. 351. 356. 361.
05618	Compania Naviera Unitas S.A.: Argolis.
05627	Gestioni Esercizio Sicilia G.E.N.S. S.P.A.: Capo Noli.
05753	Veb Deutfracht Internationale Befrachtung und Reederei: Fritz Reuter.
05991	Fukukyu Gyogyo Kabushiki Kaisha: Fukukyu Maru No. 12. Fukukyu Maru No. 18.
06011	Mitsui Kinkai Kisen Kabushiki Kaisha: Azuchisan Maru.
06139	Indo-Pacific Corp. of Monrovia: Trikora Djaya.
06215	Fukuichi Gyogyo Kabushiki Kaisha: Fukuichi Maru No. 36.
06255	Investment Finance Trust Ltd.: Ocean Trader.
06279	Mercandia Chartering, Copenhagen, Faroe Islands: Sofia Lasson.
06372	Achernar Navigation Corp.: Techni.
06389	Sears Oil Co., Inc.: Syracuse Sears.
06607	Consolidation Marine Corp.: Hollyhock.
06704	Yuugen Kaisha Marukyo Boshi Suisan: Kakimaru No. 3. Nadayoshimaru No. 7.
06919	General Shipping Co., Inc.: General Aquinaldo.
06946	Bath Iron Works Corp.: Yard Hull No. 358.
07023	Taiko Suisan Kabushiki Kaisha: Taiko Maru No. 2.
07136	Nam Sung Wonyang Fisheries Co., Ltd.: No. 72 Nam Sung.
07154	Cruiseship 6 NV: Veendam.
07155	Cruiseship 7 NV: Volendam.
07236	Independent Marine Transport, Inc.: John Purves. Peter Reiss.
07291	Butler Marine Equipment Co.: M-1.
07388	Reading & Bates Exploration Co.: S-22.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4922 Filed 3-13-73;8:45 am]

[Independent Ocean Freight Forwarder License No. 845]

MERCAL AIR CARGO, INC.

Order of Revocation

By letter dated August 16, 1972, Mercal Air Cargo, Inc., 26 Broadway, New York, NY 10004, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 845 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before September 15, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Mercal Air Cargo, Inc. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated 5-1-72);

It is ordered, That Independent Ocean Freight Forwarder License No. 845 of Mercal Air Cargo, Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 845 of Mercal Air Cargo, Inc., be and is hereby revoked effective September 15, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Mercal Air Cargo, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.73-4921 Filed 3-13-73;8:45 am]

PENINSULAR STEAMSHIP CO. ET AL.

Applicants for Independent Ocean Freight Forwarder License

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Peninsular Steamship Co., 715 East Bird Street, Tampa, FL 33604.

OFFICERS

Thomas E. Mansfield, President; Marianne A. Mansfield, Treasurer; Jan C. Uiterwyk, Vice President; L. David Shear, Secretary.

Sid Lefkowitz, 6127 Braesheather, Houston, TX 77035.

American International Forwarders, Inc., 4730 Clinton Drive, Houston, TX 77011.

OFFICERS

Donald L. Jones, President; Hugo A. Teste, Vice President; E. R. Alexander, Secretary/Treasurer.

Dated: March 7, 1973.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-4917 Filed 3-13-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI73-227]

AUSTRAL OIL CO., INC.

Notice of Petition for Special Relief

MARCH 7, 1973.

Take notice that on February 21, 1973, Austral Oil Co., Inc. (petitioner), 2700

Humble Building, Houston, Tex. 77002, filed in Docket No. RI73-227 pursuant to section 4 of the Natural Gas Act and § 1.7(b) of the Commission's rules of practice and procedure, a petition for special relief with respect to the provisions of Opinion No. 598 issued July 16, 1971, in the Southern Louisiana Area Rate Proceeding, Docket No. AR69-1, and Opinion No. 595 issued May 6, 1971, in the Texas Gulf Coast Area Rate Proceeding, Docket No. AR64-2.

Petitioner requests the Commission to issue an order permitting it to discharge its $1,009,752 Southern Louisiana refund obligation through credits against the $5,820,000 which it has expended in connection with Project Rulison, and allowing it to collect the contractually authorized prices for its jurisdictional sales of gas from the Southern Louisiana and Texas Gulf Coast Areas to the extent such prices exceed applicable area prices. Petitioner agrees that all amounts it is permitted to collect in excess of the applicable area prices after recovery of $4,810,248 (representing the cost to it of Project Rulison less the refund credit of $1,009,752 discussed above) will be expended in maintaining its leases in the Rulison field and in the Pinedale area of Sublette County, Wyo., with any excess being used for exploration for new gas reserves in Southern Louisiana and the Texas Gulf Coast areas which would be offered first to interstate pipelines.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 22, 1973, 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 party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-4826 Filed 3-13-73;8:45 am]

[Docket No. RP73-70]

CAROLINA PIPELINE CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Postponement of Hearing

MARCH 2, 1973.

On March 1, 1973, Commission Staff Counsel filed a motion to dismiss in the above-designated matter. Staff Counsel concurrently filed a motion to postpone the hearing scheduled for March 7, 1973, until April 4, 1973, pending Commission action on the motion to dismiss.

Upon consideration, notice is hereby given that the hearing in the above-designated matter is postponed to April 4, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-4825 Filed 3-13-73;8:45 am]

[Docket No. CP72-184]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

MARCH 7, 1973.

Take notice that on February 22, 1973, Michigan Wisconsin Pipe Line Co. (petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-184 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act on June 1, 1972, by authorizing petitioner to increase the amount of gas it stores for Wisconsin Southern Gas Co. (Wisconsin Southern) and to increase the daily redelivery rate, all as more full set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order of June 1, 1972, in the subject docket, Petitioner was authorized inter alia, to accept from Wisconsin Southern each year daily volumes of up to 1,000 Mc.f. of gas and an annual volume of up to 200,000 Mc.f. for storage and redelivery to Wisconsin Southern at a daily rate of up to 2,000 Mc.f. during the period November 1, 1972, through March 1, 1973, and each year thereafter. Petitioner proposes to render additional storage service to Wisconsin Southern by accepting each year daily volumes of up to 2,000 Mc.f. of gas and an annual volume of up to 400,000 Mc.f. for storage and redelivery to Wisconsin Southern at a daily rate of up to 4,000 Mc.f., commencing November 1, 1973, pursuant to a February 9, 1973, agreement between the parties to amend the January 12, 1972, storage agreement.

Petitioner states that no new facilities will be needed to provide the proposed additional storage and redelivery service and that such additional service will permit Wisconsin Southern to convert off-peak gas supplies to firm winter high-end use.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 27, 1973, 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.73-4828 Filed 3-13-73;8:45 am]

[Docket No. CP63-32]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

MARCH 5, 1973.

Take notice that on February 26, 1973, Panhandle Eastern Pipe Line Co. (petitioner), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP63-32 a petition to amend the Commission's order issued pursuant to section 7(c) of the Natural Gas Act on November 8, 1962 (28 FPC 797), in said docket by authorizing the construction and operation of certain facilities and the exchange of natural gas with Terre Haute Gas Co. (Terre Haute) in order to implement a withdrawal test on petitioner's Calcutta-Carbon Storage project, Parke and Clay Counties, Ind., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 8, 1962, authorized petitioner to construct and operate certain facilities for the testing and development of the Calcutta-Carbon field. Petitioner and Terre Haute have entered into an exchange agreement, dated December 15, 1972, providing for the delivery by petitioner from the Calcutta-Carbon project such volumes of gas as can be delivered without compression, up to a maximum of 2,000 Mc.f. per day. Such gas, the petition indicates, will be delivered to Texas Gas Transmission Co. facilities for the account of Terre Haute. Further, the agreement provides that Terre Haute has the obligation to redeliver at least one-half of the cumulative volume delivered to it by Panhandle, and Terre Haute will either redeliver the balance by December 15, 1973, or purchase that part thereof not redelivered to Panhandle at a price of 45 cents per Mc.f.

Petitioner estimates that the subject proposal will require the installation in Clay County, of certain pipeline, wellhead, measurement, and leased gas conditioning facilities at a cost of $111,600. Said cost will be financed, petitioner states, from funds on hand.

The petition indicates that, to date, no gas has ever been withdrawn by Petitioner from the Calcutta-Carbon storage reservoir and that the withdrawal test is required in order to permit the complete evaluation of said field for storage purposes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 26, 1973, 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.73-4827 Filed 3-13-73;8:45 am]

[Docket No. G-5720 etc.]

INTERSTATE SALES OF NATURAL GAS

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MARCH 6, 1973.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-5720 ..... D 2-7-73	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Texas Eastern Transmission Corp., Hico-Knowles, Terryville, North Choudrant, and Trement Fields, Lincoln and Ouachita Parishes, La.	Unproductive	
G-11860 ..... D 2-5-73	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800 Houston, TX 77046.	Cities Service Gas Co., North Rhodes Field, Barber County, Kans.	Assigned	
G-13385 ..... (G-14380) E 8-7-72	Atlantic Richfield Co. (successor to Champlin Petroleum Co.), Post Office Box 2819, Dallas, TX 75221.	Northern Natural Gas Co., Anna C. Miller Gas Unit, Hugton Field, Finney County, Kans.	13.5	14.65
CI62-835 ..... D 2-7-73	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, TX 77046.	El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex.	Nonproducing	
CI62-1184 ..... (CI63-20) C 8-4-72	Atlantic Richfield Co. (successor to Humble Oil & Refining Co.), Post Office Box 2819, Dallas, TX 75221.	Arkansas Louisiana Gas Co., W. P. Lerblance Unit, Latimer County, Okla.	Assigned	
CI66-481 ..... D 9-27-72	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001.	Arkansas Louisiana Gas Co., Arkoma Area, Sequoyah County, Okla.	Assigned	
CI68-499 ..... D 11-6-72	Texaco, Inc., Post Office Box 2100, Denver, CO 80201.	Mountain Fuel Supply Co., West Side Canal, Carbon County, Wyo.	Nonproductive	
CI68-606 ..... D 2-2-73	General American Oil Company of Texas, 1800 First National Bank Bldg., Dallas, Tex. 75202.	Transcontinental Gas Pipe Line Co., Southeast Gueydan Field, Vermilion Parish, La.	(3)	
CI73-226 ..... E 9-25-72	Petro-Lewis Corp. (successor to Monterey Pipeline Co.; Secure Trusts; H. L. Hunt; and Lyda Hunt Trusts), 1600 Broadway, Denver, CO 80202.	Southern Natural Gas Co., Lake Enfermer Field, Lafourche Parish, La.	22.375	15.025
CI73-235 ..... (G-18484) F 10-4-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Transcontinental Gas Pipe Line Corp., Stuart City Field, La Salle County, Tex.	14.6958	14.65
CI73-236 ..... (G-10022) F 10-4-72	do	Columbia Gas Transmission Corp., South Thornwell Field, Jefferson Davis and Cameron Parishes, La.	22.375	15.025
CI73-386 ..... (CI64-1487) F 12-1-72	do	Arkansas Louisiana Gas Co., Lacy Field, Kingfisher County, Okla.	18.082	14.65
CI73-397 ..... (CI65-661) F 12-4-72	do	Michigan Wisconsin Pipe Line Co., Laverne Gas Area, Harper County, Okla.	[3] 18.7775	14.65
CI73-399 ..... (CI66-942) F 12-4-72	do	Northern Natural Gas Co., Luthur Hill and East Fort Supply Fields, Woodward County, and Anadarko, Okla.	[3] 18.30581	14.65
CI73-523 ..... B 2-5-73	Texaco, Inc., Post Office Box 2100, Denver, CO 80201.	Mountain Fuel Supply Co., State Line Unit Field, Carbon and Sweetwater Counties, Wyo.	(5)	
CI73-524 ..... A 2-2-73	Pennzoil Co., 900 Southwest Tower Houston, Tex. 77002.	Equitable Gas Co., Booths Creek District, Taylor County, W. Va.	45.0	15.325
CI73-527 ..... A 2-5-73	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Pinon and Simpson Gallup Fields, San Juan County (San Juan Basin Area), N. Mex.	[4] 22.0	15.025
CI73-528 ..... A 2-5-73	William Herbert Hunt Trust Estate, 1401 Elm St., Dallas, TX 75202.	Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La.	[4] 17.0	15.025
CI73-529 ..... A 2-5-73	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Ignacio Blanco Dakota Field, La Plata County ("San Juan Basin") Colo.	[4] 23.465	15.025

[1] Expiration and release of leases.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Last well plugged and abandoned and Unit terminated according to its terms.
[4] Plus 2.25 cents tax reimbursement.
[5] Applicant is willing to accept a certificate at an initial rate 23.453 cents subject to B.t.u. adjustment; however, the contract price is 28 cents.

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

[FR Doc.73-4729 Filed 3-13-73;8:45 am]

[Docket No. CI73-582]

KILLAM & HURD, LTD.

Notice of Application

MARCH 12, 1973.

Take notice that on March 5, 1973, Killam & Hurd, Ltd. (Applicant), Post Office Box 499, Laredo, TX 78040, filed in Docket No. CI73-582 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the North Telferner Field, Victoria County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell 2,000 Mcf of gas per day for 1 year at 35 cents per Mcf at 14.65 p.s.i.a. within the contemplation of 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1973, 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.73-5025 Filed 3-13-73;8:45 am]

[Docket No. E-7888 etc.]

LONG ISLAND LIGHTING CO. ET AL.

Notice of Applications

MARCH 12, 1973.

Take notice that each of the applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with the Commission and available for public inspection.

Docket No.	Filing date	Applicant
E-7888	11-6-72	Long Island Lighting Co.

Applicant files October 25, 1972, capability sales agreement between Long Island Lighting Co. and Central Hudson Gas and Electric Corp. Under the agreement LILCO will furnish 29,000 kilowatts of electric generating capability from turbines installed on its system and the associated operating reserve and energy. Service under the agreement begins on November 1, 1972, and terminates on November 30, 1972.

Docket No.	Filing date	Applicant
E-7889	12-1-72	Long Island Lighting Co.

Applicant files October 25, 1972 capability sales agreement between Long Island Lighting Co., and Central Hudson Gas and Electric Corp., to take effect on December 1, 1972, and terminate on December 31, 1972. Under the agreement, LILCO will furnish 81,500 kilowatts of electric generating capability from four gas turbines installed on its system and the associated operating reserve and energy.

Docket No.	Filing date	Applicant
E-8046	2-26-73	Consumers Power Co.

Applicant files December 15, 1972 agreement between Consumers Power Co. and the city of Lansing, Mich., to take effect February 19, 1973, and providing for certain modifications in the October 7, 1970 Interconnection Agreement between the parties.

Docket No.	Filing date	Applicant
E-8048	2-25-73	Public Service Co. of Oklahoma.

Applicant files December 18, 1972, Schedule RE, Replacement Energy, between Public Service Company of Oklahoma and Southwestern Public Service Co., providing for the purchase and sale of replacement energy between the parties, and supplementing the January 22, 1971, Interconnection Agreement between the parties (FPC No. 184). Schedule RE is to take effect April 1, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5060 Filed 3-13-73;10:35 am]

[Docket No. RP71-107]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in Tariff

MARCH 12, 1973.

Take notice that on March 2, 1973, Northern Natural Gas Co. (Northern), tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 59a and First Revised Sheet No. 59b. An effective date of March 1, 1973, is requested.

Second Revised Sheet No. 59a contains language added to paragraph 9.4 of the general terms and conditions of Northern's FPC Gas Tariff to make clear that sales of gas in a billing group for the requirements of large volume consumers are subject to curtailment, excluding for such large volume consumer only that volume of Contract Demand which is certificated for firm service by the Commission and which is set forth in an effective service agreement and is shown on the Directory of Communities Served of Northern's Tariff. Northern states that the additional language will eliminate the possibility of a distributor firming up large volume interruptible requirements without the knowledge of Northern and the Commission for the purpose of excluding such requirements from curtailment.

First Revised Sheet No. 59b contained a revised paragraph 9.5 of the general terms and conditions of Northern's FPC Gas Tariff which is required to conform to the clarification of the Commission's October 2, 1972 order herein as set forth in the Commission's order denying rehearing issued November 27, 1972.

Northern requests that the Commission waive to the extent necessary the notice requirements of § 154.22 of the regulations. Copies of the filing have been served upon all gas utility cus-

tomers and upon interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5059 Filed 3-13-73;10:35 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION

Order Approving Acquisition of Bank

American Bancorporation, Columbus, Ohio, 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 100 percent of the voting shares (less directors' qualifying shares) of The Continental Bank, Continental, Ohio (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 five banks with deposits of $27.4 million, representing one-tenth of 1 percent of aggregate deposits of commercial banks in Ohio. (All banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through October 31, 1972.) Upon acquisition of Bank with deposits of $6.7 million applicant would continue to rank as the smallest bank holding company in the State.

Bank serves the northern section of Putnam County and the village of Oakwood in Paulding County. Three other banks serve the market area and hold total deposits of $8.6, $7.2, and $4.2 million, respectively, each serving its own agricultural community. The closest offices of Bank and any of applicant's present subsidiary banks are 35 miles apart, and no meaningful present competition exists between these or any of applicant's offices and Bank. Furthermore, it does not appear that significant future competition would develop between them in view of their wide separation and the restrictions placed on branching by Ohio laws. Competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant, its subsidiary banks, and Bank are considered to be generally satisfactory, and their prospects appear favorable. Banking factors are consistent with approval of the application. The primary banking needs of the area appear to be satisfactorily served at the present time. However, applicant proposes to improve Bank's present services by its assistance in providing larger loans for customers, improvement of present parking facilities, and the installation of a drive-up teller window. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the application. It is the Board's judgment that consummation of the proposed transaction 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 Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4830 Filed 3-13-73;8:45 am]

AMERICAN BANCSHARES, INC.

Acquisition of Bank

American Bancshares, Inc., North Miami, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the Second National Bank of Homestead, Homestead, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than March 29, 1973.

Board of Governors of the Federal Reserve System, March 6, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-4831 Filed 3-13-73;8:45 am]

[1] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

CBT CORP.

Proposed Acquisition of General Discount Corporation

CBT Corp., Hartford, Conn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 184(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of General Discount Corp., and thereby to indirectly acquire voting shares of its subsidiaries, G.D.C. Leasing Corp. and General Discount Corp. (Maine), all with head offices in Boston, Mass. Notice of the application was published on January 9, 1973, in the Boston Globe, Boston, Mass., and on March 5, 1973, in both the Manchester Union Leader, Manchester, N.H., and the Providence Journal, Providence, R.I.

Applicant states that the proposed subsidiary would engage in the activities of financing accounts receivable, investories, machinery and equipment, and real estate for business customers, and the leasing of equipment to business customers. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 3, 1973.

The Board of Governors of the Federal Reserve System, March 7, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-4898 Filed 3-13-73;8:45 am]

ELLIS BANKING CORP.

Order Approving Acquisition of Bank

Ellis Banking Corp., Bradenton, Fla., 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 51 percent or more of the voting shares of First Park Bank, Pinellas Park, Fla. (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 16 banks with aggregate deposits of $447.3 million, representing 2.6 percent of the total commerical bank deposits in the State, and is the eighth largest banking organization in Florida. (Bank deposit data are as of June 30, 1972 and reflect holding formations and acquisitions approved through December 31, 1972.)

Bank ($22.6 million in deposits) is the ninth smallest of 26 banks in the South Pinellas County banking market and controls 2.3 percent of total commercial bank deposits in the area. Applicant has one subsidiary bank ($33.7 million in deposits) in the market accounting for 3.4 percent of market deposits; upon consummation, applicant will become the fifth largest banking organization in the market, holding 5.7 percent of its deposits. Eleven multibank holding companies (with 16 banks) are represented in the market with the first, second, and third largest controlling 18.3, 15.8, and 9.6 percent of total deposits, respectively. The remaining banks not affiliated with bank holding companies (exclusive of Bank) hold 21.8 percent of the market's deposits. The record reveals that the service areas of Bank and applicant's subsidiary bank slightly overlap; however, in view of the presence of intervening banks and an interstate highway being constructed that is expected to act as a barrier between these service areas, consummation of the proposed transaction would not appear to eliminate any significant existing or potential competition. Further, it appears that approval of this transaction will not have an adverse effect on any competing bank nor significantly increase the concentration of banking resources in any relevant area.

The financial and managerial resources of applicant and its subsidiary banks are generally satisfactory, the financial condition of Bank is excellent and its management satisfactory. Future prospects for all appear favorable. While the banking needs of the area are presently being served by Bank and its competitors, considerations related to the convenience and needs of the community to be served 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4837 Filed 3-13-73;8:45 am]

ELLIS BANKING CORP.

Order Approving Acquisition of Bank

Ellis Banking Corp., Bradenton, Fla., 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 First Security Bank, Bradenton, Fla., a proposed new bank (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 16 banks with aggregate deposits of $447.3 million, representing 2.6 percent of the total commercial bank deposits in Florida, and is the eighth largest banking organization in the State. (Bank deposit data are as of June 30, 1972 and reflect holding company formations and acquisitions approved through December 31, 1972.) Applicant competes in seven major banking markets in Florida and its respective position in those major markets are as follows: St. Petersburg, 3.4 percent of deposits; Clearwater-Tarpon Springs, 10.7 percent; Manatee County, 27.2 percent; Sarasota, 34.2 percent; Tampa, 2 percent; New Port Richey, 80.9 percent; and east Pasco County, 20.9 percent.

Bank would be located in the Manatee County banking market in west central Florida where applicant, as indicated above, has 27.2 percent of total commercial bank deposits through control of the largest and the smallest banks in the market. These two banks are located 3.3 miles north and 4.9 miles southeast, respectively, from the proposed new bank site. Of the nine banks in the banking market, the second and third largest, controlling 24.1 and 18.9 percent, respectively, are members of the first and sixth largest bank holding companies in the State. All banks in the market have demonstrated ability to secure shares of deposit growth and, accordingly, competition between them and applicant should be enhanced. Inasmuch as Bank is a proposed new bank, no existing competition would be eliminated between Bank and applicant's subsidiaries; future competition should be nominal due to Bank's proposed immediate service area (2-mile radius) coupled with the existence of three banks in the areas between applicant's present subsidiary banks and Bank. Further, it appears that consummation of the proposal would not have an adverse effect on any competing bank.[4]

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are generally satisfactory. Future prospects of Bank also appear favorable; its financial and managerial resources are dependent upon Applicant which, as noted above, are generally satisfactory.

The banking needs of the relevant area are presently being served by existing organizations. Approval of this application would provide a more convenient source of banking services to area residents and business establishments. Further, approval would insure adequate future banking services in light of the substantial growth experienced in Manatee County and the future projections of a continued rapid rate of expansion.[5] Therefore, considerations relating to the convenience and needs of the area to be served are consistent with approval herein. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

[1] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

[4] It has been suggested by opponents to this acquisition that consummation herein would result in enlarging applicant's already dominant position in this Florida market. The facts of record reveal that Southeast Banking Corp., Miami, through its subsidiary, Manatee National Bank, Bradenton, controls 24.1 percent of the market deposits while First Financial Corp., Tampa, through its subsidiary, Intercity National Bank, Bradenton, controls 18.9 percent. (Intercity National Bank and Bayshore State Bank, Bradenton, have interlocking officers and directors; Bayshore has an additional 4.1 percent of the market deposits.) These figures when compared to applicant's 27.2 percent control of deposits indicate that applicant does not now have a dominant position in the market and formation of the proposed new bank would not immediately increase this percentage.

[5] From the facts of record, the Board finds that applicant is not attempting to preempt a bank site before a need exists. The Comptroller of the Currency denied an application by the Manatee National Bank of Bradenton on March 15, 1971, for a national bank to be located in the same service area as that of Bank. Since that time, however, the Florida State Commissioner of Banking granted initial approval in July and August 1972 of two applications for new bank charters in Manatee County (including that of applicant). The Commissioner's approval of the aforementioned applications is consistent with the Board's finding that the subject area is now experiencing rapid commercial and residential growth with a developing need for additional banking facilities.

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 that date, and (c) First Security Bank, Bradenton, Fla., shall be opened for business not later than 6 months after the effective 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4836 Filed 3-13-73;8:45 am]

ELLIS BANKING CORP.

Order Approving Acquisition of Bank

Ellis Banking Corp., Bradenton, Fla., 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 First National Bank of Hudson, Hudson, Fla., a proposed new bank (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 16 banks with aggregate deposits of $447.3 million,[1] representing 2.6 percent of the total commercial bank deposits in Florida, and is the eighth largest banking organization in the State. Inasmuch as Bank is a proposed new bank, no existing competition would be eliminated nor would the concentration level of banking resources be immediately increased in any relevant area.

Bank would be competing in the New Port Richey banking market of an estimated 65,000 people located in the western portion of Pasco County on Florida's west coast. Applicant is the largest banking organization in the relevant market and controls, through two subsidiary banks (located 6½ and 7 miles south, respectively, from the proposed bank site), 80.9 percent of total deposits as of June 30, 1972. Several factors have caused applicant's dominance in the market area to be reduced in recent years. The establishment of two new banks since 1970 reduced applicant's share of total deposits from 100 percent to 80.9 percent as of June 30, 1972. Even this percentage is somewhat overstated because, since that date, two additional banks have been opened. Population in the market area increased 266.4 percent from 1960 to 1970, and total deposits expanded 313.7 percent from 1967 to 1971. Much of this growth in population and total deposits was due to the immigration of retirees into Pasco County which has the highest percent of persons over 65 years old in Florida—31 percent. In view of the expected large population increases and accompanying growth in deposits, it appears that the market will continue to remain attractive for de novo entry as evidenced by the new banks which recently opened in the area. Accordingly, it appears that consummation of the proposal herein would not adversely alter the competitive situation nor the concentration of resources in the market, nor is there any evidence that applicant is attempting to preempt a site before there is a need for a bank.

The unincorporated community of Hudson with a currently estimated population of 2,800 has no commercial banking facility at the present time. Approval of this application would provide a more convenient source of banking services to its residents. Therefore, considerations relating to the convenience and needs of the area to be served lend support to approval of the application.

The financial and managerial resources of applicant and its subsidiary banks are generally satisfactory; Bank, as a proposed new bank, has no operating history but its projected earnings and growth under Applicant's control appear favorable.[2] Banking factors are consistent with approval of this application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application shall be approved.

On the basis of the record, the application is approved for the reasons summarized above.[3] 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 that date, and (c) First National Bank of Hudson, Hudson, Fla., shall be opened for business not later than 6 months after the effective 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[4] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4834 Filed 3-13-73;8:45 am]

FIRST AT ORLANDO CORP.

Order Denying Acquisition of Bank

First at Orlando Corp., Orlando, Fla., 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 Citrus First National Bank of Leesburg, Leesburg, Fla., 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, the second largest banking organization in Florida, controls 33 banks which hold aggregate deposits of $1.1 billion, representing 6.6 percent of the total deposits in commercial banks in the State. (Unless otherwise indicated, banking data are as of June 30, 1972, and reflect holding company acquisitions and formations approved by the Board through December 31, 1972.) The First National Bank of Leesburg (First Bank), a subsidary of applicant, holds approximately 24 percent of the total deposits held by commercial banks located in the north Lake County banking market; applicant ranks thereby as the second largest banking group and the largest bank holding company in the market. First Bank ($34 million deposits) is the largest of nine banks in the market, and the largest of three banks within the immediate Leesburg area, with approximately 61 percent of deposits in that area. In addition, through other subsidiary banks, applicant controls 43 percent of deposits in the neighboring Orlando banking market (south of Lake County) and is the largest banking organization in that market; and applicant controls 35 percent of the neighboring Ocala banking market (north of Lake County) and is the largest banking organization in that market as well.

Bank is proposed to be located in the city of Leesburg in northern Lake County in central Florida. The three banks presently located in the city of Leesburg (which includes one subsidiary bank of applicant) appear to compete in

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[1] Bank deposit data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through Dec. 31, 1972.

[2] Applicant has projected, and not unreasonably, that Bank will grow to $3.8 million in total deposits during the first 3 years of operation.

[3] Dissenting Statement of Governors Robertson and Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[4] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Dissenting from this action: Governors Robertson and Brimmer. Absent and not voting: Governor Daane.

the North Lake County banking market, which is approximated by the Golden Triangle area (which includes the towns of Tavares, Eustis, Mount Dora, and Umatilla) and the area immediately surrounding and including the city of Leesburg. First Bank (applicant's subsidiary) is located in the downtown area of Leesburg 1.6 miles east of the proposed site of Bank. Citizens National Bank of Leesburg ($21 million deposits), located 5 miles northeast from the proposed location of Bank, holds approximately 39 percent of deposits in the Leesburg area and is part of the largest banking organization in the market which holds approximately 35 percent of deposits in North Lake County.

Lake Eustis separates the Leesburg area from much of the Golden Triangle area, but two major roads, one passing Lake Eustis on the north and one on the south, connect the two areas, and all the major towns in the Golden Triangle area are within a radius of 22 miles of Leesburg. Residential and commercial development has occurred recently just west of the Golden Triangle area toward Leesburg, just east of Leesburg toward the Golden Triangle area, and in the intervening area between Leesburg and the Golden Triangle area. Further development is expected in this intervening area, spurred in part by the expected construction of a community college approximately midway along the major road joining Leesburg and the Golden Triangle area. In view of the foregoing, commuting patterns in Lake County, and the responsiveness of Leesburg banks to changes in the banking charges and services at the other banks in North Lake County, the Board regards the relevant banking market in the present case as North Lake County.

Since Applicant's proposal involves the establishment of a new bank which will be opened only in the event of approval of the application, no existing competition nor potential competition between Applicant's subsidiaries and Bank would be eliminated by the proposal, and there would be no immediate increase in banking concentration in any area. However, in addition, the Board is concerned and has focused its attention particularly on the competitive effects of Applicant's proposal on the Leesburg portion of the relevant market, wherein Applicant already controls over 60 percent of the deposits.

The Leesburg area, as a result of its location on Highway 27, one of the major highway approaches to the newly opened Disney World complex, its proximity to Disney World, approximately 42 miles to the southeast, and increases in the retirement population of the area, has experienced increased economic activity over the past 2 years. This growth has occurred primarily in the portion of Leesburg west of the downtown area, and Bank would be located close to the intersection of Highway 27 and Route 441, the major highway connecting Leesburg with the Golden Triangle area. A new bank, the third in the area, opened in August 1972, and is located on Route 27 less than 1 mile to the north of the proposed location of Bank. Deposits in Leesburg banks increased by approximately 30 percent during 1971, and total deposits of all banks in the north Lake County market increased by approximately 43 percent during the period from June 1970 to June 1972.

