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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.

(Continued inside)

REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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HIGHLIGHTS—Continued

Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4211

Thirtieth Anniversary of the Warsaw Ghetto Uprising

By the President of the United States of America

A Proclamation

Thirty years ago a remnant of determined Polish Jews launched a resistance of desperation in the Warsaw Ghetto. All who took part knew that death would be the almost certain consequence, yet they readily chose that path in their struggle for freedom.

As we recall the valor of these honored and desperate heroes, we are mindful that the price of freedom is high. The debt we owe the gallant defenders of the Warsaw Ghetto is part of the same obligation all of us who live in freedom owe to those who refuse to capitulate in the face of invasion or violence. The names of these Warsaw Ghetto warriors are an inspiration to free men everywhere.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with House Joint Resolution 303, do hereby designate the twenty-ninth day of April 1973 to mark the thirtieth anniversary of the uprising against the Nazi occupation forces by the beleaguered and outnumbered Jews of the Warsaw Ghetto who, by their heroic deeds, reaffirmed the determination of the oppressed to fight for freedom and dignity and thereby helped keep alive the spirit of liberty.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, 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.73-8055 Filed 4-23-73;10:14 am]

PROCLAMATION 4212

National Arthritis Month, 1973

By the President of the United States of America

A Proclamation

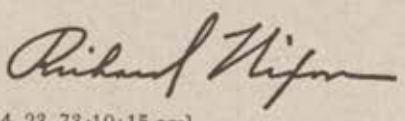
Arthritis and the rheumatic diseases are the Nation's number one crippling disorders. They afflict some 17 million Americans of all ages, causing their victims untold suffering and cruel limitations of normal activity. Among the chronic illnesses suffered by our people, only heart disease is more widespread. The cost of arthritis and rheumatic diseases to Americans must be counted not only in billions of dollars of lost earnings and medical expenses each year, but also in poignant human terms.

This is a price we need not continue to pay. Year by year the advancement of medical science through private and publicly supported medical research and education permits thousands of arthritis victims to receive more effective treatment and live freer lives. We can and must continue this progress and extend its benefits to all who have been so unjustly sentenced to lives of pain and disability from arthritis and the rheumatic diseases.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the month of May 1973 as National Arthritis Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

I urge individuals and organizations working in the educational, philanthropic, scientific, medical and health care fields to accelerate our national effort to discover the cause and cures of arthritis and rheumatic diseases and to alleviate the suffering of persons struck by these disorders. And I ask the wholehearted support of all Americans for this vital humanitarian cause.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, 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.



[FR Doc.73-8056 Filed 4-23-73;10:15 am]

EXECUTIVE ORDER 11713

Delegating Certain Functions Vested in the President to the Administrator of General Services

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11609 of July 22, 1971, is hereby amended by adding at the end thereof the following new paragraphs:

"(22) The authority of the President under section 372 of title 2 of the Canal Zone Code to approve transfers between departments and agencies of certain property in the Canal Zone.

"(23) The authority of the President under section 62(d) of title 2 of the Canal Zone Code to approve the valuation of properties and other assets being transferred between the Panama Canal Company and other Government agencies."

SEC. 2. All actions heretofore taken by the President, the Director of the Bureau of the Budget, or the Director of the Office of Management and Budget in respect of matters affected by the amendment made by section 1 of this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by any of them in respect of such matters, shall, except as may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order unless sooner terminated by operation of law.

SEC. 3. Executive Order No. 11541 of July 1, 1970, is superseded to the extent that it is inconsistent with this order.

THE WHITE HOUSE,
April 21, 1973.

Richard Nixon

[FR Doc.73-8054 Filed 4-23-73;10:13 am]

Rules and Regulations

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Whitefringed Beetle

EXEMPTIONS

The purpose of this document is to revise the Whitefringed Beetle Quarantine supplemental regulation concerning exemptions to add potting soil to the list of articles exempted from certification, permit, or other requirements and to delete brick, stone, concrete slabs, drainage pipes, building blocks, seed cotton, and forest products, such as pulpwood, stumpwood, logs, lumber, and crossties from the list of exempted articles because these articles are no longer regulated. It also changes the conditions under which used mechanized soil-moving equipment is exempt. Used mechanized soil-moving equipment is now exempt if cleaned of all loose, noncompacted soil. Various other changes were made.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.72–2 of the Whitefringed Beetle Quarantine regulations (7 CFR 301.72–2, as amended), a supplemental regulation granting exemption from specified requirements of the regulations is hereby issued to appear in 7 CFR 301.72–2b as set forth below. The Deputy Administrator of Plant Protection and Quarantine Programs has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided therein.

§ 301.72–2b Exempted articles.[1]

The following articles are exempt from the certification, permit, or other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) through (c) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(a) Potting soil, if commercially prepared, packaged, and shipped in original containers.

(b) Compost, decomposed manure, humus, and peat, if dehydrated, ground, pulverized, or compressed.

(c) Used mechanized soil-moving equipment, if cleaned of all loose, noncompacted[2] soil.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 10071, 7 CFR 301.72–2)

This list of exempted articles shall become effective on April 24, 1973, when it shall supersede the list of exempted articles in 7 CFR 301.72–2b which became effective July 1, 1970.

Inasmuch as this revision relieves certain restrictions presently imposed, it should be made effective promptly in order to be of benefit to the persons subject to the restrictions that are being relieved. Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this revision are unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of April 1973.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.73–7858 Filed 4–23–73;8:45 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Whitefringed Beetle

Quarantine and Regulations

This document revises the Whitefringed Bettle Quarantine to bring it more in line with indicated needs of the current program. The Quarantine is revised to remove from the list of regulated articles seed cotton; scrap metal and junk; brick; stone; concrete slabs; drainage pipes; building blocks; and forest products, such as pulpwood, stumpwood, logs, lumber, and crossties. These articles as currently handled or stored, present little or no hazard of spread of the beetle. The Quarantine revision also deletes the special restriction in § 301.72–3 on the interstate movement of regulated articles from areas where chlorinated hydrocarbon insecticide resistant beetles have been found since such beetles have been found in scattered areas in the infested States, and, therefore, such special restriction, designed to prevent such beetles from spreading throughout the infested States, is no longer practicable. This revision also restricts the issuance of certificates by a holder of a compliance agreement to the issuance of certificates based on compliance with treatment and other requirements. It also specifically authorizes the Deputy Administrator to terminate the designation of regulated areas under specified criteria. Various other changes were also made.

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (U.S.C. 161, 162, 150ee), Notice of Quarantine No. 72 relating to the whitefringed beetle and regulations supplemental to said Quarantine (7 CFR 301.72, 301.72–1, 301.72–2, 301.72–3 through 301.72–10) are hereby revised to read as follows:

Subpart—Whitefringed Beetle

QUARANTINE AND REGULATIONS

Sec.

§ 301.72 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.*—Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined, after public hearing, that it was necessary to quarantine the States[1] of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia in order to prevent the spread

[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[2] Compacted soil is defined as soil attached to equipment which cannot be removed by brisk brushing and/or washing with water under normal city water pressure.

[1] See definition of "State" in § 301.72–1(s).

of whitefringed beetle infestations of species of the genus Graphognathus, commonly know as whitefringed beetles, dangerous insects of cultivated crops, not theretofore widely prevalent or distributed within and throughout the United States, and accordingly quarantined said States. Under the authority of said provisions, the Secretary hereby continues such quarantine in effect with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.*—No common carrier or other person shall move interstate from any quarantined State any of the articles listed in paragraph (b)(1) or (b)(2) of this section, except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area, or any area outside the regulated areas, in a quarantined State:

(i) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things;

(ii) Plants with roots;

(iii) Grass sod;

(iv) Plant crowns and roots for propagation;

(v) True bulgs, corms, rhizomes, and tubers of ornamental plants when freshly harvested or uncured;

(vi) Potatoes (Irish) when freshly harvested;

(vii) Peanuts in shells and peanut shells, except boiled or roasted peanuts;

(viii) Uncleaned grass, grain, and legume seed;

(ix) Hay and straw;

(x) Used mechanized cultivating equipment and used harvesting equipment;

(xi) Used mechanized soil-moving equipment;

(xii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (xi) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the whitefringed beetle and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Bulk soil;

(ii) Used mechanized soil-moving equipment;

(iii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) and (ii) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the whitefringed beetle and the person in possession thereof has been so notified.

§ 301.72–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively to mean:

(a) *Certificate.*—A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compacted soil.*—Soil attached to equipment which cannot be removed by brisk brushing and/or washing with water under normal city water pressure.

(c) *Compliance agreement.*—A written agreement between a person engaged in growing, handling, or moving regulated articles, and the plant protection and quarantine programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the plant protection and quarantine programs as applicable to the operations of such person.

(d) *Deputy Administrator.*—The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(e) *Generally infested area.*—Any part of a regulated area not designated as a suppressive area in accordance with § 301.72–2.

(f) *Infestation.*—The presence of the whitefringed beetle or the existence of circumstances that make it reasonable to believe that the whitefringed beetle is present.

(g) *Inspector.*—Any employee of the plant protection and quarantine programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(h) *Interstate.*—From any State into or through any other State.

(i) *Limited permit.*—A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization, or processing, or for treatment.

(j)(1) *Mechanized cultivating equipment; and mechanized harvesting equipment.*—Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., hay balers, corn pickers, and combines.

(2) *Mechanized soil-moving equipment.*—Mechanized equipment used to move or transport soil—e.g., draglines, bulldozers, road scrapers, and dumptrucks.

(k) *Moved (movement, move).*—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(l) *Person.*—Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(m) *Plant protection quarantine programs.*—The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(n) *Regulated area.*—Any quarantined State, or any portion thereof, listed as a regulated area in § 301.72–2a or otherwise designated as a regulated area in accordance with § 301.72–2(b).

(o) *Regulated articles.*—Any articles as described in § 301.72(b).

(p) *Restricted destination permit.*—A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(q) *Scientific permit.*—A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(r) *Soil.*—That part of the upper layer of earth in which plants can grow.

(s) *State.*—Any State, territory, or district of the United States, including Puerto Rico.

(t) *Suppressive area.*—That part of a regulated area where all establishments handling regulated articles, except products being produced on the farm, have been treated for eradication of the whitefringed beetle and where eradication of the entire infestation in that part of the regulated area is undertaken as the objective, as designated by the Deputy Administrator under § 301.72–2(a).

(u) *Treatment manual.*—The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Whitefringed Beetle Quarantine," the manual of "Procedures for Applying Soil Surface and Foliage Treatments for Regulatory Purposes," and the "Fumigation Procedures Manual."[2]

(v) *Whitefringed beetles.*—Species of the genus *Graphognathus*, in any state of development.

§ 301.72–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.*—The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.72–2a, each quarantined State; or each portion thereof in which

[2] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

whitefringed beetle has been found or in which there is reason to believe that whitefringed beetle is present or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may designate any regulated area or portion thereof as a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.72–1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the whitefringed beetle.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.*—The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and may designate the regulated area or portions thereof as a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.72–2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.*—The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.*—The Deputy Administrator may, in a supplemental regulation designated as § 301.72–2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.72–3 Conditions governing the interstate movement of regulated articles from quarantined States [3]

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.72–4 and 301.72–7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated area; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the whitefringed beetle and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this paragraph; or

(2) Without certificate or permit if moved:

(i) From any regulated area under the provisions of § 301.72–2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the whitefringed beetle exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(*a*) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.72–2b; or

(*b*) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved [4] by the Deputy Administrator and so listed by him in a supplemental regulation.[5] A certificate or permit will not be required to be attached to such soil samples except in those emergency situations where the Deputy Administrator has authorized such movement to another destination with a certificate or permit issued and attached in accordance with §§ 301.72–4(d) and 301.72–7. Soil samples originating in areas outside of the regulated areas will not require such a certificate or permit and their movement is not restricted to approved laboratories if the point of origin of such samples is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.72–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow the interstate movement of regulated articles (except soil samples for processing, testing, or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the whitefringed beetle and the requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise

[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[4] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

[5] For list of approved laboratories, see PP 639 (37 FR 7813, 15525, and amendments thereof).

qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles, and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations, may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments of regulated articles (except soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate or permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.72–5 Compliance agreement, and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.72–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.72–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.72–7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.72–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect and to seize, destroy, or otherwise dispose of or require disposal of regulated articles and whitefringed beetles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.72–9 Movement of live whitefringed beetles.

Regulations requiring a permit for and otherwise governing the movement of live whitefringed beetles in interstate or foreign commerce are contained in the Federal Plant Pest regulations in part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.72–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisons of the quarantine and regulations in this subpart other than for the services of the inspector.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477.)

Insofar as the revision of the quarantine and regulations makes more stringent requirements than presently applied, they should be made effective promptly in order to be of maximum benefit to the noninfested States. The other changes do not impose additional obligations on any person.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedures with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER. This revision will become effective April 24, 1973, and shall supersede the quarantine and regulations contained in §§ 301.72, 301.72–1, 301.72–2, and §§ 301.72–3 through 301.72–10, effective July 1, 1970. The provisions in § 301.72–2a, effective July 6, 1972, remain in effect. The provisions of § 301.72–2b are being revised by a separate document.

Done at Washington, D.C., this 19th day of April, 1973.

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

[FR Doc.73–7859 Filed 4–23–73;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Producer, Handler and Dehydrator Representation on Raisin Advisory Board and Raisin Administrative Committee

Notice was published in the April 6, 1973, issue of the FEDERAL REGISTER (38 FR 8749), regarding a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 37 FR 7148) by: (1) Consolidating certain of the districts currently designated in § 989.96 exhibit A from which producer members of the Raisin Advisory Board are nominated, renumber all such districts, including the consolidated districts and setting forth all these changes in a new § 989.125; (2) on the basis of this consolidation and on shifts in production since 1967, reapportioning the producer membership of the Raisin Advisory Board (by revising § 989.126) and the Raisin Administrative Committee (by adding a new § 989.138 and amending § 989.139) among these districts on the basis of 1971 raisin production; (3) providing that producer membership and producer districts on the board and committee be reviewed every 3 years rather than 5 years; (4) adding a new section, § 989.128, to change the number of dehydrator representatives on the Raisin Advisory Board from two members to one member; and (5) amending § 989.127 (37 FR 7148) to increase the number of representatives for a certain size group of independent handlers (commonly referred to in the industry as

"Group C" handlers) on the Raisin Advisory Board from one member to two members.

The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 FR 19621, 20022), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order, hereinafter referred to collectively as the "order," are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None was received.

Section 989.26 provides that producer members of the Board shall be selected in the number and for the districts as designated in § 989.96 exhibit A. Section 989.26b provides that the Secretary, on recommendation of the Committee, may change the number of districts designated in § 989.96 exhibit A, may redefine such districts into which the production area is divided, or may change the number of producer members which shall be selected to represent particular districts. In making any such changes consideration is given to such factors as geographical shifts in the number of producers and in raisin production within the area.

Because of shifts in raisin production within the area, certain districts are disproportionately represented on the Board. In order to achieve proportionate representation, certain districts would be consolidated, resulting in 19 districts instead of the 21 currently designated in § 989.96 exhibit A. This requires a renumbering of districts. The 19 districts would be designated in a new § 989.125.

The changes in the districts necessitates a regrouping of the districts currently prescribed in paragraph (a) of § 989.139, for purposes of apportioning producer representation on the Committee. The regrouped districts would be set forth in a new § 989.138.

Section 989.126 requires that a review be made every 5 years of the producer representation on the Board to determine whether the apportionment of such membership among the districts is consistent with the basis prescribed therein. A similar requirement is contained in § 989.139 with respect to the apportionment of the producer representation on the Committee. Because of changes occurring in the production of raisins within the area, the reviews required by §§ 989.126 and 989.139 would be conducted every 3 years instead of every 5 years.

The producer representation on the Board (35 members) currently is allocated in § 989.126(d) among the 21 districts. The change in the number of districts from 21 to 19 would necessitate a reallocation of that representation. No change in the number of producer members of the Board is being made. The reallocation is set forth as a revision of paragraph (d) of § 989.126. The producer representation on the Committee is allocated in § 989.139 among the three groups of districts prescribed in that section. While it was proposed that the 19 districts be regrouped into three groups, no change is necessary in the number of producer members of the Committee allocated to each group.

Section 989.26 prescribes the number of dehydrator members on the Board. Section 989.26c authorizes the Secretary, upon recommendation of the Committee, to make changes in the number of dehydrator members on the Board. Since the inception of the order (in 1949), the number of dehydrators has decreased from 30 to 14. Furthermore, about half of the dehydrators currently operating are also raisin packers and the remaining dehydrators are producers of grapes for dehydrating into raisins. As required by § 989.26c, the Committee has considered such factors as the total number of dehydrators currently operating, the number of dehydrators operated by raisin packers, and the extent to which the interest of dehydrators is adequately served by other members on the Board in recommending that the number of dehydrator members on the Board be reduced from two to one.

Section 989.26 also prescribes the number of handler members of the Board. Section 989.26a authorizes the Secretary on recommendation of the Committee, to make certain changes in the handler representation on the Board. Pursuant to that authority, the number of handlers comprising two size groups were changed in an action published in the FEDERAL REGISTER April 11, 1972 (37 FR 7148; 7 CFR 989.127). Section 989.26a also authorizes changes in the number of handler members to represent any size group. In making any of the changes authorized in § 989.26a, consideration shall be given to such factors as changes in the numbers of handlers, relative raisin acquisition positions of handlers, and their similarity of interests in the handling of raisins. Pursuant thereto, one additional member would be allocated to that group of handlers designated in § 989.26(c) and commonly referred to in the industry as "Group C" handlers. Currently, three handlers comprise that group, but only one member represents that group on the Board.

Other changes would up-date the calendar year references and dates in §§ 989.126 and 989.139.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation of the Committee, and other available information, the amendment of Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 37 FR 7148) as hereinafter set forth is hereby approved.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 37 FR 7148) is amended as follows:

1. A new § 989.125 is added, reading:

§ 989.125 Producer districts for representation on Raisin Advisory Board.