However, in spite of this activity, the population of Leesburg has remained somewhat stable, increasing about 5 percent (11,172 to 11,879) from 1960 to 1970, and it apears that the Leesburg and the north Lake County banking market already have an adequate number of banking offices in comparison to the rest of the State. Presently, there are an average 13,579 persons per banking office in the State of Florida. In Leesburg, the present ratio is 8,940 persons per banking office; should the proposed transaction be consummated, the ratio would drop to 6,930 persons per banking office, approximately half the State average. The ratio of population to banking office in the north Lake County banking market is approximately 6,317 to 1 and would become 5,685 to 1 if Bank were to open. Subsequent to the granting of a charter to Bank, two groups withdrew charter applications for locations in the Leesburg area apparently in the belief that the Leesburg area could not support an additional bank. The facts tend to support this belief. Lake County Bank, which opened in August 1972, has experienced heavy start-up operating losses, reducing its undivided profits account by half, and has encountered difficulties in attracting local deposits. In commenting on the instant application, Lake County Bank has asserted that the opening of Bank at a location of approximately 0.7 mile distant from its own office could seriously jeopardize its viability. In view of the past experiences, the Board finds that approval of this application is likely to have the effect of hindering significantly the ability of Lake County Bank to establish itself as a viable competitor in the market. The Board has previously denied applications where the establishment of a de novo bank by a bank holding company with an already strong competitive position would have such an effect by adversely affecting the competitive position of a smaller or recently opened bank.[1] While the Board will not act simply to protect an ineffective competitor from its own inability to successfully compete, the Board will not sanction the efforts of the area's dominant banking organization to solidify its position in the area at the direct expense of a newly emerging competitor.

Given the present state of banking concentration in the area, the Board is of the view that the probable effect of the opening at this time of a new bank at the proposed location by Applicant, which appears to be dominant in the Leesburg area, as well as in neighboring banking markets, and possesses considerable market power in the north Lake County banking market,[2] would be to reduce further the likelihood of a deconcentration of banking resources in the Leesburg area and the north Lake County banking market. The U.S. Supreme Court, in another context, has noted that "if concentration is already great, the importance of * * * preserving the possibility of eventual deconcentration is correspondingly great".[3] The elimination of such a possibility, even as a result of de novo entry, may be substantially to lessen competition. The Board has acted against the establishment of a de novo bank by a holding company in an area in which the bank holding company is considered dominant.[4] This has been the case even where a real need for a new bank has been clearly and convincingly established.[5]

Inasmuch as entry into a commercial banking market is restricted, opportunities for deconcentration are limited. This is particularly true in a State * * * where branching is highly restricted. If every newly developing need for banking facilities which arises in a concentrated market were to be filled by the market's dominant organization, any meaningful deconcentration of the market's banking resources would be made impossible, and further concentration might be encouraged. Each application by such an organization to expand within its present trade area, even through acquisition of a new bank, must therefore be examined to determine its probable effect on existing concentration, whether it will foreclose an opportunity for new entry which could provide additional competition and possibly promote a decrease in concentration, and its effect in limiting the development of existing competitors located in or near the area to be served by the new institution.[6]

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[1] See statement accompanying order of Dec. 20, 1957, denying application of Wisconsin Bankshares Corp. to acquire shares of proposed Capital National Bank of Milwaukee (44 Federal Reserve Bulletin 15 (1958)); statement accompanying order of Mar. 23, 1967, denying application of First National Corp. to acquire shares of proposed First National Bank West (53 Federal Reserve Bulletin 582 (1967)).

[2] With approximately 24 percent of market deposits, Applicant is the second largest banking group controlling the largest bank in the market. The largest banking group controls 35 percent of market deposits and the third largest group and bank in the market holds approximately 14 percent of market deposits. Therefore, of the seven banking organizations in the north Lake County banking market, the three largest control approximately 73 percent of market deposits, and the two largest control approximately 59 percent of market deposits.

[3] United States v. Philadelphia National Bank, 374 U.S. 321, 365 N. 42 (1963).

[4] See statement accompanying order of Jan. 4, 1966, denying Application of Central Wisconsin Bankshares, Inc. to acquire shares of proposed Central National Bank of Stettin (52 Federal Reserve Bulletin 29 (1966)).

[5] See statement accompanying order of Nov. 27, 1968, denying application of First Wisconsin Bankshares Corp. to acquire shares of proposed First Wisconsin National Bank of Greenfield (54 Federal Reserve Bulletin 1024 (1968)).

[6] Statement accompanying order of July 2, 1968, approving application of First Wisconsin Bankshares Corp. to acquire shares of proposed First Northwestern National Bank of Milwaukee (54 Federal Reserve Bulletin 645, 647–48 (1968)).

In addition to the effect consummation of the proposed transaction is expected to have on at least one existing competitor in the Leesburg area and the perpetuation of a high degree of banking concentration, the proposal would eliminate the possibilities for increased competition and a deconcentration of banking resources by reducing the opportunity for new entry by a bank organization not already represented in the market—an alternative that the Board considers to be clearly preferable to the proposal herein. The receipt of a charter by the organizers of Bank was apparently one of the factors that resulted in the abandonment of charter application plans by two other banking groups. In view of Applicant's already existing market position in Leesburg, Applicant's entry via the proposal herein can be expected to have even a more formidable effect on entry plans of the two groups mentioned above or on others. This factor alone provides substantial weight for the denial of this application in the absence of any countervailing considerations.[7]

On the basis of the foregoing and other facts of record, the Board concludes that consummation of the proposed transaction would adversely affect the development of competition in the Leesburg area and the north Lake County banking market by jeopardizing the competitive ability of Lake County Bank and by foreclosing entry by other banking organizations and thereby perpetuating a high level of concentration of banking resources. In view of such conclusions, the Board is precluded from approving the application unless the anticompetitive effects are outweighed by other factors in the record.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks appear generally satisfactory, as do financial and managerial resources and future prospects of Bank, which would be dependent upon assistance from Applicant. These factors are consistent with, but lend no weight toward, approval of the application.

The banking needs of the Leesburg and north Lake County areas are presently being adequately met by the already existing banking institutions. The recent opening of the Lake County Bank suggests that those needs will continue to be met in the reasonably foreseeable future. Bank would serve as a more convenient source of banking services for a number of residents of west Leesburg who are presently customers of First Bank in that Bank would be located approximately 1½ miles closer to them. However, there is no evidence that this distance causes those residents any great hardship; furthermore, the Board does not regard this slight (almost insignificant) increase in convenience as outweighing the adverse competitive effects inherent in the proposed transaction.

On the basis of all relevant facts in the record, and in the light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that the proposed acquisition would have adverse effects on competition, without any significant offsetting benefits under considerations relating to the banking factors or the convenience and needs of the communities to be served. Accordingly, the Board concludes that consummation of the proposal would not be in the public interest and that the application should be, and the application is hereby, denied.

By order of the Board of Governors,[8] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4833 Filed 3-13-73;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Acquisition of Bank

First National Financial Corp., Kalamazoo, Mich., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to the Commercial Bank of Menominee, Menominee, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 2, 1973.

Board of Governors of the Federal Reserve System, March 6, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-4832 Filed 3-13-73;8:45 am]

NORTHWEST IOWA BANCORPORATION

Order Approving Formation of Bank Holding Company

Northwest Iowa Bancorporation, Le Mars, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 80 percent or more of the voting shares of the Lakes National Bank, Arnolds Park, 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 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)),

Since its organization in 1967, Applicant has been selling credit life insurance to customers of Bank's predecessor organization.[1] Bank was granted a national bank charter on September 29, 1971, and opened for business on January 6, 1972. Upon approval of this application, Applicant proposes to transfer its credit life insurance agency operations to Bank. Bank is located in a community of less than 5,000 people, and would conduct such insurance agency activities pursuant to its authority as a national bank (12 U.S.C. 92 and 12 CFR 7.7100).

Bank has deposits of $1.9 million, representing less than 1 percentage point of total deposits in commercial banks in Iowa, and is the smallest of four banks located in the Arnolds Park area.[2] Since the sole shareholder of Applicant owns 96 percent of Bank's shares, the proposed transaction involves only a change from individual to corporate ownership. Accordingly, consummation of the proposed transaction would have no adverse effect on existing or potential competition.

Although Applicant would incur a significant amount of debt in relation to its net worth in acquiring Bank, Applicant has committed itself to increase its equity capital and has arranged to amortize its remaining debt over a period of 12 years. In addition to these facts, since Bank's income will be increased by the insurance agency operations being transferred to it by Applicant, it appears that Applicant will be able to service its debt without adversely affecting the condition of Bank. Accordingly, the financial and managerial resources and future prospects of Applicant and Bank are consistent with approval of this application. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons set forth in the Board's statement of this date. 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,[3] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4835 Filed 3-13-73;8:45 am]

[7] See statement accompanying order of Oct. 19, 1970, denying application of Security Financial Services, Inc., to acquire shares of proposed Security West Side Bank (56 Federal Reserve Bulletin 834 (1970)).

[8] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[1] Prior to the time Bank was granted a national bank charter, it was operated as a branch of First National Bank, Sibley, Iowa.

[2] Banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions through Dec. 31, 1972.

[3] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

SOUTHWEST FLORIDA BANKS, INC.

Order Approving Formation of Bank Holding Company

Southwest Florida Banks, Inc., Fort Myers, Fla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of the following five banks, all in Florida: (1) First National Bank in Fort Myers, Fort Myers (Fort Myers Bank); (2) Beach First National Bank, Fort Myers Beach (Beach Bank); (3) East First National Bank, Fort Myers (East Bank); (4) National Bank of Sarasota, Sarasota (Sarasota Bank); and (5) National Bank Gulf Gate, Sarasota (Gulf Gate 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, a newly organized Florida corporation, proposes to acquire control of the above five banks; three located in Lee County, two located in Sarasota County, in Florida. Consummation of the proposal would give Applicant control of $198 million in deposits which represents 1.2 percent of deposits in commercial banks in the State of Florida. It would become the 19th largest banking organization in the State.[1]

Management of Fort Myers Bank ($116.6 million in deposits) was instrumental in the formation of Beach Bank ($10.3 million in deposits) and East Bank ($5.4 million in deposits). Since the formations the three banks, which control 36 percent of the Fort Myers market deposits, have been closely affiliated through common stock ownership of over 51 percent and interlocking directorships. Additionally, the banks offer many services to customers on a cooperative basis and share many internal services. Due to this affiliation, consummation of the proposal would eliminate no significant existing competition in the Fort Myers market. Similarly, Sarasota Bank ($42.4 million in deposits) and Gulf Gate Bank ($22.9 million in deposits) are affiliated by common management and common stock ownership of over 70 percent. Consummation of the proposal would have no adverse effects on existing competition in the Sarasota banking market where the subject banks hold 17 percent of market deposits.

With respect to potential competition, due to the nature and strength of the affiliations, there is little likelihood that, absent this proposal, competition would develop within either of the presently existing groups. Further, each of these groups is relatively small, and since the banking markets involved are separated by over 70 miles, it does not appear likely that either group would enter the market served by the other.[2] The Board concludes that consummation of the proposal would have no significant adverse effects on potential competition.

The financial and managerial resources of Applicant and its proposed subsidiaries are satisfactory, taking into account Applicant's commitment to add capital to three of the banks, and future prospects are favorable. These considerations are consistent with approval. Although consummation of the transaction will have no immediate effect on the banking needs of the residents in Applicant's banking markets, considerations relating to the convenience and needs of the communities to be served are regarded as consistent with approval. It is the Board's judgment that the transaction 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective March 6, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-4829 Filed 3-13-73;8:45 am]

[1] All banking data are as of June 30, 1972.

[2] This contrasts with the Board's findings with respect to the applications of First at Orlando Corp., to acquire the Sarasota group where First at Orlando was a likely entrant into the market with the size and ability to enter de novo or through the acquisition of a smaller bank. Further, after Board approval for First at Orlando to acquire the smaller bank in the group, the owners of the group were unwilling to sell only one of the banks. (1971 Federal Reserve Bulletin 1013.)

[3] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

[ICP Docket No. 20348]

WESTMORELAND COAL CO.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20348, Westmoreland Coal Co., McAlpin No. 3 UG Mine, USBM ID No. 46 01517 0, McAlpin, W. Va., Section ID No. 016 (2d panel right), Section ID No. 018 (4 right off 2d south headings).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before March 29, 1973. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1720 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 8, 1973.

[FR Doc.73-4840 Filed 3-13-73;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE AND ENVIRONMENTAL ARTS ADVISORY PANEL

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Architecture and Environmental Arts Advisory Panel to the National Endowment for the Arts will be held at 9 a.m. on March 15, 1973, in Washington, D.C.

This meeting is for the purpose of Panel review, discussion, and evaluation of grant applications. It has been determined by the Chairman, in accordance with section 10(d) of the Act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, DC 20560, or call area code 202—382-2854.

P. P. BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-4944 Filed 3-13-73;8:45 am]

DANCE ADVISORY PANEL

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Dance Advisory Panel to the National Endowment for the Arts will be held at 9 a.m., on March 16, 1973, 9 a.m., on March 17, 1973, and 9 a.m., on March 18, 1973, in Atlanta, Ga.

This meeting is for the purpose of panel review, discussion, and evaluation of grant applications. It has been determined by the Chairman, in accordance

with section 10(d) of the Act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, DC 20560, or call Area Code 202—382–2854.

P. P. BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73–4945 Filed 3–13–73;8:45 am]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a closed meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held at 9:30 a.m., on March 16, 1973, in Washington, D.C.

The panel will review, discuss, evaluate, and make recommendations in connection with Federal agency graphics programs. It has been determined by the Chairman, in accordance with section 10(d) of the Act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, DC 20560, or call Area Code 202—382–2854.

P. P. BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73–4946 Filed 3–13–73;8:45 am]

MUSIC ADVISORY PANEL

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a closed meeting of the Music Advisory Panel to the National Endowment for the Arts will be held at 9:30 a.m., on March 19, 1973, 9:30 a.m., on March 20, 1973, and 9:30 a.m., on March 21, 1973, in Washington, D.C.

This meeting is for the purpose of panel review, discussion, and evaluation of grant applications. It has been determined by the Chairman, in accordance with section 10(d) of the Act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, DC 20560, or call Area Code 202—382–2854.

P. P. BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73–4947 Filed 3–13–73;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR RESEARCH

Notice of Meeting

MARCH 8, 1973.

Pursuant to the Federal Advisory Committee Act (P.L. 92–463) notice is hereby given that a meeting of the Advisory Committee for Research will be held at 9:00 a.m. on March 22 and 23, 1973 in Room 540, 1800 G Street NW., Washington, DC 20550. The purpose of this committee is to provide advice and counsel concerning research activities and potential in the U.S. and to consult on problems in the administration of research support.

The agenda for this meeting shall include:

MARCH 22 SESSION

A.M. PORTION

9:00—Welcome and opening remarks—Committee Chairman.
9:30—Research Advisory Committee in Perspective—Director, National Science Foundation.
—Review of NSF Mission.
—Review of NSF Programs.
—Statement of Committee Purpose and Relation to NSF Mission.
10:00—Proposed Committee Operandi—Committee Chairman.
—Relation of Committee Purpose to Research Advisory Requirements of:
a. Research Directorate — Assistant Director for Research;
b. National and International Programs—Assistant Director for National and International Programs;
c. Research Applications Directorate—Assistant Director for Research Applications.
11:25—The 1973 and 1974 NSF Budget Situation; Prospects for Federal Support of Basic Science—Near and Long Term-Director, National Science Foundation.
12:00—Break for lunch.

P.M. PORTION

1:15—Impact of Changing National Priorities on Federal Support of Science—Senior Staff Associate, Directorate of Research.
1:45—Distribution of special problem area statements and floor suggestions of other possible areas for later review by ad hoc task groups; arrangements for ad hoc task group activities—Committee Chairman.
—Instructions to ad hoc task groups—Deputy Assistant Director of Research.
3:00—Recess of full committee for reassembly into ad hoc task groups to discuss problem area topics (specific room numbers to be announced prior to recess).

MARCH 23 SESSION

A.M. PORTION

9:00—Continuation of ad hoc task group discussions (same room numbers as previously announced).
10:30—Assembly of full committee (Room 540)—Presentations of ad hoc task groups to full committee.
12:30—Break for lunch.

P.M. PORTION

1:30—Appointment of chairmen for ad hoc task groups and assignment of special problem areas for intensive review—Committee Chairman.
2:30—Floor discussion of other special problem areas for possible future examination by ad hoc groups—Deputy Assistant Director for Research.
3:30—Future meeting schedules—Committee Chairman.
3:45—Adjournment.

The meeting shall be open to the public and attendance will be limited to space available on a first-come basis. Persons who plan to attend should notify Mr. Leonard Gardner, Directorate for Research by telephone (202—632–4278) or by mail (Room 320, 1800 G Street NW., Washington, DC 20550) not later than close of business on March 19, 1973.

For further information concerning this committee, contact Mr. Leonard P. Gardner, Special Assistant, Directorate for Research, Room 320, 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained by contacting the Management Analysis Office, Room K–720, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

MARCH 5, 1973.

[FR Doc.73–4924 Filed 3–13–73;8:45 am]

ADVISORY PANEL FOR HUMAN CELL BIOLOGY

Notice of Meeting

MARCH 8, 1973.

Pursuant to the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the Advisory Panel for Human Cell Biology will be held at 8:30 a.m., on March 24, and 25, 1973 in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

This meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act. For further information, contact Dr. Herman W. Lewis, Acting Program Director, Human Cell Biology Program, Room 325, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

MARCH 5, 1973.

[FR Doc.73–4925 Filed 3–13–73;8:45 am]

ADVISORY PANEL FOR ASTRONOMY

Notice of Meeting

MARCH 8, 1973.

Pursuant to the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the Advisory Panel for Astronomy will be held at 9 a.m., on March 26 and 27, 1973 in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations concerning support for research and research-related activities in Astronomy.

The agenda for this meeting shall include:

1. Discussion of the needs for support for theoretical astrophysics (computational support, special programs and institutions).
2. Discussion of observing sites (future of dark sky sites, protection, acquisition).
3. Discussion of cosmic ray research in astronomy.
4. Discussion of the need for support of astronomical institutions by grants for observatory operations, departmental block grants, coherent area grants, project grants, etc.
5. Discussion of long range plans for instruments and instrumentation.

This meeting will be open to the public on a space available basis and the public may make written suggestions following the meeting. Persons who desire to attend should notify Mrs. Marvis M. Rush, Astronomy Section, by telephone (202—632–4196) or by mail (Room 305, 1800 G Street NW., Washington, DC 20550), not later than close of business on March 23, 1973.

For further information respecting this panel, contact Dr. Robert Fleischer, Section Head, Astronomy Section, Room 305, 1800 G Street NW., Washington, DC 20550. Summary minutes relative to this meeting may be obtained by contacting the management Analysis Office, Room K–720, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

MARCH 5, 1973.

[FR Doc.73–4926 Filed 3–13–73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812–3350]

AUDAX FUND INC. ET AL.

Notice of Application for Order Exempting Applicants

MARCH 7, 1973.

Notice is hereby given that Audax Fund Inc., and Wisconsin Fund, Inc. (Funds), both open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), and Wisconsin Investment Management Co., Inc., 225 East Michigan Street, Milwaukee, WI 53202 (Management) the principal underwriter for the Funds (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from section 22(d) of the Act and Rule 22d–1 thereunder. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The prospectuses of the Funds state that a sales commission is included in the offering price of the shares of such Funds.

Applicants propose to offer to persons who have caused their shares of either of the Funds to be redeemed the privilege of being able to reinstate their accounts without any sales charges. In order to be eligible for such privilege, an investor must not previously have exercised the privilege. Reinstatement, or the purchase of shares of a Fund pursuant to the privilege, will be limited to not more than the amount of the redemption proceeds (or, if fractional shares are not purchased, to an amount necessary to purchase the nearest full share). A written order to purchase the shares must be received by the Fund or Management or be postmarked, within 15 days after the date the request for redemption was received. The reinstatement will be made at net asset value next determined after notice of the exercise of the privilege is received. Salesmen of shares of the Fund involved would receive no compensation of any kind in connection with the reinvestments.

It is contemplated that Management, at its expense, will include with the redemption check mailed to a redeeming shareholder a statement containing information concerning the repurchase privilege. Telephone calls to redeeming shareholders are also contemplated.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked, or which they may have misunderstood at the time they redeemed, and that in order to minimize the possibility of shareholder speculation on a possible short-term decline in the net asset value of the Fund's shares, the reinvestment privilege is being offered on a one-time basis and must be exercised within a relatively short period of time.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 30, 1973 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73–4846 Filed 3–13–73;8:45 am]

[File No. 500–1]

CLINTON OIL CO.

Order Suspending Trading

MARCH 7, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from March 8, 1973, through March 17, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73–4843 Filed 3–13–73;8:45 am]

[812–3381]

E. F. HUTTON TAX-EXEMPT FUND (ALL EXISTING AND SUBSEQUENT NATIONAL AND STATE SERIES), ET AL.

Notice of Filing of Application

MARCH 7, 1973.

Notice is hereby given that E. F. Hutton Tax-Exempt Fund (All Existing and

Subsequent National and State Series), Michigan Fund, Tax-Exempt Municipal Investment Trust (First and Subsequent Series), and Pennsylvania Fund, Tax-Exempt Municipal Investment Trust (First and Subsequent Series) (the Applicants) c/o E. F. Hutton & Co., Inc., One Battery Park Plaza, New York, NY 10004, all unit investment trusts registered under the Investment Company Act of 1940 (the Act), have jointly filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of Rule 19b–1 under the Act. 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.

Each of the Applicants is or will be composed of unit investment trusts, all of which are organized or, in the case of subsequent series, will be organized under the laws of the State of New York. E. F. Hutton & Co., Inc., acts as sponsor of E. F. Hutton Tax-Exempt Fund and cosponsor of Michigan Fund, Tax-Exempt Municipal Investment Trust (also cosponsored by Manley, Bennett, McDonald & Co.), and Pennsylvania Fund, Tax-Exempt Municipal Investment Trust (also cosponsored by Butcher and Sherrerd). Each existing series of the Applicants is governed by the provisions of a trust indenture and agreement (Indenture) entered into by the sponsor or cosponsors and U.S. Trust Co. of New York as Trustee (Trustee), and consists of a diversified portfolio of interest-bearing obligations (Bonds) issued by or on behalf of States, counties, municipalities, authorities or political subdivisions thereof, or territories or possessions of the United States, the interest from which, in the opinion of recognized bond counsel, is exempt, under existing law, from all applicable Federal and State income taxes. Pursuant to the terms of the Indenture for each series, the sponsor or cosponsors deposit in excess of $3 million principal amount of the Bonds with the Trustee who, in turn, delivers to the sponsor or cosponsor registered certificates in excess of 3,000 units which represents the entire ownership of that particular series. Once the Bonds are deposited with the Trustee, they may not be pledged or in any way subjected to any debt by the Applicants. After such a deposit is made with the Trustee for a series, and following the effective date of a registration statement under the Securities Act of 1933 for the series, and clearance by the Blue-Sky authorities of the various States, the sponsor or cosponsors offer the units of that series to the public at the public offering price set forth in the prospectus relating to such series, plus accrued interest.

Certain of the Bonds may from time-to-time be sold under circumstances set forth below or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to the unitholders and not reinvested. Units will remain outstanding until redeemed or until the termination of an Indenture, which may occur by 100 percent agreement of the unitholders of the series, or, in the event that the value of the Bonds falls below an amount specified for each series either upon direction of the sponsors to the Trustee or by the Trustee without such direction.

It is intended that distributions of principal and interest will be made to unitholders monthly, quarterly, and semiannually. Distributions of principal constituting capital gains to unitholders may arise in two instances: (1) If an issuing authority calls or redeems an issue held in the portfolio, the sums received by an Applicant will be distributed to unitholders on the next distribution date; and (2) if units are redeemed by the Trustee and Bonds from the portfolio are sold to provide the funds necessary for such redemption, each unitholder will receive his pro rata portion of the proceeds from the Bonds sold. In such instances, a unitholder will frequently receive in his distribution funds which constitute capital gains since, in many cases, the value of the Bonds redeemed or sold will have increased since the date of initial deposit.

Distributions of capital gains more frequently than annually are, however, prohibited by Rule 19b–1(a) which provides, in part, that no registered investment company which is a regulated investment company, as defined in section 851 of the Internal Revenue Code of 1954, shall distribute more than one capital gain distribution in any one taxable year of the company, and by paragraph (b) of the rule which contains a similar prohibition for a company not a regulated investment company, but permits a unit investment trust to distribute capital gain distributions received from a regulated investment company within a reasonable time after receipt.

In support of their requested exemption from Rule 19b–1, Applicants represent that the dangers which Rule 19b–1 is intended to guard against, to wit, the realization of capital gains on a frequent and regular basis, will not exist in the Applicant's situation since they and their sponsors have no control over the events which might trigger capital gains, i.e., the tendering of units for redemption and the prepayment of Bonds by the issuing authorities. In addition, Applicants represent that the amounts involved in a normal distribution of principal are relatively small in comparison to the normal interest distribution, and such distributions are clearly indicated in accompanying reports to unitholders as a return of principal.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction from any provisions of the Act or of any rule or regulation under the Act, if and to the extent 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 April 2, 1973, 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73–4844 Filed 3–13–73;8:45 am]

[70–5315]

NORTHEAST UTILITIES

Notice of Proposed Amendment of Declaration of Trust and Order Authorizing Solicitation of Proxies

MARCH 7, 1973.

Notice is hereby given that Northeast Utilities (Northeast), 174 Brush Hill Avenue, Springfield, MA 01089, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Northeast proposes to amend Article 34 of its Declaration of Trust dealing with the indemnification of Northeast's trustees and officers, and persons who serve at the request of Northeast as directors, officers or trustees of another organization in which Northeast has an interest as a shareholder or creditor. The proposed amendment would clarify and broaden the provisions of Article 34 to include indemnification of such persons

against liabilities and expenses, including counsel fees reasonably incurred, resulting from litigation or pending litigation in which any trustee or officer, acting as such in good faith may be involved. Northeast states that the proposed amendment would serve to clarify the circumstances under which indemnification is available to trustees and officers; is consistent with contemporary corporate practice; and is in the best interests of Northeast in helping to attract and retain qualified leadership.

The proposed amendment of the Declaration of Trust will require the written consent of holders of at least 66⅔ percent of Northeast's outstanding common shares of capital stock; and the company proposes to solicit proxies from its shareholders through the use of solicitation material submitted herein, to be voted at the stockholders annual meeting scheduled for April 24, 1973.

Expenses to be incurred in connection with the proposed transactions are estimated at $2,750, including $1,750 for counsel fees and $1,000 for services performed at cost by Northeast's subsidiary service company, Northeast Utilities Service Co. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Northeast has requested that the effectiveness of its declaration with respect to the solicitation of consent from its shareholders be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than April 5, 1973, request in writing that a hearing be held with respect to the proposed amendment to the Declaration of Trust, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said 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 declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 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.73-4845 Filed 3-13-73;8:45 am]

[File No. 500-1]

MANAGEMENT DYNAMICS, INC.

Order Suspending Trading

MARCH 7, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Management Dynamics, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from March 8, 1973, through March 17, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-4842 Filed 3-13-73;8:45 am]

TARIFF COMMISSION

[TEA-W-188]

TMA CO., WHEELING, ILL.

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 former workers of the TMA Co., Wheeling, Ill., the U.S. Tariff Commission, on March 9, 1973, 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 television receivers and radio-television-phonograph combinations (of the types provided for in items 685.20 and 685.42 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 on or before March 26, 1973.

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.

Issued: March 9, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-4940 Filed 3-13-73;8:45 am]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Notice of Meetings

The Veterans Administration gives notice that meetings of the VA Wage Committee will be held at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC, on:

Thursday, March 15, 1973.
Thursday, March 29, 1973.
Thursday, April 12, 1973.
Thursday, April 26, 1973.
Thursday, May 10, 1973.
Thursday, May 24, 1973.

The meetings will convene in Room 1100 at 2 p.m., for the purpose of reviewing the adequacy of data obtained in wage surveys conducted under the lead of VA field stations and under the procedure requirements of the Federal Wage System.

The meetings will be closed to the public under the provisions of section 10 (d) of Public Law 92-463, based on the confidential nature of information under consideration.

Dated: March 9, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.73-4949 Filed 3-13-73;8:45 am]

VETERANS ADMINISTRATION WAGE COMMITTEE

Continuation of Committee

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Veterans Administration has determined that the continuation of the Veterans Administration Wage Committee is in the public interest in connection with the performance of duties imposed on the Veterans Administration by law.

Signed at Washington, D.C. this 9th day of March 1973.

[SEAL] DONALD E. JOHNSON,
Administrator.

[FR Doc. 73-4950 Filed 3-13-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON NOISE

Notice of Meeting

Notice is hereby given that the Standards Advisory Committee on Noise, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Thursday, March 29, 1973, and Friday, March 30, 1973, starting at 8:30 a.m. each day, in Hearing Room B, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C.

The agenda provides for the presentation of a draft of a proposed noise standard by the OSHA Office of Standards, and for a review of the NIOSH criteria document on Occupational Exposure to Noise with a view toward sspecific recommendations.

The meeting shall be open to the public. Written data, views, or arguments concerning the subject to be considered may be filed with the Committee's Executive Secretary, together with 20 copies, by March 26, 1973. Any such submissions, timely received, will be provided to the members of the committee and will be included in the record of the meeting.

Persons wishing to orally address the committee at the meeting should submit a written request to be heard, together with 20 copies thereof, to the Executive Secretary no later than March 26, 1973. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed. At the meeting the chairman will announce whether oral presentations will be allowed, and, if so, under what conditions.

Communications to the Executive Secretary should be addressed as follows:

Mr. Wendell R. Blair, Executive Secretary, Standards Advisory Committees, Room 509, Railway Labor Building, 400 First Street NW., Washington, DC 20210.

Signed at Washington, D.C., this 13th day of March 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-5056 Filed 3-13-73;10:23 am]

INTERSTATE COMMERCE COMMISSION

[Notice 197]

ASSIGNMENT OF HEARINGS

MARCH 9, 1973.

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 31389 Sub 151, McLean Trucking Co., now assigned April 23, 1973, at Atlanta, Ga., postponed to May 1, 1973, at the Royal Inn Motel, 301 Central Avenue, Atlanta, Ga.

MC 3700 Sub 66, Manhattan Transit Co., now assigned March 26, 1973, at Newark, N.J., is postponed indefinitely.

AB-5 Sub 85, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment Harlem Branch between Millerton and Ghent, Dutchess and Columbia Counties, N.Y., now assigned April 4, 1973, at Millerton, N.Y., will be held in the Community Room, 2nd Floor, Village Community Building, Dutchess Avenue.

MC 98701 Sub 3, Clevelapd Express, Inc., now assigned April 2, 1973, at Knoxville, Tenn., will be held in room LL8, Cumberland Building, 301 West Cumberland Avenue, Knoxville, TN.

AB-5 Sub 106, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between Cockeysville and Hyde, in Baltimore County, Md., and York County, Pa., now assigned March 19, 1973, at York, Pa., will be held at the Meeting Hall, Historical Society of York County, 250 East Market Street.

MC 76032 Sub 292, Navajo Freight Lines, Inc., now assigned March 15, 1973, at St. Louis, Mo., is cancelled and transferred to modified procedure.

MC-2900, Ryder Truck Lines, Inc., now assigned April 30, 1973, will be held in room LL8, Cumberland Building, 301 West Cumberland Avenue, Knoxville, TN.

MC 134781 Sub 2, Fast Freight Transfer, Inc., now assigned March 20, 1973, at Miami, Fla., is cancelled and application dismissed.

MC-F-11641, Yellow Freight System, Inc.—control and merger—The Adley Corp., doing business as Adley Express Co., now assigned April 9, 1973, at New York, N.Y., is postponed to June 4, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-4927 Filed 3-13-73;8:45 am]

[Notice 9]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 9, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-200 (Deviation No. 26), RISS INTERNATIONAL CORPORATION, Post Office Box 2809, Kansas City, MO 64142, filed February 28, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Texas Highway 114 to junction U.S. Highway 287, thence over U.S. Highway 287 to Lamar, Colo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Dallas, Tex., over U.S. Highway 75 to Denison, Tex., (2) from Ottawa, Kans., over U.S. Highway 59 to junction unnumbered highway (formerly U.S. Highway 59), thence over unnumbered highway via Shaw, Kans., to junction U.S. Highway 59, thence over U.S. Highway 59 to Welch, Okla., thence over Oklahoma Highway 2 (formerly U.S. Highway 59) to Vinita, Okla., thence over U.S. Highway 69 to junction unnumbered highway (formerly U.S. Highway 69), thence over unnumbered highway to Wagoner, Okla., thence over Oklahoma Highway 51 to junction U.S. Highway 69, thence over U.S. Highway 69 to Atoka, Okla., thence over U.S. Highway 75 to Denison, Tex., (2) from Salina, Kans., over U.S. Highway 81 to Waurika, Okla., thence over U.S. Highway 70 to Durant, Okla., (3) from Dodge City, Kans., over U.S. Highway 154 to junction U.S. Highway 54, near Mullinville, Kans., thence over U.S. Highway 54 to Augusta, Kans., thence over U.S. Highway 77 to junction unnumbered highway (formerly U.S. Highway 77) near Edmond, Okla., thence over unnumbered highway to Edmond, Okla., thence over Oklahoma Highway 77 (formerly U.S. Highway 77) to Oklahoma City, Okla., thence over U.S. Highway 77 to Ardmore, Okla.

(4) From Oklahoma City, Okla., over Oklahoma Highway 3 to junction U.S. Highway 81, thence over U.S. Highway 81 to Kingfisher, Okla., thence over Oklahoma Highway 33 to junction U.S. Highway 270, thence over U.S. Highway 270 to junction U.S. Highway 183, thence over U.S. Highway 183 to Buffalo, Okla.,

thence over U.S. Highway 64 to junction U.S. Highway 83, thence over U.S. Highway 83 to Garden City, Kans., thence over U.S. Highway 50 to junction U.S. Highway 287, thence over U.S. Highway 287 to Denver, Colo., and (5) from Kansas City, Mo., over U.S. Highway 50 to junction Kansas Highway 150 (formerly U.S. Highway 50), thence over Kansas Highway 150 to Olathe, Kans., thence over Kansas Highway 7 (formerly U.S. Highway 50) to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 50 (formerly U.S. Highway 50–S), near Ottawa, Kans., thence over U.S. Highway 50 to junction unnumbered highway near Ellinor, Kans., thence over unnumbered highway to Ellinor, thence return over said unnumbered highway to junction U.S. Highway 50 (formerly U.S. Highway 50–S), thence over U.S. Highway 50 to junction unnumbered highway near Dillwyn, Kans., thence over unnumbered highway to Dillwyn, thence return over said unnumbered highway to junction U.S. Highway 50 (formerly U.S. Highway 50–S), thence over U.S. Highway 50 to junction U.S. Highway 56 (formerly U.S. Highway 50–S), thence over U.S. Highway 56 to Dodge City, Kans., thence over U.S. Highway 50 via Garden City, Kans., to Pueblo, Colo., thence over U.S. Highway 85 to junction Colorado Highway 105 (formerly U.S. Highway 85), thence over Colorado Highway 105 via Monument, Colo., to Palmer Lake, Colo., thence over Colorado Highway 393 (formerly U.S. Highway 85) via Larkspur, Colo., to junction U.S. Highway 85, thence over U.S. Highway 85 to Denver, Colo., and return over the same routes.

No. MC–13235 (Deviation No. 5) (Correction), CENTRALIA CARTAGE CO., 650 West Nolema Street, Centralia, IL 62801, filed January 5, 1973. Carrier's representative: Charles W. Singer, 3440 East Commercial Boulevard, Fort Lauderdale, FL 33308. The summary of this deviation notice published in the FEDERAL REGISTER February 28, 1973, should be corrected to show the correct deviation number assigned to the deviation notice to be Deviation No. 5, incorrectly shown in the summary of the notice publish a Deviation No. 1.

No. MC–63562 (Deviation No. 3), BN TRANSPORT, INC., 796 South Pearl Street, Galesburg, IL 61401, filed February 28, 1973. Carrier's representative: Larry J. Schwarz, same address as applicant. Carrier proposes to operate as a *common carrier*, vehicle, of *general commodities*, with certain exceptions over a deviation route as follows: From St. Louis, Mo., over city streets to junction Interstate Highway 270, thence over Interstate Highway 270 to junction Interstate Highway 55 and 70 and U.S. Highway 66, thence over Interstate Highway 55 (using U.S. Highway 66 where portions of Interstate Highway 55 are not completed) to Chicago, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 66 to junction combined U.S. Highways 36 and 54, thence over combined U.S. Highways 36 and 54 to Jacksonville, Ill., (2) from St. Louis, Mo., over U.S. Highway 67 to junction Illinois Highway 101, (3) from Davenport, Iowa, over U.S. Highway 67 to junction Illinois Highway 92, thence over Illinois Highway 92 to Taylor Ridge, Ill., thence over Illinois Highway 94 to junction Illinois Highway 135, thence over Illinois Highway 135 to junction Illinois Highway 164, thence over Illinois Highway 164 to Monmouth, Ill., thence over U.S. Highway 67 to junction Illinois Highway 67, thence over Illinois Highway 67 to junction Illinois Highway 101, thence over Illinois Highway 101 to Augusta, Ill.

(4) From Davenport, Iowa, over U.S. Highway 6 to Moline, Ill., thence over U.S. Highway 150 to Galesburg, Ill., thence over Illinois Highway 41 to junction U.S. Highway 136 (formerly Illinois Highway 10), thence over U.S. Highway 136 to junction Illinois Highway 61, thence over Illinois Highway 61 to Ursa, Ill., thence over Illinois Highway 96 to junction U.S. Highway 24, thence over U.S. Highway 24 to Quincy, Ill. (also from junction Illinois Highway 96 and U.S. Highway 24 over Illinois Highway 96 to Quincy), and (5) from Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U.S. Highway 34 (also from junction U.S. Highway 34 and Illinois Highway 65 over U.S. Highway 34 to junction Illinois Highway 31), thence over U.S. Highway 34 to Glenwood, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 375, thence over Iowa Highway 375 to Council Bluffs, Iowa, thence over U.S. Highway 6 to Omaha, Nebr., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-4929 Filed 3-13-73;8:45 am]

[Notice 19]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 9, 1973.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth [1] reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 136507 (Sub-No. 2) (Republication), filed July 17, 1972, published in the FEDERAL REGISTER of August 10, 1972, and republished this issue. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastbourne Avenue, Baltimore, MD 21224. Applicant's representative: H. Neil Garson, Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201. A supplemental order of the Commission, Operating Rights Board, dated February 5, 1973, and served February 26, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *maple sugar*, in bulk (1) from ports of entry on the international boundary line between the United States and Canada at or near Highgate Springs and Derby, Vt., to Baltimore, Md., Brundidge, Ala., Terre Haute, Ind., and Chicago, Ill., and (2) from Baltimore, Md., to Brundidge, Ala., Terre Haute, Ind., and Chicago, Ill.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136509 (Republication), filed March 7, 1972, published in the FEDERAL REGISTER of April 6, 1972, and republished this issue. Applicant: JAMES R. COLELLO, INC., 174 Plain Street, Millis, MA 02054. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. An order of the Commission, Review Board No. 1, dated February 22, 1973, and served March 2, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *stone dust*, in bulk, from North Stonington, Conn., to the plantsite of Bird & Son, Inc., located at East Walpole, Mass., and the plantsite of GAF Corp., located at Millis, Mass., under continuing contracts with Bird &

Son, Inc., of East Walpole, Mass., and GAF Corp. of South Bound Brook, N.J., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136681 (Republication), filed May 2, 1972, published in the FEDERAL REGISTER of June 2, 1972, and republished this issue. Applicant: LEWIS M. BARON, doing business as TRADE DELIVERY SERVICE, 17 East 22d Street, New York, NY 10010. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. An order of the Commission, Operating Rights Board, dated January 24, 1973, and served February 21, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *copperware, enamelware, kitchen utensils, and books*, (1) from points in New York, N.Y., harbor area as defined by the Commission (49 CFR 1070.1a) to East Brunswick, N.J., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., and (2) from East Brunswick, N.J., to points in that portion of the New York, N.Y. commercial zone as defined by the Commission in the Fifth Supplemental Report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451 within which local operations may be conducted under the exemption provided by section 203(b)(8) of the Act (the "exempt" zone) and to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., under a continuing contract with David Kamenstein, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority as described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

FREIGHT FORWARDER APPLICATION

No. FF-233 (Sub-No. 1) (Republication), filed December 13, 1971, published in the FEDERAL REGISTER of January 20, 1972, and republished this issue. Applicant: JOE M. HAMBRICK, doing business as I & S FORWARDING COMPANY, 2265 Vistamont Drive, Decatur, GA 30033. An order of the Commission, Division 1, acting as an Appellate Division, dated February 20, 1973, and served March 2, 1973, finds that service by applicant, in interstate commerce, as a *freight forwarder of iron and steel articles*, from points in Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Guernsey, Harrision, Jefferson, Lorain, Mahoning, Medina, Monroe, Morgan, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, Ohio; Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venanago, Washington, and Westmoreland Counties, Pa.; Brooke, Doddridge, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tyler, Wetzel, and Wood Counties, W. Va., Lake and Porter Counties, Ind.; Cook, DuPage, Grundy, Jersey, Madison, Monroe, St. Clair, and Will Counties, Ill., and those points in Illinois contiguous to the Illinois River which are not located in the previously named Illinois Counties, and points in St. Charles, St. Louis, and Jefferson Counties, Mo., to points in Alabama, Georgia, Florida, to those points in Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Calhoun, Charleston, Colleton, Edgefield, Greenville, Greenwood, Hampton, Jasper, Laurens, Lexington, McCormick, Newberry, Oconee, Orangeburg, Pickens, Richland, Saluda, Spartanburg, and Union Counties, S.C., to those points in Mississippi in and east of the counties of George, Perry, Forrest, Covington, Simpson, Hinds, Yazoo, Holmes, Leflore, Grenada, Yalobusha, Lafayette, and Marshall, and to those points in Tennessee in and south of the counties of Lawrence, Maury, Williamson, Davidson, Wilson, Smith, Putman, Cumberland, Morgan, Anderson, Knox, and Blount, will be consistent with the public interest and the national transportation policy; that applicant is ready, able and willing properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MOTOR CARRIER PASSENGER-BROKERAGE LICENSE

No. MC 130174 (Republication), filed July 28, 1972, and published in the FEDERAL REGISTER of August 24, 1972, and republished this issue. Applicant: STEWART TOURS, INCORPORATED, a corporation, doing business as STEWART TOURS, 35 South Fairview Circle, Portsmouth, VA 23702. An order of the Commission, Operating Rights Board, dated January 26, 1973, and served February 21, 1973, finds that operation by applicant as a *broker* at Portsmouth, Norfolk, Virginia Beach, Newport News, Hampton, and Suffolk, Va., in arranging for transportation by motor vehicle, in round-trip charter and special operations, in interstate or foreign commerce, of *passengers and their baggage*, beginning and ending at points in Portsmouth, Norfolk, Chesapeake, Virginia Beach, Nansemond, Hampton, Suffolk, and Newport News, Va., and extending to points in the United States (except Hawaii but including Alaska), will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a license in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 35320 (Sub-No. 135), filed January 22, 1973. Applicant: T.I.M.E.-DC, INC., Post Office Box 2550, 2598 74th Street, Lubbock, TX 79408. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue. Authority sought to operate as a *common carrier*, by motor vehicle, over regular/irregular routes, transporting: Regular Routes: (1) Between Cincinnati, Ohio, and junction Ohio State Highway 73 and Interstate Highway 75 serving the intermediate points of Franklin and Middletown and the junction of Ohio State Highway 73 and Interstate Highway 75, from Cincinnati over Ohio State Highway 4 via Hamilton and Middletown,

Ohio, to junction Ohio State Highway 4 and Ohio State Highway 73 and Interstate Highway 75 and return over the same route; (2) Between Cincinnati, Ohio, and Toledo, Ohio, serving the intermediate points of Fairfield, Hamilton, Eaton, Greenville, Van Wert, Bryan, West Unity, and Delta, Ohio, and the off-route points of St. Marys, Defiance, Napoleon, Gettysburg, Montpelier, Wauseon, Waterville, Fernald, Harrison, Middletown, and Oxford, Ohio, from Cincinnati over U.S. Highway 127 via Hamilton and Van Wert, Ohio, to junction of U.S. Highway 127 and Interstate Highways 80/90, thence over Interstate Highways 80/90 to junction Interstate Highways 80/90 and U.S. Highway 24, thence over U.S. Highway 24 to Toledo, and return over the same route;

(3) Between Cincinnati, Ohio, and Van Wert, Ohio, serving the intermediate points of Miamisburg, West Carrollton, Dayton, Vandalia, Tipp City, Troy, Piqua, Sidney, Lima, and Delphos, the off-route points of Kettering and Wapakoneta, and serving the junction of Ohio State Highway 73 and Interstate Highway 75, from Cincinnati, over U.S. Highway 25 and Interstate Highway 75 to junction of U.S. Highway 25 and Interstate Highway 75 and U.S. Highway 30N, near Beaverdam, Ohio, thence over U.S. Highway 30N junction of U.S. Highway 30N and U.S. Highway 30 near Delphos, Ohio, thence over U.S. Highway 30 to Van Wert, and return over the same route; (4) Between Cincinnati, Ohio, and Marion, Ohio, serving the intermediate points of Lebanon, Xenia, Springfield, Urbana, Bellefontaine, Kenton, Marion, and Pisgah, and off-route points of Fairborn, Wright-Patterson AFB, South Lebanon, Loveland, and Morrow; from Cincinnati, over U.S. Highway 42 to Xenia, Ohio, thence over U.S. Highway 68 to Kenton, Ohio, thence over U.S. Highway 30S to Marion, and return over the same route; (5) Between Cincinnati, Ohio, and Cleveland, Ohio, serving the intermediate points of Columbus, Mansfield, Ashland, and Brunswick, the off-route points of Mount Vernon, Wooster, Massillon, Rittman, Willard, Shelby, Crestline, Galion, Lockbourne AFB, Batavia, Blanchester, Maineville, Milford, and Withhamsville, and serving the junctions of Interstate Highway 71 and U.S. Highway 68 junction of Interstate 71 and Interstate Loop 270 south of Columbus, and junction of Interstate Highway 71 and Interstate Highway 80S; from Cincinnati over Interstate Highway 71 to Cleveland, and return over the same route;

(6) Between junction of Interstate Highway 71 and Interstate Loop 270, south of Columbus, Ohio, and Toledo, Ohio serving the intermediate points of Grandview Heights, Upper Arlington, Delaware, Marion, Findlay, Bowling Green, Upper Sandusky, Marysville, and Grove City, and the off-route points of London, Bucyrus, Tiffin, Fostoria, Deshler, Galion, and Ottawa; from junction of Interstate Highway 71 and Interstate Loop 270, south of Columbus, over Interstate Loop 270 to junction of Interstate Loop 270 and U.S. Highway 33, thence over U.S. Highway 33 to Marysville, Ohio, thence over U.S. Highway 36 to junction of U.S. Highway 23, thence over U.S. Highway 23 to junction U.S. Highway 23 and Ohio State Highway 15 south of Carey, Ohio, thence over Ohio Highway 15 to Findlay, Ohio, thence over Interstate Highway 75 to Toledo, and return over the same route; (7) Between junction Interstate Highway 71 and U.S. Highway 68 and Columbia, Ohio, via Newark, Ohio, serving the intermediate points of Wilmington, Washington Court House, Chillicothe, Circleville, Lancaster, and Newark, and the off-route points of, Greenfield, Zanesville, Logan, Wellston, Jackson, and Hillsboro, from junction Interstate Highway 71 and U.S. Highway 68 over U.S. Highway 68 to Wilmington, Ohio, thence over U.S. Highway 22 to Washington Court House, Ohio, thence Highway 68 and Columbus, Ohio, via over U.S. Highway 23 to Circleville, Ohio, thence over U.S. Highway 22 to Lancaster, Ohio, thence over Ohio State Highway 37 to junction Ohio State Highway 37 and Ohio State Highway 16, thence over Ohio State Highway 16 to Newark, Ohio, thence over Ohio State Highway 16 to Columbus, and return over the same route;

(8) Between junction Interstate Highway 71 and Interstate Highway 80S via Interstate Highway 80S and Ohio State Highway 18 to Youngstown, Ohio, and return to Akron, Ohio, via Salem, Alliance, and Canton, Ohio, serving the intermediate points of Akron, Wadsworth, Youngstown, Salem, Alliance, Louisville, Canton, North Canton, and Barberton, and the off-route points of Kent, Niles, Warren, Girard, Sharon, East Liverpool, Dover, New Philadelphia, and Ravenna, from junction Interstate Highway 71 and Interstate Highway 80S over Interstate Highway 80S to junction Interstate Highway 80S and Ohio State Highway 18 to Youngstown, Ohio, thence from Youngstown over U.S. Highway 62 via Salem and Alliance, Ohio to Canton, Ohio, thence over Interstate Highway 77 to Akron; (9) Between junction Interstate Highway 70 and Interstate Highway 75, approximately 7 miles north of Dayton, Ohio, and Columbus, Ohio, serving as an alternate route for operating convenience only in connection with carrier's regular-route operations serving no intermediate points, and serving junction of Interstate Highway 70 and Interstate Highway 75 for purpose of joinder only, from junction Interstate Highway 70 and Interstate Highway 75, approximately 7 miles north of Dayton over Interstate Highway 70 and/or U.S. Highway 40 to Columbus, and return over the same route; (10) Between junction Interstate Highway 75 and U.S. Highway 30N, approximately 1 mile east of Beaverdam, Ohio, and Findlay, Ohio, serving as an alternate route for operating convenience only in connection with carrier's regular route operations, serving no intermediate points, and serving junction of Interstate Highway 75 and U.S. Highway 30N for purpose of joinder only, from junction Interstate Highway 75 and U.S. Highway 30N, approximately 1 mile east of Beaverdam over Interstate Highway 75 to Findlay, and return over the same route;

(11) Between Kenton, Ohio, and Findlay, Ohio, serving no intermediate points, and serving the termini as an alternate route for operating convenience only in connection with carrier's regular-route operation; from Kenton to Findlay over U.S. Highway 68, and return over the same route; (12) Between junction Interstate Highway 71 and U.S. Highway 30, located approximately 6 miles northeast of Mansfield, Ohio, and Canton, Ohio, as an alternate route for operating convenience only in connection with carrier's regular-route operation, serving no intermediate points, from junction Interstate Highway 71 and U.S. Highway 30, located approximately 6 miles northeast of Mansfield, Ohio, over U.S. Highway 30 to Canton, and return over the same route; (13) Between Cleveland, Ohio, and Akron, Ohio, serving as an alternate route for operating convenience only with carrier's regular-route operation, serving no intermediate points; from Cleveland over U.S. Highway 21 and/or Interstate Highway 77 to junction U.S. Highway 21 and Interstate Highway 77 with Ohio State Highway 18, thence over Ohio State Highway 18 to Akron, and return over the same route. Irregular route: Between points in Cincinnati, Ohio, commercial zone, on the one hand, and, on the other, points in Ohio. NOTE: Applicant states that the requested authority can be tacked with its existing authority since its present operations are conducted on a nationwide basis which includes service to Cincinnati, Toledo, and Cleveland, Ohio. The proposed operations in Ohio could connect at any of these three points, thus permitting through service from any of applicant's existing authorized points to Ohio. This instant application is a matter directly related to MC-F 11778 published in the FEDERAL REGISTER issue of February 7, 1973. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 69224 (Sub-No. 40), filed February 15, 1973. Applicant: H & W MOTOR EXPRESS COMPANY, a corporation, 3000 Elm Street, Dubuque IA 52001. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Lake, Cook, Du Page, Kane, Kendall and Will Counties, Ill., and those in that portion of McHenry County, Ill., on and east of Illinois Highway 47. NOTE: The instant application is a matter directly related to

MC–F–11798 published in the FEDERAL REGISTER of February 28, 1973. Applicant states that tacking will be at numerous duplicating points in the radial authority of J & S Cartage Co., but principally at Chicago, Ill. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11682. (Amendment) (U.S. TRUCK COMPANY, INC.—Purchase (Portion)—TRANSPORTATION SERVICE, INC.), published in the October 18, 1972, issue of the FEDERAL REGISTER. By amendment filed February 27, 1973, to include the authority sought in No. MC–F–10998 (TRANSPORTATION SERVICE, INC.—Purchase (Portion)—ATKINSON FREIGHT LINES, INC.), involving a certificate of registration authorizing the transportation of general commodities, between Bellefontaine, Ohio, on the one hand, and, on the other, all points in Ohio; and the directly related matter, in MC–43442 (Sub-No. 22), to convert the certificate of registration to a certificate of public convenience and necessity, to transport general commodities, serving all points in Ohio as off-route points in connection with regular-route service at Bellefontaine, Ohio.

NOTE: The captioned application is presently set for hearing on March 26, 1973, at Detroit, Mich., any party desiring to protest this application may do so at the hearing.

No. MC–F–11782. (Correction) (KREVDA BROS., EXPRESS, INC.—Purchase (Portion)—LEE MOTOR LINES, INC.), published in the February 14, 1973, issue of the FEDERAL REGISTER on page 4448. Prior notice to be modified to show docket number as MC–F–11782.

No. MC–F–11810. Authority sought for purchase by K-LINES, INC., Post Office Box 1348, Lake Oswego, OR 97034, of a portion of the operating rights and property of RYALS TRUCK LINE, INC., Post Office Box 634, Albany, OR 97321, and for acquisition by JAMES BERREY, and MARY JEAN BERREY, both of 18690 Southwest Nixon Street, West Linn, OR 97068, of control of such rights and property through the purchase. Applicants' attorney: John G. McLaughlin, 620 Blue Cross Building, Portland, Oreg. 97201. Operating rights sought to be transferred: *Fertilizer, dry*, as a *common carrier* over irregular routes, from Tacoma, Wash., to points in Oregon; *dry urea and dry fertilizers*, from Vancouver, Wash., to points in that part of Oregon west of the summit of the Cascade Mountain Range; *liquid fertilizer and fertilizer solutions*, from Vancouver, Wash., to points in Oregon, with restriction; *dry feed and dry feed ingredients*, in bulk, in tank or hopper type vehicles, between points in Oregon and Washington; *ore*, in bulk, from Portland, Oreg., and Vancouver, Wash., to Albany, Oreg. Vendee is authorized to operate as a *common carrier* in Oregon, Washington, California, Utah, Nevada, Idaho, and Montana. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11811. Authority sought for control and merger by WATKINS CAROLINA EXPRESS, INC., Post Office Box 10188, Federal Station, Greenville, SC 29603, of the operating rights and property of LLOYD MOTOR EXPRESS, LTD., Post Office Box 26622, Charlotte, NC 28213, and for acquisition by WATKINS MOTOR LINES, INC., 1958 Monroe Drive NE., Atlanta, GA 30324, and W. B. WATKINS IV, 2516 Jonila Drive, Lakeland, FL 33803, of control of such rights and property through the transaction. Applicants' attorneys: Paul M. Daniell and Alan E. Serby, Post Office Box 872, Atlanta, GA 30301. Operating rights sought to be controlled and merged: Under a certificate of registration, in Docket No. MC–120361 (Sub-No. 1), covering the transportation of general commodities as a *common carrier*, in interstate commerce, within the state of North Carolina. WATKINS CAROLINA EXPRESS, INC., is authorized to operate as a *common carrier* in South Carolina, North Carolina, Georgia, New York, New Jersey, Maryland, Pennsylvania, Alabama, Tennessee, Virginia, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE: MC–30280 (Sub-No. 64), is a matter directly related.

No. MC–F–11812. Authority sought for purchase by QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, PA 18518, of the operating rights of MILTON A. RAPPOLD, doing business as RAPPOLD MOTOR TRANSPORT, 47 Grider Street, Buffalo, NY 14215, and for acquisition by WILLIAM S. GILCHRIST, and JOHN GILCHRIST, both of 509 Susquehanna Avenue, Old Forge, PA 18518, of control of such rights through the purchase. Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Buffalo, N.Y., and Lockport, N.Y.; and under a certificate of registration in Docket No. MC–16998 (Sub-No. 2), covering the transportation of general commodities as a common carrier, in interstate commerce, within the State of New York. Vendee is authorized to operate as a *common carrier* in New York and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

NOTE: MC–135639 (Sub-No. 2), is a matter directly related.

No. MC–F–11814. Authority sought for control by HAHN TRANSPORTATION, INC., New Market, Md. 21774, of DAYTON TRANSPORT CORPORATION, Post Office Box 338, Dayton, VA 22821, and for acquisition by ROBERT S. WINDSOR, JR., E. REBECCA WINDSOR, both of New Market, Md. 21774, BARBARA JEAN WINDSOR, 1617 Northeast Vivian, Kansas City, MO 64118, and E. REBECCA WINDSOR, Custodian for ROSEMARY PATRICIA WINDSOR, New Market, Md. 21774, of control of DAYTON TRANSPORT CORPORATION, through the acquisition by HAHN TRANSPORTATION, INC. Applicants' attorney: Francis J. Ortman, 1100 17th Street NW., Washington, DC 20036. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Harrisonburg, Va., and Franklin, W. Va., serving all intermediate points between Franklin, W. Va., and Harman, W. Va., serving all intermediate points, and off-route points within 5 miles of the route specified below; *petroleum products* as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, over irregular routes, from Hopewell, Richmond, and Petersburg, Va., and points in Chesterfield County, Va., to points in Pendleton County, W. Va.; *angles, bars, bases, beams, bridge steel, channels, forms (structural), joists, piling, pipe (cast iron, plate, or sheet), pipe fittings, plates (structural), rivets, rods, sheets, slabs, wire rope, and accessories for beams and joists*, from Roanoke, Va., to certain specified points in North Carolina, Tennessee, and West Virginia, from Troutville, Va., to certain specified points in North Carolina, Tennessee, and West Virginia, with restriction; *gasoline, fuel oil, kerosene, and asphalt*, in bulk, in tank vehicles, from Hopewell, Richmond, and Petersburg, Va., and points in Chesterfield County, Va., to certain specified points in West Virginia; *crushed stone, sand, and cement*, in dump trucks, from points in Rockingham County, Va., to points in Pendleton County, W. Va.; *animal and poultry feeds* (except in bulk), *equipment and supplies* necessary for the raising and marketing of poultry, and *fertilizer*, from Harrisonburg, Va., to points in Pendleton County, W. Va.; *livestock*, from points in Pendleton County, W. Va., to Harrisonburg, Va., with restriction; *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, between Harrisonburg, Va., on the one hand, and, on the other, points in Pendleton County, W. Va., with restriction; *livestock*, between points in Rockingham County, Va., on the one hand, and, on the other, points in Pendleton County, W. Va., and that part of Hardy County, W. Va., within 25 miles of Fort Seybert, W. Va.; *brick and sand*,

from Dayton, Va., to points in Pendleton County, W. Va., and those in that part of Hardy County, W. Va., within 25 miles of Fort Seybert, W. Va., with restriction. HAHN TRANSPORTATION, INC., is authorized to operate as a *common carrier* in Delaware, Virginia, Maryland, Pennsylvania, New Jersey, North Carolina, New York, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGERS

No. MC-F-11813. Authority sought for purchase by BROOKS BUS LINE, INC., 421 Washington Street, Paducah, KY 42001, of the operating rights and property of WESTERN KENTUCKY STAGES, INCORPORATED, doing business as WESTERN KENTUCKY STAGES, INC., 955 West Pine Street, Lexington, KY 40508, and for acquisition by JAMES P. BROOKS, JR., Route No. 1, Paducah, KY 42001, J. POLK BROOKS, and SAIDEE BROOKS, both of Springwell Lane, Paducah, Ky. 42001, and CAROL B. McADOO, Etheridge Lane, Union City, Tenn. 38261, of control of such rights and property through the purchase. Applicants' attorney: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as a common carrier over regular routes, between Paducah, Ky., and Paris, Tenn., between Clarksville, Tenn., and junction Kentucky Highway 94 and Kentucky Highway 97 at Tri City, Ky., between Tri City, and Mayfield, Ky., between Gracey, and Princeton, Ky., between Paris, and Erin, Tenn., between Murray, and Mayfield, Ky., serving all intermediate points. Vendee is authorized to operate as a common carrier in Kentucky, Michigan, and Illinois. Application has not been filed for temporary authority under section 210a(b).

NOTICE

BURLINGTON NORTHERN, INC., 176 East Fifth Street, St. Paul, MN 55101, represented by Mr. Byron D. Olsen, Assistant General Attorney of the same address, hereby gives notice that on the 29th day of January 1973, it filed with the Interstate Commerce Commission at Washington, D.C., an application, assigned Finance Docket No. 27293, for authority to acquire certain properties of the Chicago & North Western Transportation Co. The properties to be acquired consist of 4.35 miles of trackage between Sioux City, Iowa, and Ferry, Nebr., include a bridge spanning the Missouri River. Operations over this trackage are presently conducted by both Burlington Northern, Inc., and the Chicago & North Western Transportation Co. and, if the acquisition is approved these operations will not be changed in any way. In the opinion of the Applicant, the authority sought by this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than April 13, 1973.

SOUTHERN RAILWAY COMPANY AND TENNESSEE RAILWAY COMPANY hereby give notice that on the 16th day of February 1973, they filed with the Interstate Commerce Commission at Washington, D.C., applications under section 5(2) of the Interstate Commerce Act, which was assigned Finance Docket No. 27312 and Finance Docket No. 27313. The names and addresses of Applicants and their attorneys are:

Southern Railway Co., Post Office Box 1808, Washington, DC 20013.
Tennessee Railway Co., Post Office Box 1808, Washington, DC 20013.
Mr. James L. Tapley and R. Allan Wimbish, Post Office Box 1808, Washington, DC 20013.

The nature of the proposed transaction is (1) for Tennessee Railway Co. to purchase and operate the lines of railroad other properties and assets of Tennessee Railroad Co. as a common carrier in interstate or foreign commerce and (2) for Southern Railway Co. to acquire control of Tennessee Railway Co. through stock ownership, all pursuant to a Plan and Agreement of Reorganization of Tennessee Railroad Co.

Applicant Tennessee Railway Co., a corporation organized for the purpose of engaging in transportation as a carrier by railroad, seeks to acquire and operate the property and lines of railroad of Tennessee Railroad Co., whose principal commodity is coal. The main line of the railroad, beginning at a point of connection with the main line of the Cincinnati Southern Railway (now Cincinnati, New Orleans and Texas Pacific Railway Co.) at Oneida, in the county of Scott and State of Tennessee, and extending thence southerly to the New River, and thence up the valley of the New River through Scott, Campbell and Anderson Counties, Tenn., to the head waters of said New River in Anderson County, and also any and all further extensions of ,and all lines of railroad adjacent to, main line in any direction, as have been or may hereafter be authorized in and by the Charter of the Railroad Co. All such branch lines springing from the said above described main line, and all such lines of railroad adjacent to said main line, as have been or may be hereafter constructed or acquired by the Railroad Co.