Commencing with the term of office beginning May 1, 1973, producer member districts, including such districts in Fresno County as set forth in § 989.96 Exhibit A, are as follows: District No. 1—Clovis and Sanger; district No. 2—Kerman; district No. 3—Biola; district No. 4—Fresno; district No. 5—Lone Star; district No. 6—Easton-Oleander; district No. 7—Fowler; district No. 8—Del Rey; district No. 9—Parlier; district No. 10—Reedley; district No. 11—Kingsburg; district No. 12—Selma; district No. 13—Monmouth; district No. 14—Caruthers; district No. 15—The Counties of Kings, Monterey, and San Benito; district No. 16—The Counties of Tulare and Inyo; district No. 17—The Counties of Kern, San Bernardino, Riverside, Imperial, San Diego, Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo; district No. 18—The Counties of Madera and Mono; and district No. 19—The Counties of Merced, Tuolumne, Mariposa, Stanislaus, San Joaquin, Santa Clara, San Francisco, San Mateo, Santa Cruz, Alameda, Contra Costa, Calaveras, Alpine, Marin, Solano, Sacramento, Amador, El Dorado, Placer, Nevada, Sutter, Yolo, Napa, Sonoma, Mendocino, Lake, Colusa, Yuba, Sierra, Plumas, Butte, Glenn, Tehama, Shasta, Lassen, Modoc, Siskiyou, Del Norte, Humboldt, and Trinity.

2. Section 989.126 is revised to read:

§ 989.126 Producer representation on Raisin Advisory Board.

(a) Commencing with the term of office beginning May 1, 1973, apportionment of the 35 producer members of the Raisin Advisory Board among the 19 districts set forth in § 989.125 shall be as provided in this section.

(b) Each district shall have one producer member for each quantity of raisins produced therein from 1971 crop grapes that represents, as nearly as possible, one thirty-fifth of the total tonnage of raisins produced in all districts from 1971 crop grapes: *Provided*, That each district shall have at least one member. The producer representation on the Board shall be reviewed every 3 years after 1973 and any necessary changes made to continue such producer member representation on the basis of one thirty-fifth of the total tonnage of raisins produced. The raisin production to be used shall be that of the then preceding crop year.

(c) Whenever any change in 1973, or in a subsequent year, causes a reduction in the number of producer members to represent a particular district in the ensuing terms of office, the appointment theretofore made of all incumbent producer members representing that district shall be terminated. The reduced number of such members, and the new members for districts gaining representation, shall be nominated and selected, consistent with § 989.28(a), for the ensuing term of office.

(d) Apportionment of the 35 producer members of the Raisin Advisory Board among the 19 districts set forth in § 989.125 on the basis of the quantity of raisins produced from 1971 crop grapes, as provided in paragraph (b) of this section, shall be as follows:

(1) One member for each of the 19 districts.

(2) One additional member for each of the following districts: District No. 6—Easton-Oleander; District No. 7—Fowler; District No. 8—Del Rey; and District No. 16—Tulare and Inyo Counties.

(3) Two additional members for each of the following districts: District No. 2—Kerman; District No. 3—Biola; District No. 12—Selma; and District No. 18—Madera and Mono Counties.

(4) Four additional members for the following district: District No. 14—Caruthers.

3. Section 989.127 is amended to read:

§ 989.127 Handler representation on Raisin Advisory Board.

Commencing with the term of office beginning May 1, 1973, the handler members of the Board shall include the following: (a) One member selected from and representing handlers doing business as cooperative marketing associations, or cooperative marketing organizations engaged in the business of packing raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year; (b) two members selected from and representing the three handlers, other than cooperatives, who acquired the largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; (c) two members selected from and representing the three handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; (d) two members selected from and representing the four handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year, and (e) two members selected from and representing all other handlers, including cooperatives, each of which acquired less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year, and including all processors.

4. A new § 989.128 is added, reading:

§ 989.128 Dehydrator representation on Raisin Advisory Board.

Commencing with the term of office beginning May 1, 1973, the number of dehydrator members selected to represent all dehydrators on the Raisin Advisory Board is hereby changed from two members as set forth in § 989.26 to one member.

5. A new § 989.138 is added, reading:

§ 989.138 Producer districts for representation on Raisin Administrative Committee.

(a) As used in this section, the term "group of districts" means any one of the following:

(1) Group I districts means districts No. 1 through 14 as set forth in § 989.125;

(2) Group II districts means districts No. 15, 16, and 17 as set forth in § 989.125.

(3) Group III districts means districts 18 and 19 as set forth in § 989.125.

6. Section 989.139 is amended to read:

§ 989.139 Producer representation on Raisin Administrative Committee.

(a) Commencing with the term of office beginning June 1, 1973, apportionment of the eight producer members of the Raisin Administrative Committee among the three groups of districts set forth in § 989.138 shall be as provided in this section.

(b) Each group of districts shall have one producer member for each quantity of raisins produced in such districts from 1971 crop grapes that represents, as nearly as possible, one-eighth of the total tonnage of raisins produced in all districts from 1971 crop grapes: *Provided*, That each group of districts shall have at least one member. The producer representation on the Committee shall be reviewed every 3 years after 1973 and any necessary changes made to continue such producer member representation on the basis of one-eighth of the total tonnage of raisins produced. The raisin production to be used in such review or change shall be that of the then preceding crop year.

(c) Apportionment of the eight producer members of the Raisin Administrative Committee among the three groups of districts (as set forth in § 989.138) on the basis of the quantity of raisins produced from 1971 crop grapes, as provided in paragraph (b) of this section, is as follows:

(1) Six members for group I districts;

(2) One member for group II districts; and

(3) One member for Group III districts.

It is hereby further found that good cause exists for not postponing the effective time of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making it effective at the time hereinafter provided in that: (1) In accordance with the order, the term of office for handler, dehydrator, and some producer members on the Raisin Advisory Board begins May 1, 1973; (2) the industry is preparing to nominate successors to such members whose terms end April 30, 1973; (3) this action should become effective promptly in order that the respective industry groups will be able to nominate their new representatives for the term of office commencing May 1, 1973, in accordance with the changes contained herein; (4) this action imposes no restrictions on handlers; and (5) no useful purpose would be served by delaying this action.

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

Dated: April 19, 1973, to become effective April 27, 1973.

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

[FR Doc.73-7914 Filed 4-23-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that two positions, Administrative Assistant to the Assistant to the Secretary of Defense, and Staff Assistant to the Assistant to the Secretary of Defense, are excepted under schedule C.

Effective April 24, 1973, paragraphs (a) (50) and (51) are added to § 213.3306 as set out below.

§ 213.3306 Department of Defense.

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

(50) One Administrative Assistant to the Assistant to the Secretary of Defense. the Secretary of Defense.

(51) One Staff Assistant to the Assistant to the Secretary of Defense.

* * * * *

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

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

[FR Doc.73-7868 Filed 4-23-73;8:45 am]

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to show that the position of Special Assistant to the General Counsel is no longer expected under schedule C.

Effective April 24, 1973, § 213.3344(e) is revoked.

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

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

[FR Doc.73-7869 Filed 4-23-73;8:45 am]

PART 213—EXCEPTED SERVICE

Selective Service System

Section 213.3346 is amended to show that one position of Executive Assistant to the Director of Selective Service is excepted under schedule C.

Effective April 24, 1973, § 213.3346(f) is added as set out below.

§ 213.3346 Selective Service System.

* * * * *

(f) One Executive Assistant to the Director of Selective Service.

* * * * *

(5 U.S.C. secs. 3301, 3302, Executive Order 10577; 3 CFR 19854–58 Comp. p. 218.)

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

[FR Doc.73-7870 Filed 4-23-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 130—COST OF LIVING COUNCIL PHASE III REGULATIONS

Definition of Meat

The purpose of this regulation is to perfect the definition of "meat" for the purposes of the establishment of ceiling prices and the posting requirements of subpart M in order to include all meat products having a high meat content as well as all the fresh red meat items.

As previously defined in subpart M, "meat" means all beef, veal, pork, sheep, and lamb products within Standard Industrial Classification (SIC) Codes No. 2011 and No. 2013. SIC Codes 2011 and 2013, while they contain convenient and comprehensive lists of meat items, apply by definition to firms primarily engaged in meat packing or meat processing. It was not the intent of the Cost of Living Council to exclude from the coverage of subpart M any firm solely on the basis that it was not primarily engaged in meat packing or meat processing. The SIC Codes were mentioned in the definition of "meat" because they provide a codified listing of meat items in convenient published form.

Another problem with the use of the SIC Code 2011 and 2013 lists is the inclusion therein of canned goods containing 20 percent or more of meat. After further consideration of this matter, the Council has concluded that it is not essential to the purposes of subpart M to cover all the many and varied "mixed" canned products that contain only a relatively small proportion of meat.

Moreover, there are some frozen meat products which the Council intended to include within the coverage of subpart M which, although they contain a large percentage of meat, might be deemed excluded because of the system of classification employed under the SIC Codes.

In view of the foregoing, the Council has decided to adopt a definition of "meat" which is essentially the definition used by the Department of Agriculture for meat inspection purposes and to delete references to SIC Codes 2011 and 2013 for subpart M purposes.

The new definition embraces the fresh cuts of red meat (steaks, chops, hamburger, and the like), organ meats, and food products which contain 65 percent or more of meat—without regard to whether any item is fresh, frozen, or canned. The new definition includes all major beef, veal, pork, ham, mutton, and lamb items. In excluding those prepared items which contain less than 65 percent meat the Council took into consideration the burden on firms in preparing extensive lists of ceiling prices on items which account for a relatively small portion of total sales or which do not bear a significant relationship to the purposes of subpart M.

Because the purpose of this amendment is to provide immediate guidance and information with respect to the administration of the Economic Stabilization Program, the Council finds that further notice and procedure thereon is impracticable and that good cause exists for making it effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Public Law 92-210, 85 Stat. 743; E.O. 11695, 38 FR 1473; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, part 130 of chapter I of title 6 of the Code of Federal Regulations is amended as follows, effective 9 p.m., e.s.t., March 29, 1973.

Issued in Washington, D.C., on April 20, 1973.

JAMES W. MCLANE,
Deputy Director, Cost of Living Council.

Subpart M of part 130 of title 6 of the Code of Federal Regulations is amended as follows:

The definition of "Meat" in § 130.123 is amended to read as follows:

§ 130.123 Definitions.

* * * * *

"Meat" means, for the purposes of this subpart, food of the following description:

(1) Any "Meat", as defined in 9 CFR 301.2(tt), except meat of goats and equines; and

(2) Any "Meat byproduct", as defined in 9 CFR 301.2(uu), except meat byproducts of goats and equines; and

(3) Any "Meat food product", as defined in 9 CFR 301.2(vv), with the following exceptions:

(a) Any article made from any meat or other portion of the carcass of any goats or equines, and

(b) Lard, edible tallow, stearin, and similar products and their ingredients, and

(c) Any article exempted from the definition of "meat food product" pursuant to the exception provision contained in 9 CFR 301.2(vv), and

(d) Any article which contains less than 65 percent of "meat", as defined in 9 CFR 301.2(tt), and "meat byproduct", as defined in 9 CFR 301.2(uu).

* * * * *

[FR Doc.73-7980 Filed 4-20-73;2:56 pm]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 121—FOOD ADDITIVES

Slimicides

In the FEDERAL REGISTER of June 13, 1972 (37 FR 11739), notice was given that a petition (FAP 2H2795) had been filed by Nopco Chemical Division, Diamond Shamrock Chemical Co., P.O. Box 2386, Morristown, N.J. 07960, proposing that § 121.2505, Slimicides (21 CFR 121.2505) be amended to provide for the safe use of polyoxyethylene(6)-2,2'-methylene bis(4-t-octylphenol) as an adjuvant substance in slimicides used in the manufacture of paper and paperboard that contact food.

The Commissioner of Food and Drugs, having evaluated data in the petition (FAP 2H2795) and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the petitioned additive under the preferred chemical nomenclature set forth below.

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), part 121 is amended in § 121.2505 (21 CFR 121.2505) in paragraph (d) by alphabetically inserting in the list of substances the following new item:

§ 121.2505 Slimicides.

* * * * *

(d) * * *

α,α' - [Methylenebis[4-(1,1,3,3-tetramethylbutyl)-o-phenylene]]bis[omega-hydroxypoly(oxyethylene)] having 6-7.5 moles of ethylene oxide per hydroxyl group.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before May 24, 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 anlaysis 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 April 24, 1973.

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

Dated April 17, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-7849 Filed 4-23-73;8:45 am]

PART 121—FOOD ADDITIVES

Adhesives

In the FEDERAL REGISTER of April 8, 1972 (37 FR 7110), and April 20, 1972 (37 FR 7828), notices were given that petitions (FAP 2B2781 and FAP 2B2782) had been filed by Velsicol Chemical Corp., 1725 K Street NW., Washington, D.C. 20006, proposing that § 121.2520, Adhesives (21 CFR 121.2520) be amended to provide for the safe use of trimethylolethane tribenzoate and neopentyl glycol dibenzoate as components of adhesives intended for use in food-contact articles.

The Commissioner of Food and Drugs, having evaluated data in the petitions and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the petitioned substances under the preferred chemical nomenclature set forth below.

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), Part 121 (21 CRF 121) is amended in § 121.2520(c)(5) (21 CFR 121.2520 (c)(5)) by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2520 Adhesives.

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * * * *	
2,2-Dimethyl-1,3-propanediol dibenzoate.	
* * * * *	
2-(Hydroxymethyl)-2-methyl-1,3-propanediol tribenzoate.	
* * * * *	

Any person who will be adversely affected by the foregoing order may at any time on or before May 24, 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 April 24, 1973.

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

Dated April 17, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-7845 Filed 4-23-73;8:45 am]

PART 121—FOOD ADDITIVES

Adhesives

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 2B2734) filed by Advance Coatings Co., Depot Road, Westminster, Mass. 01473, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of tris (*p*-tertiary butyl phenyl) phosphate in food-packaging adhesives.

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), part 121 is amended in § 121.2520 (c)(5) by alphabetically inserting a new item, in the list of substances as follows:

§ 121.2520 Adhesives.

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * * * *	
Tris (*p*-tertiary butyl phenyl) phosphate.	
* * * * *	

Any person who will be adversely affected by the foregoing order may at any time on or before May 24, 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 April 24, 1973.

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

Dated April 17, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-7846 Filed 4-23-73;8:45 am]

DIENESTROL DIACETATE

Revocation for Use Alone or in Combination with Zoalene or Amprolium

Based upon a notice of withdrawal of approval of new animal drug applications with respect to dienestrol diacetate (docket No. FDC-D-592) appearing elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs concludes that the corresponding regulations should be revoked regarding the use of dienestrol diacetate alone or in combination with zoalene or amprolium.

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 in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), parts 121, 131, 135g, and 144 are amended as follows:

PART 121—FOOD ADDITIVES

§ 121.207 [Amended]

1. Section 121.207 is amended in the table in paragraph (c) by deleting items 2.5, 2.6, and 2.7.

§ 121.210 [Amended]

2. Section 121.210 is amended by deleting from the table in paragraph (c), items 2.5, 2.6, and 2.7, and by deleting from the references in the "Principal ingredient" column for item 2.11a, the references to items 2.5 and 2.6.

§ 121.266 [Revoked]

3. Section 121.266 is revoked.

PART 131—INTERPRETATIVE STATEMENTS REGARDING WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

§ 131.20 [Amended]

4. In the alphabetical listing in § 131.20 the entry for "Dienestrol diacetate for poultry" and the warning statement that follows is deleted.

§ 131.21 [Amended]

5. In § 131.21 under the entry for "Animal feed containing penicillin, streptomycin, * * *" the entry for "Dienestrol diacetate for poultry" and the warning statement that follows is deleted.

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

§ 135g.46 [Revoked]

6. Section 135g.46 is revoked.

PART 144—ANTIBIOTIC DRUGS; EXEMPTIONS FROM LABELING AND CERTIFICATION REQUIREMENTS

§ 144.26 [Amended]

7. In § 144.26(b) subparagraph (21) is deleted.

Effective date.—This order shall be effective April 24, 1973.

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

Dated April 16, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-7843 Filed 4-23-73;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Methocarbamol

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (38-838V) filed by A. H. Robins Co., Research Laboratories, 1211 Sherwood Ave., Richmond, VA 23220, proposing additional indications for use of methocarbamol injection in the treatment of dogs and cats. The supplemental application is approved.

A change is being made in the existing regulation covering methocarbamol injection to identify the sponsor by their code number as listed in § 135.501(c) of this chapter for consistency with other regulations. The chemical name for the active drug ingredient is being revised to reflect currently preferred chemical nomenclature.

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 revising § 135b.17, paragraphs (a), (c), and (d) to read as follows:

§ 135b.17 **Methocarbamol injection.**

(a) *Chemical name.*—3-(*o*-Methyoxyphenoxy)-1,2-propanediol 1-carbamate.

* * * * *

(c) *Sponsor.*—See code No. 060 in § 135.501(c) of this chapter.

(d) *Conditions of use.*—(1) The drug is administered to dogs and cats as an adjunct to therapy for acute inflammatory and traumatic conditions of the skeletal muscles to reduce muscular spasms.

(2) The drug is administered intravenously. For relief of moderate conditions, a dose of 20 milligrams per pound of body weight may be adequate. An initial dose of 25 to 100 milligrams per pound of body weight is suggested for controlling the severe effects of strychnine and tetanus. Additional amounts may be needed for relieving residual effects and for preventing the recurrence of symptoms. A total cumulative dose of 150 milligrams per pound of body weight should not be exceeded.

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

Effective date.—This order shall be effective April 24, 1973.

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

Dated April 17, 1973.

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

[FR Doc.73-7848 Filed 4-23-73;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Tetracycline Oral, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (65-409V) filed by The Upjohn Co., Kalamazoo, MI 49001, proposing the safe and effective use of tetracycline capsules in dogs. The application is approved.

In addition, an editorial revision is made in the section heading.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), part 135c is amended in § 135c.34 by revising subparagraph (2) of paragraph (b), as follows:

§ 135c.34 **Tetracycline oral, veterinary.**

* * * * *

(b) * * *

(2) See code Nos. 035 and 037 in § 135.501(c) of this chapter for conditions of use provided for in table 3 of paragraph (e) of this section.