In the opinion of the Applicants the requested Commission action will have no effect of the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.-250) in Ex Parte No. 55 (Sub-No. 4), Implementation-National Environmental Policy Act, 1969, 340 ICC 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)-(5), 340 ICC 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than April 13, 1973.

BURLINGTON NORTHERN, INC., 176 East Fifth Street, St. Paul, MN 55101, filed by Mr. R. J. Schreiber, Assistant General Counsel, 547 West Jackson Boulevard, Chicago, IL 60606, as applicant's attorney, hereby gives notice that on the 22d day of February 1973, the Burlington Northern, Inc., filed an application assigned Finance Docket No. 27317 under section 5(2) of the Interstate Commerce Act, for authority to acquire trackage rights over the Peoria & Pekin Union Railway Co. in the area of Peoria and East Peoria, Ill., involving operations over approximately 3 miles of trackage. In the opinion of the applicant, the proposed transaction will have no effect on the quality of the human environment. The proceeding will be handled without public hearings, unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than April 13, 1973.

LOUISVILLE AND NASHVILLE RAILROAD COMPANY, 908 West Broadway, Louisville, KY 40201, represented by Mr. Fred R. Birkholz of the same address, hereby give notice that on the 23d day of February 1973, an application assigned Finance Docket No. 27320, was filed for authority to acquire trackage rights over the Norfolk and Western Railway Co. between Norton and St. Paul, in Wise County, Va., a distance of approximately 22 miles. In the opinion of the Applicant, there will be no adverse environmental effects occasioned by the implementation of the use of the proposed trackage rights sought by this application. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than April 13, 1973.

NORFOLK AND WESTERN RAILWAY COMPANY, represented by Mr. John S. Shannon, Vice President, Law, Norfolk & Western Railway Co., Roanoke, Va., 24011 hereby gives notice that on the 27th day of February 1973, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for authority to acquire trackage rights over approximately 31.9 miles of the tracks of the Penn Central Transportation Co., George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees, extending between Penn Central Transportation Co.'s milepost 120.4, Reddick, and its milepost

152.3, Streator, in Kankakee, Livingston and La Salle Counties, Ill. This application has been assigned Finance Docket No. 27322. In the opinion of the Applicant, the proposed acquisition of trackage rights will have no affect on the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than April 13, 1973.

By the Commission.

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

[FR Doc.73-4931 Filed 3-13-73;8:45 am]

[Notice 232]

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 on or before April 3, 1973. 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-74216. By order of February 22, 1973, the Motor Carrer Board approved the transfer to Elm City Moving and Trucking Co., Inc., New Haven, Conn., of the operating rights in Certificate No. MC-29182 issued December 18, 1940, to Leo C. Laughlin, doing business as Elm City Moving & Trucking Co., New Haven, Conn., authorizing the transportation of various commodities from, to and between specified points and areas in Connecticut, Rhode Island, New Jersey, Massachusetts, and New York.

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

[FR Doc.73-4928 Filed 3-13-73;8:45 am]

MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 9, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Minnesota Docket No. 515 filed February 9, 1973. Applicant: QUAST TRANSFER, INC., Winsted, Minn. 55395. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* over regular routes within the State of Minnesota as follows: (a) Between Cokato, Minn., and Minneapolis and St. Paul, Minn.; between Cokato, Winsted, and Lester Prairie, Minn.; and between Cokato, Winsted, and Lester Prairie, Minn., and Minneapolis and St. Paul, Minn., over the following routes: Route No. 1: From Cokato over U.S. Highway 12 to Minneapolis and St. Paul, and return over the same route. Route No. 2: From Cokato over U.S. Highway 12 to junction with Wright County Road 6; thence over Wright County Road 6 and State Highway 261 to Winsted; thence from Winsted over State Highway 261 to junction with U.S. Highway 7; thence over U.S. Highway 7 to Minneapolis and St. Paul, and return over the same route. Route No. 3: From Lester Prairie over State Highway 261 via Winsted to junction with Wright County Road 6; thence over Wright County Road 6 to junction with U.S. Highway 12; thence over U.S. Highway 12 to Cokato, and return over the same route. (b) No service at intermediate points, except Winsted and Lester Prairie; applicant shall serve all points in the Twin Cities Metropolitan Area to and from Winsted, Lester Prairie, and Cokato; and applicant shall tack any authority granted herein with its existing authority, which authorizes transportation of general commodities between Lester Prairie and Winsted and Minneapolis and St. Paul, Minn., and between Lester Prairie and Winsted, Minn.

HEARING: April 24, 25, and 26, 1973, at the Wright County Court House, Buffalo, Minn., at 9 a.m. Requests for procedural information should be addressed to the Minnesota Public Service Commission, 400 State Office Building, St. Paul, Minn. 55155, and should not be directed to the Interstate Commerce Commission.

California Docket No. 53871, filed March 2, 1973. Applicant: POZAS BROS. TRUCKING CO., 2147 O'Toole Avenue, San Jose, CA 95131. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1400, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* subject to the exceptions hereinbelow set forth, between: (A)(1) All points in the San Francisco territory. (See (B) below for description of San Francisco territory.) (2) The San Francisco territory and the Los Angeles Basin territory and intermediate points located on U.S. Highway 101. (See (C) below for description of Los Angeles Basin territory.) (3) Sacramento and the Los Angeles Basin territory, serving intermediate points located on Interstate Highway 5. (4) Sacramento and the Los Angeles Basin territory, serving intermediate points located on State Highway 99. (5) The San Francisco territory and Manteca, serving intermediate points on Interstate Highway 580. (6) The San Francisco territory and Sacramento, serving intermediate points on Interstate Highway 80. (7) Watsonville and Chowchilla, serving intermediate points on State Highway 152. (8) The Los Angeles Basin territory and San Diego, serving intermediate points on Interstate Highway 5.

(9) All points within 20 miles of all points and places on the routes or in the territories described above. Through routes may be established between any and all points specified above. This does not include the right to render service between points within the Los Angeles Basin territory. Applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A. (2) Automobiles, trucks and buses, viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

(7) Fresh or green fruits, fresh or green vegetables, or mushrooms, when the point of destination of the shipment is a cannery, accumulation station, cold storage plant, precooling plant, or winery, or the empty containers used or shipped out for use in connection with

such transportation. (8) Logs. (B) The San Francisco territory includes that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with the corporate boundary of the city of San Jose; southerly, easterly, and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Morago Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway No. 40 (San Pablo Avenue); northerly along U.S. Highway No. 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(C) The Los Angeles basin territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of the Atchison, Topeka and Santa Fe Railway Co.; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-4930 Filed 3-13-73;8:45 am]

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

Food Labeling

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Label Information Panel

In the FEDERAL REGISTER of January 19, 1973 (38 FR 2124), the Commissioner of Food and Drugs promulgated a new § 1.8d, establishing a food label information panel for all mandatory label information. Additional comments were requested within 30 days. Comments were received from consumers, industry representatives, trade associations, and other interested persons.

1. A number of comments objected to the inclusion of certain mandatory information under § 1.8d either on the information panel or the principal display panel, or objected to the requirement that the information panel appear immediately to the right of the principal display panel. The Commissioner, having considered and discussed these issues fully in the preamble to the regulation as published on January 19, 1973, is of the opinion that the requirement for placement of mandatory label information on one of these panels is an entirely reasonable application of the provisions of the statute. Accordingly, no change has been made in these provisions.

2. All trade associations and several industry representatives objected to the minimum type size of one-sixteenth inch for all packages. The Commissioner, having considered and discussed this issue in the preamble to the regulation as pubished on January 19, 1973, believes that in the absence of a specific showing or justification of the need for a smaller type size, a minimum type size of one-sixteenth inch is a very reasonable application of the requirements of the law.

The Commissioner again wishes to emphasize that he recognizes that type size is only one of the elements which determines conspicuousness. The regulation specifically provides that any interested person may petition for a smaller type size or an alternative means of disseminating mandatory label information to the consumer, based on a showing of impracticability or economic hardship.

3. Several firms requested that the effective date of this regulation be extended. It was pointed out that many labels would not be required to be changed by any of the other new labeling regulations being promulgated by the Commissioner, and that such labels should be permitted to remain unchanged until they are changed for other reasons. The cost of a label plate change ranges from $200 to $1,000 wholly apart from the additional expense in company time and disposition of unused old labels.

The Commissioner recognizes the current widespread public concern about increase in food prices. Also, there undoubtedly will be difficulties simply in achieving the labeling changes required under other regulations being promulgated, e.g., §§ 1.12 and 1.17 in the FEDERAL REGISTER of January 19, 1973 (38 FR 2139 and 2125). Accordingly, the Commissioner has concluded that this comment is reasonable, and the effective date of the regulation is changed to provide that § 1.8d will be effective in accordance with the uniform effective date unless the labeling is otherwise not changed during that interim period, in which case it need not comply with new § 1.8d until a label change is made. A final cutoff date of December 31, 1975, is also established.

4. Comments were submitted questioning the legality of the final order. This matter was fully discussed in the preamble to the regulation as published on January 19, 1973. See Federal Power Commission v. Texaco, 377 U.S. 33 (1964); United States v. Storer Broadcasting Co., 351 U.S. 192 (1956); Securities Exchange Commission v. Chenery, 332 U.S. 194 (1946); Abbott Laboratories v. Gardner, 387 U.S. 136 (1967); Ciba Geigy v. Richardson, 446 F. 2d 466 (2d Cir. 1971).

5. It has been pointed out that the definition of the "information panel" is imprecise in that it might be interpreted to extend completely around a cylindrical container and might include the entire back side of a large flat package. The Commissioner agrees that clarification is appropriate and, accordingly, language has been added to state that the information panel is immediately contiguous to the principal display panel and that all mandatory information must appear in one area of space without other intervening material. This will preclude interspersing nonmandatory information. On the other hand, this will not preclude use of nonmandatory information in other places on the information panel as long as it does not interfere and is not commingled with the mandatory information.

6. It was suggested that exemptions should be granted by letter rather than by FEDERAL REGISTER notice. The Commissioner concludes that it would be inappropriate to grant exemptions under § 1.8d(f) by letter, for two reasons. First, the public has a right to know what permanent exemptions are granted and the reasons therefor. Second, all manufacturers and distributors of foods similarly situated should be advised of any exemptions granted in order that they may understand the legal requirements applicable to them. Accordingly, no change is made in this provision.

7. Representatives of margarine manufacturers commented that because the statement of ingredients is required to appear on the principal display panel of margarine, their product would be required to bear all mandatory label information on the principal display panel. The Commissioner concludes that, where a food is required to bear the statement of ingredients on the principal display panel, if the manufacturer or distributor wishes to place other mandatory information on an information panel he should be permitted to do so. The regulation has been changed to reflect this conclusion.

8. Comments pointed out that a food which, by reason of fortification, is also subject to Part 80 would be required to bear the nutrition information specified in Part 80 on the principal display panel and would not be permitted to include it on the information panel. The Commissioner intended that this form of labeling apply to such products. A food represented as a dietary supplement should bear, on the principal display panel, the same information that is required for other dietary supplements (except that the nutrients will be shown in the increments established in § 1.17). Except where there is insufficient space, the other mandatory label information should also appear on the principal display panel, just as it does for all dietary supplements. A food is not required to be formulated and represented as a dietary supplement, and if the manufacturer or distributor chooses to do so the same requirements should apply as for all dietary supplements.

9. In response to other concerns and questions raised in the comments, the Commissioner advises that:

a. If the manufacturer elects to place all the mandatory label information on the principal display panel, the panel immediately to the right of the principal display panel may be used to provide any other information that is not false or misleading.

b. When the panel to the right of the display panel is too small to accommodate the mandatory label information, the panel immediately to the right of this part of the label may be used.

c. Part of the mandatory label information may be placed on the principal display panel and part on the information panel if there is insufficient space for all the information on one panel, provided that the information required by any given section of the regulations shall appear on the same panel. However, in determining whether sufficient space exists, all nonmandatory information must be excluded from consideration.

Accordingly, having considered the additional comments received and other relevant information, the Commissioner concludes that new § 1.8d, as promulgated in the FEDERAL REGISTER of January 19, 1973 (38 FR 2124), should be repromulgated to reflect the technical modifications discussed above.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a)), and under authority delegated to him (21 CFR 2.120), the Commissioner amends § 1.8d as promulgated on January 19, 1973 (38 FR 2124), to read as follows:

§ 1.8d Food labeling; information panel.

(a) The term "information panel" as it applies to packaged food means that part of the label immediately contiguous and to the right of the principal display

panel as observed by an individual facing the principal display panel with the following exceptions:

(1) If the part of the label immediately contiguous and to the right of the principal display panel is too small to accommodate the necessary information or is otherwise unusable label space, e.g., folded flaps or can ends, the panel immediately contiguous and to the right of this part of the label may be used.

(2) If the package has one or more alternate principal display panels, the information panel is immediately contiguous and to the right of any principal display panel.

(3) If the top of the container is the principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

(b) All information required to appear on the label of any package of food pursuant to §§ 1.8a, 1.8c, 1.10, 1.17, 1.18, and Parts 80 and 125 of this chapter shall appear either on the principal display panel or on the information panel unless otherwise specified by regulations in this chapter.

(c) All information appearing on the principal display panel or the information panel pursuant to this section shall appear prominently and conspicuously, but in no case may the letters and/or numbers be less than 1/16th inch in height unless an exemption pursuant to paragraph (f) of this section is established. The requirements for conspicuousness and legibility shall include the specifications of §§ 1.8b(h) (1) and (2) and 1.9.

(d) All information required to appear on the principal display panel or on the information panel pursuant to this section shall appear on the same panel unless there is insufficient space. In determining the sufficiency of the available space, any vignettes, design, and other nonmandatory label information shall not be considered. If there is insufficient space for all of this information to appear on a single panel, it may be divided between these two panels except that the information required pursuant to any given section or part shall all appear on the same panel. A food whose label is required to bear the ingredient statement on the principal display panel may bear all other information specified in paragraph (b) of this section on the information panel.

(e) All information appearing on the information panel pursuant to this section shall appear in one place without other intervening material.

(f) If the label of any package of food is too small to accommodate all of the information required by §§ 1.8a, 1.8c, 1.10, 1.17, 1.18, and Parts 80 and 125, the Commissioner may establish by regulation an acceptable alternative method of disseminating such information to the public, e.g., a type size smaller than one-sixteenth inch in height, or labeling attached to or inserted in the package or available at the point of purchase. A petition requesting such a regulation, as an amendment to this paragraph, shall be submitted to the hearing clerk in the form established in § 2.65 of this chapter.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation; except that if labeling is otherwise not changed in any respect subsequent March 14, 1973, all such labeling used for products shipped in interstate commerce after December 31, 1975, shall comply with this regulation.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: March 7, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

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PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Nutrition Labeling

In the FEDERAL REGISTER of January 19, 1973 (38 FR 2125), the Commissioner of Food and Drugs promulgated a new section on nutrition labeling under Title 21, § 1.17 Food; nutrition labeling. A period of 30 days was provided for additional comments suggesting technical changes or corrections. More than 200 comments were received from industry, consumer, and professional groups, trade associations, and individuals. Each of the suggested modifications and request for clarifications has been reviewed, and the Commissioner's conclusions are as follows:

1. Requests to make nutrition labeling mandatory were again received from consumer groups. In the preamble to the regulation as published on January 19, 1973, the Commissioner stated his conclusion that current information is insufficient to adopt a mandatory nutrition labeling regulation at this time. No additional information has been brought to the attention of the agency to alter this decision.

2. Consumer comments again requested complete ingredient labeling and labeling of the percentage of ingredients. The Commissioner has issued a separate policy statement on labeling of all ingredients in standardized foods in the FEDERAL REGISTER of January 19, 1973 (38 FR 2137), and is publishing in this issue of the FEDERAL REGISTER a new Part 102 which establishes a procedure for including the percentage of characterizing ingredients as part of the common or usual name of a food.

3. Comments were submitted questioning the legality of § 1.17. This matter was fully discussed in the preamble to the regulation as published on January 19, 1973. See "Federal Power Commission v. Texaco," 377 U.S. 33 (1964); "United States v. Storer Broadcasting Co.," 351 U.S. 192 (1956); "Securities Exchange Commission v. Chenery," 332 U.S. 194 (1946); "Abbott Laboratories v. Gardner," 387 U.S. 136 (1967); "Ciba Geigy v. Richardson," 446 F. 2d 466 (2d Cir. 1971).

4. Comments were received which stated that the Food and Drug Administration does not have authority to regulate advertising of food products. The Commissioner agrees with this statement. Section 1.17 in no way attempts to regulate claims made in advertising. If a nutrition claim is made in advertising, however, § 1.17 provides that the label of the product must comply with requirements of that section. Once nutrition claims are made for a food, the consumer who wants to use the product for its nutrient content is entitled to examine a label which is complete enough to provide information at the time of purchase and use upon which an intelligent determination may be made as to the total nutrient content of the food.

5. A number of comments requested further clarification of the circumstances under which nutrition labeling becomes mandatory, and in particular what constitutes a "nutrition claim."

The Commissioner has adopted no rigid rule in determining exactly what type of claim will require nutrition labeling. In general, any claim designed to state or give the impression that a food is a good source of nutrition generally, or of a particular nutrient, will require compliance with § 1.17. Thus, mention of any nutrient (i.e., vitamins, minerals, protein, calories, carbohydrates, fat, fatty acids, or cholesterol), or any claim that the food is nutritious, will fall within § 1.17. In close cases, the context of the claims and the impression intended or produced in the public will be controlling. Since a manufacturer or distributor can easily avoid nutrition claims if he chooses to do so, close cases will ordinarily be decided in favor of requiring compliance with §1.17.

6. Questions have been raised as to whether a food may be labeled in compliance with § 1.17 rather than existing Part 125, pending the uniform effective date and implementation of the changes in Part 125 and § 80.1 published as tentative orders on January 19, 1973 (38 FR 2143, 2152). In publishing new § 1.17, the Commissioner concluded that it is in the public interest that transition to labeling under § 1.17 begin immediately. Accordingly, any food meeting the requirements of § 1.17 will be exempt from existing Part 125 to the extent that § 1.17 and the tentative order for new Part 125 so provide, effective as of January 19, 1973. Similarly, any food meeting the requirements of the tentative orders for new Part 125 and § 80.1 will be exempt from existing Part 125 to the extent that existing Part 125 is changed, effective as of the same date.

7. One comment requested a clear statement that nutrition labeling does not apply to foods designed for use by animals other than man. Section 1.17 applies only to food for human use, as is clearly shown by its provisions. The Commissioner concludes that it is unnecessary explicitly to state this fact in the regulation itself.

8. Questions have been raised whether an industry-wide trade advertisement for a type of food requires nutrition labeling for all members of the sponsoring group. The Commissioner has concluded that, while nutrition claims in labeling an advertising of individual manufacturers will require nutrition labeling for a product, manufacturers will not at this time be subject to nutrition labeling solely because of advertising programs of trade associations or educational organizations. Thus, a nutrition claim for a class of processed foods, or for a specific commodity, when made by a trade organization or educational group, will not in itself require any manufacturer or distributor of the food mentioned to use nutrition labeling if the manufacturer or distributor or his brand(s) is not identified. However, if such material is used by a manufacturer or distributor to promote a specific brand, the fact that the material was prepared and used by the trade or educational organization for general information programs will not exempt such brand from nutrition labeling.

9. Several comments asked that restoration of nutrient levels not be considered an addition of nutrients that would require full nutrition labeling, when such restoration provides only nutrient levels contained in the product prior to processing. The Commissioner has given this comment very careful consideration, and concludes that it is not feasible for a number of reasons. First, there are extremely few foods for which nutrient restoration occurs only up to levels found in the product prior to processing. Any exemption for these products would therefore be so limited as to be illusory, and would not be of any significant assistance to those companies concerned with the problems of meeting the new nutrition labeling requirements. Second, any product for which restoration of nutrients is made would undoubtedly refer to that fact in labeling or advertising, which would independently require use of nutrition labeling. Again, the result would be that any exemption would, for all practical purposes, be nonexistent. Third, any such exemption, if it did result in a significant number of foods with restored nutrients without nutrition labeling, would deprive consumers of important nutrition information about the foods they consume. In this respect, foods with restored nutrients are no different than fortified or enriched foods. Finally, the comments submitted with respect to this issue fail to substantiate any particular products for which this requested exemption would be appropriate. If in fact restoration is found to present a special problem for any particular food, the Commissioner will entertain a petition directed specifically to that problem at that time.

10. Numerous manufacturers asked that they be allowed to state only the caloric content on products which contain no vitamins or minerals and 50 calories or less. Others asked that the exact caloric content be stated when the total caloric content of a serving is less than 50 calories. These correspondents pointed out that at low calorie levels, e.g., 4 calories per serving, the manufacturer would be required to label the product either as zero or as 10 calories, both values being potentially misleading to the consumer. One of the strong consumer positions received following publication of the proposal on March 30, 1972, asked for a clear statement of the vitamin and mineral content of foods which make claims for low calories, and for those which are frequently consumed between meals and provide calories but offer little in terms of other nutrients. The Commissioner concludes that the provision requiring full nutrition labeling when caloric content was stated is reasonable and should be retained.

11. Requests were received from consumers and consumer groups to require full nutrition labeling when cholesterol content is stated. Their comments suggested that foods represented as useful in modified diets because of their cholesterol content should be identified as to their complete nutrition value, as required when fatty acid information is stated in labeling, because consumers need more complete nutrition information to determine how a food can fit into their diet.

Comments from manufacturers asked that the requirement for complete nutrition labeling whenever fatty acid information is present be deleted. They contended that the fatty acid information alone, or with caloric information, was all that was wanted or needed by consumers.

The Commissioner has reviewed this question, and concludes that the original exemption from full nutrition labeling when cholesterol content is provided should be removed. Many of the foods on which either or both fatty acid and cholesterol information will be stated make important contributions of several nutrients to the diet, and the consumer will be best served if full nutrition labeling is required. The requirement for full nutrition labeling when fatty acid information is given is retained.

12. Some manufacturers have placed statements on the labels of their products offering consumers nutrition information if they write to the company. These manufacturers expressed concern that they would no longer be able to carry out such information programs unless the products bear full nutrition labeling. Trade associations pointed out that, unless this approach were permitted, the consumer would receive less nutrition information.

The purpose of nutrition labeling is to provide consumers with information at the points of purchase and use to compare products, to evaluate nutritional claims which have been made for a product, and to prepare a nutritious diet. Providing information independent of the label would not meet these objectives at the point of purchase. However, some companies may not wish voluntarily to adopt nutrition labels, and others may be concerned about placing nutrition information on their labels where nutrient values may be changing or too uncertain to permit label declaration in advance. Where companies have developed what they feel is adequate current information, but would prefer to carry out additional studies to support a more permanent label statement, it would seem appropriate to permit them to offer such information to consumers by a uniform label statement. This has been provided for in the regulation, by permitting a manufacturer to state "For nutrition information write to _____," without requiring full nutrition labeling. Any information provided in response to the label statement is labeling that is subject to the format and compliance requirements for nutrition labeling. Any product with an added nutrient or for which any other nutrition claim is made on the label or in labeling or advertising may not use this approach to avoid nutrition labeling.

The Commissioner recognizes that this limited exception could be subject to abuse. The agency will maintain surveillance over this matter to determine whether it should be retained. If such label statements become a substitute for full nutrition labeling, and are used by companies which have sufficient label space and nutrition data to utilize full nutritional labeling, the Commissioner will promptly revoke this exception.

To conform with this change, the provision in § 1.17(f) relating to labeling statements offering additional nutrition information upon request has been deleted. This deletion results in no change in substance. A food that is subject to § 1.17, as well as one that is not subject to § 1.17, may include an offer to supply additional nutrition information on request. A food not subject to § 1.17 would be limited to furnishing the nutrition information specified in § 1.17, but a food subject to § 1.17 could furnish any additional truthful nutrition information it might choose.

13. A request was made that food be permitted to contain 50 percent of the U.S. RDA, and that a dietary supplement contain more than 50 percent. The Commissioner has concluded, however, that any product with nutrients added so that it contains half the nutrient level established as the U.S. RDA is properly regarded as a dietary supplement rather than as a food (unless such fortification is specifically provided for in a standard of identity, nutrition guideline, or other applicable regulation). Accordingly, no change has been made in this provision in § 1.17(a).

14. One comment reflected concern that § 1.17 may prohibit the sale of all food which naturally contains 50 percent or more of the U.S. RDA for a given vitamin or mineral unless the food conforms to § 80.1 or another standard of identity. Such an interpretation is incorrect. Those products in which the naturally occurring level of a nutrient equals or exceeds 50 percent of the U.S. RDA, and those foods in which addition of a nutrient(s) is permitted or required by regulation, e.g., a standard of identity or nutritional quality guideline, or is

otherwise exempted by the Commissioner, are not prohibited and need not conform to the requirements of § 80.1. Only those foods in which a nutrient has been added so that it equals or exceeds the 50 percent of the U.S. RDA must conform to the requirements of § 80.1, as well as § 1.17. This matter was discussed fully in the preamble to this regulation as published on January 19, 1973, and in the discussion of the proposed findings for § 80.1 (38 FR 2152, 2157), also published on January 19, 1973.

15. Comments were received from many manufacturers asking that, in addition to the use of a serving as a basis for nutrition labeling and fatty acid and cholesterol labeling, the designation of a "portion" be permitted. The term "portion" was defined in several ways: The amount reasonably consumed in 1 day; a quantity expressed in common household terms but not necessarily related to a serving, e.g., 2 ounces of margarine, or 1 cup of flour; or the complete container when that quantity would usually be used as an ingredient in the preparation of a meal component, e.g., a can of tomato paste used in preparing a meat sauce.

The Commissioner recognizes that there are many foods for which servings cannot easily be stated. However, nutrition labeling statements based on unreasonably large quantities could confuse consumers and make comparisons between products difficult or impossible. In seeking reasonable statements of serving sizes the Commissioner concludes that, for most products, the requirements for serving size as stated in the final regulation published on January 19, 1973, shall be maintained. Manufacturers may express a "portion" for a food which is used only as an ingredient in other foods; and shall do so in an easily identifiable serving quantity in household terms, e.g., cupfuls or teaspoonfuls or ounces, or a complete container where this information is not misleading to consumers.

16. A comment was received stating that the use of the phrase "adult male engaged in light physical activity" indicated that § 1.17(b) was intended to apply only to this segment of the population. This is erroneous. The phrase is used only as a guide in attempting to define a serving.

17. Several comments suggested that the serving or portion size should be standardized so that labels will reflect a uniform approach from which consumers may readily make comparisons. The Commissioner agrees that serving and portion sizes should be uniform. Under the regulation it is incumbent upon industry and consumers to work together to devise uniform serving and portion sizes. If this does not materialize, the Commissioner will establish a procedure for adopting uniform serving and portion sizes that will be applicable to all foods.

At least one comment expressed concern that requiring declaration of nutrient content on the basis of a serving or portion would understate the nutritional value where it may be consumed at each of three meals during the day. The Commissioner recognizes that repeated consumption of a food item with a moderate or low nutritional content may well result in a significant nutrient contribution to the daily diet. Accordingly, § 1.17(b) has been revised to provide that, where a food is commonly consumed more than once a day, the label shall state the nutrient content on a serving or portion basis and may, in addition, also state the nutrient content when consumed on a daily basis. For example, it may be appropriate for bread to be shown per two slices (a serving) and per six slices (per day), and for milk to be shown per glass (a serving) and per quart (per day). In order to justify any such statement, reliable data, such as statistically valid dietary surveys, must be available to show that the food is in fact customarily consumed more than once daily and the total daily amount usually consumed.

18. It has been suggested that nutrition labeling should be provided both with respect to the food in the package and with respect to the food as prepared for consumption after cooking or other home preparation. Section 1.17(b) has been modified to permit this information. Where this optional form of declaration is used, the specific method of preparation or cooking must be specified. Manufacturers are also encouraged to provide consumers with additional information on methods of cooking or preparation which will result in maximum retention of nutrients. The Commissioner has concluded that requiring nutrient declaration on the basis of the product as consumed is not feasible because, for many products, there are numerous variations of cooking or other methods of preparation, and enforcement would not appear to be feasible.

19. Consumer groups and individual consumers expressed great concern that some deviations from the standard format are permitted. They asked that the label have the basic information on the seven nutrients plus protein present every time that nutrition labeling is used. Consumer groups also preferred to have zero listed when less than 2 percent of the U.S. Recommended Dietary Allowance (U.S. RDA) of a nutrient is present.

The comments from manufacturers asked that a more flexible position be taken on the question of listing the percent of the U.S. RDA. It was suggested that if no vitamins or minerals are present in a food, a statement "contains no significant amounts of nutrients" or "contains no nutrients" be permitted. Some manufacturers also asked that, for foods containing only a single component contributing only calories, only the caloric content and the amount of this component be required, e.g., corn starch containing only carbohydrate and no vitamins or minerals.

The Commissioner has concluded that a standard format is desirable whenever reasonable, since this will assist those developing consumer information and educational programs. This matter was fully discussed in the preamble to the January 19, 1973, regulation. The exception permitted in the regulation, when no more than three of the vitamins or minerals are present at levels of 2 percent or greater, was based in part on the results of consumer studies suggesting that a few positive values intermingled with zeros or asterisks could be misunderstood. A statement that the other nutrients are not present is required immediately following the listing of the nutrients by percent U.S. RDA.

The Commissioner concludes that a change in the basic format proposed in the January 19, 1973, regulation is not warranted. Accordingly, the format is retained. However, several technical changes suggested in order to make the basic format more readable, and reduce possible confusion, are reasonable and have been adopted. The optional statement "per serving" has been added to the heading "Nutrition Information" in order to make it clear that the basis of the information is on a serving. The term "Calories" can be used as an alternate term for "Caloric content." Similarly, the term "content" may be eliminated as a required part of the headings for the protein, carbohydrate, and fat statements. The placement of fatty acid information has also been clarified by stating that it must follow the statement on fat, rather than be adjacent to the statement.

Several manufacturers pointed out that the statement "Percentage of the U.S. RDA for fat, protein, vitamins, and minerals" could be shortened by deleting the portion "for protein, vitamins, and minerals," as it was obvious that these were what was stated. The Commissioner agrees that this latter phrase is not needed, and the regulation has been corrected.

In stating the exception to the complete format of the U.S. RDA percentage of seven nutrients, the fact that, with protein, there are eight items to be listed was overlooked. In order to correct this error, the section relating to the exception has been changed to read that if five or more of the eight nutrients required are present at less than 2 percent of the U.S. RDA the alternate labeling approach may be used.

20. The question of stating calories to the nearest calorie, rather than in 10 calorie increments, has been carefully considered, and the Commissioner agrees that at calorie levels less than 50 calories a more correct statement of calories should be permitted. The regulation has been slightly modified in § 1.17(c)(3) to permit the use of 2-calorie increments up to 20 calories and 5-calorie increments above 20 calories up to and including 50 calories. Ten-calorie increments will be used above 50 calories. At the lower caloric levels compliance will be more difficult, but careful monitoring of protein, fat, and carbohydrate content can provide a means of determining if real misrepresentations are being made by the low calorie statements.

Several objections were raised concerning the 2, 5, and 10 percent of the U.S. RDA intervals used to state the protein, vitamin, and mineral levels. Some persons felt that 5 or 10 percent intervals should be used, while a few felt that 1 percent intervals over the entire range should be permitted. The 2 percent intervals at the lower level of nutrients was incorporated on the basis of consumer, industry, and nutrition educator comments on the original proposal, and are reasonable. Using smaller intervals over the entire range will in the opinion of the Commissioner only result in consumer confusion.

21. Several manufacturers objected to the double listing for protein, both as grams of protein and as a percent of the U.S. RDA, under § 1.17(c)(4). They were particularly concerned about a product which contains no protein, and which would have to list zero twice, or zero and an asterisk, on the label.

The Commissioner concludes that there is a need to maintain the basic nutrition labeling format, and there appears to be no special hardship in the situation mentioned. In many of the instances where protein content is zero the manufacturer will be able to use the limited listing plus the statement that specific nutrients are not present, thus eliminating the second zero statement from the listing under the percentage of the U.S. RDA.

22. Several manufacturers and trade associations raised questions about the procedure to be used for establishing a value for the U.S. RDA of protein in a food. Some asked for a third standard of 30 grams of protein to be used with those animal protein foods with the highest biological quality. They pointed out that the use of 45 grams of protein as a standard for all proteins equal to or better than casein put the better quality proteins at a disadvantage.

A review of the proposed standard does not support such a change at this time. As the Commissioner stated in the preamble to the regulation as published on January 19, 1973, further extension of subdivisions of protein types does not appear justified. As experience with nutrition labeling is gained, and additional information is obtained concerning simpler procedures for evaluating protein quality, the Commissioner will evaluate the procedure for establishing the U.S. RDA value for labeling protein and make any appropriate modifications.

Several manufacturers also requested the Commissioner to establish a standard conversion factor for converting nitrogen content to protein as part of the analytical method for protein in food. The factor of 6.25 times the nitrogen content is commonly used to calculate protein, but scientists recognize that this factor gives larger protein values than are determined by more accurate and complex procedures for certain food proteins. The alternate conversion factors for specific proteins are available in the literature, and could be used when use of the common conversion value of 6.25 results in significant overstatement of the protein content.

In reviewing this matter, the Commissioner is of the opinion that for labeling purposes use of the 6.25 conversion factor is satisfactory. However, methods for determining protein content listed in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th Ed., 1970 (AOAC), give more correct factors for the conversion of nitrogen to protein, and when a conversion factor other than 6.25 is given in the AOAC methods that value shall be used.

23. Many manufacturers stated that they felt that the calculation of caloric content by the Atwater method as required by the regulation is more accurate than required. They suggested that the more commonly used values of 4, 4, and 9 calories per gram of protein, carbohydrate, and fat, respectively, be used as these are actual standard values derived from the Atwater values.

The reference to the Atwater method to determine caloric content was included in the final regulation in order to provide manufacturers with a standard guide for calculating calories. This procedure was developed to account for those factors which led to caloric contents less than expected due to reduced absorption or biological availability. The Commissioner is aware that for most foods, the caloric factors of 4, 4, and 9 calories per gram of protein, carbohydrate, and fat, respectively, will give a satisfactory statement for caloric content. However, there are situations where the calculation of caloric content using the 4, 4, and 9 calories per gram values will misrepresent the caloric content of the product. In such situations, where more accurate values are given in the reference cited in the regulation, USDA Handbook 74 (1955), it would appear reasonable for manufacturers to use the correct values. The agency will follow this procedure outlined above in determining caloric content in order to establish if a product is in compliance. Manufacturers can identify those situations where the use of the 4, 4, and 9 calorie per gram values will result in a label value more than 20 percent greater than the actual value and in those cases the values in the USDA Handbook 74 should be used in determining the caloric content of the food.

24. Comments were received objecting to any declaration of the U.S. RDA greater than 100 percent in a serving. Those taking this position were concerned that consumers would be misled by such claims, and also that claims of significance on the basis of 10 percent of the U.S. RDA, e.g., 120 percent compared to 110 percent, would confuse consumers.

In naturally occurring products such nutrient levels are rare. When they do occur, the Commissioner concludes that it is unreasonable to deny those marketing the product the right truthfully to label the nutritional content.

The Commissioner is aware that the addition of vitamins or minerals to a food at levels greater than 50 percent of the U.S. RDA may in some cases be allowed. However, when such values are added to a food and not covered by a regulation permitting such levels of added nutrients, the product will be regulated as a dietary supplement under § 80.1 (38 FR 2152).

The Commissioner is of the opinion that the issue of proper food fortification cannot be appropriately dealt with under nutrition labeling. The Commissioner stated in the preamble to the regulation as published on January 19, 1973, that the agency is preparing a number of regulations regarding the addition of nutrients to foods. New Part 100, establishing nutrition guidelines, is published in this issue of the FEDERAL REGISTER. In addition to specific regulations and guidelines, the Commissioner will prepare a regulation incorporating overall agency policy on addition of nutrients to foods. Until this action is complete, the agency will review food fortification on an individual basis using the principles stated in existing and newly published regulations.

25. One manufacturer pointed out that the language stating that vitamins and minerals other than the basic five vitamins and two minerals could be listed, did not make it clear that these must be listed as a percent of the U.S. RDA. The language has been changed to make this clear. In addition, the mandatory listing of the other vitamins when they are added is also made clear by a slight modification in the regulation.

26. A few comments were received requesting that values other than those selected for the U.S. RDA be chosen for nutrition labeling in § 1.17(c)(7)(iv). As stated in the preamble to the regulation as published on January 19, 1973, this question was carefully considered, and the values selected were those considered appropriate for nutrition labeling as well as for use by the agency in establishing standards for special dietary foods and dietary supplements. While no change in the current U.S. RDA will be made at this time, the Commissioner will review the U.S. RDA values periodically to insure that they are in general agreement with the National Academy of Sciences' values for the Recommended Dietary Allowances.

27. One comment was received pointing out that the terms "thiamine" and "folic acid" have been replaced by the terms "thiamin" and "folacin" in the listing of accepted nomenclature by the International Union of Nutritional Sciences (Nutrition Abstracts and Reviews, 40, 395, 1920), the recognized international nutrition organization. The Food and Drug Administration uses the nomenclature of the United States Pharmacopeia, and their accepted spelling and names for these two products are used in the regulation.

28. One comment was received asking that choline and inositol be included in the list of essential nutrients in order to permit their inclusion in products such as infant formulas, products intended for use as the total daily diet, medical diets, and similar products. Such products are

special dietary foods, and this question is therefore properly considered under Part 125. This comment will be included with those received on that document in response to the tentative order published on January 19, 1973 (38 FR 2143). Special dietary foods are specifically exempted from nutrition labeling under § 1.17(h) (1), (3), and (4). Any change in the list of essential nutrients under Part 125 will be accompanied by reconsideration of the list of nutrients appropriate for label declaration under § 1.17(c)(7)(iv).

29. One comment was received asking that, in addition to the percent of the U.S. RDA, manufacturers be required to list the actual amounts of each nutrient present, e.g., milligrams or International Units. The Commissioner had considered this type of labeling in the early stages of development of nutrition labeling. As consumer understanding of the quantities was very limited and labeling as a percent of daily allowances offers a procedure for indicating the nutrient contribution of a food without extensive nutrition training, the use of actual values has been rejected for consumer labeling. Actual values may, under § 1.17(f) of the revised regulation, be furnished to interested professionals.

30. Several manufacturers objected to 10 percent of the U.S. RDA being established as the level where claims for significance can be made. Some suggested that 5 percent of the U.S. RDA would be more appropriate, while one comment said that a system relating caloric content and contribution of vitamins, minerals, and protein would be more appropriate.

The Commissioner recognizes that any minimum value established for claiming a significant nutrient content will be arbitrary. Since all foods will be able to indicate their nutrient content under nutrition labeling and consumers will be able to make nutrient comparisons, the point at which a product can claim to be a "significant" source of a nutrient takes on less importance than when actual nutrient contents were not available for consumer comparison. In addition, the use of 5-percent increments for protein, vitamin, and mineral levels between 10 percent and 50 percent of the U.S. RDA, and 10-percent increments at levels over 50 percent, make it unreasonable to select a value of 5 percent of the U.S. RDA or less as significant. The level of 10 percent of the U.S. RDA was selected as significant since it represents a major difference throughout most of the range at which nutrient values commonly are present in foods.

The use of a caloric-nutrient ratio for establishing the nutritional significance of a product is a concept which was considered in the early development of nutrition labeling. While the concept is one which nutritionists are currently developing, it is not readily understood by consumers, and to use such information would, in the opinion of the Commissioner, result in problems of consumer understanding and use. The Commissioner has therefore retained 10 percent of the U.S. RDA as the level for declaring significance as stated in the regulation published on January 19, 1973.

31. Information on other properties of food, e.g., fiber content, sugar content, or moisture content, is included on labels or in labeling by some manufacturers. Comments were received asking that such information be allowed to appear on labels. While such information is not nutrition information as described in this regulation, the Commissioner recognizes that some consumers want to know about these other properties of food. Such information can be included on the label or in labeling provided it is not false or misleading, and is not prohibited by other regulations. This information may not be placed on the label as part of or with nutrition labeling or other mandatory information, but it may immediately follow or otherwise be contiguous to the mandatory information on the information panel. The information on these other properties should be stated for the same serving size (portion) as used for nutrition labeling.

32. It has been suggested that the definition of a "lot," which is based solely upon the common container code or marking, may be inapplicable to methods of continuous production (e.g., bread and milk). In recognition of this possibility, § 1.17(e)(1) has been changed to state that, in such situations, a lot will be regarded as a day's production.

33. Concern was voiced by several manufacturers that official methods of analysis are not applicable to their products, and it would therefore be difficult to determine if they are in compliance. The Commissioner has stated in the regulation that the official procedures will be those of the Association of Official Analytical Chemists (AOAC) or other reliable and appropriate analytical procedures. Questions of methodology may be submited to the agency, and the suitability and applicability of alternative procedures will be resolved in that way.

34. Virtually all comments expressed concern about meeting the compliance requirements contained in the regulations within the time limits established by the uniform effective date. The Commissioner is aware that difficulties may be encountered by some firms, whereas for other firms compliance will not present any significant problem. Accordingly, the Commission has concluded to approach this matter in the following way.

First, there are some companies and industries which will find it difficult or even impossible to meet the first requirement under the uniform effective date, that labels printed after December 31, 1973, must comply with the new requirements. For those who are now gathering the data necessary for compliance, this represents insufficient time to obtain that information before such orders must be placed. For example, some companies and industries are now conducting intensive analytical surveys which must be continued over a sufficiently representative period of time in order to make them statistically valid. The Commissioner wishes to encourage this type of program which will for the first time result in a detailed data base upon which truthful and accurate nutritional labeling can rest. Accordingly, the Commissioner will entertain all reasonable requests for extension of this first part of the uniform effective date, where the petitioner shows the type of analytical data being obtained and the time schedule involved, as justification for this extension. Extensions will be granted only upon a showing of good cause therefor, based upon an on-going program. Such extensions should be requested promptly. All correspondence relating to such extensions will be placed on file for public review at the office of the hearing clerk.

Second, the Commissioner again reiterates the point made in the preamble to the regulations as published in the FEDERAL REGISTER of January 19, 1973, that temporary exemptions will be considered, upon a showing of economic hardship, for any enriched standardized food which, by reason of the standard, must include added nutrients and thereby is required by § 1.17 to bear nutrition labeling. Many manufacturers of these foods unquestionably have the quality control and analytical capabilities at this time to meet this requirement without significant difficulty. Other manufacturers, however, and particularly small manufacturers, may not presently have these capabilities. The Commissioner does not wish those manufacturers who cannot immediately meet these requirements to be forced to eliminate the nutrients from the food, or to discontinue production of the food, or to suffer an economic and competitive hardship. Accordingly, the Commissioner will entertain petitions which demonstrate such a hardship, and will grant temporary exemptions upon a showing of good cause. Such exemptions will not be granted on an across-the-board or industrywide basis, but rather upon a detailed factual showing by an individual firm justifying a temporary exemption.

The Commissioner anticipates that these exemptions will be only temporary in nature, not permanent. Adequate time will be provided for these manufacturers to obtain the necessary quality control and analytical methodology, or to contract for it, without undue hardship. It must be recognized, however, that no permanent exemption could be justified. Indeed, it would be unfair to permit any extensive exemption for one group of manufacturers and to require their competitors to achieve full compliance with § 1.17 within the uniform effective date.

Third, comments were received from several groups, including consumer advocates, suggesting that the agency establish interim compliance requirements that would allow greater variation from the stated label values for nutrients in Class II foods (i.e., foods with naturally occurring (indigenous) ingredients) after the December 31, 1974, effective date. Such an approach would allow a

substantially greater tolerance during the first year, with a more rigid requirement each year for 3 years until the requirement contained in § 1.17(e)(4)(ii) is reached. It was also suggested that a moratorium period be established during which only gross violations would result in regulatory action.

The Commissioner is in agreement with the concepts underlying these comments but believes that the matter should be approached in a different way. Many manufacturers, and particularly those who began 2 or 3 years ago to prepare for these regulations, are now fully able to meet the compliance requirements established in § 1.17. The compliance requirements adopted by the Commissioner are relatively flexible, and do not impose very difficult standards. Indeed, it is the intent of the Commissioner that they be tightened as experience develops with nutrition labeling, rather than relaxed. In any event, they present entirely realistic standards at this time for any company with sound quality control and who wishes to engage in nutrition labeling.

On the other hand, the Commissioner is well aware that this is an entirely new program, relying upon quality control requirements, analytical capabilities, and testing programs of a nature that have not previously been used. Like any new program, it will take time for both industry and Government to work out problems that are encountered. The Commissioner cannot and does not expect full and complete adherence to the exact compliance requirements established in § 1.17 on an immediate basis. It is entirely likely that, acting in the best of faith, deviations will occur.

The Commissioner concludes that the most equitable approach to this matter is to retain the compliance requirements of the regulation as published on January 19, 1973, but to exercise substantial discretion in their enforcement during the first few years in which they are in use. In exercising this discretion, the Commissioner will take into account all pertinent information. It is impossible to articulate a rigid compliance rule precisely because of the factors discussed above, i.e., in some instances full compliance is entirely feasible and should be required, whereas in other instances it cannot realistically be expected on an immediate basis. The principal factor that will guide enforcement policy will be the action taken by the manufacturer or distributor to obtain the analytical data, the quality control procedures, and the testing programs necessary to achieve compliance with the regulation. The Commissioner does not anticipate taking regulatory action during this initial period where a good faith attempt has been made to achieve compliance, even though exact compliance has not been achieved.

The Commissioner has concluded that an industrywide relaxation of the compliance requirements contained in § 1.17 or a moratorium on regulatory action based on a sliding scale of compliance during the next 3 years, is not in the public interest and is not justified by the facts. Those who have advocated this position are largely companies which chose not to prepare for this regulation by obtaining analytical data and establishing quality control procedures adequate to assure compliance with whatever regulation might issue. Several of their competitors, on the other hand, anticipated the new regulatory requirements that have now been promulgated and are fully prepared for nutrition labeling. The Commissioner concludes that, while enforcement flexibility will be retained, the failure of some manufacturers and distributors to prepare for these regulations cannot be accepted as justification for a total moratorium or a failure to require compliance where it should be achieved.

Food distributors who depend on many small- or medium-sized processors to provide a private label product have pointed out several problems which they feel are unique to this type of operation. Their suppliers are not uniformly capable of initiating programs to develop the information and controls required for nutrition labeling, and these distributors must print up their labels before they know what specific manufacturers may be among their suppliers during a given year. Distributors of private label products are therefore concerned that it may be impossible to place nutrition labeling on their products which they are sure will meet the compliance requirements as currently stated.

While the Commissioner agrees that these organizations have some problems which are unique to this form of marketing, it is not reasonable to require maufacturers of major brands to meet the compliance procedures while providing exceptions for certain of their competitors. In the discussion of comments on compliance and the use of representative values, the Commissioner has provided several alternatives to permit manufacturers to initiate nutrition labeling as soon as basic nutrient information is available without undue risk. A mechanism for obtaining sufficient time to achieve the compliance levels is provided to manufacturers, and is also available for distributors working with these manufacturers.

Fourth, some of the comments suggest that the second step of the uniform effective date, requiring that all food shipped in interstate commerce after December 31, 1974, be labeled in compliance with § 1.17, should be extended for up to 5 years, and particularly for Class II foods. This suggestion is closely tied to the problem of the compliance standard.

The Commissioner has concluded that no justification has been presented for extension of the effective date of the regulation beyond December 31, 1974. Petitions for extension of the first step of the effective date, requiring that all labels printed after December 31, 1973, shall conform to § 1.17, have already been discussed above.

Some comments noted that, for products containing Class II nutrients, it may take more than one growing season to obtain the data necessary for accurate nutrition labeling. The Commissioner is prepared to deal with these problems on an individual basis. If a manufacturer or a trade association begins immediately to establish a complete program to obtain the analytical data necessary for accurate nutrition labeling, the Commissioner will consider an extention of the December 31, 1973, label printing requirement. When those data become available a year from now, that manufacturer or trade association may then review them with the Food and Drug Administration and a determination may be reached as to whether they present sufficiently accurate and reliable information on which labels for the following year may be based. By repeating this process for the succeeding years, labels will bear the most accurate and reliable information available and consumers will have the assurance that the label represents the contents of the product as accurately and reliably as possible at the present time.

For the reasons explained at some length in the preamble to the regulation as published on January 19, 1973, the Commissioner has concluded that the industrywide or representative data presently available from such sources as USDA Handbook 8 is not sufficiently reliable or accurate to be a basis for nutrition labeling at this time. The Commissioner pointed out then, and reiterates now, that it is essential that representative data be checked by analysis of individual lots to give assurance that the label value adequately represents the product offered, at least until accurate and complete data are available on an industrywide, regional, and manufacturer basis. In time, the use of standard representative data, backed up by periodic analytical spot checks, will undoubtedly be possible in achieving compliance with § 1.17. The Commissioner encourages agricultural experiment stations, producer associations, food manufacturers, and others to expand efforts in the gathering of food nutrient composition data, in order to provide the information essential for the expansion of nutrition labeling.

35. One comment suggested that use of a standard compliance requirement of 20 percent for Class II nutrients is inequitable because it allows greater variability at a high level of the U.S. RDA and virtually no variability at a low level of the U.S. RDA. Moreover, varability at a low level of the U.S. RDA will have a far smaller effect on the overall nutrient con- of the U.S. RDA. Moreover, variability at high level of the U.S. RDA.

The Commissioner recognizes the validity of this point. Nevertheless, even at levels of 10 percent of the U.S. RDA or less, the variability permitted using the 20-percent compliance standard is 2 percent or 1 percent of the U.S. RDA. In addition, the variability of the available analytical methods for determining nutrient content in Class II foods at levels

below 10 percent of the U.S. RDA in many instances exceeds this 20-percent variability permitted for compliance purposes under the regulation, and no regulatory action will be taken unless the nutrient level found in the product exceeds both the 20-percent compliance standard and whatever variability is recognized for the particular method being used. In all instances, therefore, the actual variability permitted will exceed the 20-percent standard specified under the regulation, and in many instances it will be double that standard or greater. Accordingly, the Commissioner has concluded that it is unnecessary to incorporate into the regulation any explicit provision to alleviate the narrower range of variability permitted at the low end of the U.S. RDA scale, because this is built into the regulation through the use of methodology that has its own degree of precision. The regulation has been revised to state that fact.

36. One organization requested that, for compliance purposes, minimum levels of calories, protein, carbohydrate, and fat be established below which values for these nutrients would not be subject to the compliance requirements of the regulation. The specific values suggested were 40 calories, 5 grams of protein, 10 grams of carbohydrate, and 5 grams of fat. Other comments pointed out that, for some foods, analytical problems would make it very difficult to evaluate compliance.

The Commissioner realizes that analytical problems do exist for some foods. However, for many foods the analytical procedures will permit determinations of even these low levels of protein, carbohydrate, and fat. For example, one can identify the fat content in a milk product with sufficient accuracy to distinguish between 3.25 grams and 3.5 grams of fat per 100 grams of milk product. Consumers should expect that products claiming only 1 gram of fat would have close to that amount, and not as much as 5 grams. A separate compliance position for these lower levels would actually provide no greater protection for manufacturers in terms of risk of mislabeling. Since the agency, as well as manufacturers, recognizes the analytical problems, compliance actions relating to these nutrient levels will reflect the accuracy of the available analytical methodology as well as the tolerance permitted in the regulation. Until experience with the regulation indicates that a more specific procedure is required for low levels of protein, carbohydrate, and fat content, this section of the regulation will be left unchanged. Since caloric content is actually directly related to the protein, carbohydrate, and fat content, the limits on these nutrients will provide a control on calories.

37. Many manufacturers have prepared pamphlets and charts for physicians, dietitians, and teachers providing more detailed nutrition composition information, including the actual amounts of the various nutrients. This labeling material often is not amenable to the format established in § 1.17, and in any event usually provides this information in more precise amounts rather than in the increments established in § 1.17. Several comments requested that these materials be permitted for use without requiring nutrition labeling, or at least that they not be required to be prepared in the exact format established in § 1.17.

It is not the intention of the agency to restrict the information flow from food manufacturers to professionals in the fields of health, nutrition, foods, or education generally. Thus, the Commissioner concludes that this type of labeling material should be permitted, and indeed encouraged, as long as it also contains, or has attached to it, nutrition labeling in the form in which it is provided to consumers under § 1.17. An appropriate change has been made in § 1.17(f) to reflect this.

The Commissioner also concludes that such material should not be permitted to be used without also requiring nutrition labeling for the foods involved. The nutrient values set forth in such material will be required to meet the compliance levels contained in § 1.17, and therefore the manufacturer or distributor of the food must already have sufficient information to permit nutrition labeling in order to use these other materials. Such materials, even when distributed only to professionals, are routinely redistributed to the public on a widespread basis, and often are a primary source of nutrition information for interested consumers. Thus, although such detailed materials should be encouraged as a good source of nutrition information, and should not be restricted to the label form established in § 1.17, the Commissioner concludes that no sound basis exists for exempting them from the general rule that the use of any nutrition information will require full nutrition labeling for the foods involved.

38. Nutrition labeling for infant and baby foods was included in the regulation at the request of professional organizations and individuals specifically interested in infant and child nutrition. Several comments were received requesting that the U.S. RDA contained in § 1.17(h)(1) for an infant or child under 4 years of age be further refined to include a separate U.S. RDA for infants from birth to 12 months. The Commissioner recognizes that the U.S. RDA standard that presently exists for children up to 4 years of age is not wholly adequate and should be improved. The Commissioner invites all interested persons to consider appropriate new U.S. RDA's for this age level which can be incorporated in § 1.17, and Part 125 in the future.

In the interim, the Commissioner concludes that the U.S. RDA levels established in this regulation are reasonable and will result in no harm whatever with respect to infant nutrition. None of the comments suggest that infant and baby foods should be totally exempt from nutrition labeling until better U.S. RDA's can be established. Accordingly, the regulation is not changed in this respect.

The fact that the U.S. RDA's for infants and babies may be revised should in no way deter food manufacturers from including this information on their labels, based upon the present regulation. When new U.S. RDA's are adopted, which may well take several years, the Commissioner will include an adequate effective date in order to provide manufacturers with sufficient time to achieve compliance, in order to avoid economic hardship that may result from label changes.

39. Those persons concerned with infant feeding also pointed out that no protein standard was established for labeling infant and junior foods. The Commissioner agrees that the standards of 45 grams and 65 grams to be used for nutrition labeling of protein in foods, as contained in § 1.17(c)(7)(ii)(a), are not suitable for labeling strained infant and junior foods. A standard protein value of 20 grams for protein with a protein efficiency ratio (PER) equal to or greater than casein, and a value of 28 grams of protein for other proteins with a PER less than casein, was suggested in several comments. These values appear to be reasonable for labeling baby food products, and are consistent with protein values of the National Academy of Sciences Food and Nutrition Board for this age grouping. These suggestions have been incorporated into the regulation for use by manufacturers of baby foods until a revised set of U.S. RDA for this age can be developed.

40. One comment pointed out that, although iodized salt is exempt from nutrition labeling when sold as such, any product to which it is added is not exempt from nutrition labeling. This was an oversight in the regulations, and has been corrected by a change in § 1.17(h)(5).

41. Exemptions for food packed for institutional use, for food being shipped in bulk containers, and for food shipped to a manufacturer as an ingredient for use in another processed food, were requested by many manufacturers. The basic arguments against providing nutrition labeling on these products was that the information would not be seen by the consumer. In the case of institutions such as hospitals, nursing homes, and schools, those commenting also pointed out that a dietitian was often involved in the ordering of the food, and the purchase specifications were more informative than the nutrition labeling.

The labeling regulations promulgated under the Federal Food, Drug, and Cosmetic Act, including § 1.17, apply to all food shipped in interstate commerce, unless otherwise exempted. The Commissioner recognizes that many products are manufactured only for use in institutional feeding, and that under these circumstances the ultimate consumer would not have an opportunity to see the label. In certain instances, e.g., hospitals and school lunch programs, the persons responsible for planning menus and purchasing food may have special training and be aware of the nutritional qualities of the foods, or may even establish

nutrition specifications for certain food products being purchased. However, nutrition labeling can serve to assist these individuals in identifying the most nutritious products, and provide a means for evaluating nutrition claims. The Commissioner has therefore decided that products requiring nutrition labeling because of added nutrients or label claims being shipped solely for institutional food service use shall be exempt from the requirements of the nutrition labeling regulation, if the manufacturer provides the nutrition information required by § 1.17 directly to those institutions and such information is kept current with changes in formulation or processing procedures. Manufacturers may also distribute factual information on the composition and nutritional quality of foods to professionals in the health and education fields which need not be in the format required for nutrition labeling, in addition to nutrition labeling.

The situation involving products being shipped from one manufacturer to another for use as ingredients in a processed food is different from foods manufactured and shipped to food service units which will prepare them for immediate consumption. The Commissioner concludes that bulk shipments of products such as flour, sugar, sirups, oils, and shortenings, or other products which are shipped in bulk form for use in manufacturing other foods shall be exempt from nutrition labeling. It is assumed that the manufacturer purchasing these food products will have established specifications for the product and no purpose would be served to require nutrition labeling.

42. Comments were received about the prohibition in § 1.17(i)(1) against labeling claims that the dietary properties of a food are adequate or effective in the prevention or treatment of any disease or symptom. Some comments erroneously interpreted this as prohibiting virtually any discussion of the nutritional usefulness of any food.

The Commissioner fully recognizes that all nutrients assist in preventing nutrient deficiencies and thus, in that sense, prevent disease. The prohibition contained in this provision in no way prohibits a truthful representation that a given nutrient is essential to human nutrition and good health and well-being. At the same time, it must be recognized that claims related to specific disease conditions render the product a drug under section 201(g)(1)(B) of the Act.

This prohibition was adopted because of widespread promotional practices stating or implying that a nutrient or food should be consumed in order to prevent a specific disease. For example, it has been common practice to promote nutrients by stating that a deficiency in a particular nutrient leads to a specified disease, thus implying that a consumer who fails to purchase the product in question may suffer from that disease or that the product in question will prevent that disease. The Food and Drug Administration and the Federal Trade Commission have successfully brought numerous cases to prevent such promotional practices over the years, but in spite of this success in the courts manufacturers and distributors of some products continue to use such claims.

The Commissioner concludes that reliance upon scare promotional claims, designed to panic the public into believing that nutrient fortification or supplementation is necessary to prevent the onset of severe deficiency diseases, is neither supported by the available scientific and medical facts nor fosters good nutritional practices. Promotion designed to educate the public about the need for basic nutrition planning for daily food needs, and to emphasize the importance of essential nutrients to good health, is both truthful and conducive to sound nutrition.

43. Comments were received objecting to § 1.17(i)(2), which prohibits the use of labeling claims suggesting that conventional foods in the diet, as usually prepared, are inadequate to meet nutritional needs. No data were furnished in the comments to show that a diet of conventional foods cannot satisfy all nutrition needs. To clarify this prohibition, however, the phrase "balanced diet" will be substituted for "diet," since it is obvious that an unbalanced or extremely poor diet could be deficient in nutrients. This prohibition was discussed fully in the preambles, findings of fact, and conclusions of law with respect to Part 125, published on January 19, 1973 (38 FR 2149).

44. Concern has been expressed that the labeling prohibitions contained in § 1.17(i) (3) and (4) would preclude factually supportable statements that, for example, a particular food has been handled by the producer or manufacturer in a special way in order to retain a higher nutrient content than competitive foods. This is not the intent of these prohibitions nor are they so worded.

These prohibitions are intended to prohibit unsupported generalizations about nutrient losses because of soil, transportation, and processing that have often been used in promotional literature in the past. They do not preclude a manufacturer or distributor who had adequate scientific data to show a higher nutrient retention in his product than in a competitor's product from making that claim. Nor do they prohibit a claim that a particular food has a higher nutrient content than is ordinarily true because of the soil in which it is grown, if that claim is backed up by adequate scientific data showing the differences between the soils involved and the resulting nutrient differences in the foods. Finally, a manufacturer may, without question, suggest cooking or handling methods for optimum nutrient retention. In order to clarify this, the phrase "the daily diet" is substituted for diets in § 1.17(i)(4). Any such claims will, of course, also require full nutrition labeling under § 1.17.

45. Several requests were received asking that manufacturers identify the natural and added vitamins in their products. The regulation premits, but does not require, such identification, and the statement of ingredients will in many instances reveal this information. The Commissioner concludes that there is insufficient differences between these two types of nutrients to justify requiring a special label designation of this kind.

Section 1.17(i)(6) forbids any suggestion that a natural vitamin is superior to an added vitamin, but permits any truthful designation of any nutrient as natural in origin. This prohibition was included because of widespread claims that nutrients of natural origin are superior to synthetic nutrients. At the present time, there is no valid scientific evidence to support such a claim of superiority, nor is there evidence to support any suggestion that synthetic nutrients are superior to natural nutrients.

One comment objected to § 1.17(i)(6) on the basis that it suggested that natural vitamins in a food were inferior to added vitamins. After reviewing the wording of the regulation, the Commissioner concludes that it in no way suggests that added vitamins are superior to vitamins natural to a food. Any such claim would be subject to prompt regulatory action.

46. One comment questioned the basis for delaring rutin and other bioflavonoids as unnecessary nutrients, and challenged the prohibition against combining these ingredients with nutrients already found to be essential in human nutrition. The basis for the Commissioner's conclusions on this matter was set out in detail in the preambles, findings of fact, discussion, and conclusions of law with respect to Part 125 and § 80.1, as published in the FEDERAL REGISTER for January 19, 1973 (38 FR 2143 and 2152). No data or information were submitted to show that any of these ingredients is essential in human nutrition or otherwise beneficial to health. The courts have previously upheld the Food and Drug Administration's position that inclusion of such ingredients in the product falsely represents nutritional value (United States v. Vitasafe, 226 F. Supp. 266 (D. N.J., 1964); United States v. Nuclomin, No. 71 C 585(2) (E.D. Mo., 1972)). Nevertheless, the Commissioner has concluded that it is reasonable to permit these ingredients to be marketed alone or in combination as foods, without claims for nutritional value. Any citizen who wishes to purchase and consume them will have an opportunity to do so.

47. The Commissioner has carefully reviewed and considered all comments, and to the extent that they are not encompassed within the above discussion or modifications made in the regulation they are rejected.