* * * * *

Effective date.—This order shall be effective April 24, 1973.

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

Dated April 16, 1973.

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

[FR Doc.73-7850 Filed 4-23-73;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Syrup

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-628V) filed by American Cyanamid Co., Princeton, N.J. 08540, proposing the safe and effective use of diethylcarbamazine citrate syrup for the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), part 135c is amended in § 135c.52 by redesignating existing paragraph (a) as paragraph (a)(1); by redesignating existing paragraph (b) as paragraph (a)(2); by redesignating existing paragraphs (c) (1), (2), (3) and (4) as paragraphs (a) (3), (i), (ii), (iii) and (iv), respectively, and by adding a new paragraph (b) as follows:

§ 135c.52 **Diethylcarbamazine citrate syrup.**

* * * * *

(b)(1) *Specifications.*—Each milliliter of syrup contains 60 milligrams of diethylcarbamazine citrate.

(2) *Sponsor.*—See code No. 004 in § 135.501(c) of this chapter.

(3) *Conditions of use.*—(i) It is used for the prevention of infection with *Dirofilaria immitis* in dogs.

(ii) The drug may be added to the daily ration at a dosage rate of 3.0 milligrams per pound of body weight or given directly by mouth at the same dosage rate.

(iii) Older dogs should be proven negative for the presence of *Dirofilaria immitis* infection before administration of the drug. Those with proven infection of *Dirofilaria immitis* should be rendered negative using adulticidal and microfilaricidal drugs before administering this drug.

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

Effective date.—This order shall be effective April 24, 1973.

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

Dated April 17, 1973.

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

[FR Doc.73-7847 Filed 4-23-73;8:45 am]

Title 22—Foreign Relations

CHAPTER VI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PART 602—AVAILABILITY OF RECORDS

Reviewing Authority for Record Requests

Chapter VI of title 22 of the Code of Federal Regulations is amended by revising § 602.47 to read as follows:

§ 602.47 **Reviewing authority.**

(a) When a denial of a record is predicated upon one of the exemptions listed under § 602.40 (b) through (i), review shall be made by the Director or the Deputy Director. Requests for review by the Director or Deputy Director shall be addressed to: The Director, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

(b) When a denial of a record is predicated on its continued classification under Executive Order 11652 and it is withheld from the requester as an exempted record under § 602.40(a), review shall be made by the ACDA Classification Review Committee (the "Committee"). Requests for review in such cases shall be addressed to: Chairman, ACDA Classification Review Committee, Office of the Executive Director, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451. The Committee shall act within 30 days of receipt of the request. Its action shall consist of a written recommendation to the Director that the requested record should or should not continue to be withheld.

(c) The final decision on all requests for review under this section shall be made by the Director or Deputy Director.

Dated April 18, 1973.

PHILIP J. FARLEY,
Acting Director.

[FR Doc.73-7865 Filed 4-23-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-73-109]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Sale of Insurance in Kansas

On the basis of the Administrator's continuing review of the crime insurance availability in the various States, and on the basis of the findings and recommendations by the Governor and the Commissioner of Insurance of the State of Kansas, it has been determined that a critical unavailability situation exists in that State, and Kansas will be made eligible for the sale of crime insurance on the effective date of this regulation.

Under a process of competitive proposals by insurance companies to act as the servicing company for the State of Kansas, it has been determined that the Insurance Company of North America is the low offeror, and it is also the purpose of this amendment to designate that company as the servicing company for the State of Kansas for the period ending June 30, 1974.

In view of the critical unavailability situation in Kansas, it is impracticable to provide for notice and public procedure, and good cause exists for making these amendments effective on April 1, 1973.

Accordingly, subchapter C of chapter X of title 24 is amended as follows:

1. Section 1930.6, *Names and addresses of servicing companies,* is amended to add the following listing, in proper alphabetical sequence, to the list of names of servicing companies in that section:

§ 1930.6 Names and addresses of servicing companies.

* * * * *

Kansas—Insurance Co. of North America, 911 Main St., Kansas City, Mo. 64199.

* * * * *

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 States eligible for the sale of crime insurance.

* * * * *

(b) On the basis of the information available to date, the Administrator has concluded that the following States have an unresolved critical market availability situation which necessitates the implementation of the Federal crime insurance program within such States:

Connecticut	New Jersey
District of Columbia	New York
Illinois	Ohio
Kansas	Pennsylvania
Maryland	Rhode Island
Massachusetts	Tennessee
Missouri	

* * * * *

(Sec. 1247, 82 Stat. 566; 12 U.S.C. 1749bbb-17; sec. 7121 of the Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).)

Effective date.—These amendments are effective April 1, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-7857 Filed 4-23-73; 8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER K—PATENTS, ALLOTMENTS, AND SALES

PART 121—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

This notice is published in the exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938). The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 8384 of the FEDERAL REGISTER of April 26, 1972 (37 FR 8384), there was published a notice of proposed rulemaking to revise part 121 of title 25 of the Code of Federal Regulations. The revision consisted of a realignment of materials to present a more logical sequence; the deletion of material regarded as advisory rather than regulatory in nature; and the addition of certain material which more fully encompasses the authorites found in the statutes. Also, certain additions, changes and deletions in the proposed regulations were designed to more fully explain and implement the policy of the Secretary of the Interior. The revision was proposed pursuant to the authority contained in 5 U.S.C. 301.

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

During this period, comments, suggestions, and objections were received from interested persons. After consideration of all such relevant matter as was presented by interested persons, the proposed revision is hereby adopted with the following changes and set forth below:

1. The sentence "This section is subject to the exceptions contained in 25 U.S.C. § 954(b)." is added to the end of § 121.19.

2. In the first sentence of § 121.22(a), the phrase "except inherited lands of the Five Civilized Tribes," is inserted after the phrase "Trust or restricted lands,".

3. In § 121.25(a)(2), the phrase "or a member of the tribe of the reservation where the land is located;" is changed to read "or another Indian;".

4. In § 121.26(a), a phrase "for good cause" is inserted after the word "unless".

5. The subheading "Partitions of inherited allotments" which comes before § 121.33 is changed to read "Partitions in kind of inherited allotments".

6. In § 121.33(a), the phrase "are capable of partition to the advantage of the heirs," is changed to read "are capable to partition in kind to the advantage of the heirs,".

The new part 121 shall become effective May 23, 1973.

WILLIAM L. ROGERS,
Deputy Assistant, Secretary of the Interior.

APRIL 16, 1973.

PART 121—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Sec.

AUTHORITY.—R.S. 161; 5 U.S.C. 301. Interpret or apply sec. 7, 32 Stat. 275, 34 Stat. 1018, sec. 1, 35 Stat. 444, sec. 1 and 2, 36 Stat. 855, as amended, 856, as amended, sec. 17, 39 Stat. 127, 40 Stat. 579, 62 Stat. 236, sec. 2, 40 Stat. 606, 68 Stat. 358, 69 Stat. 666; 25 U.S.C. 378, 379, 405, 404, 372, 373, 483, 355, unless otherwise noted.

CROSS REFERENCES: For further regulations pertaining to the sale of irrigable lands, see Parts 129, 128 and § 211.4 of this chapter. For Indian money regulations, see Parts 104, 101, 107, 105, and 102 of this chapter. For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30–11.32C of this chapter.

§ 121.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority.

(b) "Agency" means an Indian agency or other field unit of the Bureau of Indian Affairs having trust or restricted Indian land under its immediate jurisdiction.

(c) "Restricted land" means land or any interest therein, the title to which is held by an individual Indian, subject to Federal restrictions against alienation or encumbrance.

(d) "Trust land" means land or any interest therein held in trust by the United States for an individual Indian.

(e) "Competent" means the possession of sufficient ability, knowledge, experience, and judgment to enable an individual to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to him and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof. (Act of August 11, 1955 (69 Stat. 666).)

(f) "Tribe" means a tribe, band, nation, community, group, or Pueblo of Indians.

§ 121.2 Withholding action on application.

Action on any application, which if approved would remove Indian land from restricted or trust status, may be withheld, if the Secretary determines that such removal would adversely affect the best interest of other Indians, or the tribes, until the other Indians or the tribes so affected have had a reasonable opportunity to acquire the land from the applicant. If action on the application is to be withheld, the applicant shall be advised that he has the right to appeal the withholding action pursuant to the provisions of Part 2 of this chapter.

ISSUING PATENTS IN FEE, CERTIFICATES OF COMPETENCY OR ORDERS REMOVING RESTRICTIONS

§ 121.3 Information regarding status of applications for removal of Federal supervision over Indian lands.

The status of applications by Indians for patents in fee, certificates of competency, or orders removing restrictions shall be disclosed to employees of the Department of the Interior whose duties require that such information be disclosed to them; to the applicant or his attorney, upon request; and to Members of Congress who inquire on behalf of the applicant. Such information will be available to all other persons, upon request, 15 days after the fee patent has been issued by the Bureau of Land Management, or 15 days after issuance of certificate of competency or order removing restrictions, or after the application has been rejected and the applicant notified. Where the termination of the trust or restricted status of the land covered by the application would adversely affect the protection and use of Indian land remaining in trust or restricted status, the owners of the land that would be so affected may be informed that the application has been filed.

§ 121.4 Application for patent in fee.

Any Indian 21 years of age or over may apply for a patent in fee for his trust land. A written application shall be made in the form approved by the Secretary and shall be completed and filed with the agency having immediate jurisdiction over the land.

§ 121.5 Issuance of patent in fee.

(a) An application may be approved and fee patent issued if the Secretary, in his discretion, determines that the applicant is competent. When the patent in fee is delivered, an inventory of the estate covered thereby shall be given to the patentee. (Acts of Feb. 8, 1887 (24 Stat. 388), as amended (25 U.S.C. 349); June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483), and other authorizing acts.)

(b) If an application is denied, the applicant shall be notified in writing, given the reasons therefor and advised of his right to appeal pursuant to the provisions of Part 2 of this chapter.

(c) White Earth Reservation: The Secretary will, pursuant to the Act of March 1, 1907 (34 Stat. 1015), issue a patent in fee to any adult mixed-blood Indian owning land within the White Earth Reservation in the State of Minnesota upon application from such Indian, and without consideration as to whether the applicant is competent.

(d) Fort Peck Reservation: Pursuant to the Act of June 30, 1954 (68 Stat. 358), oil and gas underlying certain allotments in the Fort Peck Reservation were granted to certain Indians to be held in trust for such Indians and provisions was made for issuance of patents in fee for such oil and gas or patents in fee for land in certain circumstances.

(1) Where an Indian or Indians were the grantees of the entire interest in the oil and gas underlying a parcel of land, and such Indian or Indians had before June 30, 1954, been issued a patent or patents in fee for any land within the Fort Peck Reservation, the title to the oil and gas was conveyed by the act in in fee simple status.

(2) Where the entire interest in the oil and gas granted by the act is after June 30, 1954, held in trust for Indians to whom a fee patent has been issued at any time, for any land within the Fort Peck Reservation, or who have been or are determined by the Secretary to be competent, the Secretary will convey, by patent, without application, therefor, unrestricted fee simple title to the oil and gas.

(3) Where the Secretary determines that the entire interest in a tract of land on the Fort Peck Reservation is owned by Indians who were grantees of oil and gas under the act and he determines that such Indians are competent, he will issue fee patents to them covering all interests in the land without application.

§ 121.6 Issuance of patents in fee to non-Indians and Indians with whom a special relationship does not exist.

Whenever the Secretary determines that trust land, or any interest therein, has been acquired through inheritance or devise by a non-Indian, or by a person of Indian descent to whom the United States owes no trust responsibility, the Secretary may issue a patent in fee for the land or interest therein to such person without application.

§ 121.7 Application for certificate of competency.

Any Indian 21 years old or over, except certain adult members of the Osage Tribe as provided in § 121.9, who holds land or an interest therein under a restricted fee patent may apply for a certificate of competency. The written application shall be made in the form approved by the Secretary and filed with the agency having immediate jurisdiction over the land.

§ 121.8 Issuance of certificate of competency.

(a) An application may be approved and a certificate of competency issued if the Secretary, in his discretion, determines that the applicant is competent. The delivery of the certificate shall have the effect of removing the restrictions from the land described therein. (Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372).)

(b) If the application is denied, the applicant shall be notified in writing,

given the reasons therefor and advised of his right to appeal pursuant to the provisions of Part 2 of this chapter.

§ 121.9 Certificates of competency to certain Osage adults.

Applications for certificates of competency by adult members of the Osage Tribe of one-half or more Indian blood shall be in the form approved by the Secretary. Upon the finding by the Secretary that an applicant is competent, a certificate of competency may be issued removing restrictions against alienation of all restricted property and terminating the trust on all restricted property, except Osage headright interests, of the applicant.

CROSS-REFERENCE: For regulations pertaining to the issuance of certificates of competency to adult Osage Indians of less than one-half Indian blood, see Part 123 of this chapter.

§ 121.10 Application for orders removing restrictions, except Five Civilized Tribes.

Any Indian not under legal disability under the laws of the State where he resides or where the land is located, or the court-appointed guardian or conservator of any Indian, may apply for an order removing restrictions from his restricted land or the restricted land of his ward. The application shall be in writing setting forth reasons for removal of restrictions and filed with the agency having immediate jurisdiction over the lands.

§ 121.11 Issuance of orders removing restrictions, except Five Civilized Tribes.

(a) An application for an order removing restrictions may be approved and such order issued by the Secretary, in his discretion, if he determines that the applicant is competent or that removal of restrictions is in the best interests of the Indian owner. The effect of the order will be to remove the restrictions from the land described therein.

(b) If the application is denied, the applicant will be notified in writing, given the reasons therefor and advised of his right to appeal pursuant to the provisions of Part 2 of this chapter.

§ 121.12 Removal of restrictions, Five Civilized Tribes, after application under authority other than section 2(a) of the Act of August 11, 1955.

When an Indian of the Five Civilized Tribes makes application for removal of restrictions from his restricted lands under authority other than section 2(a) of the Act of August 11, 1955 (69 Stat. 666), such application may be for either unconditional removal of restrictions or conditional removal of restrictions, but shall not include lands or interest in lands acquired by inheritance or devise.

(a) If the application is for unconditional removal of restrictions and the Secretary, in his discretion, determines the applicant should have the unrestricted control of the land described in his application, the Secretary may issue an order removing restrictions therefrom.

(b) When the Secretary, in his discretion, finds that in the best interest of the applicant all or part of the land described in the application should be sold with conditions concerning terms of sale and disposal of the proceeds, the Secretary may issue a conditional order removing restrictions which shall be effective only and simultaneously with the execution of a deed by said applicant upon completion of an advertised sale or negotiated sale acceptable to the Secretary.

§ 121.13 Removal of restrictions, Five Civilized Tribes, after application under section 2(a) of the Act of August 11, 1955.

When an Indian of the Five Civilized Tribes makes application for removal of restrictions under authority of section 2(a) of the Act of August 11, 1955 (69 Stat. 666), the Secretary will determine the competency of the applicant.

(a) If the Secretary determines the applicant to be competent, he shall issue an order removing restrictions having the effect stated in § 121.16.

(b) If the Secretary rejects the application, his action is not subject to administrative appeal, notwithstanding the provisions concerning appeals in Part 2 of this chapter.

(c) If the Secretary rejects the application, or neither rejects nor approves the application within 90 days of the application date, the applicant may apply to the State district court in the county in which he resides for an order removing restrictions. If that State district court issues such order, it will have the effect stated in § 121.16.

§ 121.14 Removal of restrictions, Five Civilized Tribes, without application.

Section 2(b) of the Act of August 11, 1955 (69 Stat. 666), authorizes the Secretary to issue an order removing restrictions to an Indian of the Five Civilized Tribes without application therefor. When the Secretary determines an Indian to be competent, he shall notify the Indian in writing of his intent to issue an order removing restrictions 30 days after the date of the notice. This decision may be appealed under the provisions of Part 2 of this chapter within such 30 days. All administrative appeals under that part will postpone the issuance of the order. When the decision is not appealed within 30 days after the date of notice, or when any dismissal of an appeal is not appealed within the prescribed time limit, or when the final appeal is dismissed, an order removing restrictions will be issued.

§ 121.15 Judicial review of removal of restrictions, Five Civilized Tribes, without application.

When an order removing restrictions is issued, pursuant to § 121.14, a copy of such order will be delivered to the Indian, to any person acting in his behalf, and to the Board of County Commissioners for the county in which the Indian resides. At the time the order is delivered written notice will be given the parties that under the terms of the Act of August 11, 1955 (69 Stat. 666), the Indian or the Board of County Commissioners has, within 6 months of the date of notification, the right to appeal to the State district court for the district in which the Indian resides for an order setting aside the order removing restrictions. The timely initiation of proceedings in the State district court will stay the effective date of the order removing restrictions until such proceedings are concluded. If the State district court dismisses the appeal, the order removing restrictions will become effective 6 months after notification to the parties of such dismissal. The effect of the issuance of such order will be as prescribed in § 121.16.

§ 121.16 Effect of order removing restrictions, Five Civilized Tribes.

An order removing restrictions issued pursuant to the Act of August 11, 1955 (69 Stat. 666), on its effective date shall serve to remove all jurisdiction and supervision of the Bureau of Indian Affairs over money and property held by the United States in trust for the individual Indian or held subject to restrictions against alienation imposed by the United States. The Secretary shall cause to be turned over to the Indian full ownership and control of such money and property and issue in the case of land such title document as may be appropriate; *Provided*, That the Secretary may make such provisions as he deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe; *And provided further*, That the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions becomes effective shall be preserved as provided in section 2(d) of the Act of August 11, 1955 (69 Stat. 666).

SALES, EXCHANGES AND CONVEYANCES OF TRUST OR RESTRICTED LANDS

§ 121.17 Sales, exchanges and conveyances by, or with the consent of the individual Indian owner.

Pursuant to the Acts of May 27, 1902 (32 Stat. 275; 25 U.S.C. 379); May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357); March 1, 1907 (34 Stat. 1018; 25 U.S.C. 405); May 29, 1908 (35 Stat. 444; 25 U.S.C. 404); June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), as amended May 25, 1926 (44 Stat. 629; 48 U.S.C. 355a–355d); June 18, 1934 (48 Stat. 984; 25 U.S.C. 464); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483); and pursuant to other authorizing acts, trust or restricted lands acquired by allotment, devise, inheritance, purchase, exchange, or gift may be sold, exchanged, and conveyed by the Indian owner with the approval of the Secretary or by the Secretary with the consent of the Indian owner.

§ 121.18 Sale with the consent of natural guardian or person designated by Secretary.

Pursuant to the Act of May 29, 1908 (35 Stat. 444; 25 U.S.C. 404), the Secretary may, with the consent of the natural

guardian of a minor, sell trust or restricted land belonging to such minor; and the Secretary may, with the consent of a person designated by him, sell trust or restricted land belonging to Indians who are minor orphans without a natural guardian, and Indians who are non compos mentis or otherwise under legal disability. The authority contained in this act is not applicable to lands in Oklahoma, Minnesota, and South Dakota, nor to lands authorized to be sold by the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 121.19 Sale by fiduciaries.

Guardians, conservators, or other fiduciaries appointed by State courts, or by tribal courts operating under approved constitutions or law and order codes, may, upon order of the court, convey with the approval of the Secretary or consent to the conveyance by the Secretary of trust or restricted land belonging to their Indian wards who are minors, non compos mentis or otherwise under legal disability. This section is subject to the exceptions contained in 25 U.S.C. § 954(b).

§ 121.20 Sale by Secretary of certain land in multiple ownership.

Pursuant to the Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372), if the Secretary decides that one or more of the heirs who have inherited trust land are incapable of managing their own affairs, he may sell any or all interests in that land. This authority is not applicable to lands authorized to be sold by the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 121.21 Sale or exchange of tribal land.

Certain tribal land may be sold or exchanged pursuant to the Acts of February 14, 1920 (41 Stat. 415; 25 U.S.C. 294); June 18, 1934 (48 Stat. 984; 25 U.S.C. 464); August 10, 1939 (53 Stat. 1351; 25 U.S.C. 463(e)); July 1, 1948 (62 Stat. 1214); June 4, 1953 (67 Stat. 41; 25 U.S.C. 293(a)); July 28, 1955 (69 Stat. 392), as amended August 31, 1964 (78 Stat. 747; 25 U.S.C. 608–608c); June 18, 1956 (70 Stat. 290; 25 U.S.C. 403a–2); July 24, 1956 (70 Stat. 626); May 19, 1958 (72 Stat. 121; 25 U.S.C. 463, Note); September 2, 1958 (72 Stat. 1762); April 4, 1960 (74 Stat. 13); April 29, 1960 (74 Stat. 85); December 11, 1963 (77 Stat. 349); August 11, 1964 (78 Stat. 389), and pursuant to other authorizing acts. Except as otherwise provided by law, and as far as practicable, the regulations in this Part 121 shall be applicable to sale or exchanges of such tribal land.

§ 121.22 Secretarial approval necessary to convey individual-owned trust or restricted lands or land owned by a tribe.

(a) *Individual lands.* Trust or restricted lands, except inherited lands of the Five Civilized Tribes, or any interest therein, may not be conveyed without the approval of the Secretary. Moreover, inducing an Indian to execute an instrument purporting to convey any trust land or interest therein, or the offering of any such instrument for record, is prohibited and criminal penalties may be incurred. (See 25 U.S.C. 202 and 348.)

(b) *Tribal lands.* Lands held in trust by the United States for an Indian tribe, lands owned by a tribe with Federal restrictions against alienation and any other land owned by an Indian tribe may only be conveyed where specific statutory authority exists and then only with the approval of the Secretary unless the Act of Congress authorizing sale provides that approval is unnecessary. (See 25 U.S.C. 177.)

§ 121.23 Applications for sale, exchange or gift.

Applications for the sale, exchange or gift of trust or restricted land shall be filed in the form approved by the Secretary with the agency having immediate jurisdiction over the land. Applications may be approved if, after careful examination of the circumstances in each case, the transaction appears to be clearly justified in the light of the long-range best interest of the owner or owners or as under conditions set out in § 121.25(d).

§ 121.24 Appraisal.

Except as otherwise provided by the Secretary, an appraisal shall be made indicating the fair market value prior to making or approving a sale, exchange, or other transfer of title of trust or restricted land.

§ 121.25 Negotiated sales, gifts and exchanges of trust or restricted lands.

Those sales, exchanges, and gifts of trust or restricted lands specifically described in the following paragraphs (a), (b), (c), and (d) of this section may be negotiated; all other sales shall be by advertised sale, except as may be otherwise provided by the Secretary.

(a) *Consideration not less than the appraised fair market value.* Indian owners may, with the approval of the Secretary, negotiate a sale of and sell trust or restricted land for not less than the appraised fair market value: (1) When the sale is to the United States, States, or political subdivisions thereof, or such other sale as may be for a public purpose; (2) when the sale is to the tribe or another Indian; or (3) when the Secretary determines it is impractical to advertise.

(b) *Exchange at appraised fair market value.* With the approval of the Secretary, Indian owners may exchange trust or restricted land, or a combination of such land and other things of value, for other lands or combinations of land and other things of value. The value of the consideration received by the Indian in the exchange must be at least substantially equal to the appraised fair market value of the consideration given by him.

(c) *Sale to coowners.* With the approval of the Secretary, Indian owners may negotiate a sale of and sell trust or restricted land to a coowner of that land. The consideration may be less than the appraised fair market value, if in the opinion of the Secretary there is a special relationship between the coowners or special circumstances exist.

(d) *Gifts and conveyances for less than the appraised fair market value.* With the approval of the Secretary, Indian owners may convey trust or restricted land, for less than the appraised fair market value or for no consideration when the prospective grantee is the owner's spouse, brother, sister, lineal ancestor of Indian blood or lineal descendant, or when some other special relationship exists between the grantor and grantee or special circumstances exist that in the opinion of the Secretary warrant the approval of the conveyance.

§ 121.26 Advertisement.

(a) Upon approval of an application for an advertised sale, notice of the sale will be published not less than 30 days prior to the date fixed for the sale unless for good cause a shorter period is authorized by the Secretary.

(b) The notice of sale will include (1) terms, conditions, place, date, hour, and methods of sale, including explanation of auction procedure as set out in § 121.27 (b)(2) if applicable; (2) where and how bids shall be submitted; (3) a statement warning all bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders or potential bidders; and (4) description of tracts, all reservations to which title will be subject and any restrictions and encumberances of record with the Bureau of Indian Affairs and any other information that may improve sale prospects.

§ 121.27 Procedure of sale.

Advertised sales shall be by sealed bids except as otherwise provided herein.

(a) (1) Bids, conforming to the requirements set out in the advertisement of sale, along with a certified check, cashier's check, money order, or U.S. Treasury check, payable to the Bureau of Indian Affairs, for not less than 10 percent of the amount of the bid, must be enclosed in a sealed envelope marked as prescribed in the notice of sale. A cash deposit may be submitted in lieu of the above-specified negotiable instruments at the bidder's risk. Tribes submitting bids pursuant to this paragraph may guarantee the required 10 percent deposit by an appropriate resolution; (2) the sealed envelopes containing the bids will be publicly opened at the time fixed for sale. The bids will be announced and will be appropriately recorded.

(b) The policy of the Secretary recognizes that in many instances a tribe or a member thereof has a valid interest in acquiring trust or restricted lands offered for sale. (1) With the consent of the owner and when the notice of sale so states, the tribe or members of such tribe shall have the right to meet the high bid. (2) Provided the tribe is not the high bidder and when one or more acceptable sealed bids are received and when so stated in the notice of sale, an oral auction may be held following the bid opening. Bidding in the auction will be limited to the tribe, and to those who submitted sealed bids at 75 percent or

more of the appraised value of the land being auctioned. At the conclusion of the auction the highest bidder must increase his deposit to not less than 10 percent of his auction bid.

§ 121.28 Action at close of bidding.

(a) The officer in charge of the sale shall publicly announce the apparent highest acceptable bid. The deposits submitted by the unsuccessful bidders shall be returned immediately. The deposit submitted by the apparent successful bidder shall be held in a special account.

(b) If the highest bid received at an advertised sale is less than the appraised fair market value of the land, the Secretary with the consent of the owner may accept that bid if the amount bid approximates said appraised fair market value and in the Secretary's judgment is the highest price that may be realized in the circumstances.

(c) The Secretary shall award the bid and notify the apparent successful bidder that the remainder of the purchase price must be submitted within 30 days. (1) Upon a showing of cause the Secretary may, in his discretion, extend the time of payment of the balance due. (2) If the remainder of the purchase price is not paid within the time allowed, the bid will be rejected and the apparent successful bidder's 10 percent deposit will be forfeited to the landowner's use.

(d) The issuance of the patent or delivery of a deed to the purchaser will not be authorized until the balance of the purchase price has been paid, except that the fee patent may be ordered in cases where the purchaser is obtaining a loan from an agency of the Federal Government and such agency has given the Secretary a commitment that the balance of the purchase price will be paid when the fee patent is issued.

§ 121.29 Rejection of bids; disapproval of sale.

The Secretary reserves the right to reject any and all bids before the award, after the award, or at any time prior to the issuance of a patent or delivery of a deed, when he shall have determined such rejection to be in the best interests of the Indian owner.

§ 121.30 Bidding by employees.

Except as authorized by the provisions of Part 251 of this chapter, no person employed in Indian Affairs shall directly or indirectly bid, make, or prepare any bid, or assist any bidder in preparing his bid. Sales between Indians, either of whom is an employee of the U.S. Government, are governed by the provisions of Part 251 of this chapter (see 25 U.S.C. 68 and 441).

§ 121.31 Cost of conveyance; payment.

Pursuant to the Act of February 14, 1920 (41 Stat. 415), as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U.S.C. 413), the Secretary may in his discretion collect from a purchaser reasonable fees for work performed or expense incurred in the transaction. The amount so collected shall be deposited to the credit of the United States as general fund receipts, except as stated in paragraph (b) of this section.

(a) (1) The amount of the fee shall be $22.50 for each transaction.

(2) The fee may be reduced to a lesser amount or may be waived, if the Secretary determines circumstances justify such action.

(b) (1) If any or all of the costs of the work performed or expenses incurred are paid with tribal funds, an alternate schedule of fees may be established, subject to approval of the Secretary, and that part of such fees deemed appropriate may be credited to the tribe.

(2) When the purchaser is the tribe which bears all or any part of such costs, the collection of the proportionate share from the tribe may be waived.

§ 121.32 Irrigation fee; payment.

Collection of all construction costs against any Indian-owned lands within Indian irrigation projects is deferred as long as Indian title has not been extinguished. (Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a).) This statute is interpreted to apply only where such land is owned by Indians either in trust or restricted status.

(a) When any person whether Indian or non-Indian acquires Indian lands in a fee simple status that are part of an Indian irrigation project he must enter into an agreement, (1) to pay the pro rata share of the construction of the project chargeable to the land, (2) to pay all construction costs that accrue in the future, and (3) to pay all future charges assessable to the land which are based on the annual cost of operation and maintenance of the irrigation system.

(b) Any operation and maintenance charges that are delinquent when Indian land is sold will be deducted from the proceeds of sale unless other acceptable arrangements are made to provide for their payment prior to the approval of the sale.

(c) A lien clause covering all unpaid irrigation construction costs, past and future, will be inserted in the patent or other instrument of conveyance issued to all purchasers of restricted or trust lands that are under an Indian irrigation project.

CROSS-REFERENCE: See Part 128 and Part 129 and cross-references thereunder in this chapter for further regulations regarding sale of irrigable lands.

PARTITIONS IN KIND OF INHERITED ALLOTMENTS

§ 121.33 Partition.

(a) *Partition without application.* If the Secretary of the Interior shall find that any inherited trust allotment or allotments (as distinguished from lands held in a restricted fee status or authorized to be sold under the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483)), are capable of partition in kind to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent. (Act of May 18, 1916 (39 Stat. 127; 25 U.S.C. 378).) The authority contained in the Act of May 18, 1916, is not applicable to lands authorized to be sold by the Act of May 14, 1948, nor to land held in restricted fee status.

(b) *Application for partition.* Heirs of a deceased allottee may make written application, in the form approved by the Secretary, for partition of their trust or restricted land. If the Secretary finds the trust lands susceptible of partition, he may issue new patents or deeds to the heirs for the portions set aside to them. If the allotment is held under a restricted fee title (as distinguished from a trust title), partition may be accomplished by the heirs executing deeds approved by the Secretary, to the other heirs for their respective portions.

MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS

§ 121.34 Approval of mortgages and deeds of trust.

Any individual Indian owner of trust or restricted lands, may with the approval of the Secretary execute a mortgage or deed of trust to his land. Prior to approval of such mortgage or deed of trust, the Secretary shall secure appraisal information as he deems advisable. Such lands shall be subject to foreclosure or sale pursuant to the terms of the mortgage or deed of trust in accordance with the laws of the State in which the lands are located. For the purpose of foreclosure or sale proceedings under this section, the Indian owners shall be regarded as vested with unrestricted fee simple title to the lands (Act of March 29, 1956 (70 Stat. 62; 25 U.S.C. 483a)).

§ 121.35 Deferred payment sales.

When the Indian owner and purchaser desire, a sale may be made or approved on the deferred payment plan. The terms of the sale will be incorporated in a memorandum of sale which shall constitute a contract for delivery of title upon payment in full of the amount of the agreed consideration. The deed executed by the grantor or grantors will be held by the Superintendent and will be delivered only upon full compliance with the terms of sale. If conveyance of title is to be made by fee patent, request therefor will be made only upon full compliance with the terms of the sale. The terms of the sale shall require that the purchaser pay not less than 10 percent of the purchase price in advance as required by the Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372); terms for the payment of the remaining installments plus interest shall be those acceptable to the Secretary and the Indian owner. If the purchaser on any deferred payment plan makes default in the first or subsequent payments, all payments, including interest, previously made will be forfeited to the Indian owner.

[FR Doc.73-7838 Filed 4-23-73;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Suspension of Part

On March 15, 1973, the U.S. District Court for the District of Columbia in *National Independent Coal Operators' Association, et al.* v. *Rogers C. B. Morton, Secretary of the Interior, et al.*, Civil Action No. 397–72, issued an order declaring unlawful the procedures heretofore adopted by the Bureau of Mines as set forth in 30 CFR part 100 (appearing at 37 FR 11861) for assessment of civil penalties, and permanently enjoined the Bureau from continuing to utilize or enforce said procedures unless modified in accordance with the requirements set forth in the court's memorandum and order of March 9, 1973.

The Department is now seeking to appeal the district court decision. However, pending an appeal, in view of the number of violations being cited daily by the Bureau of Mines coal mine inspectors, the Department has determined that it is in the public interest to propose an interim modification to the regulations for the assessment of civil penalties. Accordingly, the Department has determined to suspend the informal assessment procedures contained in part 100 of title 30, Code of Federal Regulations pending appeal and to amend the civil penalty hearing procedures in part 4 of title 43, Code of Federal Regulations (37 FR 11460). Under the amended procedure the Bureau will file a petition for assessment of civil penalty with the Office of Hearings and Appeals in all cases.

Simultaneously with this notice there appears in the rules and regulations section of this FEDERAL REGISTER the amendments of the civil penalty hearing procedures of part 4 of title 43, Code of Federal Regulations.

Notice is hereby given that the procedures for assessment of civil penalties for violations of the Federal Coal Mine Health and Safety Act of 1969 contained in part 100 of title 30, Code of Federal Regulations, are suspended until further notice.

This suspension is effective on April 24, 1973.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

APRIL 12, 1973.

[FR Doc.73-7916 Filed 4-23-73;8:45 am]

Title 32—National Defense

CHAPTER XIV—RENEGOTIATION BOARD

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

INTEREST ON EXCESSIVE PROFITS

Henceforth, when the Renegotiation Board extends the time for payment of sums due under a renegotiation agreement or order determining excessive profits, interest thereon will accrue at the rate in force when the agreement or order is modified. Pursuant to its statutory authority to issue regulations governing extensions of time for payment, the Board has adopted a regulation imposing this new requirement as a condition to modifying any agrement or order for such purpose. Until now the interest rate originaly applicable to an agreement or order continued to apply to any modifications thereof.

Dated April 19, 1973.

RICHARD T. BURRESS,
Chairman.

PART 1461—RECOVERY OF EXCESSIVE PROFITS AFTER DETERMINATION

§ 1461.2 [Amended]

Section 1461.2 Recovery of refund pursuant to agreement is amended by changing the period at the end of the third sentence of paragraph (b)(1) to a semicolon, and adding the following: but see § 1474.6(c)(4) of this chapter.

§ 1461.3 [Amended]

Section 1461.3 Recovery of refund pursuant to unilateral order is amended by changing the period at the end thereof to a semicolon, and adding the following: but see § 1475.6(d) of this chapter.

PART 1474—AGREEMENT PROCEDURE

Section 1474.6 Modification of terms

Section 1474.6, Modification of terms of payment provided in agreement is amended by deleting paragraph (c)(4) in its entirety and inserting in lieu thereof the following:

§ 1474.6 Modification of terms of payment provided in agreement.

* * * * *

(c) * * * (4) The contractor agrees to pay interest on the total amount unpaid under the agreement at a rate per annum determined pursuant to the next to the last sentence of section 105(b)(2) of the act for the period which includes the date of modification of the agreement, such interest to accrue from the date of such modification to the date of payment.

PART 1475—UNILATERAL ORDER PROCEDURE

Section 1475.6, Modification of order to extend time for payment is amended by inserting immediately before the last sentence of paragraph (d) thereof the following:

§ 1475.6 Modification of order to extend time for payment.

* * * * *

(d) * * * In any modification of an order pursuant to this section, the Board will include a provision that interest on the total amount unpaid under the order shall accrue at a rate per annum determined pursuant to the next to the last sentence of section 105(b)(2) of the act for the period which includes the date of modification of the order, such interest to accrue and be paid from the date of such modification to the date of payment.