Accordingly, having considered the additional comments received and other relevant information, the Commissioner concludes that new § 1.17, as promulgated in the FEDERAL REGISTER of January 19, 1973 (38 FR 2125), should be repromulgated to reflect the technical modifications discussed above. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055; 21 U.S.C. 321, 343,

371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner hereby amends new § 1.17 to read as follows:

§ 1.17 Food; nutrition labeling.

(a) Nutrition information relating to food may be included on the label and in the labeling of a product: *Provided*, That it conforms to the requirements of this section. Except as provided in paragraph (h) of this section, inclusion of any added vitamin, mineral, or protein in a product or of any nutrition claim or information, other than sodium content, on a label or in advertising for a food subjects the label to the requirements of this section, and in labeling for a food subjects the label and that labeling to the requirements of this section.

(1) Solicitation of requests for nutrition information by a statement "For nutrition information write to _____" on the label or in the labeling or advertising for a food, or providing such information in a direct written reply to a solicited or unsolicited request, does not subject the label or the labeling to the requirements of this section if no other nutrition claim is made on the label or in other labeling or advertising, if the reply to the request conforms to the requirements of this section and contains no additional nutrition information, and if no vitamin, mineral, or protein is added to the food.

(2) If any vitamin and/or mineral is added to a food so that a single serving provides 50 percent or more of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age, as specified in § 125.1 of this chapter, of any one of the added vitamins and/or minerals, unless such addition is permitted or required in other regulations, e.g., a standard of identity or nutritional quality guideline, or is otherwise exempted by the Commissioner the food shall conform to the standard or identity set forth in § 80.1, of this chapter, and shall also conform to the labeling established in § 80.1 of this chapter, except that the labeling established in paragraph (c) of this section including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of this section, shall be used in lieu of the labeling established in § 80.1 (l)(1) of this chapter.

(b) All nutrient quantities (including vitamins, minerals, calories, protein, carbohydrate, and fat) shall be declared in relation to the average or usual serving or, where the food is customarily not consumed directly, in relation to the average or usual portion. Another column of figures may be used to declare the nutrient quantities in relation to the average or usual amount consumed on a daily basis, in the same format required in paragraph (c) of this section for the serving (portion), where reliable data have established that the food is customarily consumed more than once during the day and the average or usual amount so consumed.

(1) The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a meal by an adult male engaged in light physical activity, or by an infant or child under 4 years of age when the article purports or is represented to be for consumption by an infant or child under 4 years of age. The term "portion" means the amount of a food customarily used only as an ingredient in the preparation of a meal component (e.g., ½ cup flour, ½ tablespoon cooking oil or ¼ cup tomato paste). A label statement regarding a serving (portion) shall be in terms of a convenient unit of such food or a convenient unit of measure that can be easily identified as an average or usual serving (portion) and can be readily understood by purchasers of such food (e.g., a serving (portion) may be expressed in slices, cookies, or wafers; or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls).

(2) A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid oz.) in volume; a tablespoon shall be considered to mean 15 milliliters (approximately ½ fluid oz.) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid oz.) in volume. The weight of the serving (portion) may also be expressed in grams.

(3) The declaration of nutrient quantities shall be on the basis of the food as packaged. Another column of figures may be used to declare the nutrient quantities on the basis of the food as consumed after cooking or other preparation, in the same format required in paragraph (c) of this section for the food alone: *Provided*, That the specific method of cooking or other preparation shall be disclosed in a prominent statement immediately following the information required by paragraph (c) of this section.

(c) The declaration of nutrition information on the label and in labeling shall contain the following information in the following order, using the headings specified, under the overall heading of "Nutrition Information Per Serving (Portion)." The terms "Per Serving (Portion)" are optional and may follow or be placed directly below the terms "Nutrition Information."

(1) "Serving (portion) size": A statement of the serving (portion) size.

(2) "Servings (portions) per container": The number of servings (portions) per container.

(3) "Caloric content" or "Calories": A statement of the caloric content per serving (portion), expressed to the nearest 2-calorie increment up to and including 20 calories, 5-calorie increment above 20 calories and up to and including 50 calories, and 10-calorie increment above 50 calories. Caloric content shall be determined by the Atwater method as described in A. L. Merrill and B. K. Watt, "Energy Value of Foods—Basis and Derivation," USDA Handbook 74 (1955).[1] Caloric content may be calculated on the basis of 4, 4, and 9 calories per gram for protein, carbohydrate, and fat respectively unless the use of these values gives a caloric value more than 20 percent greater than the caloric value obtained when using the more accurate values determined by use of the Atwater method as found in USDA Handbook 74 (1955).

(4) "Protein content" or "Protein": A statement of the number of grams of protein in a serving (portion), expressed to the nearest gram. Protein content may be calculated on the basis of the factor of 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis of the Association of Official Analytical Chemists, 11th edition, 1970, except when the official procedure for a specific food requires another factor.

(5) "Carbohydrate content" or "Carbohydrate": A statement of the number of grams of carbohydrate in a serving (portion) expressed to the nearest gram.

(6) "Fat content" or "Fat": A statement of the number of grams of fat in a serving (portion) expressed to the nearest gram. Fatty acid composition, cholesterol content, and sodium content may also be declared in compliance with §§ 1.18 and 125.9 of this chapter.

(i) When fatty acid composition is declared, the information on fatty acids required by § 1.18(c) shall be placed on the label immediately following the statement of fat content. The declaratory information statement required by § 1.18 (d) shall be placed either immediately following the statement on fat and fatty acids or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(ii) When cholesterol content is declared, the information on cholesterol required by § 1.18(b) shall immediately follow the statement on fat content (and fatty acids, is stated). The declaratory information statement required by § 1.18 (d) shall be placed either immediately following the statement on cholesterol or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(iii) When both fatty acid and cholesterol information are provided, the declaratory information statement may be combined as permitted by § 1.18(d).

(iv) When sodium is declared, the information on sodium required by § 125.9 of this chapter shall be placed on the label immediately following the statement on fat content (and fatty acid and/or cholesterol, if stated).

(7) "Percentage of U.S. Recommended Daily Allowances (U.S. RDA)": A statement of the amount per serving (portion) of the protein, vitamins, and minerals, as described in this subparagraph, expressed in percentage of the U.S. Recommended Daily Allowance (U.S. RDA).

(i) The percentages shall be expressed in 2-percent increments up to and in-

[1] Copies may be obtained from: Division of Nutrition (BF-124), Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, DC 20204.

cluding the 10-percent level, 5-percent increments above 10 percent and up to and including the 50-percent level, and 10-percent increments above the 50-percent level. Nutrients present in amounts less than 2 percent of the U.S. RDA may be indicated by a zero, or by an asterisk referring to another asterisk placed at the bottom of the table and followed by the statement "contains less than 2 percent of the U.S. RDA of this (these) nutrient (nutrients)." However, when a product contains less than 2 percent of the U.S. RDA for each of five or more of the eight nutrients specified in subdivision (iii) of this subparagraph, the manufacturer or distributor may choose to declare no more than three of those nutrients and none of the remainder listed in subdivision (iv) of this subparagraph. The statement "contains less than 2 percent of the U.S. RDA of _____", listing whichever of the eight nutrients are present at less than 2 percent of the U.S. RDA and have not been declared, shall directly follow the declared nutrient in the same type size. Any nutrient declared shall always appear in the order established in subdivision (iv) of this subparagraph.

(ii) The declaration of protein, which shall come first, shall be a statement of the amount per serving (portion) of protein, expressed as a percentage of the U.S. RDA.

(*a*) The U.S. RDA of the protein in a food product is 45 grams if the protein efficiency ration (PER) of the total protein in the product is equal to or greater than that of casein, and 65 grams if the PER of the total protein in the product is less than that of casein. The percentage of the U.S. RDA shall be declared as described in subdivision (i) of this subparagraph.

(*b*) Total protein with a PER less than 20 percent of the PER of casein may not be stated on the label in terms of percentage U.S. RDA, and the statement of protein content in grams per serving (portion) under subparagraph (4) of this paragraph shall be modified by the statement "not a significant source of protein" immediately adjacent to the protein content statement regardless of the actual amount of protein present.

(iii) The declaration of vitamins and minerals as a percent of the U.S. RDA which shall follow the protein declaration, shall include vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron, in that order, and shall include any of the other vitamins and minerals listed in subdivision (iv) of this subparagraph when they are added and may list any of the other vitamins and minerals listed in subdivision (iv) of this subparagraph when they are naturally occurring in the order listed therein.

(iv) The following U.S. Recommended Daily Allowances (U.S. RDA) and nomenclature are established for these vitamins and minerals, essential in human nutrition:

Vitamin A, 5,000 International Units.
Vitamin C, 60 milligrams.[1]
Thiamine, 1.5 milligrams.[2]
Riboflavin, 1.7 milligrams.[2]
Niacin, 20 milligrams.
Calcium, 1.0 gram.
Iron, 18 milligrams.
Vitamin D, 400 International Units.
Vitamin E, 30 International Units.
Vitamin B_{12}, 2.0 milligrams.
Folic acid, 0.4 milligram.[3]
Vitamin B_{12}, 6 micrograms.
Phosphorus, 1.0 gram.
Iodine, 150 micrograms.
Magnesium, 400 milligrams.
Zinc, 15 milligrams.
Copper, 2 milligrams.
Biotin, 0.3 milligrams.
Pantothenic acid, 10 milligrams.

These nutrients and levels have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences-National Research Council, and are subject to amendment from time to time as more information on human nutrition becomes available.

(v) No claim may be made that a food is a significant source of a nutrient unless that nutrient is present in the food at a level equal to or in excess of 10 percent of the U.S. RDA in a serving (portion). No claim may be made that a food is nutritionally superior to another food unless it contains at least 10 percent more of the U.S. RDA of the claimed nutrient per serving (portion).

(d) Products with separately packaged ingredients or to which other ingredients are added by the user may be labeled as follows:

(1) If a product is comprised of two or more separately packaged ingredients enclosed in an outer container, nutrition labeling of the total product shall be located on the outer container to provide information for the consumer at the point of purchase. However, when two or more food products are simply combined together in such a manner that no outer container is used, or no outer label is available, each product shall have its own nutrition information, e.g., two boxes taped together or two cans combined in a clear plastic overwrap.

(2) If a food is commonly combined with another ingredient(s) before eating and directions for such combination are provided, another column of figures may be used to provide a list of the nutrient contents for the final combination in the same format required in paragraph (c) of this section for the the food alone (e.g., a dry ready-to-eat cereal may be described with one set of percentage U.S. RDA values for the cereal as sold (per ounce), and another set for the cereal and milk as suggested in the label (per ounce of cereal and one-half cup of vitamin D fortified whole milk); and a cake mix may be labeled with one set of percentage U.S. RDA values for the dry mix (per serving), and another set for a serving of the final cake when prepared). The type and quantity of the other ingredient(s) to be added by the user to the product shall be specified.

(e) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking, or in the absence of any common container code or marking a day's production, constitutes a "lot."

(2) The sample for nutrient analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot. Composites shall be analyzed by Association of Official Analytical Chemists (AOAC) methods where available or, if no AOAC method is available, by reliable and appropriate analytical procedures. Alternative methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability.

(3) Two classes of nutrients are defined for purposes of compliance:

Class I. Added nutrients in fortified or fabricated foods.
Class II. Naturally occurring (indigenous) nutrients.

If any ingredient which contains a naturally occurring (indigenous) nutrient is added to a food the total amount of such nutrient in the final food product is subject to Class II requirements unless the same nutrient is also added.

(4) A food with a label declaration of a vitamin, mineral, or protein shall be deemed to be misbranded under section 403(a) of the act unless it meets the following requirements:

(i) *Class I vitamin, mineral, or protein.* The nutrient content of the composite is at least equal to the value for that nutrient declared on the label.

(ii) Class II vitamin, mineral, or protein. The nutrient content of the composite is at least equal to 80 percent of the value for that nutrient declared on the label.

Provided, That no regulatory action will be based on a determination of a nutrient value which falls below this level by a factor less than the variability generally recognized for the analytical method used in that food at the level involved.

(5) A food with a label declaration of calories, carbohydrates, or fat shall be deemed to be misbranded under section 403(a) of the act unless the nutrient content of the composite is no greater than 20 percent in excess of the value for that nutrient declared on the label.

(6) Reasonable excesses of a vitamin, mineral, or protein over labeled amounts are acceptable within good manufacturing practices. Reasonable deficiencies of calories or fat under labeled amounts are acceptable within good manufacturing practices.

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[1] The following synonyms may be added in parentheses immediately following the Biotin, 0.3 milligram.

Vitamin C	Ascorbic acid
Folic acid	Folacin
Riboflavin	Vitamin B_2
Thiamine	Vitamin B_1

(f) Nutrition information provided by a manufacturer or distributor directly to professionals (e.g., physicians, dietitians, educators) may vary from the requirements of this section but shall also contain or have attached to it the nutrition information exactly as required by this section.

(g) The location of nutrition information on a label shall be in compliance with § 1.8d.

(h) The following foods are exempt from this section or are subject to special labeling requirements:

(1) Except where expressly covered by § 125.5 of this chapter, infant, baby, and junior-type foods marketed and promoted for children under 4 years of age shall include nutrition information on the label and in labeling in compliance with this section except that the term "serving" shall mean that reasonable quantity of food suited for or practicable of consumption by an infant or child under 4 years of age and that the U.S. RDA levels for infants and children under 4 years of age contained in § 125.1(b) of this chapter shall be used in lieu of the U.S. RDA levels contained in paragraph (c)(7)(iv) of this section. For the purposes of labeling these foods with a percent of the U.S. RDA for protein, a value of 20 grams of protein shall be the U.S. RDA value for protein with a protein efficiency ratio (PER) equal to or greater than casein, and 28 grams if the PER of the protein is less than the PER of casein but greater than 20 percent of casein.

(2) Dietary supplements, the nutrients of which consist solely of vitamins and/or minerals, shall be labeled in compliance with §§ 80.1 and 125.3 of this chapter, except that the labeling of a dietary supplement in food form, e.g., a breakfast cereal, shall conform to the labeling established in paragraph (c) of this section, including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of this section, in lieu of the labeling established in § 80.1 (l)(1) of this chapter.

(3) Any food represented for use as the sole item of the diet shall be labeled in compliance with Part 125 of this chapter.

(4) Foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders shall be labeled in compliance with Part 125 of this chapter.

(5) Iodized salt shall be labeled in compliance with § 3.87 of this chapter and when used in a food does not subject that food to labeling under this section if it is declared in the ingredient statement by its name (iodized salt) and neither iodine nor iodized salt is otherwise referred to on the label or in labeling or advertising.

(6) A nutrient(s) included in food solely for technological purposes may be declared solely in the ingredient statement, without complying with this section, if the nutrient(s) is otherwise not referred to on the label or in labeling or in advertising.

(7) A standardized food containing an added nutrient(s), e.g., enriched flour, and included in another food as a component may be declared in the ingredient statement by its standardized name, without compliance with this section, if neither the nutrient(s) nor the component is otherwise referred to on the label or in labeling or in advertising.

(8) Food products shipped in bulk form for use solely in the manufacture of other foods and not for distribution to consumers in such bulk form or container.

(9) Food products containing an added vitamin, mineral, or protein, or for which a nutritional claim is made on the label or in labeling or in advertising, which are supplied for institutional food service use only: *Provided*, That the manufacturer or distributor provides the nutrition information required by this section directly to those institutions on a current basis.

(i) A food labeled under the provisions of this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the act if its labeling represents, suggests, or implies:

(1) That the food because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

(2) That a balanced diet of ordinary foods cannot supply adequate amounts of nutrients.

(3) That the lack of optimum nutritive quality of a food, by reason of the soil on which that food was grown, is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(4) That the storage, transportation, processing, or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(5) That the food has dietary properties when such properties are of no significant value or need in human nutrition. Ingredients or products such as rutin, other bioflavonoids, para-aminobenzoic acid, inositol, and similar substances which have in the past been represented as having nutritional properties but which have not been shown to be essential in human nutrition may not be combined with vitamins and/or minerals, added to food label in accordance with this section, or otherwise used or represented in any way which states or implies nutritional benefit. Ingredients or products of this type may be marketed as individual products or mixtures thereof: *Provided*, That the possibility of nutritional, dietary, or therapeutic value is not stated or implied (e.g., their labeling does not state that their usefulness in human nutrition has not been established and does not otherwise disclaim nutritional, dietary, or therapeutic value).

(6) That a natural vitamin in a food is superior to an added or synthetic vitamin, or to differentiate in any way between vitamins naturally present from those added.

Effective date. All labeling ordered after December 31, 1973, unless extended by the Commissioner on petition for good cause shown, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation. (Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a).)

Dated: March 7, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, January 15, 1973.

[FR Doc.73-4671 Filed 3-13-73;8:45 am]

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Labeling of Foods With Information on Cholesterol and Fat and Fatty Acid Composition

In the FEDERAL REGISTER of January 19, 1973 (38 FR 2132), the Commissioner of Food and Drugs published a regulation relating to labeling foods with information on cholesterol and fatty acid composition. The regulation reflected the comments received on proposals published on June 15, 1971 (36 FR 11521), concerning cholesterol and fatty acid labeling. Thirty days were provided for additional comments on technical corrections or modifications. The Commissioner received more than 20 additional comments on the published regulation.

The comments from manufacturers were directed toward the triggering of nutrition labeling when fatty acid labeling was provided, the restrictions on label statements other than those provided for in the regulation, and the analytical procedures to be used for determining compliance. Other comments received from manufacturers included a request to allow products with less than 2 grams of fat in a serving to be labeled with fatty acid informaton; a request to delete the words "fatty acid" from the required heading (i.e., "Polyunsaturated fatty acid") and to use the word "fat" instead; a request to delete the statement of the percent of calories from fat and definition of servings; and a request to delete the required statement which makes reference to physicians advising the use of diets.

Two comments were received stating that the proposed labeling for fat was derogatory that no lower limit for fat content was proposed, suggesting that fat was not a valuable ingredient. It was suggested that the Commissioner establish a standard for the percent of calories from fat so that a food could state what percent of this daily fat standard it contained in a manner similar to that permitted for protein.

Comments received from consumers or consumer representation gave strong support to the cholesterol and fatty acid labeling. Their comments include a request that complete nutrition labeling be required whenever cholesterol content was stated, that the ratio of polyunsaturated to saturated fatty acids be listed (P/S ratio), and that servings be defined.

After considering all comments and suggestions for change submitted, the Commissioner has concluded to make a number of technical modifications to the final regulation, as outlined in the following discussion.

I. Cholesterol Labeling

1. The suggestion that cholesterol labeling also require nutrition labeling was based on the contention that products listing a lower cholesterol content than usually found for that product class should disclose total nutritional value. The Commissioner concludes that there is merit in this suggestion, in that it would provide consumers with the same total information for both fatty acids and cholesterol. In reviewing products for which cholesterol labeling would provide consumers with useful information, primarily foods from those classes which are major contributors to dietary cholesterol of fabricated substitutes, it appears that nutrition labeling would serve a useful purpose. The regulation has therefore been changed in this respect.

The combining of cholesterol and nutrition labeling results in several additional technical changes to make the provisions of nutrition labeling apply to this section. In this issue of the Federal Register, the Commissioner is also publishing technical modifications to the nutrition labeling regulations of § 1.17 (21 CFR 1.17) reflecting the additional comments received on that regulation. Several of the proposed changes in cholesterol and fatty acid labeling are discussed in the preamble to that document and are incorporated into that regulation. These include provisions for using portions as well as servings, a partial exemption for institutional food products, and a provision for providing information to health and education professionals.

2. The suggestion was made that cholesterol content be declared in 5-milligram increments. While it does not appear that permitting actual values for cholesterol content would cause any problem, a more uniform statement of cholesterol content, in 5-milligram increments, would afford consumers a more uniform method of comparison. The regulation has therefore been modified to require cholesterol content to be stated in the nearest 5-milligram increment.

3. One manufacturer requested that a series of names be established for low, reduced, or cholesterol-free products. The Commissioner does not at this time propose to attempt to establish any common names of this type on his own initiative. Manufacturers with products which might be labeled with a common or usual name incorporating such statements may submit an appropriate petition under new Part 102, which establishes a procedure for adopting a common or usual name for a food, and which is published elsewhere in this issue of the Federal Register. Such names may not be false or misleading, and will be required to provide sufficient information to consumers that they can easily identify the product.

II. Fat and Fatty Acid Labeling

1. The Food and Drug Administration (FDA) did not intend to suggest that the fat portion of the diet was unimportant. However, the Commissioner concludes that there is no good reason at this time for FDA to establish a U.S. Recommended Daily Allowance (U.S. RDA) for fat. There appears to be no deficiency of fat in the American diet. If there is a need for a standard for the quality of fat in the diet, it would be more appropriate to request that the Food and Nutrition Board of the National Academy of Science consider establishment of such a standard.

With respect to establishing a lower compliance limit for fat content, the Commissioner has concluded that no exact minimum figure is needed for determining compliance with the label declaration of fat. Manufacturers will be expected to follow good manufacturing practices in the production of products, and the label declaration of fat, carbohydrates, and calories will reflect such practices.

2. Several manufacturers and associations requested that the term "fatty acid" be dropped from the required declaration, on the basis that this term would confuse consumers. In addition, it was pointed out that the calculation of the fatty acid class was in fact made on the basis of the triglycerides, not the fatty acids, and therefore should not be referred to as "fatty acids." Comments were also received asking that the class "other fatty acids" be deleted.

With respect to the use of the term "fatty acids," it is probably true that consumers recognize "polyunsaturated" and "saturated" in relation to fat-modified diets, and the more technically correct term "fatty acids" could be confusing. The Commissioner agrees that the deletion of the term "fatty acids" will not result in any misunderstanding of the label by consumers, and has therefore changed the regulation.

In regard to deletion of the term "other fatty acids" there is only limited comment either supporting deletion or requesting retention of this statement. With the deletion of the term "fatty acid," the word "other" no longer can be easily understood, and might be misunderstood to mean that the "other" category has some special value. The original intent was to provide a means for identifying the total fat content, but it appears that this is less important than reducing the danger of consumer confusion. Thus, the category of "other fatty acids" has been deleted.

3. Two comments were received asking that the statement on the percent of calories from fat be deleted. A comment was received supporting retention of this provision. In the preamble to the published regulation, reference was made that percent of calories from fat was considered useful. No evidence was submitted that this would create any hardship. Accordingly, no change is made in the regulation in this respect.

4. A major objection related to the restrictions on any other statements on cholesterol and fatty acids content on the label or in labeling. Manufacturers felt that such restrictions were unreasonable, and that they had a right to provide such information if it was true and not misleading. Their concern was that consumers would not be able easily to identify products that might be useful in low cholesterol or fat-modified diets.

The Commissioner concludes that unrestricted statements on the principal display panel highlighting the cholesterol or fatty acid content overemphasize these components and could mislead consumers into believing that the medical basis for a fat-modified diet has been firmly established. However, the Commissioner also recognizes the need to identify a product on the shelf of the food store, and consideration has therefore been given to how this best can be done. For purposes of identifying a product which has cholesterol or fatty acid information on the label, a statement has been included in the revised regulation which can appear on the principal display panel. This will be a standard statement, to avoid the possibility that every manufacturer would use a different statement, thus further confusing the consumers. The restriction on other statements is retained.

5. The Commissioner discussed in the preamble to the January 19, 1973, regulation, the need for limiting fatty acid labeling to foods which made a reasonable contribution to the total daily fat intake. The requirement that a product provide at least 2 grams of fat in a serving is reasonable. No valid reasons or data were provided to support changing this limit, and it has been retained in the regulation.

6. A request was received to permit, in fatty acid statements, the content of fatty acid to be rounded off to the nearest gram. It was the intent of the Commissioner that this be done, and this change has been incorporated into the regulation.

7. Another request was made to require the polyunsaturate/saturate content ratio (P/S ratio) to be placed on the label. This was fully discussed in the preamble to the regulation as published on January 19, 1973. The Commissioner had concluded that stating the content of polyunsaturated and saturated fatty acids is adequate. Thus no change is made in this aspect of the regulation.

8. The deletion of mandatory nutrition labeling when fatty acid information is provided was requested by manufacturers and trade associations. They were particularly concerned with the inclusion of full nutrition labeling on products such as vegetable oils and shortenings where the product contains only fat and the label would show positive values for only calories and fat, and

zero for all other nutritional components.

The Commissioner considered this problem prior to publishing the final regulations on January 19, 1973, and concluded that the consumer needs full nutrition labeling in order to evaluate products bearing fatty acid labeling. The provision for nutrition labeling is therefore retained unchanged.

9. Several manufacturers requested deletion of the required statement regarding physicians advising individuals to use modified diets, as they contended that this statement would be misunderstood by consumers. A comment strongly supporting the statement was received from a consumer organization which felt that individuals considering the special information provided by fatty acid and cholesterol labeling should be reminded that major diet changes should be carried out under medical direction. The Commissioner concludes that it is essential that consumers understand that a modified diet should be undertaken only with the advice and guidance of a physician and only as a total program. The required label statement has been retained in the final regulation.

10. Many manufacturers objected to the use of the Canadian Food and Drug Directorate Method FA–59 for determining the level of cis,cis-methylene-interrupted polyunsaturated fatty acid as part of the compliance program. The concerns expressed by those manufacturers were essentially the same as those stated in response to the proposal published June 15, 1971. In the preamble to the January 19, 1973, regulation, the Commissioner stated in the discussion of this question that FDA had modified the procedure so that it could be applied to products covered by this regulation. Copies of these modifications will be made available to interested parties upon request to the Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, DC 20204. The principal reason for using the method adopted for cis,cis-methylene-interrupted polyunsaturated fatty acids is to eliminate interference from trans forms of the polyunsaturated fatty acids. Use of the Association of Official Analytical Chemists (AOAC) methods for polyunsaturated fatty acids determinations will also be acceptable where trans forms are not present. The Commissioner has also stated in the regulation that alternative methods of analysis may be submitted to FDA for determination of their acceptability, and he encourages manufacturers to use this route to handle specific problems of analysis on individual food products. The reference to methods for analysis in the regulation has therefore been retained.

Accordingly, having considered the additional comments received and other relevant information, the Commissioner concludes that new § 1.18 as promulgated in the FEDERAL REGISTER of January 19, 1973 (38 FR 2132), should be repromulgated to reflect the technical modifications discussed above.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 1.18 as promulgated on January 19, 1973 (38 FR 2132), is amended to read as follows:

§ 1.18 Labeling of foods in relation to fat, fatty acid, and cholesterol content.

(a) Implicit or explicit claims for the value of food in preventing or treating heart or artery disease can be misleading to consumers. However, a significant segment of the medical community is recommending that individuals modify their total diet by eliminating certain foods or by replacing certain foods with others in order to effect changes in the levels of blood components. Although there have been no definitive studies which have demonstrated beyond doubt that extensive changes in the consumption of fat and cholesterol by the general public are desirable, it is nevertheless appropriate to provide for informative labeling which will help individuals to identify foods for inclusion in fat-modified diets recommended by physicians. It is also appropriate to prohibit label statements which misrepresent specific foods as being, of themselves, of value in the control of the levels of these blood components or in the control of heart or artery disease.

(b) A food label or labeling may include a statement of the cholesterol content of the food: *Provided*, That it meets the following conditions:

(1) The food is labeled in compliance with the provisions of § 1.17.

(2) The following information is included in the following order, in accordance with the provisions of § 1.17 (c) (6) (ii):

(i) The cholesterol content, stated to the nearest 5-milligram increment per serving.

(ii) The cholesterol content, stated to the nearest 5-milligram increment per 100 grams of the food.

(iii) The statement required by paragraph (d) of this section.

(c) A food label or labeling may include information on the fatty acid content of the food: *Provided*, That it meets the following conditions:

(1) The food contains 10 percent or more fat on a dry weight basis and not less than 2 grams of fat in an average serving. Any food containing less than 10 percent total fat on a dry weight basis and/or containing less than 2 grams of fat in a serving is not suitable for use by man as a means of regulating the intake of fatty acids.

(2) The food is labeled in compliance with § 1.17 and the following information is included in the following order in accordance with § 1.17(c) (6) (ii):

(i) The total fat content in terms of the percentage of the total calories in the food provided by fat with the heading "Percent of calories from fat."

(ii) The amount of fatty acids, calculated as the triglycerides, shall be stated in grams per serving to the nearest gram in the following two categories, stated with the following headings, in the following order, and displayed in equal prominence:

(*a*) *Cis, cis* - methylene - interrupted polyunsaturated fatty acids, stated as "Polyunsaturated";

(*b*) The sum of lauric, myristic, palmitic, and stearic acids, stated as "Saturated"; and

(iii) The statement required by paragraph (d) of this section.

(d) A food labeled in accordance with paragraph (b) or (c) of this section shall display the following statement on the label: "Information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their total dietary intake of fat (and/or cholesterol, where appropriate)."

(e) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking or, in the absence of any common container code or marking, a day's production, constitutes a "lot."

(2) The sample for analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot.

(3) Composites shall be analyzed for fat and saturated fatty acids by the methods of the Association of Official Analytical Chemists (AOAC). The methods for fat, fatty acids, and cholesteral will be those of the Association of Official Analytical Chemists (AOAC), or other reliable and appropriate methods. Alternative methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability. The determination of cis,cis-methylene-interrupted polyunsaturated fatty acids will be the Canadian Food and Drug Directorate Method FA–59[1] for cis,cis-methylene-interrupted fatty acid.

(4) A food with a label declaration of cholesterol content shall be deemed to be misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value for the cholesterol content declared on the label.

(5) A food with a label declaration of fat content shall be deemed to be misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value for the fat content declared on the label or less than required by good manufacturing practices.

(6) A food with a label declaration of fatty acid content shall be deemed to be

[1] Copies of the method may be obtained by writing to Division of Nutrition, BF–124, Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, DC 20204.

misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value, or less than 80 percent of the value, for the fatty acid content declared on the label.

(f) Label statements made in accordance with paragraphs (b), (c), or (d) of this section shall comply with the requirements of § 1.8d, but in no case may they be printed in larger than the minimum size type required by the provisions of § 1.8b for the declaration of net quantity of contents.

(g) No label or labeling may contain a claim indicating, suggesting, or implying that the product will prevent, mitigate, or cure heart or artery disease or any attendant condition. The principal display panel of the label may state "cholesterol (fat) information appears _____," the blank to be filled in with a phrase stating where the information is contained. The statement shall appear in one-sixteenth-inch type size or in the alternative in a type size no larger than one-half the minimum type size required for the declaration of net quantity of contents by the provisions of § 1.8b of this chapter.

(h) Any label or labeling containing a statement on cholesterol and fatty acid content not in conformity with this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the act.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation.

(Secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: March 7, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, January 15, 1973.

[FR Doc.73-4672 Filed 3-13-73;8:45 am]

COMMON OR USUAL NAMES FOR NONSTANDARDIZED FOODS

In the FEDERAL REGISTER of June 22, 1972 (37 FR 12327), the Commissioner of Food and Drugs proposed a procedure for the establishment by regulation of common or usual names for foods. The Commissioner also proposed to establish a common or usual name for seafood cocktails, to include the percentage of the characterizing seafood ingredient(s).

Seventy-nine comments were received in response to the proposal. Forty-eight comments (including two consumer comments bearing, respectively, 132 and 50 signatures) endorsed the proposal. Of these, 21 suggested additional requirements. Twelve comments were in opposition to the proposal. Nineteen expressed neither endorsement nor opposition, but requested modification, clarification, specific exemptions, or additional requirements.