(Secs. 105, 109, 65 Stat. 22; 50 U.S.C.A., App., secs. 1215, 1219.)

[FR Doc.73-7927 Filed 4-23-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL

[CGD 73-69 R]

PART 24—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE U.S. COAST GUARD—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Change of Nomenclature of "Hearing Examiner"

The purpose of this amendment to the regulation concerning nondiscrimination in federally assisted programs of the Coast Guard is to reflect the change of nomenclature from "Hearing Examiner" to "Administrative Law Judge".

In FR Doc. 72-14069, appearing on page 16787 of the August 19, 1972 issue of the FEDERAL REGISTER, the Civil Service Commission amended part 930 of title 5 of the Code of Federal Regulations by changing the nomenclature of "Hearing Examiner" to "Administrative Law Judge". The amendment in this document conforms to the change in 5 CFR part 930 by making the same change wherever such nomenclature or similar nomenclature appears in part 24 of title 33, Code of Federal Regulations.

Since the amendment in this document relates to agency management, it is excepted by 5 U.S.C. 553(a) from the notice of proposed rulemaking procedures and from the requirement of an effective date of not less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing part 24 of title 33, Code of Federal Regulations is amended as follows:

1. By amending §§ 24.35 and 24.40 by striking the words "hearing examiner" and "officer conducting the hearing" wherever they appear, and inserting "administrative law judge" in place thereof.

(46 U.S.C. 375, 416, 14 U.S.C. 633; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Effective date.—These amendments shall become effective on April 30, 1973.

Dated 13, April 1973.

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

[FR Doc.73-7898 Filed 4-23-73;8:45 am]

[CGD 73-79 R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Revocation of Regulations for Removed Bridges

The Chief, Office of Marine Environment and Systems has been advised that several bridges for which special operation regulations have been prescribed

have been removed. Accordingly, the regulations that governed their operation are no longer required.

Therefore, part 117 of Title 33, Code of Federal Regulations, is amended by:

(1) Revoking §§ 117.245(g)(11), 117.245(g)(13), 117.245(h)(6), 117.245(h)(23), 117.245(i)(2), 117.245(i)(5) and 117.431 a(b).

(2) Revising § 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.

* * * * *

g) * * *

(15) Congaree River, S.C. Southern Railroad swingspan at Moye's Station. At least 24 hours notice is required.

* * * * *

(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 105-1(c)(4).)

Effective date.—This revision shall become effective April 24, 1973.

Dated April 16, 1973.

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

[FR Doc.73-7899 Filed 4-23-73;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals

CIVIL PENALTY ASSESSMENT PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT

On March 15, 1973, the U.S. District Court for the District of Columbia in *National Independent Coal Operators' Association, et al.* v. *Rogers C. B. Morton, Secretary of the Interior, et al.*, civil action No. 397-72, issued an order declaring unlawful the procedures heretofore adopted by the Bureau of Mines as set forth in 30 CFR part 100 (appearing at 37 FR 11861) for assessment of civil penalties, and permanently enjoined the Bureau from continuing to utilize or enforce said procedures unless modified in accordance with the requirements set forth in the Court's memorandum and order of March 9, 1973.

The Department is now seeking to appeal the district court decision. However, pending an appeal, in view of the number of violations being cited daily by the Bureau of Mines coal mine inspectors, the Department has determined that it is in the public interest to issue an interim modification to the regulations for the assessment of civil penalties. Accordingly, the Department has determined to suspend the informal assessment procedures contained in part 100 of title 30 CFR pending appeal and to amend the civil penalty hearing procedures in part 4 of title 43 CFR (37 FR 11460). Under the amended procedure the Bureau will file a petition for assessment of civil penalty with the Office of Hearings and Appeals in all cases.

With the filing of a petition, the operator will be notified of the civil penalty tentatively recommended by the Bureau of Mines. The recommended penalty will be based upon the Bureau's investigation concerning the violation and will be determined by using an assessment formula which considers each of the six statutory criteria. Complete details of the assessment formula will be provided in an assessment manual at all Bureau of Mines Assessment and Compliance Offices. A copy of the formula will be provided with each recommended penalty.

Under the rules, requests for a hearing site will be included in a party's answer to the petition. A requested hearing site not opposed by the Bureau shall be granted as a matter of right. In addition, two new sites are added, Princeton, W. Va. and Chattanooga, Tenn. Provisions for default, or failure to answer, cases are also included in the amendments. Under them, the Administrative Law Judge may either request information from the Bureau or conduct an evidentiary hearing as necessary to properly assess a civil penalty.

These amendments are made pursuant to the authority contained in sections 109(a) and 508 of the Federal Coal Mine Health and Safety Act of 1969, Public Law 71-173; 83 Stat. 742.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, in view of the district court injunction and because these rules are procedural in nature, further notice and comments under 5 U.S.C. 553 are impracticable and good cause exists for making these amendments effective in less than 30 days. Accordingly, this amendment shall become effective on April 24, 1973.

Dated April 12, 1973.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

1. Sections 4.540 through 4.545 of subpart F of subtitle A of title 43 of the Code of Federal Regulations are amended to read as follows:

§ 4.540 How initiated.

(a) A proceeding for the assessment of a civil penalty shall be initiated by the Bureau by filing a petition to assess civil penalty with the Office of Hearings and Appeals.

(b) The Bureau's petition for assessment of civil penalty shall include a list of the cited violations for which a civil penalty is sought to be assessed. Each cited violation shall be identified by number and date of the notice or order involved and the section of the act or regulations which the Bureau alleges has been violated.

(c) A copy of each notice or order issued concerning each cited violation for which a civil penalty is sought to be assessed shall be attached to the petition.

(d) Where appropriate the Administrative Law Judge (formerly title Hearing Examiner) shall consolidate civil penalty proceedings with other proceedings described herein.

§ 4.541 Answer.

A party against whom a penalty is sought (hereafter designated as respondent) shall file an answer within 30 days after service of a copy of the petition on the party.

§ 4.542 Contents of answer.

An answer shall include:

(a) A short and plain statement of the reasons why each of the violations cited in the petition to assess civil penalty is contested including whether a violation occurred;

(b) A request for hearing site chosen from those listed in § 4.543.

§ 4.543 Hearing sites.

(a) The Office of Hearings and Appeals has established arrangements for hearings at the following sites:

Morgantown, W. Va.	Chattanooga, Tenn.
Evansville, Ind.	Kingsport, Tenn.
Birmingham, Ala.	Pittsburgh, Pa.
Charleston, W. Va.	Harrisburg, Pa.
Pikeville, Ky.	Princeton, W. Va.
Knoxville, Tenn.	

These sites are in addition to headquarters of the Office of Hearings and Appeals located in Arlington, Va. 22203 (Washington, D.C.).

(b) Unless the Bureau opposes the site requested from those listed in paragraph (a) of this section as inconvenient to its witnesses, the hearing shall be set at the requested site. If a party requests a hearing site not listed in paragraph (a) of this section and such request is not opposed by the Bureau, the Administrative Law Judge may set the hearing at the requested site. Otherwise the hearing shall be set at the site listed in paragraph (a) of this section which is nearest to the requested site. Where the Bureau opposes a request for a hearing site, the Administrative Law Judge assigned to the case shall consider the request and the opposition thereto and shall set the hearing site. Where no request for a hearing site is made, the hearing will be held at a site in the discretion of the Administrative Law Judge.

(c) In cases west of the Mississippi River the respondent should state in his answer the location where the hearing is desired. Such cases will be assigned a hearing site convenient to the parties and witnesses which will be designated by order of the Administrative Law Judge.

§ 4.544 Summary disposition.

(a) *Failure to answer.*—Where the respondent fails to file a timely answer to the Bureau's petition for assessment

of civil penalty, the Office of Hearings and Appeals will issue an order to show cause why the respondent should not be held in default. If the order to show cause is not satisfied as provided in the order, the respondent will be deemed to have waived his right to hearing and the Administrative Law Judge may assume for purposes of the assessment: (1) That each violation listed in the petition occurred; and (2) the truth of any fact alleged in any order or notice concerning such violation. In order to issue an initial decision assessing an appropriate penalty for each violation cited in accordance with § 4.545(a), an Administrative Law Judge shall either conduct such hearing or request such information from the Bureau, including proposed findings, as he deems necessary and proper.

(b) *Failure to respond to prehearing order.*—Where the respondent fails to file a response to a prehearing order the Administrative Law Judge may issue an order to show cause why the operator should not be considered in default and the case disposed of in accordance with paragraph (a) of this section.

(c) *Failure to appear at hearing.*—Where the respondent fails to appear at a hearing, the Administrative Law Judge shall dispose of the case pursuant to paragraph (a) of this section.

§ 4.545 Assessment of penalty.

(a) Where, after opportunity for hearing and consideration of the record as a whole, the Administrative Law Judge finds that a violation of a mandatory health or safety standard or any other provision in the act except the provisions of title 4 has occurred he shall determine the amount of penalty which is warranted in accordance with section 109(a) of the act and incorporate in an initial decision concerning the violation findings of fact and conclusions of law and an order requiring that the penalty be paid.

(b) Where the Board, upon review of the record and decision of the Administrative Law Judge in a penalty proceeding, modifies the amount of penalty, it shall issue an order requiring the modified amount to be paid.

(c) In determining the amount of civil penalty warranted the Administrative Law Judge and the Board of Mine Operations Appeals shall not be bound by a recommended penalty of the Bureau or by any offer of settlement made by either party.

§ 4.546 [Deleted]

2. Section 4.546 is deleted.

[FR Doc.73-7915 Filed 4-23-73;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72-208]

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

PART 136—MARINE INVESTIGATION REGULATIONS

PART 137—SUSPENSION AND REVOCATION PROCEEDINGS

Change of Nomenclature of "Hearing Examiner"

The purpose of these amendments to the regulations concerning suspension and revocation proceedings is to reflect the change of nomenclature from "Hearing Examiner" to "Administrative Law Judge".

In FEDERAL REGISTER Doc. 72-14069, appearing on page 16787 of the August 19, 1972, issue of the FEDERAL REGISTER, the Civil Service Commission amended part 930 of title 5 of the Code of Federal Regulations by changing the nomenclature of "Hearing Examiner" to "Administrative Law Judge." The amendments in this document conform to the change in 5 CFR part 930 by making the same change wherever such nomenclature or similar nomenclature appears in chapter I of title 46, Code of Federal Regulations.

Since the amendments in this document relate to agency management, they are excpeted by 5 U.S.C. 553(a) from the notice of proposed rulemaking procedures and from the requirement of an effective date of not less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, chapter I of title 46, Code of Federal Regulations, is amended as follows:

1. By amending parts 1, 136, and 137 by striking the words "hearing examiner", "field examiner", and "examiner" wherever they appear and inserting "administrative law judge" in place thereof.

(46 U.S.C. 375, 416, 14 U.S.C. 633; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Effective date.—These amendments shall become effective on April 30, 1973.

Dated April 16, 1973.

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

[FR Doc.73-7900 Filed 4-23-73;8:45 am]

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

[General Order 87, Rev.]

PART 310—MERCHANT MARINE TRAINING

Subpart A—Regulations and Minimum Standard for State Maritime Academies and Colleges

Effective May 1, 1973, subpart A of this part is hereby revised to incorporate all amendments approved since the last general revision in 1967, update obsolete terminology, delete improper restrictions on age and sex and modify certain provisions with regard to personnel and termination of training vessels.

Subpart A—Regulations and Minimum Standards for State Maritime Academies and Colleges

Sec.

AUTHORITY.—Sec. 101 49 Stat. 1985; 46 U.S.C. 1101 and Public Law 85-672 72 Stat. 622; 46 U.S.C. 1381.

§ 310.1 Definitions.

For the purposes of §§ 310.1 and 310.12, inclusive:

(a) "Administration" means the U.S. Maritime Administration, U.S. Department of Commerce.

(b) "Administrator" means the Assistant Secretary of Commerce for Maritime Affairs, U.S. Maritime Administration.

(c) "Deputy" means the Deputy Assistant Secretary of Commerce for Maritime Affairs, U.S. Maritime Administration.

(d) "Superintendent" means the superintendent of the State maritime academy or the president of a Maritime College and "Commanding Officer" means the Commanding Officer of the training vessel.

(e) "Officers" means all officers and faculty connected with the State maritime academy or college or the training vessel, except part-time instructors.

(f) "Maitime Service" means the U.S. Maritime Service.

(g) "Supervisor" means the member of the Assistant Secretary of Commerce for Maritime Affairs' Office designated to supervise the Federal Government's interest in the State maritime academies or colleges under the provisions of this subpart and applicable Public Laws.

(h) "Act" means Maritime Academy Act of 1958 Public Law 85-672.

(i) "School" means State maritime academy or colleges.

(j) "Agreement" means agreements between schools and the Assistant Secretary of Commerce for Maritime Affairs.

(k) "Secretary" means Secretary of Commerce.

(l) "Cadet" means cadet, U.S. Maritime Service.

§ 310.2 Federal assistance.

(a) The Assistant Secretary of Commerce for Maritime Affairs under the authority delegated to him by the Secretary of Commerce (Department of Commerce Order No. 117-A, section 3, effective May 20, 1966), may enter into

agreements with the present or later established Maritime Academies or Colleges meeting the requirements of the "Maritime Academy Act of 1958," to make annual payments to such Academies or Colleges for not in excess of 4 years in the case of each such agreement, to be used for the maintenance and support of such Academies or Colleges. Such payments for any year to any Maritime Academies or Colleges shall be an amount equal to the amount furnished to such Academies or Colleges for their maintenance and support by the State in which the Academy or College is located, except that such payment to any Academy or College for any year shall not exceed $75,000, or $25,000 if such Academy or College does not meet the requirements of section 5(b) of the "Maritime Academy Act of 1958."

(b) The Secretary may under the provisions of section 3 of said act furnish any suitable vessel under his jurisdiction or obtain from any Department or agency of the United States, or construct and furnish a suitable vessel, if such is not available to the State of Maine, the State of Massachusetts, the State of New York, the State of California, the State of Texas, and any other State or Territory of the United States for use as a training vessel for a Maritime Academy or College meeting the requirements of the act.

(c) As a condition to receiving any payments or the use of any vessel under the provisions of said act, an Academy or College shall comply with the provisions of section 5(a) of said act and shall agree in writing to conform to such standards as provided for under section 5(a)(2) of said act. Said standards to be so agreed upon are set forth here in this subpart.

(d) As a further condition to receiving any payments, each school shall agree that it will comply with the provisions of title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2000d, and the requirements imposed by or pursuant to the regulations of the Department of Commerce and/or the Maritime Administration issued pursuant to the aforesaid title VI; and each school shall give assurance that it will take any and all measures to effectuate compliance as set forth in article 3(c) of the Agreement contained in § 310.12.

§ 310.3 Schools and courses.

(a) *State maritime schools operating with Federal aid.*—The following State maritime schools are presently operated with Federal aid under said act:

California Maritime Academy.
Maine Maritime Academy.
Massachusetts Maritime Academy.
State University of New York Maritime College.
The Texas Maritime Academy of the Texas A & M University.
The Great Lakes Maritime Academy of Northwestern Michigan College.

(b) *General rules for operation of academies and colleges.*—(1) The State maritime academies and colleges, hereinafter called the "Schools" shall maintain adequate berthing, messing, and classroom instruction facilities ashore, or have in preparation such plans and intention to establish same at the earliest possible time, unless prevented from doing so by acts of war, acts of God, fire, force majeure, or conditions beyond the control of the school: Provided, however, in such case the school shall be conducted on the training vessel.

(2) As a condition to receiving payments of any amount of $75,000 as provided by the act in excess of $25,000 for any year; such School shall agree to admit to the school, students resident of other States to the extent of at least 10 percent of the School's student capacity: *Provided, however,* That such out-of-State students apply for such admission and are qualified for such admission.

(3) Upon the request of the administration the schools shall furnish such reports and estimates as may be required in the preparation of Federal Budget estimates for the State marine schools.

(4) Rules and regulations for the internal organization and administration of each School will be determined under the direction of the State authority.

(5) The administration shall have the right to inspect shore base facilities at all reasonable times.

(6) Records pertaining to the schools, its officers, faculty, crew, cadets, the training vessel, and shore base, shall be maintained by each school, and shall be available to the supervisor upon request. A detailed record of cadet enrollments, reenrollments, absences with or without leave, hospitalizations, disenrollments, graduations, and other analogous data shall be kept by each school. Copies of these records shall be furnished to the Supervisor upon request.

(7) The administration may include in any pamphlets, brochures, or other public information materials distributed with respect to any Federal maritime school or with respect to maritime training an adequate description of each school so that information will be imparted giving the reader knowledge of the existence of the school, its purposes and where to obtain information concerning the same.

(c) *Curriculum.*—(1) The minimum period of training shall be 3 years. For the cadets at the schools located in California, Maine, Massachusetts, New York and Texas at least 6 months of the total time must be aboard a schoolship in cruise status. A maximum of 2 months of training time aboard commercial vessels may be substituted for 2 months of the specified schoolship time. For the cadets at The Great Lakes Maritime Academy 3 months of the time must be aboard a schoolship in cruise status and 6 months of the time must be aboard Great Lakes commercial vessels. Cadets in training status aboard commercial vessels shall sign on board as cadets and shall pursue their training within the framework of formal sea projects prepared and monitored by their respective schools. Should any School extent the minimum training period beyond 3 years, such school shall notify the Assistant Secretary of Commerce for Maritime Affairs.

(2) The State authorities shall prescribe and be responsible for the courses of instruction and general system of training and the addition of such reasonable maritime courses as may be prescribed by Federal authorities subject to approval by the Administrator. Courses in atomic or nuclear propulsion shall be established as soon as practical and possible.

(d) *Board of visitors.*—It is recommended that a board of visitors, acting in an advisory capacity only and meeting at least once a year, be appointed by the State for its school. As a general guide it is suggested that it be composed of at least eight members including the following:

One from the shipping industry;
One from the shipbuilding or ship repair industry;
One from the alumni of the academy or college;
One merchant marine master mariner possessing an active license;
One merchant marine chief engineer possessing an active license;
One officer of the U.S. Navy, active or retired, designated by the Commandant of the naval district in which the school is located; or U.S. Coast Guard, active or retired, designated by the Commandant, U.S. Coast Guard;
One from the State board of education or other similar State bureaus;
One representative of the administration designated by the Administrator.

§ 310.4 Training vessel.

The administration may furnish a training vessel, if such is available, to each of the Schools. If such a vessel is not available, adequate cruising facilities will be furnished if possible. The furnishing of the training vessel shall be subject to the following terms and conditions:

(a) *General provisions.*—(1) The States shall exercise reasonable care to safeguard the interests of the administration and to avoid loss and damage of every nature with respect to said vessel.

(2) Excerpts from log books and reports shall be submitted as directed by the supervisor.

(3) Initial telegraphic or telephonic reports shall be made promptly to the supervisor and the appropriate U.S. Maritime Administration Region Director concerned in the event of accident causing damage to the training vessel, equipment, or machinery, or damage inflicted by the training vessel or any other ship or property; such reports to be followed by written details of the occurrence.

(4) The supervisor shall determine whether or not the berth of the training vessel at the base in its home port is suitable, from the standpoint of safe mooring. When the vessel is not on cruise, the Commanding Officer or Superintendent shall keep the supervisor informed of the location of the vessel and any contemplated change of berth. The supervisor finds that all present berths of

the training vessels at each school are suitable for safe mooring of such vessel.

(5) The following notice shall be posted conspicuously on board a training vessel furnished to the State:

This training vessel is the property of the United States of America. It is furnished to the State of _____ by the Department of Commerce, Maritime Administration for the purpose of training young men to become officers in the merchant marine of the United States. Neither the State, the commanding officer, nor any other person has any right, power, or authority to create, incur, or permit to be imposed upon this vessel, any lien whatever.

(6) No structural changes shall be made to the training vessel, her machinery, or boilers without the written approval of the administration.

(7) In the event of the termination of the use of said training vessel by the State or by the Administrator, the State shall return, in the State base port, the vessel and all property whatsoever owned by the administration. Title to all additions, replacements, and renewals made by the State shall vest in the administration without charge therefor.

(b) *Termination of use.*—The Administrator may terminate the use of a vessel upon such reasonable notice to the State as the circumstances may permit:

(1) By substituting another vessel therefor.

(2) If the vessel is required by the governmental agency which furnished the same to the Department of Commerce; in which case the Administrator, as soon as practicable, will return the vessel to said agency and provide another to the school.

(3) If the vessel is not used in accordance with sound maritime practices, in which case the Administrator shall so notify the State and shall give the State a reasonable time in which to remedy the conditions complained of.

(4) By having two or more schools share one training vessel for cruising purposes.

(c) *Property aboard vessel.*—The State shall have the use of all equipment, appliances, apparel, spare and replacement parts on board training vessel, subject to the following terms and conditions:

(1) The same or their substantial equivalent shall be returned to the administration, excepting therefrom spare and replacement parts; ordinary wear and tear, unavoidable accident, and perils of the sea excepted; and any such items otherwise lost or destroyed shall be replaced at the expense of the State.

(2) Administration property shall not be permanently removed from the training vessel to shore base without the written approval of the supervisor.

(3) The administration shall take inventories of State and Federal property on board the vessel at such times as it deems necessary for this purpose. The school shall furnish such assistance as may be necessary for this purpose.

(d) *Condition surveys.*—Before a vessel is released to a school and manned by State officers under State control, a condition survey will be made by duly authorized representatives of the school and the administration. If the vessel is found in order, the school representative shall sign a receipt for the vessel. Subsequently, after due notice to the State authorities, a condition survey may be made of the vessel whenever deemed advisable by the administration, and, in any event, upon redelivery of the vessel by the State to the administration.

(e) *Maintenance and repairs.*—(1) The vessels shall be maintained in good repair by the Secretary of Commerce as provided by the act. Expenses for repairs to the vessel, changes and alterations, repairs to equipage, and replacements of equipage in accordance with the administration's approved allowance lists of the vessel, will be borne by the administration under the following terms and conditions:

(i) Except for emergencies or while the vessel is on foreign cruise, repairs shall not be made without the prior written approval thereof by the supervisor.

(ii) When it is necessary to repair or drydock the training vessel because of damage or other reasons (except in an emergency, when the vessel is on foreign cruise), the commanding officer or superintendent shall notify the supervisor and appropriate region director by telephone or telegraph in order to enable a representative of the Maritime Administration Region Director's office, if available, to be present, when the survey of the damage is made.

(iii) To further training and for the purpose of reducing expenses, repairs which need not be carried out during the annual overhaul period shall be made by the cadets if possible, under the supervision of the ship's officers. When repair material is required for this purpose, the commanding officer or superintendent shall forward to the supervisor a list of such material and estimated costs, and a description of the repairs to be carried out by the cadets. The supervisor shall promptly advise the commanding officer or superintendent whether or not such work comes under the heading of repairs, and if acquirement of the material is authorized.

(iv) Requisitions covering repairs, renewals, and betterments shall be prepared in quintuplicate by the heads of departments of the training vessel and submitted by the Commanding Officer or Superintendent to the Supervisor at least 45 days before the date of the annual overhaul, with one copy to the appropriate Region Director's office.

(v) The State is authorized to expend not to exceed $5,000 for repairs which become necessary while the vessel is on foreign cruise and will be reimbursed by the Administration therefor upon submission of vouchers to, and approval thereof by, the Administrator after termination of such cruise. To obtain reimbursement for repairs estimated to cost in excess of $5,000, authority must be obtained by the State from the Supervisor prior to undertaking such repairs.

(2) To be borne by the State: Except as otherwise provided in this section, the State shall, at its own expense, accomplish the following:

(i) Undertake usual preventive maintenance of the training vessel and shall keep it above the waterline clean and painted according to good maritime practices.

(ii) Cause the training vessel to be fumigated if required by the Administration and shall forward to the Supervisor, after each such fumigation a copy of the fumigation certificate.

(iii) Pay for all consumable stores, freshwater, fuel, and costs incidental to the operation of the training vessel, such payment of operating expenses being subject to approval by the Superintendent of the School or the Commanding Officer of the training vessel.

(f) *Cruises.*—The cruise itinerary of the training vessel including a listing of foreign ports to be visited must have the approval of the Supervisor and shall be submitted to him by the Superintendent, if possible, at leasts 30 days in advance of the date such cruise is scheduled to begin. The Supervisor will arrange with the Department of State for clearance of the vessel to visit foreign ports. While on cruise the Commanding Officer shall advise the Supervisor by dispatch of the date of arrival at each port visited and of the date of departure if the latter is at variance with the approved itinerary. Permission for the training vessel to visit the U.S. Naval stations or Naval bases shall be arranged by the Supervisor.

(g) *Hospitalization and repatriation.*—The School shall be responsible for hospitalization, if required, and the return to the home port of the training vessel, at the expense of other than the U.S. Government of all personnel and others including Cadets, originally embarked on the cruise from a Continental U.S. port, that are left behind, after the departure of the training vessel from a foreign port. The School shall also be responsible for the return to the training vessel's home port of those left behind in Alaska, Hawaii, Puerto Rico, Canal Zone, and other U.S. possessions. In the latter instance, U.S. Public Health Servic care, if available, may be provided.

§ 310.5 Personnel.

(a) *Selection and appointment by State Authorities.*—(1) The Superintendent of a State Maritime Academy shall be selected and appointed by the State in accordance with qualifications established by appropriate State authorities. The Assistant Secretary of Commerce for Maritime Affairs shall be notified whenever a new Superintendent is appointed and furnished with appropriate background information on the appointee for informational purposes.

(2) Faculty members shall be appointed on the basis of the same criteria used in the employment of such personnel in State-supported colleges and universities throughout the State. Instructors in engineering and navigation courses, including steam and diesel propulsion and courses in nuclear propulsion, must meet appropriate academic

and practical experience standards recommended by the State Maritime Academies and approved by the Maritime Administration.

(b) *Personnel for training vessels furnished by the Department of Commerce.* (1) *Commanding Officer.*—The Commanding Officer shall hold a valid Master's Ocean, unlimited license, issued by the U.S. Coast Guard and have served at least 2 years as Master, Chief Officer, Commanding Officer, or Executive Officer, in case of a training vessel, on oceangoing vessels or training vessels of no less in approximate size than the one used as a training vessel of that particular School.

(2) *Chief Engineer.*—The Chief Engineers assigned after July 1, 1959, must hold a valid Chief Engineer's (Steam) Ocean, unlimited license, issued by the U.S. Coast Guard and have served as Chief Engineer of an oceangoing steamship or a School training vessel of comparable horsepower to that of the training vessel used by that particular School.

(3) *Watch Officers.*—Both Deck and Engineer Watch Officers in charge of a watch, underway, appointed after July 1, 1959, shall hold valid Ocean, unlimited licenses, issued by the U.S. Coast Guard, in their particular field.

(4) *Radio Officers.*—During the cruise period each training vessel will be required to have assigned one or more radio officers, currently licensed by the U.S. Coast Guard, in accordance with their regulations.

(5) *Licensed Engineer.*—When the training vessel boiler or boilers are in operation, there shall be a Licensed Engineer aboard at all times.

(c) *Insignia for officers and instructors.*—The insignia for officers and instructors other than officers of the U.S. Navy, Naval Reserve, U.S. Maritime Service and U.S. Coast Guard will be that prescribed by the State. All officers of the U.S. Navy or Naval Reserve in inactive status are authorized to wear merchant marine reserve insignia as prescribed by the Bureau of Naval Personnel, or of the U.S. Maritime Service, as prescribed by the Administrator.

§ 310.6 Entrance requirements.

(a) A candidate for admission to a school (other than a foreign national admitted in accordance with State regulations) must:

(1) Be a citizen of the United States.

(2) Agree in writing to apply at an appropriate time before graduation, for a commission as Ensign in the U.S. Naval Reserve and to accept such a commission if offered. The requirements of this paragraph shall not apply at The Great Lakes Maritime Academy.

(3) Meet the physical standards specified by the U.S. Coast Guard for original licensing as a merchant marine officer. The written certification of the Superintendent or President of the School, based on a physical examination by a doctor the results of which are on record at the School, that a candidate meets these requirements will be acceptable to the Maritime Administration.

(4) Not be married at the time of admission to the School or married while enrolled in the School. The requirements of this paragraph shall not apply at The Great Lakes Maritime Academy.

(5) Possess a secondary school education or equivalent, satisfactory for admission as an undergraduate, to colleges or universities under control of the State in which the School is located.

(6) Meet requirements established by the School in regard to such criteria as the individual's secondary school grades, rank in graduating class, aptitude, and achievement as measured by an objective examination, character, personality, and qualities of leadership.

§ 310.7 Enrollment and uniform, textbook and subsistence allowance.

(a) The Administration will notify an Academy the number of students of their new entering class that may start to receive financial benefit allotments of allowances for uniforms, textbooks and subsistence in a given fiscal year. Such notification shall be given by the Administration on or prior to January 1 of each calendar year. The student benefit allotments will be paid to the school—subject to the terms of this subpart A throughout the period of attendance of the students selected by the school to receive the allotments, but there will be no substitution for students removed or dropped from the list of those originally receiving allowances. The selection of the students to receive allotments will be made by the school in accordance with criteria established by the schools individually with the prior approval of the Administration. The rate of pay will be determined by the Administration under the conditions established in Public Law 85–672 (46 U.S.C. 1383, 1853). All outstanding agreements with the schools shall be considered as modified in accordance to the provisions of this paragraph.

(b) Each cadet who has been admitted to a school, who has met the requirements set forth in § 310.6 and who has applied for and has been enrolled in the U.S. Maritime Service shall be entitled to consideration for a uniform, textbook, and subsistence allowance at a rate and under the conditions stated in Public Law 85–672. (Section (6) of the Maritime Academy Act of 1958 (46 U.S.C. 1385)): *Provided*, That Congress has appropriated necessary funds for this purpose. Upon enrollment in the U.S. Maritime Service each cadet shall be required to take an oath or affirmation of allegiance to the United States of America and execute a Nonsubversive Activitives and No-Strike Affidavit, Form MA–527.

(c) The uniform, textbook, and subsistence allowance will be paid monthly and will be paid directly to the school concerned, upon the presentation of a statement containing the names of each cadet selected by the Academy (within the quotas furnished pursuant to paragraph (a) of this section) to be paid the allowance and showing the number of days each was present during the month, or absent, under the provisions of § 310.8. For new cadets admitted to the Schools the statement supporting the first voucher for payment shall certify that the cadets have met the entrance requirements in § 310.6. The statement shall also contain such other information as may be required by the Administrator. The voucher submitted for the payments of this allowance shall contain a certification by the Superintendent of the respective school that payment of the voucher will be used to assist in defraying the cost of the uniform, textbook, and subsistence of each cadet on the basis of the amount entitled to him as reflected by attached Daily Attendance Report. No cadet will be granted a uniform, textbook, and subsistence allowance for any time during which he is absent without leave or for absence due to a condition not in line of duty.

(d) If it appears that the amount of money appropriated by Congress under 6(a) of the act for said year shall not be sufficient to make payments at the maximum rate, not in excess of $600 per academic year per cadet, then the Administrator, after consultation with the schools, may determine the exact rate to be paid at each school for the remainder of the fiscal year.

(e) The uniform, textbook, and subsistence allowance will be provided in accordance with the conditions of this § 310.7 and the existing agreements with the schools are modified to conform thereto, as provided in article 11 of said agreements relating to renewal of agreement.

§ 310.8 Leave.

Leave with allowance from the Government for cadets, the specific periods of which shall be at the discretion of the superintendents, shall be as follows:

(a) If transferred to a hospital, or sick at home, or in the sick bay, not to exceed 4 months.

(b) For an emergency due to the serious illness, injury or death of a very near relative, not to exceed 7 days.

(c) Annual leave not to exceed 30 days.

(d) Christmas and Easter not to exceed a total of 12 days. All Legal Holidays—Federal and State. This leave is in addition to that granted in paragraph (c) of this section.

(e) Leave with allowance in addition to that provided in paragraphs (a), (b), (c), and (d) of this section, may be granted only if approved by the supervisor upon direct request by the superintendent.

§ 310.9 Medical attention and injury claims.

(a) *Medical attention and hospitalization for cadets.*—Cadets shall be entitled to receive U.S. Public Health Service hospitalization and medical and dental attention. A medical officer shall be attached or on call to the school. During the cruise, a medical officer shall be assigned to the training vessel.

(b) *Compensation claims of cadets.*—Compensation claims for personal injuries or death sustained by a cadet enrolled in the U.S. Maritime Service in performance of duty shall be forwarded

via the supervisor to the administration for transmission to the Bureau of Employees' Compensation; necessary forms to be furnished by the supervisor.

(c) *Medical care and compensation for personnel.*—Officers, instructors, and crew members may avail themselves of any medical facilities furnished by the State or Federal Government. During illness or while recovering from injury, officers and instructors who are not on the Federal payroll, shall receive pay and allowances as authorized by the State. The superintendent, commanding officer, officers and instructors, left in other than the vessel's home port by reason of illness or injury while assigned to the training vessel, shall be furnished suitable transportation to the home port unless contrary to State law.

§ 310.10 Discipline and dismissal.

(a) In the event it is determined that a cadet was married at the time of admission to the school or if he marries while in attendance at the school he shall be dismissed if he does not resign. The requirements of this paragraph shall not apply to cadets at The Great Lakes Maritime Academy.

(b) Each school shall establish and publish rules and regulations governing cadet discipline and providing for a demerit system for infractions of these rules and regulations. Serious or excessive violations of the rules and regulations by a cadet may be considered as evidence of inaptitude for the demanding career of a merchant marine officer and warrant his dismissal.

(c) Each cadet shall, upon admission to the school, be furnished a copy of the school's rules and regulations and any cadet placed on probation for failure to meet the conduct requirements of the school may, at the discretion of the superintendent, be removed from the subsistence allowance rolls for any period not to exceed 6 months.

§ 310.11 Scope and effect.

(a) If any provisions of this subpart conflict with laws and regulations of the State, the appropriate State authorities shall notify the Administrator in writing of such conflict and pertinent circumstances.

(b) The Administrator may, after consultation with the appropriate State authorities, issue instructions supplementing this subpart.

§ 310.12 Form of agreement.

The form of agreement for assistance and subsistence payments under the Maritime Academy Act of 1958 is set forth below:

Form MA-208 (4-66)

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION, STATE MARITIME ACADEMY OR COLLEGE AGREEMENT

This agreement, entered into as of the ____ day of _____, 19__, by and between the United States of America, acting through the Department of Commerce, Maritime Administration (hereinafter called the "Administration") and the State of _____ (hereinafter called the "State"), acting through the _____ Maritime Academy or College (hereinafter called the "School").

Witnesseth, whereas:

1. The Maritime Academy Act of 1958, Public Law 85-672 (hereinafter called the "Act"), provides for payments to State and territory maritime academies and colleges (hereinafter called the "School") for the maintenance and support of such Schools and for students in attendance at such Schools;

2. The Act further provides for certain requirements regarding courses of instruction and educational standards which any such School must meet in order to receive said payments referred to in paragraph 1 above;

3. The Administration has determined that the School has met by virtue of this agreement does meet all the requirements referred to in paragraph 2 above.

Now, therefore, in consideration of the premises and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1. *Assistance payments.*—The Administration, subject to the provisions of article 3, agrees to make annual payments to the School for not in excess of 4 years for schools having a 4-year course and not in excess of 3 years for schools having a 3-year course under this agreement to be used for the maintenance and support of the School. As a further condition to receiving such payment, the State shall appropriate each year for the purpose of maintenance and support of the School, an amount not less than that received from the Federal Government for such year for the same purpose. Such payments to the School for any year shall not exceed $75,000 or $25,000 if the School does not meet the requirements of article 3(b) of this agreement.