The Commissioner has evaluated all the comments. The points raised and the Commissioner's responses are as follows:

1. Twenty-eight requests were made that the proposal be expanded to include additional labeling requirements such as the percentage of all ingredients for all foods; the percentage of primary ingredients for all foods; the percentage of fats, carbohydrates, and proteins; the vitamin and mineral content; and the specific source of ingredients.

The Commissioner concludes that percentage labeling of ingredients should be restricted to situations where this information has a material bearing on price or consumer acceptance of the food, or where such information may prevent deception. Labeling the percentage of all ingredients would be extremely costly and would provide no proven benefits to consumers. A mechanism for estalishing a regulation requiring labeling of the percentage of all "primary" ingredients that have a material bearing on the price or consumer acceptance is provided for in this regulation.

Since receipt of the comments relating to this matter, the Commissioner has published regulations in the FEDERAL REGISTER of January 19, 1973 (38 FR 2125), relating to nutrition labeling. Labeling the specific source of ingredients is still under consideration and is not the subject of this regulation.

2. Several objections were made on the ground that authority for establishing the common or usual name does not exist outside of section 401 of the act. The objections were as follows:

a. There is no legal basis for the application of section 201(n) of the act to the establishment of common or usual names.

b. A product containing a substantial and adequate quantity of a characterizing ingredient does not need the amount disclosed, since this is not a "material fact" within the meaning of section 201(n).

c. The proposal establishes, with no authority, a new method of promulgating standards of identity.

d. The proposal is contrary to congressional intentions that the common or usual name shall be established only under section 401 with safeguards of section 701(e) of the act.

The Food and Drug Administration (FDA) has, in the past, determined the name of a specific product, and required the percentage labeling of specific ingredients under sections 201(n), 403, and 701(a) of the act (e.g., 21 CFR 1.10(d), 3.6, 3.34, and 3.70, of which the latter three are revoked by this order and transferred to new Part 102). After reviewing all comments, the Commissioner concludes that the statutory provisions contain ample authority for the establishment of common or usual names that may or may not include the percentage of any characterizing ingredient(s), and that the regulation is well within the congressional intent.

The Commissioner does not agree that the disclosure of the amount of a characterizing ingredient is not a "material fact" within the meaning of section 201(n). Disclosure of this fact is often necessary for the consumer to choose between two competing products when the amount of the ingredient is important to the value of the food.

The Commissioner agrees that a name may be determined by regulation through the establishment of a standard of identity under section 401 of the act, and proposes to continue utilizing this alternative method whenever appropriate. Section 401 does not, however, preclude the establishment of a common or usual name under other sections of the act.

In response to several objections that there are no provisions in the proposal for formal hearings, the Commissioner notes that no hearing is required by the Federal Food, Drug, and Cosmetic Act or the Administrative Procedure Act for regulations promulgated pursuant to section 701(a) of the Federal Food, Drug, and Cosmetic Act. The Commissioner concludes that there is sufficient opportunity for public participation in the development of regulations establishing a common or usual name. Any interested person may submit a petition to establish a common or usual name. Any proposal published in the FEDERAL REGISTER will allow at least 60 days for comment. Interested persons may submit counterproposals, or may discuss any proposal with FDA officials, or may request an informal hearing, which may be granted if good cause is shown. The regulation establishing the common or usual name for Greenland turbot was published after such an informal hearing. All information that could be produced at a formal hearing can be submitted in comments, and the requirement of a formal hearing would serve only to delay new regulations. The Commissioner concludes that neither a formal hearing nor an informal hearing in every case would be in the public interest.

3. Several comments argued that there is no need for new regulations establishing the common or usual name of foods, because this can be done through a standard of identity. The Commissioner concludes that standards of identity are appropriate and useful, and will continue to be promulgated, where there is a need to prescribe the entire compositional requirements for a food, in addition to the name of the food. Often, however, there is a need simply to establish a uniform and informative name for a food without the compositional aspects of a food standard and, in these instances, a food standard is inappropriate.

4. Many industry representatives recommended that the proposal, if adopted, be amended to include clarification regarding the intended application of the regulation. The matters suggested for clarification may be stated as follows:

a. Will the common or usual name of all nonstandardized foods be established where no such name now exists?

b. How will names for "like" products and "similar" products be selected without defining such products?

c. What would prevent a firm from developing a food similar to a standardized food but giving it a different name by adding the percent of characterizing ingredients to the label?

Common or usual names will not be established under Subpart B of Part 102 for all nonstandardized foods. Such names will be established by such regulation only when it is necessary fully to inform the consumer, or where different names are used for the same product by different manufacturers.

Common or usual names for "like" or "similar" products, where none now exists, may be proposed under the provisions of this regulation and will reflect the reasonable expectations of consumers. The name itself will accurately identify or describe the basic nature or characterizing properties of the food in a way that will distinguish it from other foods.

A food that purports to be a standardized food does not cease purporting to be a standardized food merely because its label bears the percent of characterizing ingredients. The label of a food which neither purports to be nor is represented as being a standardized food must bear on the label its common or usual name, which may not be false or misleading. Nor may a manufacturer avoid a standard merely by adding an ingredient not permitted in the standard unless that ingredient substantially changes the nature or characteristics of the food. Thus, addition of another nutrient to an enriched standardized food would not be permissible ("Federal Security Administrator v. Quaker Oats Co.," 318 U.S. 218 (1942)). Use of a new method or process, with or without an added artificial sweetener, to produce a substantial reduction in calories would, on the other hand, result in the new product not purporting to be the standardized food if a distinctive descriptive name is used and the food is not an "imitation" under proposed new § 1.8(e) (38 FR 2138).

The Commissioner recognizes that there will inevitably be close questions in specific instances. The FDA urges consumer and industry representatives to work together on resolving these matters. Where there exists a lack of uniformity in the names used for a class of food, or where the name used is not sufficiently informative, or where the FDA is requested to provide an opinion, the FDA will propose a regulation to settle the matter.

5. Several comments and requests for clarification were received relative to the term "characterizing ingredient." These comments and requests for clarification may be stated as follows:

a. What is a "characterizing ingredient"? Isn't each ingredient added to a food "characterizing" to some degree?

b. What degree of accuracy is required when determining the percentage of the characterizing ingredient?

c. At what stage of the manufacturing process is the determination of the percentage of the characterizing ingredient made?

d. How is the common or usual name of the characterizing ingredient determined?

The regulation makes clear that a "characterizing ingredient" which is required to be labeled by percentage is one whose proportion in the food has a material bearing on price or consumer acceptance or which a consumer might otherwise believe to be present in an amount greater than is actually the case. Thus, although a flavor may be "characterizing" in many instances, it is not the type of characterizing ingredient which would require either percent declaration or a declaration of absence (although it would be required to be declared in accordance with the provisions of § 1.12 (38 FR 2139)). Similarly, the amount of flour in bread would not be regarded as sufficiently important to require percentage labeling.

The declaration of the percentage of a characterizing ingredient must accurately express the amount of the ingredient contained in the food. Reasonable excesses over labeled amounts are acceptable within the limits of good manufacturing practice. The percentage of a characterizing ingredient present in a food shall be determined on the basis of its quantity in the finished product (i.e., weight/weight in the case of solids, or volume/volume in the case of liquids) unless otherwise provided in an individual regulation.

The common or usual name of a characterizing ingredient will be the accepted name of the ingredient in common use at the time a proposal is made to establish labeling requirements for the ingredient. The name of the ingredient will ordinarily be included in a regulation under Subpart B of Part 102.

6. Some comments contended that the minimum type size requirement is unnecessary and unreasonable, particularly with respect to small labels. Both lesser and minimum type sizes were suggested. The act requires prominence of mandatory information, and the Commissioner concludes that the regulations should define the type size required for the necessary prominence. The final regulation therefore retains the type size requirement, but provides that any interested person may petition the Commissioner to establish, where justified, a smaller type size for the required information.

7. Comments and requests for modification were received about the manner in which the percentage declaration was proposed to be set forth. These may be stated as follows:

a. The proposal should be modified to allow the word "percent" to be expressed by the symbol "%".

b. The word "containing" should not be mandatory, since it will be impossible to place this word on labels of small packages and it is not essential to the declaration.

The Commissioner agrees with both of these comments and the regulation has been changed accordingly.

8. Some comments contended that the proposal could interfere with this country's acceptance of the Codex Alimentarius standards. The Commissioner concludes that promulgation of regulations establishing the common or usual name of a food will not prevent consideration of standards recommended by the Codex Alimentarius Commission. Whether a particular Codex standard is to be accepted by this country will be decided on a case-by-case basis, regardless of whether a common or usual name has been established by regulation for the food. If, subsequent to the promulgation of a regulation establishing a common or usual name, a Codex Standard is adopted by establishing or amending a U.S. food standard, such action would have the effect of superseding or revising, as necessary, the original regulation. The Commissioner therefore concludes that the proposal will not interfere or conflict with acceptance by this country of Codex Standards.

9. Eight respondents contended that other factors such as count, size, and quality may be factors of equal or greater importance in determining value than the percentage of the characterizing ingredient. The Commissioner agrees that characteristics other than percentage may influence both price and consumer acceptance. The establishment of informative common or usual names will make new information available to the consumer without subtracting from, or otherwise affecting, any other information or means by which the consumer judges acceptability. Nothing in this regulation precludes the use of such information in labeling or excuses labeling from the requirement that it not be false or misleading in any particular.

10. Questions have also been raised about the applicability of new Part 102 to situations involving the presence or absence of a characterizing ingredient or component. The Commissioner had intended that this be covered by use of a label declaration of the percentage of ingredient, including zero percent, under the proposal. In order to clarify this intent and to provide greater flexibility in the permitted label declaration, the final regulation contains specific provisions relating to declaration of the presence or absence of a characterizing ingredient as well as provisions for requiring a statement, where applicable, that a characterizing ingredient must be added to prepare a final product.

11. Comments also were directed specifically to the proposed common or usual name for seafood cocktails. Two industry representatives asserted that there was no need for a seafood cocktail regulation. Another comment expressed concern that the percentage declaration may mislead the consumer into purchasing

an "inferior" product which contains a large quantity of a relatively unacceptable or low quality ingredient.

The Commissioner concludes that there is a need for the regulation since, as noted in the seventh paragraph of the preamble to the proposal, there have been complaints concerning both the amount of seafood present in such cocktails and the use of labeling which suggests a greater proportion of seafood than is actually present. The percentage declaration will not mislead the consumer into purchasing an inferior product. The label will clearly show the percentage of each seafood ingredient. The consumer will also be able to continue to judge the product by quality, size, or other criteria of acceptability, in addition to this new information that will be made available.

12. In response to the proposal, requests for exemptions, including exemptions from type size requirements were received for nonstandardized foods "resembling margarine or butter", foods for special dietary uses, pet food, and certain juice drinks. The Commissioner advises that any requests for an exemption for a specific product should be made at the time, if such occurs, that a proposal for establishing the common or usual name of that particular food or class of foods is being considered. After a common or usual name has been established by regulation, a petition may also be filed pursuant to the provisions of § 102.2 (21 CFR 102.2) to amend the regulation or to establish alternative labeling requirements (e.g., a smaller type size).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–48 as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)), and under authority delegated to the Commissioner (21 CFR 2.120), Chapter 1 of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. In Part 1 by adding a new sentence to the end of paragraph (d) in § 1.10, as follows:

§ 1.10 Food; labeling; designation of ingredients.

* * * * *

(d) * * * A label may be required to bear the percentage(s) of a characterizing ingredient(s) or information concerning the presence or absence of an ingredient(s) or the need to add an ingredient(s) as part of the common or usual name of the food pursuant to Subpart B of Part 102 of this chapter.

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

§§ 3.6, 3.34, and 3.70 [Revoked]

2. In Part 3 by revoking §§ 3.6, 3.34, and 3.70.

PART 102—COMMON OR USUAL NAMES FOR NONSTANDARDIZED FOODS

3. By adding a new part consisting at this time of the following subparts and sections:

Subpart A—General

Sec.
102.1 General principles.
102.2 Petitions.
102.3–4 [Reserved]

Subpart B—Common or Usual Names

102.5 Seafood cocktail.
102.6 Greenland turbot.
102.7 Crabmeat.
102.8 Bonito.

AUTHORITY: Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–48 as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)).

Subpart A—General

§ 102.1 General principles.

(a) The common or usual name of a food, which may be a coined term, shall accurately identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients. The name shall be uniform among all identical or similar products and may not be confusingly similar to the name of any other food that is not reasonably encompassed within the same name. Each class or subclass of food shall be given its own common or usual name that states, in clear terms, what it is in a way that distinguishes it from different foods.

(b) The common or usual name of a food shall include the percentage(s) of any characterizing ingredient(s) or component(s) when the proportion of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present in an amount greater than is actually the case. The following requirements shall apply unless modified by a specific regulation in Subpart B of this part.

(1) The percentage of a characterizing ingredient or component shall be declared on the basis of its quantity in the finished product (i.e., weight/weight in the case of solids, or volume/volume in the case of liquids).

(2) The percentage of a characterizing ingredient or component shall be declared by the words "containing (or contains) ____ percent (or %) ____" or "____ percent (or %) ____" with the first blank filled in with the percentage expressed as a whole number not greater than the actual percentage of the ingredient or component named and the second blank filled in with the common or usual name of the ingredient or component. The word "containing" (or "contains"), when used, shall appear on a line immediately below the part of the common or usual name of the food required by paragraph (a) of this section. For each characterizing ingredient or component, the words "____ percent (or %) ____" shall appear following or directly below the word "containing" (or contains), or directly below the part of the common or usual name of the food required by paragraph (a) of this section when the word "containing" (or contains) is not used, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of the food required by paragraph (a) of this section.

(c) The common or usual name of a food shall include a statement of the presence or absence of any characterizing ingredient(s) or component(s) and/or the need for the user to add any characterizing ingredient(s) or component(s) when the presence or absence of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present when it is not, and consumers may otherwise be misled about the presence or absence of the ingredient(s) or component(s) in the food. The following requirements shall apply unless modified by a specific regulation in Subpart B of this part.

(1) The presence or absence of a characterizing ingredient or component shall be declared by the words "containing (or contains) _____" or "containing (or contains) no _____" or "no _____" or "does not contain _____," with the blank being filled in with the common or usual name of the ingredient or component.

(2) The need for the user of a food to add any characterizing ingredient(s) or component(s) shall be declared by an appropriate informative statement.

(3) The statement(s) required under subparagraphs (1) and/or (2) of this paragraph shall appear following or directly below the part of the common or usual name of the food required by paragraphs (a) and (b) of this section, in easily legible bold face print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the alternatives established under paragraphs (b)(2) (i) and (ii) of this section.

(d) A common or usual name of a food may be established by common usage or by establishment of a regulation in Subpart B of this part, in Part 100, in a standard of identity, or in other regulations in this chapter.

§ 102.2 Petitions.

(a) The Commissioner of Food and Drugs, either on his own initiative or on

behalf of any interested person who has submitted a petition, may publish a proposal to establish or amend, under Subpart B of this part, a regulation prescribing a common or usual name for a food. Any such petition shall include an adequate factual basis to support the petition, shall be in the form set forth in § 2.65 of this chapter, and will be published for comment if it contains reasonable grounds for the proposed regulation.

(b) If the principal display panel of a food for which a common or usual name regulation is established is too small to accommodate all mandatory requirements, the Commissioner may establish by regulation an acceptable alternative (e.g., a smaller type size). A petition requesting such a regulation, which would amend the applicable regulation, shall be submitted to the Office of the Hearing Clerk in the form set forth in § 2.65 of this chapter.

Subpart B—Common or Usual Names

§ 102.5 Seafood cocktails.

The common or usual name of a seafood cocktail in package form fabricated with one or more seafood ingredients shall be:

(a) When the cocktail contains only one seafood ingredient, the name of the seafood ingredient followed by the word "cocktail" (e.g., shrimp cocktail, crabmeat cocktail) and a statement of the percentage by weight of that seafood ingredient in the product in the manner set forth in § 102.1(b).

(b) When the cocktail contains more than one seafood ingredient, the term "seafood cocktail" and a statement of the percentage by weight of each seafood ingredient in the product in the manner set forth in § 102.1(b).

§ 102.6 Greenland turbot (Reinhardtius hippoglossoides).

"Greenland turbot" is the common or usual name of the food fish *Reinhardtius hippoglossoides*, a species of *Pleuronectidae* right-eye flounders. The term "halibut" may be associated only with Atlantic halibut (*Hippoglossus hippoglossus*) or Pacific halibut (*Hippoglossus stenolepis*).

§ 102.7 Crabmeat.

The common or usual name of crabmeat derived from each of the following designated species of crabs shall be as follows:

Scientific name of crab	*Common or usual name of crabmeat*
Paralithodes camtschatica and *Paralithodes platypus.*	King crabmeat.
Paralithodes brevipes....	King crabmeat or Hanasaki crabmeat.
Erimacrus isenbeckii.....	Korean variety crabmeat or Kegani crabmeat.
Chionoecetes opilio, Chionoecetes tanneri, Chionoecetes bairdii, and *Chionoecetes angulatus.*	Snow crabmeat.

§ 102.8 Bonito.

"Bonito" or "bonito fish" is the common or usual name of the food fish *Sardi chilensis* and *Sardi velox*.

Effective date. The amendment to § 1.10, the revocation of §§ 3.6, 3.34, and 3.70, new §§ 102.6, 102.7 and 102.8 and Subpart A of new Part 102 shall become effective on March 14, 1973. All labeling ordered for products subject to § 102.5 after December 31, 1973, and all labeling used for such products shipped in interstate commerce after December 31, 1974, shall comply with § 102.5.

(Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–48 as amended, 1055; 21 U.S.C. 321(n), 343, 371 (a))

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-4670 Filed 3-13-73;8:45 am]

CERTAIN STANDARDIZED FOODS

Nutrition Labeling

In the FEDERAL REGISTER of January 19, 1973 (38 FR 2152), the Commissioner of Food and Drugs proposed to amend the labeling provisions for nutrients in existing standards of identity for foods by replacing each reference to section 403(j) of the act with a reference to the new 21 CFR 1.17 nutrition labeling regulations, also published in the January 19, 1973 FEDERAL REGISTER (38 FR 2125). Thirty days were provided for comment.

Comments received on this proposal noted that it was issued under section 701(e) of the act and therefore that any person who objects is entitled to an opportunity for a hearing. The Commissioner agrees with this comment, and the final regulation provides for the filing of objections and the opportunity for any person adversely affected to submit sufficient factual information to justify a hearing.

It has also been pointed out that food labeling requirements promulgated in 21 CFR Part 1 apply to all foods generally, including all standardized foods, and as a result need not be referenced in each food standard issued under section 401 of the act. The Commissioner agrees with this observation, and has concluded simply to delete the reference to section 403(j) of the act where it now appears in individual standards of identity, rather than to substitute a reference to § 1.17 (21 CFR 1.17) as was originally proposed. The terms of new § 1.17 apply to all standardized foods, and it is therefore unnecessary to refer specifically to these requirements in any or all enriched food standards.

The identity standards for evaporated milk (21 CFR 18.520) and concentrated milk (21 CFR 18.525) are subject to proposed revisions appearing in the September 9, 1972 FEDERAL REGISTER (37 FR 18392). The September 9, 1972 publication, also proposed the promulgation of identity standards for milk, low fat milk, and skim milk. The period for filing comments on these proposed revisions of 21 CFR Part 18 has been extended to July 1, 1973, as announced in the February 13, 1973 FEDERAL REGISTER (38 FR 4347). At such time as an order is published for 21 CFR Part 18, the Commissioner will revise §§ 18.2, 18.520, and 18.525 to delete the reference to section 403(j) of the act.

Published elsewhere in this issue of the FEDERAL REGISTER is a notice staying the effective date of the order published in the March 11, 1972 FEDERAL REGISTER (37 FR 5224) establishing a new identity standard for orange juice drink (37 FR 5224) and deleting existing 21 CFR 27.120. The effective dates of the identity standards for canned pineapple-grapefruit juice drink (21 CFR 27.125) and canned fruit nectars (21 CFR 27.126) were stayed in the July 27, 1968 FEDERAL REGISTER (33 FR 10713). Those for cranberry juice cocktail (21 CFR 27.120) and artificially sweetened cranberry juice cocktail (21 CFR 27.128) were stayed in the July 13, 1968 FEDERAL REGISTER (33 FR 10088). Whenever the issues surrounding these stayed standards are resolved, the Commissioner will revise the standards to delete the reference to section 403(j) of the act.

The use of sodium labeling in low sodium cheddar cheese (21 CFR 19.503) and low sodium colby cheese (21 CFR 19.513) establishes these foods as represented for special dietary use. The sodium content shall be declared according to 21 CFR 125.9, which does not require full nutrition labeling under § 1.17.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a)), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 18, 19, 27, and 45 are amended as follows:

PART 18—MILK AND CREAM

§ 18.545 [Amended]

1. Section 18.545 is amended by deleting paragraph (d).

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

2. Section 19.503 is amended in paragraph (f) to read as follows:

§ 19.503 Low sodium cheddar cheese; identity; label statement of optional ingredients.

* * * * *

(f) Low sodium cheddar cheese is subject to § 125.9 of this chapter.

3. Section 19.513 is amended in paragraph (f) to read as follows:

§ 19.513 Low sodium colby cheese; identity; label statement of optional ingredients.

* * * * *

(f) Low sodium colby cheese is subject to § 125.9 of this chapter.

PART 27—CANNED FRUITS AND FRUIT JUICES

§ 27.54 [Amended]

4. Section 27.54 is amended by deleting the last sentence of paragraph (c)(2).

§ 27.60 [Amended]

5. Section 27.60 is amended by deleting the last sentence of subdivision (iv) of paragraph (c)(2).

6. Section 27.80 is amended by revising paragraph (d)(7) to read as follows:

§ 27.80 Canned applesauce; identity; label statement of optional ingredients.

* * * * *

(d) * * *

(7) Applesauce containing ascorbic acid (vitamin C) as provided for in paragraph (b)(8)(ii) of this section shall bear the label statement prescribed by subparagraph (6) of this paragraph and in addition thereto the statement "vitamin C added" or "with added vitamin C".

* * * * *

PART 45—OLEOMARGARINE, MARGARINE

§ 45.1 [Amended]

7. Section 45.1 is amended by deleting the last sentence of subdivision (v) of paragraph (b)(2).

Any person who will be adversely affected by the foregoing order may at any time on or before April 13, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. 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. Such objections must be supported by grounds factually and legally sufficient to justify the relief sought and must include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations.

Dated: March 7, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-4673 Filed 3-13-73;8:45 am]

PART 27—CANNED FRUITS AND FRUIT JUICES

PART 102—COMMON OR USUAL NAMES FOR NONSTANDARDIZED FOODS

Diluted Orange Juice Beverages; Notice Staying Identity Standards, and Order Establishing a Common or Usual Name

In the matter of establishing definitions and standards of identity for diluted orange juice beverages (§§ 27.158–27.168) and certain related products (§§ 27.150–27.157):

In response to the order in the above-identified matter, published in the FEDERAL REGISTER of March 11, 1972 (37 FR 5224), 41 responses were received. These responses ranged from total support by several consumers to rejection of most provisions of all the standards by some industry members. A tabulation of these responses is as follows:

Beverage manufacturers	20
Industry associations	7
Ingredients manufacturers	2
Consumers	4
Consumer associations	1
State agencies or officials	5
Members of Congress	2

Ten beverage manufacturers, four industry associations, one ingredient manufacturer, one consumer association and one State agency stated that they would be adversely affected if the order becomes effective and requested a hearing to resolve the controversial aspects of the order. The remaining 24 respondents either asserted their displeasure with certain provisions of the order and recommended changes but did not request a hearing, or expressed approval of the standards as a whole.

The State of Florida Department of Citrus and the Florida Citrus Commission included in their joint response to the order a nationwide consumer survey which they had conducted to determine the extent of confusion over existing and potential labeling of diluted orange juice beverages. On the basis of the results of the original consumer survey and a followup survey submitted at a later date as supplemental support for their objection, the State agencies recommended amendments to certain labeling provisions set out in the order. This recommendation as well as all other information submitted by those responding to the order has been taken into consideration by the Commissioner in his conclusions that follow herein.

Controversy has surrounded proposals to establish identity standards for diluted orange juice beverages ever since they were first published in the FEDERAL REGISTER of August 13, 1964 (29 FR 11621). Those responding to the proposals and the order published in the FEDERAL REGISTER of May 7, 1968 (33 FR 6862), ruling on the 1964 proposals, opposed every provision of the proposed standards. Consequently, the Commissioner stayed the effective date of that order pending resolution of the issues raised by the objections at a hearing.

Most of the controversy surrounding the stayed standards resulted from differences between representatives of packers from the two major orange-producing areas of the United States and by others siding with one or the other. The most controversial issues involved the names, minimum orange juice requirements, and added color and other ingredients used. In an attempt to avoid a lengthy and costly hearing, the Commissioner granted a request by industry to postpone the scheduling of the hearing to allow representatives of the two major associations (Florida Canners Association and the National Juice Products Association) time in which to resolve their differences at informal meetings. Industry negotiators met in a number of sessions over a 2-year period, but failed to reach full agreement. Consequently, the associations submitted separate petitions proposing to amend the stayed standards for diluted orange juice beverages and to establish standards of identity for certain related products. These proposals, along with one by the Commissioner, were published in the FEDERAL REGISTER of September 9, 1971 (36 FR 18098). The Commissioner published a final order in the FEDERAL REGISTER of March 11, 1972 (37 FR 5224), ruling on the September 9, 1971, proposals, and petitioner associations and others have now filed objections to most of the provisions set out in the Commissioner's order. As a consequence, the development of standards for these beverages has progressed very little since 1964.

Consumers are still confronted with an array of names in the labeling of diluted orange juice beverages which do not inform them that these beverages may contain from more than zero percent to less than 100 percent orange juice. As a result they have no way to make a value comparison of the beverages at the time of purchase. Under these circumstances, it is the judgment of the Commissioner that a further delay in putting into effect the most useful and least controversial provision of the standards of identity for diluted orange juice beverages (i.e., the declaration of the amount of juice present in the beverage as part of the common or usual name of the product) would not be in the public interest.

Upon review of the objections and other comments submitted, it is apparent that, with the exception of the requirement for declaration of the amount of juice present in the beverage, most of the important features of the definitions and standards of identity remain in substantial controversy. Moreover, it would be confusing to stay the provisions of these definitions and standards of identity to which valid objections have been made, and to allow other provisions to become effective, because this would

involve distinguishing between sentences, and in some instances even parts of sentences. Accordingly, the Commissioner has concluded that the definitions and standards of identity should be completely stayed pending a full public hearing on the matter, and that a separate regulation should be issued as a final order pursuant to new Part 102, which is published elsewhere in this issue of the FEDERAL REGISTER, establishing the percent of orange juice as part of the common or usual name for all diluted orange juice beverages. This will achieve the major goal of the Food and Drug Administration, in making certain that consumers are better informed about the nature of the product they are purchasing.

The concept of requiring declaration of the percent of orange juice in diluted orange juice products, as part of the common or usual name of the product, has already been the subject of a proposal and a final order, and consumers and industry have therefore commented upon it twice. The comments submitted on this aspect of the definitions and standards of identity, and the Commissioner's conclusions, are as follows:

1. It was commented that the "%" sign should be permitted in lieu of the word "percent." The Commissioner agrees and new § 102.9 so provides.

2. Three comments stated that the word "containing" should not be required. The Commissioner agrees, and the regulation so provides.

3. Two comments objected to including the percent of orange juice as part of the name, and one objected to the use of particular placement and type size requirements. The Commissioner rejects these comments. It is obvious that orange juice is the characterizing ingredient in diluted orange juice beverages, that the amount of orange juice has a material bearing on both price and consumer acceptance, and that the orange appearance and taste of the product would create an erroneous impression of greater orange juice content than is actually the case unless the amount of orange juice is prominently labeled. The same placement and type size requirements that will apply to all common or usual names under Part 102 will also apply in this instance. The Commissioner has concluded that insufficient information presently exists to determine whether a smaller type size is supportable. A request for use of a smaller type size, if justified, may be submitted pursuant to § 102.2.

4. A number of objections were submitted to the use of 2-percent increments for products containing more than zero to less than 10 percent orange juice and to the use of 5-percent increments for products containing more than 10 percent orange juice. Having reviewed the objections it is now the opinion of the Commissioner that label declaration of increments of less than 5 percent in orange juice content is not significant and should not be so represented. Manufacturers, using reasonable controls and within the variables found in good manufacturing practices, will be able accurately to label their products in 5-percent increments with the percentage of orange juice expressed as a multiple of five not greater than the actual percentage of orange juice present (except that products containing less than 5 percent but more than zero percent orange juice shall bear a percentage declaration "less than 5%"). The Commissioner concludes that the percentage labeling requirements set out in § 102.9 below are reasonable and not misleading to consumers.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 403, 701, 52 Stat. 1040–1042, 1046, 1047–1048, 1055–1056, 21 U.S.C. 321, 341, 343, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs hereby orders that:

1. The order establishing definitions and standards of identity for diluted orange juice beverages (21 CFR 27.158–27.168) and certain related products (21 CFR 21.150–21.157), published in the FEDERAL REGISTER of March 11, 1972 (37 FR 5224), is stayed in its entirety. As provided for in 21 CFR 2.69 a notice of hearing will be published in the FEDERAL REGISTER at a future date.

2. The following new section is added to Part 102 of this chapter:

§ 102.9 Diluted orange juice beverages.

(a) The common or usual name of a noncarbonated beverage containing less than 100 percent and more than 0 percent orange juice shall be as follows:

(1) A descriptive name for the product meeting the requirements of § 102.1(a) (e.g., diluted orange juice beverage or another descriptive phrase) and

(2) A statement of the percent of orange juice contained in the product in the manner set forth in § 102.1(b)(2). The percent of orange juice shall be declared in 5-percent increments, expressed as a multiple of five not greater than the actual percentage of orange juice in the product, except that the percent of orange juice in products containing more than 0 percent but less than 5-percent orange juice shall be declared in the statement as "less than 5" percent.

(b) The percent of orange juice in the product shall be determined on the basis of the orange juice having an equivalent single strength of 11.8 percent orange juice soluble solids.

Effective date. The stay of the definitions and standards of identity for diluted orange juice beverages shall be effective immediately. All labeling ordered for products subject to § 102.9 after December 31, 1973, and all labeling used for such products shipped in interstate commerce after December 31, 1974, shall comply with § 102.9.

(Secs. 201, 401, 403, 701, 52 Stat. 1040–1042, 1046, 1047–1048, 1055–1056; 21 U.S.C. 321, 341, 343, 371)

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-4674 Filed 3-13-73;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 100—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

General Principles and Frozen Dinner Guideline

In the FEDERAL REGISTER of December 23, 1971 (36 FR 24822), the Commissioner of Food and Drugs proposed a procedure and general principles for the establishment by regulation of nutritional quality guidelines for foods. The Commissioner also proposed, at the same time, the first such guideline, for precooked frozen convenience "heat and serve" dinners. One hundred and thirty-five letters were received from consumers, eight from Federal- or State-related organizations, 12 from consumer groups and dietetic associations, nine from consumers with professional food or dietary training, and 24 from manufacturers and related industries. Comments received from consumers and manufacturers, with few exceptions, indicated strong support for the proposal. The Commissioner's conclusions, after having considered all comments, may be summarized as follows:

THE GENERAL PRINCIPLES

1. While the majority of the consumer-oriented reponses did not speak to the labeling alternatives presented in the proposed general principles for indicating compliance or noncompliance with a guideline, most of those who did comment favored a label statement showing "noncompliance." Generally, respondents expressed the desire to be informed of what is not satisfactory rather than having to search for the "compliance" label. Several suggested that both labels be used. Among the manufacturers all either favored the "compliance" label or opposed the "noncompliance" label. Several of these comments raised questions concerning the legality of a requirement for a "noncompliance" label.

The question whether to use "affirmative" or "negative" labeling or a combination of both, is a close one in this instance. A statement of noncompliance could be regarded as unfair in view of the fact that the product might be nutritionally equivalent or superior to a product for which no guideline exists. Consumers generally would not know all of those classes of foods for which guidelines will exist. On the other hand, a general statement of compliance could give one class of foods an unfair competitive advantage and be misleading to consumers where nutritional guidelines have not been established for competing foods.

Although the Commissioner clearly has legal authority to require a statement of noncompliance, it is concluded that, at least at this time, such a statement should not be required. The generally favorable industry comments on the first proposed guideline indicate that there will be wide industry acceptance. The possibility of unwarranted or misleading use of an affirmative compliance statement is minimized in the final regulation by limiting the type size and by narrow-

ing the scope of the specific statement to be used. Should the Commissioner find that there is little compliance with a guideline, or that use of a permitted label statement is causing unfair competitive advantage or consumer confusion, he will propose additional new requirements to correct the situation.

2. Almost universally among the consumers and consumer groups responding, nutrition labeling was either assumed or specifically requested. Manufacturers also assumed that some nutrient declaration would be required to fulfill the requirements of the appropriate provisions of 21 CFR Part 125. The final regulation provides that, in accordance with § 1.17 (21 CFR 1.17), products covered by a nutritional quality guideline shall be subject to nutrition labeling if the authorized guideline statement is used or if any nutrient is added, unless such product is offered as a food for special dietary use in which case it shall also be subject to 21 CFR Part 125.

THE FROZEN DINNER GUIDELINE

3. Several comments objected to the use of an RDA based upon the caloric value. One of these letters concerning the caloric basis of nutrient requirements suggested that protein would be the proper basis for nutrient requirements rather than calories. However, since many, if not all, nutrient requirements are ultimately related to metabolic need it is reasonable to base such requirements upon caloric intake except in special dietary situations where caloric intake is deliberately set at a level considerably below the body's needs. Establishment of minimum nutrient levels per 100 calories should effectively discourage the addition of calorie-contributing components which do not make significant nutrient contributions.

4. Objections to the name "dinner" as used in the first guideline were received from manufacturers, consumer groups and professional consumers, who asserted that these so-called "dinners" are not complete meals as implied by the common meaning of the word "dinner." A number of respondents commented on the possibility that a statement that a product meets the Federal guideline could be interpreted as meaning that it is "complete and adequate" and many of the objections to the name "dinner" were based upon this concern.

Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is promulgating a new Part 102 which establishes principles governing common or usual names for nonstandardized foods. The purpose of Part 102 is to establish accurate and informative descriptive names for food, including where appropriate the presence or absence of important characterizing ingredients or components. Pursuant to the provisions of Part 102, the Commissioner is also proposing elsewhere in this issue of the FEDERAL REGISTER a common or usual name for "frozen 'heat and serve' dinners" which includes a statement of what the food includes and, where appropriate, a statement that other foods such as soup, bread or rolls, beverage, or dessert should be added in order to obtain a complete meal. Thus, the name of the food will itself include a direct statement which draws to the consumer's attention the fact, where it is true, that the product is not a complete meal and that other food items are needed.

The guideline also requires the declaration of the caloric value of the product as part of nutrition labeling. This will serve to give the consumer a quantitative estimate of the calories supplied by the product, to help determine whether it constitutes a meal.

5. A number of comments indicated a further need to clarify certain aspects of the calorie requirements specified in the proposed guideline. Some objected to the proposed minimum caloric value, which had not been recommended specifically by the National Academy of Sciences-National Research Council (NAS-NRC). Although the NAS-NRC did not recommend a minimum caloric value, the proposal included such a value (340 calories) to provide assurance that the food would contain at least a minimal amount of calories. Upon further consideration, however, it has been concluded that this minimum caloric value should be deleted. By requiring a minimum content for protein and certain vitamins and minerals, the regulation in effect sets a minimum caloric value. Establishment of a rigid minimum caloric value would seriously jeopardize the use of some good sources of protein, such as fish, which because of their relatively low fat content are desirable components of some dinners. Inclusion of a minimum caloric value would only force manufacturers of some dinners to add calorie-contributing components which do not make a significant nutrient contribution to meet the minimum, and thus would be counter-productive.

6. The nutrient levels needed to fulfill the guideline requirements are based only upon the contributions of the main protein sources, the vegetable components, and their associated breadings, sauces and/or gravies. The contribution of additional components (e.g., appetizer, bread or rolls, dessert, soup, etc.), if they are present, are to be included in the declaration of available calories and nutrients for the purposes of nutrition labeling but not for purposes of meeting the guideline's minimum nutrient requirements. The caloric content shall be determined by the Atwater system as prescribed by § 1.17 (21 CFR 1.17).

7. Most comments concerning the frozen dinner guideline were from manufacturers requesting that other principal protein sources be included, such as eggs and soy products. The guideline has been revised to include eggs. The addition of other protein products except as vegetable components is deferred until promulgation of a separate guideline, now under consideration, establishing the nutritional qualities necessary for the use of soy protein products. Upon promulgation of that guideline, the guideline for frozen dinners will be amended to provide for the use of these ingredients. This will cause no dislocation in the interim since these ingredients are not presently being used.

8. Many consumer comments requested that the weight of the edible portion of the principal protein sources be included on the label. Such a requirement is not directly related to nutrient quality, and the Commissioner concludes that nutrition labeling will supply all the appropriate information on protein content. The requirements of 4.6 grams of protein per 100 calories and that 70 percent of the total protein be obtained from the specified principal sources (meat, poultry, fish, cheese, or eggs) will oblige the manufacturer to use a reasonable portion of these principal protein sources. In addition, meat and poultry products must meet the requirements of the Department of Agriculture. The remaining 30 percent of the protein will be from the vegetable components and from such adjuvants as sauces, breadings, etc. This does not preclude the use of other food servings with protein contributions, such as bread or dessert.

9. Several comments concerning ingredient listing were directed to a concern for the presence of various substances to which consumers are allergic. Label declarations of ingredients wil continue to be required for these products.

10. Comments received indicate that many ethnic, national, and specialty food dishes may be traditionally low in protein, so that they may not meet the nutritional quality guideline. However, the Commissioner is of the opinion that it is not in the public interest to compromise the minimum protein content of a food class intended as the principal component of a meal for the sole purpose of including a greater number of specialty products under the guideline. Moreover, manufacturers have the alternative of changing their recipes to meet such guidelines if they wish to do so.

11. Both directly and by implication, consumer group comments requested a higher meat (protein) content, either by increasing the guideline minimum or by requiring the declaration of the amount of meat, anticipating that industry would respond with a meat (protein) increase. The frozen dinner as presently defined will supply approximately one-third of the adult daily requirement for protein. Therefore, it does not seem reasonable to require a greater quantity of protein. However, the additional requirement that 70 percent of the total protein be derived from specific protein sources has been included to give greater assurance of adequate protein of good biological quality. It is believed that this 70 percent value is reasonable since data

indicate that most products that meet the proposed guideline also fulfill the 70 percent requirement. Therefore, it is expected that these dinners will supply sufficient high quality protein so that the total protein of the entire meal (including beverages, salads, breads, desserts, etc., which may be added) will have a satisfactory biological value.

The NAS–NRC recommendation for the RDA for protein is based upon an assumption that the average protein utilization efficiency is 70 percent of the ideal protein. Meat and cheese proteins have biological values in the order of 80 percent or more of the ideal protein. Combinations of these proteins with cereal and vegetable proteins of lower biological value will therefore still produce an adequate total protein quality.

12. Several comments suggested a greater flexibility in vegetable selection or the substitution of fruit for a vegetable. Fruits are rarely equivalent to vegetables in nutritional value so this suggestion has not been accepted, but the guideline has been revised to allow a wider variation in vegetable selection and use.

13. One consumer group requested that calcium and vitamin C be included in the minimum nutrients required. This request has been rejected. The NAS–NRC Committee report indicated, and the Commissioner agrees, that the meats and vegetables usually used for this class of foods are not good sources of either nutrient (with the exception of vitamin C in potatoes).

The report and the regulation speak to the desirability of adding calcium to bring the calcium : phosphorus ratio closer to 1:1 when it can be done without detriment to the organoleptic food qualities. If a calcium level were specified (in the virtual absence of acceptable calcium compounds for addition to food products) it would make certain vegetable selections or milk products almost mandatory, and it is clearly not desirable to include additional requirements that will further limit the component selection. With this difficulty in the addition of calcium, manufacturers are encouraged to limit the technological addition of phosphates to an absolute minimum. The regulation states that manufacturers should attempt to adjust the total calcium content in relation to the phosphorus content of the product by food selection or other processing techniques.

The addition of vitamin C to foods which do not normally contain significant amounts of the vitamin is not a rational supplementation and could be counterproductive from the standpoint of nutrition education.

14. Requests were received from two manufacturers for the addition of vitamin E to the list of nutrients for which minimum levels are established. The rationale for this omission is the same as for the omission of vitamin C. Although some foods do contain the vitamin in significant amounts, it is not generally present throughout the range of vegetables and meat products with sufficient uniformity to make it practical to include it. Vitamin E would have to be almost universally added, which as noted above is not a rational approach to either good nutrition or nutrition education.

15. Comments, with some data, requested the establishment of at least tentative levels in the list of minimum nutrient levels for pantothenic acid, vitamin B_6 and vitamin B_{12}. These three nutrients have been added to the table with tentative values as a guide to manufacturers. Until final values can be established, frozen dinners will not be required to meet these levels in order to be eligible for use of the guideline statement; however, any designations of these vitamins under nutrition labeling must be factual.

Although a number of nutrients have been excluded from the list of required nutrients, manufacturers are encouraged to formulate their recipes and make component selections so that, whenever possible, the products will naturally contain as much of all essential nutrients as is consistent with good food preparation. Although these other nutrients are not included in the guideline, § 1.17 (21 CFR 1.17) prescribes the requirements for their inclusion in nutrition labeling.

16. Industry comments were directed primarily toward the difficulty of meeting all of the minimum nutrient levels when using the vegetable selection that they have found to have the widest consumer acceptability compatible with processing technology. The purpose of the limitation of the number of nutrient additions was to make it virtually obligatory for the manufacturer to use quality produce and process it in a manner which would retain maximum nutrient content. The two-nutrient maximum for supplementation was also intended to minimize the possibility that manufacturers might use nutrient additions to offset poor quality produce or to avoid good quality control procedures. One manufacturer suggested that no additions be allowed but that a product be acceptable if four of five nutrients meet the guideline minimums.

The Commissioner recognizes that wide variations in nutrient content may occur as a result of many environmental factors as well as problems of processing. Therefore, the restriction on the number of discrete nutrients added (Class I nutrients within the meaning of 21 CFR 1.17) has been deleted, but the level to which such nutrients may be added has been lowered so that the total amount present may not be greater than 150 percent of the prescribed minimum. It must be emphasized that the removal of the restriction on the number of nutrients that may be added is solely for the purpose of offsetting the technological and acceptability limitations inherent in component selection and is not a sanction to make general additions of nutrients for the purpose of assuring compliance with the guideline without appropriate component selection and/or good manufacturing practices. Nutrient addition will require full compliance with the labeling provisions in § 1.17 (21 CFR 1.17).

17. A request was made to remove the iodine requirement because of the development of off-flavors when iodine compounds are used in processed foods. The Commissioner recognizes that this can be a technological problem in some foods. However, by selecting food items which are sources of iodine or by salting with iodized salt, when this is feasible, frozen dinners can be significant sources of iodine. Iodine has been deleted from the table of required nutrients but the regulation recognizes the desirability, in the interest of consumers, of having frozen dinners provide a significant quantity of iodine to the daily diet.

18. A request was made to use only a free niacin value for the minimum requirements rather than the total equivalent niacin. This change is acceptable since the recommendation was based upon niacin data and does not include a "niacin equivalent" from the protein. Therefore, the reference to "niacin equivalent" has been deleted.

19. Several letters requested that the guideline require on the label an open date showing the date of manufacture. Although open dating is certainly desirable for many products, it would not necessarily contribute toward an improved nutritional value for these frozen products since the nutrients are stable if the products have been properly stored.

20. Questions were raised by both consumers and manufacturers with respect to limitations on the use of sauces, gravies, etc. It is the opinion of the Commissioner that the use of the minimum nutrients levels per 100 calories will effectively preclude the use of excessive amounts of these components.

21. The question of the application of the guiedline to children's dinners has been considered. The language of the guideline as set forth below gives sufficient latitude to the selection of the components so that these dinners can be included. There is no justification for this subclass of frozen convenience dinners to be of lower nutritional quality.

22. A number of requests were made to establish a section concerned with methodology for the analytical determinations needed. The methodology used shall be that prescribed by § 1.17(e) (21 CFR 1.17) of this chapter.

23. Numerous questions have arisen about potential overfortification of foods, particularly as a result of nutrition labeling (21 CFR 1.17), which could induce food manufacturers to add nutrients to their products for promotional purposes. One purpose of a nutritional guideline is to establish an appropriate level or range of nutrients which should be present in the food, in accordance with sound nutritional principles. Not every food is an appropriate carrier for every nutrient, and indeed unwarranted fortification of numerous foods could create a serious public health problem and would unquestionably mislead consumers into believing that such fortification is necessary or appropriate.

A provision has therefore been added to the regulation which specifically states that fortification with any discrete

nutrient for which no minimum nutrient level or nutrient range or other allowance is provided for in the guideline, will result in the product being deemed to be misbranded under sections 201(n) and 403(a) of the act unless a prominent and conspicuous statement on the principal display panel of the label and in all labeling discloses that the nutrient fortification has been determined to be unnecessary and inappropriate for this food by the U.S. Government. Without such a disclosure, consumers would erroneously conclude that such fortification increased the dietary value of the product. In any event, when nutrients for which minimums are prescribed by the nutritional quality guideline are added, and such addition results in a nutrient level between 50 percent and 150 percent of the Recommended Daily Allowance (RDA), the food must comply with § 80.1 (21 CFR 80.1 published January 19, 1973, at 38 FR 2152) and a nutrient level over 150 percent of the RDA results in the product being a drug.

The Commissioner believes that this enforcement mechanism will only seldom, if ever, be used. It is in the interests of food manufacturers as well as the public generally to make the concept of nutritional guidelines work. The Commissioner has concluded that a _____ _____ flexible guideline, which can be changed relatively rapidly, is preferable to handling this matter by a more rigid standard of identity. Accordingly, the Commissioner has tentatively concluded that nutritional guidelines should replace the attempt to standardize all fortified foods under § 80.2 (21 CFR 80.2, stayed) (see paragraph 10 under "History," FEDERAL REGISTER of January 19, 1973 (38 FR 2153)). Whether this is possible will depend upon the food industry use of an approach to nutritional guidelines.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042, as amended, 1047–1048, as amended, 1055; 21 U.S.C. 321, 343, 371(a)), and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs amends Chapter I of Title 21 of the Code of Federal Regulations by adding a new Part 100, to consist at this time of the following subparts and sections:

Subpart A—General

Sec.
100.1 General principles.
100.2 Petitions.

Subpart B—Nutritional Quality Guidelines

100.5 Frozen "heat and serve" dinner.

AUTHORITY: Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042, as amended, 1047–1048, as amended, 1055; 21 U.S.C. 321, 343, 371(a)); and authority delegated to Commissioner (21 CFR 2.120).

Subpart A—General

§ 100.1 General principles.

(a) A nutritional quality guideline prescribes the minimum level or range of nutrient composition (nutritional quality) appropriate for a given class of food.

(b) Labeling for a product which complies with all of the requirements of the nutritional quality guideline established for its class of food may state "This product provides nutrients in amounts appropriate for this class of food as determined by the U.S. Government," except that the words "this product" are optional. This statement, if used, shall be printed on the principal display panel, and may also be printed on the information panel, in letters not larger than twice the size of the minimum type required for the declaration of net quantity of contents by § 1.8b of this chapter. Labeling of noncomplying products may not include any such statement or otherwise represent, suggest, or imply the product as being, in whole or in part, in compliance with a guideline.

(c) A product bearing the statement provided for in paragraph (b) of this section, in addition to meeting the requirements of the applicable nutritional quality guideline, shall comply with the following requirements:

(1) The label of the product shall bear the common or usual name of the food in accordance with the provisions of the guideline and §§ 1.8 and 102.1 of this chapter.

(2) The label of the product shall bear nutrition labeling in accordance with §§ 1.8d and 1.17 of this chapter and all other labeling required by applicable sections of Part 1 of this chapter.

(d) No claim or statement may be made on the label or in labeling representing, suggesting, or implying any nutritional or other differences between a product to which nutrient addition has or has not been made in order to meet the guideline, except that a nutrient addition shall be declared in the ingredient statement.

(e) Compliance with a nutrient level specified in a nutritional quality guideline shall be determined by the procedures and requirements established in § 1.17(e) of this chapter.

(f) A product within a class of food for which a nutritional quality guideline has been established and to which has been added a discrete nutrient either for which no minimum nutrient level or nutrient range or other allowance has been established as appropriate in the nutritional quality guideline, or at a level that exceeds any maximum established as appropriate in the guideline, shall be ineligible to bear the guideline statement provided for in paragraph (b), and such a product shall also be deemed to be misbranded under the act unless the label and all labeling bears the following prominent and conspicuous statement: "The addition of —— to (or "The addition of —— at the level contained in) this product has been determined by the U.S. Government to be unnecessary and inappropriate and does not increase the dietary value of the food," the blank to be filled in with the common or usual name of the nutrient(s) involved.

§ 100.2 Petitions.

The Commissioner of Food and Drugs, on his own initiative, on the advice of the National Academy of Sciences and/or other experts, or on behalf of any interested person who has submitted a petition, may publish a proposal to establish or amend, a regulation prescribing a nutritional quality guideline for a class of foods. Any such petition shall include an adequate factual basis to support the petition in the form set forth in § 2.65 of this chapter and will be published for comment if it contains reasonable grounds for the proposed guideline.

Subpart B—Nutritional Quality Guidelines

§ 100.5 Frozen "heat and serve" dinner.

(a) A product, for which a common or usual name is established in § 102.11 of this chapter, in order to be eligible to bear the guideline statement set forth at § 100.1(b), shall contain at least the following three components:

(1) One or more sources of protein derived from meat, poultry, fish, cheese, or eggs.

(2) One or more vegetables or vegetable mixtures other than potatoes, rice, or cereal-based product.

(3) Potatoes, rice, or cereal-based product (other than bread or rolls) or another vegetable or vegetable mixture.

(b) The three or more components named in paragraph (a) of this section, including their sauces, gravies, breading, etc.:

(1) Shall contribute not less than the minimum levels of nutrients prescribed in paragraph (d) of this section.

(2) Shall be selected so that one or more of the listed protein sources of paragraph (a)(1) of this section, excluding their sauces, gravies, breading, etc., shall provide not less than 70 percent of the total protein supplied by the components named in paragraph (a) of this section.

(c) If it is necessary to add any nutrient(s) in order to meet the minimum nutrient levels prescribed in paragraph (d) of this section, the addition of each such nutrient may not result in a total nutrient level exceeding 150 percent of the minimum level prescribed. Nutrients used for such addition shall be biologically available in the final product.

(d) Minimum levels of nutrients for a frozen "heat and serve" dinner are as follows:

Nutrient	Minimum levels for frozen "heat and serve" dinner—	
	for each 100 Calories (kcal) of the total components specified in paragraph (a)	for the total components specified in paragraph (a)
Protein, grams	4.60	16.0
Vitamin A, IU	150.00	526.0
Thiamine, mg	0.05	0.2
Riboflavin, mg	0.06	0.2
Niacin, mg	0.99	3.4
Pantothenic acid, mg	0.32	1.1
Vitamin, B_6, mg	0.15	0.5
Vitamin, B_{12}, mcg	0.33	1.1
Iron, mg	0.62	2.2

(1) A frozen "heat and serve" dinner prepared from conventional food in-

gredients listed in paragraph (a) of this section will also contain folic acid, magnesium, iodine, calcium, and zinc. Minimum levels for these nutrients cannot be established at the present time but may be specified as additional data are obtained.

(2) The minimum levels for pantothenic acid, vitamin B-6, and vitamin B-12 are tentative. Final levels will be established when sufficient data are available. Until final levels are established, a product containing less than the tentative levels will not be deemed to be misbranded when labeled in accordance with § 100.1(b).

(3) When technologically practicable iodized salt shall be used or iodine shall be present at a level equivalent to that which would be present if iodized salt were used in the manufacture of the product.

(4) When technologically practicable, product components and ingredients shall be selected to obtain the desirable calcium to phosphorous ratio of 1:1. Technological addition of phosphates shall be minimized and shall not exceed the amount necessary for the intended effect.

(e) If the product includes servings of food which are not prescribed by paragraph (a) of this section (e.g., soup, bread or rolls, beverage, or dessert), their contribution shall not be considered in determining compliance with the nutrient levels established in paragraph (d) of this section but shall be included in any nutrition labeling.

(f) For the purposes of labeling, an "average serving" shall be one entire frozen "heat and serve" dinner.

Effective date. Subpart A shall become effective on March 14, 1973. All labeling ordered for products subject to § 100.5 after December 31, 1973, and all labeling used for such products shipped in interstate commerce after December 31, 1974, shall comply with § 100.5 (21 CFR 100.5).

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042, as amended, 1047–1048, as amended, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-4675 Filed 3-13-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

NONCARBONATED BEVERAGES CONTAINING NO FRUIT OR VEGETABLE JUICE

Proposed Label Statement of No Juice Content

In the FEDERAL REGISTER of March 11, 1972 (37 FR 5224), the Commissioner of Food and Drugs noted the need to regulate the labeling of beverage products that contain no orange juice but that have the appearance of containing orange juice. The Commissioner stated that he was preparing a document which would require manufacturers of such beverages to declare on the principal display panel that the product contains no orange juice.

The Commissioner concludes that the lack of fruit or vegetable juice in other noncarbonated beverages is also a material fact which requires disclosure when the labeling or the taste and appearance of the beverage represents, suggests, or implies that such an ingredient may be present. This is true both for beverages whose color and flavor give the impression of fruit or vegetable juice content and where the label bears the name or a variation of the name or any pictorial representation of any friut or vegetable. Consumer confusion and deception resulting from the labeling of such beverages can be remedied by the adoption of an informative common or usual name. Accordingly, the Commissioner has concluded that it is appropriate to propose the establishment of a common or usual name for these products pursuant to the new Part 102 published elsewhere in this issue of the FEDERAL REGISTER.

The establishment of a common or usual name for this class of foods is in addition to the other labeling requirements established under 21 CFR Part 1. In particular, the requirements with respect to the label declaration of flavor, proposed in the FEDERAL REGISTER of January 19, 1973 (38 FR 2139) would also be applicable.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 20(n), 403, 701(a), 52 Stat. 1041, as amended, 1047–1048, as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that a new section be added to Part 102, as follows:

§ 102.10 Non-carbonated beverage products containing no fruit or vegetable juice.

(a) The common or usual name of noncarbonated beverage products (including a concentrated, dehydrated, powdered, or other counterpart) containing no fruit or vegetable juice shall include the following:

(1) A descriptive name for the product meeting the requirements of § 102.1 (a) and;

(2) When the labeling or the color and flavor of the beverage represents, suggests, or implies that any fruit or vegetable juice may be present (e.g., the product label bears the name or a variation of the name or any pictorial representation of any fruit or vegetable, or the product contains color and flavor which give the beverage the appearance and taste of containing a fruit or vegetable juice) the statement "Containing (or contains) no _____ juice", or "no _____ juice", or "does not contain _____ juice", the blank to be filled in with the name of the fruit(s) or vegetable(s) represented, suggested, or implied, in the manner set forth in § 102.1 (c). If a nonspecific fruit or vegetable juice content is represented, suggested, or implied, the blank shall be filled in with the word "fruit" or "vegetable" as applicable.

Interested persons may, on or before May 14, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73–4676 Filed 3–13–73;8:45 am]

[21 CFR Part 102]

FROZEN "HEAT AND SERVE" DINNERS

Proposal Regarding Common or Usual Name

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is establishing a nutritional quality guideline for frozen "heat and serve" dinners. The comments received from both consumer and industry representatives on the proposed regulation published in the FEDERAL REGISTER of December 23, 1971 (36 FR 24822) clearly demonstrated the need to establish a uniform and informative common or usual name for the product. Indeed, the only substantial concern raised in the comments related to the inappropriateness of the term "dinner" when applied without qualification or explanation to a wide variety of products, some providing only part of a meal and others providing a full meal. In order to distinguish between the various types of frozen dinners available, it is proposed that the name of the food include the major components of the product, and a statement that other components must be added to complete a meal where that is the situation.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended, 1047–1048, as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that a new section be added to Part 102, as follows:

§ 102.11 Frozen "heat and serve" dinner.

(a) A frozen "heat and serve" dinner:

(1) Shall contain at least three separate and different dishes (recipes), each of which shall consist of one or more of the following: meat, poultry, fish, cheese, eggs, vegetables, potatoes, rice, or other cereal based products (other than bread or rolls).

(2) May also contain other servings of food (e.g., soup, bread or rolls, beverage, or dessert).

(b) The common or usual name of the food consists of all of the following:

(1) The phrase "frozen 'heat and serve' dinner", except that "heat and serve" is optional.

(2) The phrase "containing (or contains) _____", the blank to be filled in with an accurate description of each of the three or more dish components listed in paragraph (a) of this section in their order of descending predominance by weight (e.g., meat, mashed potatoes, and peas), followed by any of the other servings specified in paragraph (a)(2) of this section contained in the package (e.g., onion soup, enriched white bread, and artificially flavored vanilla pudding) in their order of descending predominance by weight. This part of the name shall be placed immediately following the part specified in paragraph (b)(1) of this section in the manner set forth in § 102.1(c)(3).

(3) If the package contains less than two of the other servings set forth in paragraph (a)(2) of this section, the phrase "other foods such as _____ should be consumed with this product to obtain a complete meal," the blank to be filled in with each of the servings set forth in paragraph (a)(2) of this section (i.e., soup, bread or rolls, beverage, or dessert) not contained in the package. This part of the name shall be placed immediately following the parts specified in paragraph (b) (1) and (2) of this section and in letters half the size used for the part of the name specified in paragraph (b)(2) of this section but in no event less than the size specified in § 102.1(b)(2)(i).

Interested persons may, on or before May 14, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73–4677 Filed 3–13–73;8:45 am]

[21 CFR Part 102]

FOODS PACKAGED FOR USE IN PREPARATION OF "DISHES" OR "DINNERS"

Common or Usual Name

Many new convenience foods have appeared on the market that are designed to be used in preparing "main dishes", "dinners", or other such food servings. In many cases, meat or other valuable characterizing ingredients or components necessary for preparation of the dish or dinner are not included in the package and must be purchased separately. The labeling of such food products readily lends itself to representations that may mislead the consumer into thinking that all of the significant characterizing ingredients or components necessary for the preparation of the dish or dinner are contained in the package.

The Food and Drug Administration has initiated legal actions charging misbranding of certain foods packaged in this manner. Such misbranding has usually resulted where the product was intended for use in the preparation of a meat main dish and the meat was the omitted characterizing ingredient. Labels of these packages emphasized the name of the important missing characterizing ingredient, or a vignette on the label depicted the missing ingredient, and the package failed to bear a common or usual name sufficiently informative to make the consumer aware of the identity of the product and the fact that the package did not contain the important missing characterizing ingredient.

A food is misbranded when the label emphasizes any valuable missing characterizing ingredient or component in a misleading manner. For example, the package may bear a brand name or statement that includes the name or implies the presence of an important missing characterizing ingredient (e.g., "Chicken Dinner", "Chili Con Carne", "Pepper Steak"). These words are often given undue emphasis by being printed in larger type size or with greater prominence than the food ingredients or components that are in fact furnished in the package. Taken together, this manner of presenting the label information implies that the package contains the important missing ingredient or component, such as chicken or meat, and that all the ingredients or components for the preparation of the final food serving are included in the package.

The Commissioner of Food and Drugs is promulgating elsewhere in this issue of the FEDERAL REGISTER a final regulation establishing a new Part 102 under which the common or usual name of foods may be established by regulation. Section 102.1(a) requires that the common or usual name of a food "shall accurately identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients." The Commissioner may, pursuant to this new part, designate a common or usual name for a food to prevent consumer confusion and deception.

The Commissioner has concluded that the confusion and deception resulting from the present labeling of foods packaged for use in the preparation of dishes or dinners can readily be remedied by adoption of an informative common or usual name for these products. Such a name must clearly state the essential components (which may be a combination of ingredients) contained in the package and the important characterizing ingredients or components which must be provided by the consumer in making the final product. Accordingly, the Commissioner has concluded that it is appropriate to propose the establishment of a common or usual name for these products pursuant to new Part 102.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended 1047–1048, as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that a new section be added to Part 102, as follows:

§ 102.12 Foods packaged for use in the preparation of "dishes" or "dinners".

(a) The common or usual name of a packaged food which is represented on the principal display panel by word or vignette to be used in the preparation of a "dish", "dinner", or other food serving, and to which some other important characterizing ingredient(s) or component(s) not present in the package must be added, consists of all of the following:

(1) The common or usual name of each important ingredient or component in the package, in descending order of predominance by weight.

(2) An appropriate informative statement identifying the food to be prepared by use of the package contents (e.g., "for preparation of chicken casserole").

(3) An appropriate informative statement that additional ingredient(s) or component(s) must be added and which names the additional ingredient(s) or component(s) (e.g., "you must add _____ to complete the recipe," the blank to be filled in with the name(s) of the ingredient(s) or component(s) that must be added).

(b) The labeling required by paragraph (a) of this section shall appear on the principal display panel, and

(1) No word in the statement required by paragraph (a)(2) of this section shall appear on the principal display panel more conspicuously or in larger type than the smallest and least conspicuous type employed on the panel for any word, phrase or statement within the scope of paragraph (a)(1).

(2) Any word in the statement required by paragraph (a)(3) of this section shall appear in the manner set forth in § 102.1(c)(3).

(c) Any vignette which shows any food or characterizing ingredient(s) or component(s) not included in the package shall be accompanied either by the statement required by paragraph (a)(3) of this section or by a separate statement specifying the food or characterizing ingredient(s) or component(s) shown in the vignette but not included in the package.

(d) If the statement specified in paragraph (a)(2) of this section is used on any label panel in addition to the principal display panel, the complete common or usual name shall appear on such panel in the manner specified in paragraph (b) of this section.

Interested persons may, on or before May 14, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 5, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-4678 Filed 3-13-73;8:45 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1973)

Title 3—The President $2.60

Title 7—Agriculture (Parts 46–51) 2.60

Title 7—Agriculture (Parts 750–899) 2.10

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