ART. 2. *Subsistence payments.*—The Administration, subject to article 3, agrees to make payments to the schools at a rate not in excess of $600 per academic year for each student benefit allotment notified by the Administration pursuant to section 310.7(a) of the regulations for State maritime academies and colleges. The School agrees that the payments shall be used to assist in defraying the cost of uniforms, textbooks, and subsistence for such student. It is further agreed that the payments shall commence to accrue on the day a student begins the first term and shall be paid to the School in such installments as the Administration may prescribe while a student is in attendance and until the completion of the course of instruction, but in no event for more than the normal period required, by the School, to complete the prescribed course.

ART. 3. *Requirements.*—(a) In consideration of the payments to be made to the School pursuant to the provisions of articles 1 and 2 above, the School shall, as a condition to receiving any payments under this agreement.

(1) Provide courses of instruction to youths in navigation and marine engineering, including steam and diesel propulsion, and courses in atomic or nuclear propulsion as soon as practical and possible; and

(2) Conform to such standards in such course, in training facilities, in entrance requirements, and in instructors, as are established by the Administration after consultation with superintendents of schools in the United States.

(b) In addition to the condition provided in paragraph (a) above, as a condition to receiving payment of any amount in excess of $25,000 for any year under article 1 of this agreement, the School hereby agrees to admit to its courses of instruction students resident in other States in such numbers as the Administration shall prescribe, except that the number of such students prescribed for the School shall not, at any time, exceed one-third of the student capacity of the School.

(c) (1) The School agrees that with respect to the training program for merchant marine officers under the Merchant Marine Academy Act of 1958 for which it is a recipient of Federal financial assistance from the Department of Commerce, it will comply with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and the requirements imposed by or pursuant to the regulations of the Department of Commerce (30 FR 305; 30 FR 616) issued pursuant to that title; and hereby assures that it will immediately take any measures necessary to effectuate this agreement.

(2) In accord with such assurances, the School further agrees that it will not participate directly or indirectly in any manner in any discriminatory act or course of conduct prohibited by § 8.4 of the Department's regulations in the selection of persons to be trained or in their treatment by the School in any aspect of the educational process and discipline during their training, or in the availability to or use by them of any academic, housing, eating, recreational or other facilities and services or in financial assistance to students furnished or controlled by the School or incidental to the program. The School also agrees that in any case where selection of trainees is made from a predetermined group, such as the students in an institution or area, the group will be selected by the School without discrimination on the basis of race, color, or national origin. The School further recognizes that its assurances are specifically subject to the provisions of § 8.5(b)(9) of the Department's regulations.

(3) These assurances shall obligate the School and be in effect where the Federal financial assistance to the program consists of: (a) Real property or structures thereon or interests therein, for the period during which the real property or structures are used for a purpose for which the assistance is extended or for another purpose involving the provision of similar services or benefits; (b) personal property, for so long as the School retains ownership or possession of the property; and (c) any other type or form of assistance, for the duration of the period during which assistance is extended to the program.

(4) It is agreed that these assurances are given in consideration of and for the purpose of obtaining and continuing in effect any financial assistance extended after the date hereof to the School by the Department for the program, including any payments or other assistance to be rendered pursuant to agreements extending financial assistance which were approved prior to such date, and any violation by the School of any of the provisions of this assurance of nondiscrimination shall constitute a breach of each of said agreements.

(5) The School further recognizes and agrees that such financial assistance will be extended by the Department in reliance upon the representations and agreements made in this assurance of nondiscrimination, and that the United States shall have the right (in addition to any of its other rights under its agreements with the School) to seek judicial enforcement of these assurances. These assurances are binding on the School, its principals, officers, employees, agents, successors, transferees, and assignees.

ART. 4. *Method of payment—assistance and subsistence.*—(a) The School shall submit annually a voucher, in form approved by the Administration, to the Administration for the assistance payments provided for

in article 1. A voucher with respect to an assistance payment under the requirements of section 5(b) of the Act shall be supported by certified statements regarding operating expenses for the preceding year and an estimate of operating expenses for the year with respect to which the voucher is submitted, amounts furnished by the State to the School for maintenance and support and evidence of compliance with the requirements of section 5(b) of the Act as required by the Administration. A voucher submitted for an assistance payment not under the requirements of section 5(b) of the Act, shall be supported by certified statements regarding operating expenses for the preceding year and an estimate of operating expenses for the year, with respect to which the voucher is submitted and amounts furnished by the State to the School for maintenance and support. Upon approval by the Administration of the vouchers referred to above, payment shall be made by the Administration to the School. All vouchers and payments hereunder are subject to Administration General Order 87.

(b) The School shall submit a voucher monthly, in form approved by the Administration, for the subsistence payments provided for in article 2. Said voucher shall be supported by a certified daily attendance report listing the names of all students and the number of days each is entitled to payments as stated on such voucher. Upon approval of the voucher referred to above in this paragraph (b) by the Administration, payment shall be made by the Administration to the School. All vouchers and payments hereunder are subject to Administration General Order 87.

ART. 5. *Public information.*—It is understood that the School shall include in its curriculum catalogue, student information pamphlets, brochures, or other public information materials distributed, an adequate description of the financial assistance afforded the School and its students under the Act and this agreement.

ART. 6. *Regulations.*—This agreement is subject to all the provisions of Administration General Order 87. The School shall conform to said general order with respect to visitation rights of the Administration, reports and any other matters arising under this agreement.

ART. 7. *Officials not to benefit or be employed.*—No member of or delegate to Congress, nor Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom except that this provision shall not apply to this agreement if made with a corporation for its general benefit. (Act of June 25, 1948, 62 Stat. 702; 18 U.S.C. 431, 432 and 433.)

ART. 8. *Disputes.*—Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by agreement shall be decided by the Administrator, designated under the terms of Administration General Order 87, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the School, which decision shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the School appeals by mailing or otherwise furnishing said Administrator, a written appeal addressed to the Secretary of Commerce. The decision of the Secretary of Commerce or his duly authorized representative for the hearing of such appeals, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence, shall be final and conclusive. In connection with any appeal, the School shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the School shall proceed diligently with performance of the agreement in accordance with the decision of the Administrator.

ART. 9. *Duration of agreement.*—This agreement is effective as of the day and year hereinabove set forth and shall remain in full force and effect for a period of 1 year after said date, unless sooner terminated by either party as herein provided.

ART. 10. *Termination of agreement.*—This agreement may be terminated by either party upon sixty (60) days' written notice to the other party hereto: *Provided*, However, That notwithstanding any such termination the parties hereto shall continue to be responsible for the faithful performance of all of the terms and provisions of said agreement up to the effective date of such termination. Termination or expiration of this agreement shall neither affect nor relieve either party of any liability or obligation that may have arisen or accrued prior thereto.

ART. 11. *Renewal of agreement.*—Unless terminated on notice, as provided for herein, the rights and privileges granted to, and the obligations assumed by, the parties together with all other provisions of this agreement shall continue in full force and effect and shall be renewed from year to year for an additional period of one (1) year from the expiration date herein, unless either party shall at least three (3) months prior to the date of expiration of an additional 1 year period notify the other party in writing that it does not desire the agreement to be extended for such additional 1 year period. This agreement as extended year by year, as aforesaid, may be amended, modified, or supplemented in writing at any time by the mutual consent of the parties hereto.

In witness whereof, the United States of America, represented as aforesaid, has caused this agreement to be executed on its behalf in three counterparts on the day and year first written hereinabove.

UNITED STATES OF AMERICA,
DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION.

By: _____
Assistant Secretary of Commerce for Maritime Affairs.

MARITIME ACADEMY OR COLLEGE

By: _____
By: _____

Attest:

_____
Secretary.

Attest:

_____

Approved as to form:

_____
General Counsel,
Maritime Administration.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated April 12, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-7705: Filed 4-23-73;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[CGD 73-68]

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Change of Nomenclature of "Hearing Examiner"

The purpose of this amendment to the regulations governing the availability to the public of the records of the Department of Transportation is to reflect the change of nomenclature from "Hearing Examiner" to "Administrative Law Judge".

In FR Doc. 72-14069, appearing on page 16787 of the August 19, 1972 issue of the FEDERAL REGISTER, the Civil Service Commission amended part 930 of title 5 of the Code of Federal Regulations by changing the nomenclature of "Hearing Examiner" to "Administrative Law Judge." The amendment in this document conforms to the change in 5 CFR Part 930 by making the same change wherever such nomenclature or similar nomenclature appears in appendix B of Part 7, Title 49, Code of Federal Regulations.

Since the amendment in this document relates to agency management, it is excepted by 5 U.S.C. 553(a) from the notice of proposed rulemaking procedures and from the requirements of an effective date of not less than 30 days after publication the FEDERAL REGISTER.

In consideration of the foregoing, appendix B of Part 7, Title 49, Code of Federal Regulations is amended as follows:

1. By striking the words "hearing examiner", "officer", and "hearing officer" wherever they appear and inserting "administrative law judge" in place thereof.

(46 U.S.C. 375, 416, 14 U.S.C. 633; 49 U.S.C. 1655(b)(1); 49 CFR 7.1(c) and 1.46(b).)

Effective date.—These amendments shall become effective on April 30, 1973.

Dated April 13, 1973.

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

[FR Doc.73-7897 Filed 4-23-73;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 2, 1973, at 38 FR 5644, setting forth specific requirements for the award of assistance for metropolitan area projects under sections 706(a)(2) and 709 of the Emergency School Aid Act, for bilingual/bicultural projects under section 708(c) of the act, for educational television projects under section 711 of the

act, for evaluation contracts under section 713 of the act, and for special projects under section 708(a) of the act. Such requirements were set forth as proposed subparts D, F, H, I, and J of this part 185.

Comments were received with respect to the required faculty composition in an integrated school to be established or maintained under sections 706(a)(2) and 709(a)(1) of the act (§ 185.31(a)(2)), the minimum enrollment required for an integrated education park to be assisted under the act (§ 185.31(c)(2)), the amount of information required of applicants for metropolitan area projects (§ 185.33), the advisory committee requirements related to certain types of metropolitan area projects (§ 185.37(b)), the requirement that applications for bilingual/bicultural projects be related to local educational agencies implementing a plan for desegregation or for the elimination, reduction, or prevention of minority group isolation (§ 185.51), the criteria for evaluating metropolitan area and bilingual/bicultural projects (§§ 185.34 through 185.36, 185.54), provision of information to bilingual/bicultural project committees or boards (§§ 185.55(a)(1) and (b)(1)), the requirement that applicants for educational television projects list the race of their key personnel (§ 185.73(e)(2)), opportunities for State educational agencies to comment upon educational television applications (§ 185.73), and the activities authorized under evaluation contracts and the information requested of applicants for such contracts (§§ 185.82, 185.83(a)). After review of the comments, the following changes were made:

A—Summary of Changes Based on Comments Received

1. Section 185.31(c)(2) has been amended to allow local educational agencies applying for education park planning assistance to count elementary as well as secondary students in meeting the requirement that such parks enroll at least 5,000 students. Under section 709(a)(3) of the act, however, assistance may only be awarded to the extent that such parks provide secondary education.

2. Section 185.33 has been amended to eliminate the requirement that local educational agencies applying for metropolitan area projects provide the information required by § 185.13(i)(2) as to local fiscal effort and current expenditure per pupil, on the ground that such a requirement is unduly burdensome in the case of multiple applicants seeking assistance for metropolitan projects. Such applicants continue to be bound by the assurance as to maintenance of effort required by § 185.13(i)(1).

3. Because of the large number of local educational agencies which may apply jointly for area-wide plan and education park grants under §§ 185.31 (b) and (c), § 185.37(b)(3) has been amended to permit such applicants to limit to six the number of teachers named to the required advisory committee pursuant to § 185.41(c). In addition, since many standard metropolitan statistical areas include a number of minority groups which individually make up a very small percentage of the area's population, § 185.37(b)(1) has been amended to permit applicants under §§ 185.31 (b) and (c) to include members of such groups on their required advisory committees without having to match the representation required for nonminority group members and members of minority groups substantially represented in the community. Under the revised § 185.37 (b)(1), the number of members from all such insubstantially represented minority groups, taken together, must equal the number of members from each other racial or ethnic group represented on the committee.

4. A new § 185.55(c) has been added to insure that wherever possible, applicants for bilingual/bicultural projects will make the required publications, and will furnish the required materials to their project committees or boards, in the language of the appropriate minority group as well as in English.

5. Sections 185.82 and 185.83(a)(2) have been amended to emphasize the importance placed on statistical design and control in the award of evaluation contracts. In addition, § 185.83(a)(3) has been amended to require applicants for such contracts to indicate the race of their key personnel, in order to establish that such personnel are of sufficiently diverse backgrounds to insure adequate interpretation of data and appropriate management of the sensitive problems presented by evaluations in the area of equal educational opportunity. However, no particular proportion of minority or nonminority group personnel is required.

B—Other Changes

A number of minor changes have been made, either to correct clerical errors or to affect solely technical technical matters.

C—Summary of Comments

1. A comment was received questioning the requirement in § 185.31(a)(2) that the percentage of minority group faculty members in an integrated school established or maintained under sections 706(a)(2) and 709(a)(1) of the Act be equal to the percentage of minority group students enrolled in such a school. The Act, in section 720(6), requires such schools (1) to enroll minority group students in a proportion at least equal to half the the percentage of such students enrolled in all the public elementary and secondary schools of the affected Standard Metropolitan Statistical Area, and (2) to have a faculty and administrative staff with "substantial representation" of minority group members. In view of the importance of creating in such schools a congenial atmosphere for minority group students enrolling as a result of interdistrict transfers, the faculty requirement set forth in § 185.31(a)(2) is considered to be the most reasonable interpretation of the statutory language. Where practicable, applicants in need of additional minority group teachers to fulfill this requirement will be encouraged to employ educators previously displaced in the process of desegregation.

2. A number of commenters protested the requirement in §§ 1785.51 (a) and (b) that applications for bilingual/bicultural projects must be related to a local educational agency implementing a plan for desegregation or for elimination, reduction, or prevention of minority group isolation. These commenters noted that many local educational agencies in need of bilingual/bicultural assistance enroll high percentages of minority group students and thus cannot desegregate or eliminate, reduce, or prevent minority group isolation to any significant degree. Section 708(c) of the Act, however, expressly limits bilingual/bicultural assistance to local educational agencies which are eligible for (though not necessarily receiving) assistance under section 706 of the Act, which requires the types of plans discussed above. Since under § 185.54(a)(2), only 30 points are awarded for the effectiveness of such plans in evaluating applications for bilingual/bicultural projects (as opposed to 60 points in the case of applications for basic grants under section 706(a) of the Act), a local educational agency implementing a relatively modest plan (or a nonprofit applicant proposing to serve such an agency) may still be able to qualify for assistance on the basis of the other criteria set forth in § 185.54. Bilingual education assistance not related to desegregation or reduction of minority group isolation is available under title VII of the Elementary and Secondary Education Act of 1965.

3. One commenter questioned the weight given to statistical criteria in evaluating applications for metropolitan area projects (§§ 185.34(a), 185.35(a), 185.36(a)), and what the commenter considered the low number of points awarded under the proposed criteria for parent and community involvement in bilingual/bicultural projects (§ 185.54(b)(3)(iv)). It was felt that the number and percentage of minority group children in the affected school district or Standard Metropolitan Statistical Area was an important indication of need for a metropolitan area project, and that the anticipated reduction of minority group isolation was a primary factor in determining a particular project's effectiveness in accomplishing the statutory purposes set forth in sections 702(b) and 709 of the Act. Moreover, the proposed regulation, in §§ 185.34(c), 185.35(c), and 185.36(c), authorizes the Assistant Secretary not to approve any application which is educationally deficient, whatever its rating on the statistical criteria. In the case of bilingual/bicultural projects, no application can be considered for funding until the applicant has complied with the stringent community involvement requirements of section 710 (c)(2), as implemented by § 185.55 of the proposed regulation. The points awarded pursuant to § 185.54(b)(3)(iv) for parent and community involvement are for efforts above and beyond these already extensive threshold requirements.

4. One commenter objected to the inclusion of the race of key personnel in the information required under § 185.73(e)(2) of applicants for educational television projects. This information is for the purpose of enabling the Assistant Secretary to make the determination, called for in section 711(b)(3) of the Act, as to whether the applicant will employ minority group members in responsible positions. As with a similar request for information under § 185.83(a)(3) with respect to evaluation contracts, no particular percentage of minority group employees is required. Nor should the request in § 185.73(e)(2) as to the race of personnel "to be employed" be taken as an attempt to impose a percentage requirement on future hiring; the regulatory language merely recognizes the fact that many applicants may not actually employ project staff members until their application is approved. In response to another comment, this subparagraph has been amended to include information as to the bilingual/bicultural background of staff members where the application is for a project directed at non-English dominant children.

5. One commenter asserted that State educational agencies should have an opportunity to review and comment upon applications for educational television projects under subpart H. State educational agencies, of course, may themselves apply for such projects, and local educational agencies applying under subpart H are required to provide the appropriate State agency with an opportunity to review and comment upon such applications (§ 185.73(c), incorporating § 185.13(j)). Where the applicant is another type of public or private agency which may propose to serve a wide geographical area, however, such a requirement was felt to be impracticable and unduly burdensome.

On March 3, 1973, after reviewing a draft of the proposed new subparts for one month, the National Advisory Council on Equality of Educational Opportunity, meeting in Washington, D.C., approved subparts D, F, H, and J of the proposed regulation. The amendments to subpart I described above reflect the comments of members of the National Advisory Council.

After consideration of the above comments and consultation with the National Advisory Council as required by section 716 of the Act, part 185 of title 45 of the Code of Federal Regulations is hereby revised as proposed, by addition of subparts D, F, H, I, and J as set forth below.

Federal financial assistance provided pursuant to the Emergency School Aid Act is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Such assistance is also subject to title IX of the Education Amendments of 1972 (20 U.S.C. 1681).

Effective date. As appears from the above summary, the modifications herein do not involve any changes of a substantial nature from the provisions which were published in the FEDERAL REGISTER on March 2, 1973, as proposed rulemaking. Accordingly, this regulation shall be effective on April 24, 1973.

Dated April 6, 1973.

S. P. MARLAND, Jr.,
Assistant Secretary for Education.

Approved April 20, 1973.

FRANK CARLUCCI,
Education, and Welfare.
Acting Secretary of Health,

PART 185—EMERGENCY SCHOOL AID

Subpart D—Metropolitan Area Projects

Sec.
185.31 Eligibility for assistance.
185.32 Authorized activities.
185.33 Applications.
185.34 Criteria for assistance (interdistrict transfers).
185.35 Criteria for assistance (area-wide plans).
185.36 Criteria for assistance (education parks).
185.37 Advisory committees.
185.38 Limitations on eligibility.
185.39–185.40 [Reserved]

Subpart F—Bilingual Projects

Sec.
185.51 Eligibility for assistance.
185.52 Authorized activities.
185.53 Applications.
185.54 Criteria for assistance.
185.55 Program or project committees.
185.56 Limitations on eligibility; nonpuplic participation.
185.57–185.60 [Reserved]

Subpart H—Educational Television

185.71 Eligibility for assistance.
185.72 Authorized activities.
185.73 Applications.
185.74 Criteria for assistance.
185.75 Advisory committees.
185.76 Limitations on eligibility.
185.77–185.80 [Reserved]

Subpart I—Evaluation

185.81 Eligibility for awards.
185.82 Authorized activities.
185.83 Applications.
185.84 Criteria for awards.
185.85 Limitations on eligibility.
185.86–185.90 [Reserved]

Subpart J—Special Projects

185.91 Eligibility for assistance.
185.92 Applications.
185.93 Criteria for assistance.
185.94 Community involvement.

AUTHORITY: Except as specifically noted below, the provisions of these subparts of Part 185 are issued under title VII of Public Law 92-318, 86 Stat. 354-371 (20 U.S.C. 1601-1619).

Subpart D—Metropolitan Area Projects

§ 185.31 Eligibility for assistance.

(a) *Interdistrict transfers.* (1) A local educational agency (i) which is located within a Standard Metropolitan Statistical Area, or which serves a school district adjacent to a school district which is located wholly within such an area, and (ii) whose total student enrollment includes a percentage of minority group members which is smaller than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such an area, may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(a), for the purpose of a joint arrangement with a cooperating local educational agency located within the same Standard Metropolitan Statistical Area (whose student enrollment includes a percentage of minority group members which is greater than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such area) for the establishment or maintenance of one or more integrated schools.

(2) For purposes of this paragraph, an integrated school must have an enrollment in which (i) at least 40 per centum of the children are from families whose income is higher than the median family income for the school district served by the applicant, the appropriate Standard Metropolitan Statistical Area (or the appropriate governmental unit for which such information is available), or the Nation, whichever is lowest, or (ii) at least 50 per centum of the children currently score at or above the 60th percentile on a recognized standard reading achievement test, when compared either with students of a comparable age or grade level in the schools of the applicant or the appropriate Standard Metropolitan Statistical Area or with national norms, whichever is lowest, and (iii) the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area. In no event shall the minority group enrollment in any such school exceed 50 per centum. For purposes of this paragraph, such a school must have a faculty in which the percentage of minority group teachers, supervisors, and administrators, taken together, is equal to or greater than the percentage of minority group members in the student body of such school.

(3) A joint arrangement assisted under this subpart shall consist of the enrollment in schools of the applicant of students residing in the district served by, or attending the schools of, the cooperating local educational agency. No such arrangement shall result in an increase in the degree of minority group isolation in any school operated by any local educational agency. Students so enrolled by the applicant shall be selected from those who, in the absence of such enrollment, would be enrolled in, or assigned to, a minority group isolated school, and shall be representative of the larger group from which they are selected.

(20 U.S.C. 1605(a)(2), 1608(a)(1), 1619(6); Senate Rept. No. 92-61, p. 16)

(b) *Area-wide plans.* (1) Two or more local educational agencies located within a Standard Metropolitan Statistical Area may apply for a grant from funds reserved pursuant to § 185.95(a) for the joint development of a plan to reduce

and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in such area. Such a plan shall, at a minimum, provide that by a certain date (no later than July 1, 1983), the percentage of minority group children enrolled in each public elementary and secondary school in such area shall be at least 50 percent of the percentage of such children enrolled in all such schools in such area, and shall specify in detail the means by which such objective is to be achieved.

(2) No grant shall be made under this paragraph unless (i) two-thirds or more of the local educational agencies in a Standard Metropolitan Statistical Area have approved the application; (ii) the number of students in the schools of such agencies which have approved such application constitutes two-thirds or more of the students in all schools of the local educational agencies in such area; and (iii) at least one of the schools operated by a local educational agency in such area is a minority group isolated school.

(20 U.S.C. 1608(a)(2))

(c) *Education parks.* (1) One or more local educational agencies located within a Standard Metropolitan Statistical Area may apply for a grant from funds reserved pursuant to § 185.95(a) to pay all or part of the cost of planning an integrated education park.

(2) For purposes of this paragraph, an integrated education park is a school, or cluster of schools located on a common site (i) within a Standard Metropolitan Statistical Area; (ii) in which at least 5,000 elementary or secondary school students are regularly enrolled; (iii) providing secondary education as defined by the applicable State law; and (iv) with a student enrollment and faculty which conform to the requirements of paragraph (a)(2) of this section (except that in the case of an application pursuant to this paragraph by a single local educational agency, the proportion of minority group children enrolled in such an integrated education park shall be substantially the same as the proportion of minority group children enrolled in all schools of such agency).

(20 U.S.C. 1608(a)(3))

(d) *Agreements and approvals.* Applicants for assistance under this subpart shall provide assurances and information satisfactory to the Assistant Secretary establishing that a joint arrangement described in paragraph (a) of this section, the joint development of a plan described in paragraph (b) of this section, the required approvals of an application submitted pursuant to paragraph (b) of this section, or any other arrangement, agreement, or approval required pursuant to this subpart has been negotiated by or obtained from the appropriate local educational agency or agencies. Such required assurances or information may include:

(1) Signatures on applications for assistance under this subpart by authorized officials of such applicants or agencies;

(2) Copies of school board resolutions or other evidence of final official action approving and agreeing to carry out an arrangement or agreement or indicating an approval required pursuant to this subpart; and

(3) In the case of interdistrict transfers to be undertaken upon the award of assistance pursuant to paragraph (a) of this section, evidence that notice of the intent to engage in such a transfer program upon the award of such assistance has been published in a newspaper of general circulation serving all affected school districts no later than 20 days prior to submission of an application for such assistance.

(20 U.S.C. 1608)

§ 185.32 Authorized activities.

(a) *Interdistrict transfers.* Assistance made available pursuant to § 185.31(a) is authorized to be used for any of the authorized activities described in § 185.12(a) (1) through (12) when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities shall be directly related to, and necessary to, the establishment or maintenance of one or more integrated schools as described in § 185.31(a). Assistance made available pursuant to § 185.31(a) is also authorized to be used to pay the net cost, if any, to the applicant of the enrollment and education in such schools of students who are not residents of the school district served by the applicant and who, prior to the award of assistance pursuant to § 185.31(a), did not attend a school operated by the applicant.

(20 U.S.C. 1608(a)(1))

(b) *Area-wide plans.* Assistance made available pursuant to § 185.31(b) is authorized to be used for any activities reasonably necessary to the joint development of a plan described in § 185.31(b), when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. No funds made available pursuant to § 185.31(b) shall be used for any costs related to construction or to any repair or remodeling.

(20 U.S.C. 1608(a)(2))

(c) *Education parks.* Assistance made available pursuant to § 185.31(c) is authorized to be used for activities reasonably necessary to the planning of an education park as described in § 185.31(c), when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities may include demographic surveys, selection of construction sites, studies of academic achievement, development of educational specifications, and community and parental involvement. Funds awarded pursuant to § 185.31(c) shall not be used to pay any costs related to construction, preparation of construction sites, or purchase of land.

(20 U.S.C. 1608(a)(3))

§ 185.33 Applications.

An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds received under this subpart only for the activities set forth in § 185.32. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary. Such application shall comply with the requirements of § 185.13 (a) through (n), except that applications submitted pursuant to this subpart need not comply with § 185.13(i)(2), and applications for assistance under § 185.31 (b) and (c) need not comply with § 185.13(h) (with respect to the statement of procedures described therein) or § 185.13(n).

(20 U.S.C. 1608(a) (2) and (3))

§ 185.34 Criteria for assistance (interdistrict transfers).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(a), the Assistant Secretary shall apply the following statistical criteria (75 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of the local educational agency cooperating with the applicant for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, accomplished or to be accomplished by the interdistrict transfers to be assisted pursuant to § 185.31(a) (45 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the number of minority group children, weighted by their relative degree of isolation prior to such transfers, removed from minority group isolated schools as a result of such transfers.

(20 U.S.C. 1609(c) (1), (2), and (3))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(a) on the basis of the following criteria (30 points):

(1) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to students normally enrolled in the schools of the applicant and those enrolled or to be enrolled as a result of the proposed transfers; and (ii) the degree to which (a) the program, project, or activity to be assisted promises realistically to achieve the objectives identified in the application, and (b) such program, project, or activity involves to the

fullest extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (17 points)*—(i) *Project design (5 points)*. The extent to which (*a*) the proposed program, project, or activity emphasizes individualized instruction and services; (*b*) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; (*c*) the proposed program, project, or activity promotes interracial and intercultural understanding; and (*d*) the proposed program, project, or activity involves both students regularly enrolled in the affected school and those affected by the proposed interdistrict transfers;

(ii) *Staffing (3 points)*. The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity;

(iii) *Delivery of services (5 points)*. The extent to which the application contains evidence that (*a*) arrangements have been made for participation of students affected by the proposed transfers in extracurricular and afterhours activities at the school to which they are transferred; (*b*) arrangements have been made for the participation of parents of such students in school-related activities; and (*c*) school-related activities affecting such students will be carried out in their home communities; and

(iv) *Parent and community involvement (4 points)*. The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (3 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) the proposed project will be coordinated with related existing efforts.

(4) *Evaluation (4 points)*. The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the area of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (2), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.31(a), the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance under this subpart and the other applications pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this subpart, or which sets forth a program, project, or activity, of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section, and shall take steps to insure a distribution of awards among the several types of programs, projects, or activities authorized by this subpart. No more than 30 per centum of the funds made available pursuant to § 185.31(a) (or § 185.31 (b) or (c)) shall be awarded to applicants in any one State in any fiscal year, unless the Assistant Secretary determines that the applications for such awards in excess of such amount are of exceptional merit or promise.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5).)

§ 185.35 Criteria for assistance (areawide plans).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the following statistical criteria (60 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in all schools of the local educational agencies in the affected Standard Metropolitan Statistical Area for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, to be accomplished by the areawide plan to be developed pursuant to § 185.31(b) (30 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the weighted number of minority group children currently enrolled in minority group isolated schools in the Standard Metropolitan Statistical Area whose degree of isolation will be eliminated or reduced as a result of the plan to be developed.

(20 U.S.C. 1608(a)(2), 1609(c)(1).)

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(b) on the basis of the following criteria (30 points):

(1) *Statement of objectives (6 points)*. (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to result in the development and implementation of a plan as described in § 185.31(b), and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (19 points)*—(i) *Project design (10 points)*. The extent to which the application includes (*a*) plans for a comprehensive demographic study of the affected Standard Metropolitan Statistical Area, including projections of housing patterns; (*b*) provisions for participation of the appropriate housing authorities, zoning boards, regional planning organizations, and other such governmental and quasi-governmental agencies; (*c*) opportunities for students in the affected area to contribute to the development of the proposed plan; (*d*) provisions for improvement of educational services offered by local educational agencies affected by the proposed plan; and (*e*) a specific timetable for completion of various elements of the plan to be developed;

(ii) *Staffing (2 points)*. The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for participation by both minority and nonminority group staff members; and

(iii) *Parent and community involvement (7 points)*. The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37 and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (2 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the proposed program, project, or activity will be coordinated with related existing efforts; and (iii) existing facilities will be

utilized after implementation of the plan to be developed.

(4) *Evaluation (3 points).* The extent to which the application sets out a format for measurement of success in attaining specific objectives and subobjectives.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the criteria set forth in § 185.34(c).

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5))

§ 185.36 Criteria for assistance (education parks).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(c), the Assistant Secretary shall apply the following statistical criteria (65 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group secondary students enrolled in the schools of the applicant(s) for the fiscal year or years for which assistance is sought (30 points); and

(2) The estimated number and percentage of minority group secondary students currently enrolled in minority group isolated secondary schools of the applicant(s) who will be incorporated into the proposed education park (35 points).

(20 U.S.C. 1601(b), 1609(c)(1).)

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(c) on the basis of the following criteria (35 points):

(1) *Needs assessment (6 points).* The extent to which the application (i) provides for participation of parents, secondary students, and other members of the affected community in the identification of needs related to secondary education and the elimination, reduction, or prevention of minority group isolation; (ii) describes a variety of methods and instruments to be used for collection and evaluation of relevant and substantive data regarding such needs; and (iii) contains evidence that the assessment of needs to be carried out in connection with the proposed program, project, or activity will be coordinated with other planning activities conducted by the applicant(s).

(2) *Statement of objectives (5 points).* (i) The degree to which the application sets out specific measurable objectives for the proposed program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (17 points)*—(i) *Project design (6 points).* The extent to which the application (*a*) describes a logical sequence of steps to be completed at specified intervals; (*b*) contains convincing evidence that the proposed education park will increase the educational options available to secondary school students; (*c*) provides for the participation of secdary students and teachers in designing the physical and educational aspects of the proposed education park; (*d*) proposes a logical combination of small educational units and centralized administration within the proposed education park; and (*e*) contains convincing evidence that the proposed education park will be constructed in an area which is equally accessible and convenient to minority and nonminority group secondary students;

(ii) *Staffing (4 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of vides for participation by both minority and nonminority group staff members; and

(iii) *Parent and community involvement (7 points).* The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (2 points).* The extent to which the application contains (i) evidence that the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) evidence that the proposed program, project, or activity will be coordinated with existing efforts; and (iii) a description of how existing secondary school facilities will be utilized after establishment of the proposed education park.

(5) *Evaluation (5 points).* The extent to which the application sets out a format for measurement of success in attaining specific objectives and subobjectives.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.31(c), the Assistant Secretary shall apply the criteria set forth in § 185.34(c). No more than one award shall be made pursuant to § 185.31(c) to local educational agencies making individual applications until at least one such award has been made to local educational agencies applying jointly, and the number of such awards to such agencies making individual applications shall not exceed the number of such awards to such agencies applying jointly, unless the joint applications pending before the Assistant Secretary do not meet the requirements of the Act or this subpart, or set forth programs, projects, or activities of such insufficient promise for achieving the purposes of the Act that their approval is not warranted.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5); Senate Rept. No. 92-61, p. 17)

§ 185.37 Advisory committees.

(a) *Interdistrict transfers.* (1) Applicants for assistance under § 185.31(a) shall comply with the requirements of § 185.41 as to advisory committee participation and public hearings. For purposes of this paragraph, references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the areas in both the school district served by the applicant and that served by the cooperating local educational agency.

(2) For purposes of this paragraph, the reference in § 185.41(h) to a "school which will be affected by any program, project, or activity assisted under the Act" shall be understood to refer to the integrated schools established pursuant to § 185.31(a).

(3) Student advisory committees established pursuant to this paragraph, in addition to meeting the requirements of § 185.41(h), shall consist of equal numbers of students regularly enrolled in such schools and of students enrolled in such schools by virtue of the interdistrict transfers assisted under § 185.31(a).

(20 U.S.C. 1609(a)(2) and (3), 1609(b).)

(b) *Area-wide plans and education parks.* (1) Applications for assistance under §§ 185.31 (b) and (c) shall comply with the requirements of §§ 185.41(a) through (g) as to advisory committee participation and public hearings. For purposes of this paragraph, the references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the entire area to be affected by the plan to be developed under § 185.31(b) or the education park proposed pursuant to § 185.31(c). Where the affected Standard Metropolitan Statistical Area includes members of minority groups in insubstantial proportions, applicants for assistance under §§ 185.31 (b) and (c) may establish a committee pursuant to this paragraph which includes equal numbers of nonminority group members and of members from each minority group substantially represented in the community, and an equal number of members, taken together, from other minority groups represented in the community.

(2) Only one advisory committee shall be established pursuant to this paragraph, regardless of the number of local educational agencies joining in the application for assistance.

(3) Applicant agencies shall designate teachers to serve as members of such committee in accordance with § 185.41 (c)(2), except that committees established pursuant to this paragraph shall not be required to include more than 6 teacher members.

(4) Student members of such committee selected in accordance with § 185.41 (c)(4) shall include at least one student enrolled in the schools of each applicant agency (and, in the case of an application for assistance under § 185.31 (b), of each local educational agency approving such application), except that committees established pursuant to this paragraph shall not be required to include more than 6 student members.

§ 185.38 Limitations on eligibility.

(20 U.S.C. 1609(a)(2) and (3), 1609(b).)

The limitations on eligibility set forth in § 185.43, the provisions of § 185.44 as to waiver of ineligibility, and the provisions of § 185.45 as to termination of assistance shall apply to all applicants or recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1608, 1609(a) and (b).)

§§ 185.39–185.40 [Reserved]

Subpart F—Bilingual Projects

§ 185.51 Eligibility for assistance.

(a) Any local educational agency which is implementing a plan described in § 185.11 (a) or (b) may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(2), (1) to develop educational programs designed (i) to meet the educational needs of minority group children who are from environments in which a dominant language is other than English for the development of reading, writing, and speaking skills in the English language and their primary language, and (ii) to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members; or (2) to carry out activities authorized by § 185.12 to implement the educational programs described in this paragraph (whether or not developed with assistance made available under this subpart).

(20 U.S.C. 1607(c)(1) (B) and (C))

(b) Any nonprofit private agency, institution, or organization may apply for assistance, by grant or contract, under this subpart to develop the educational programs described in paragraph (a) of this section: *Provided however*, That such development is requested by one or more local educational agencies which are implementing a plan described in § 185.11 (a) or (b).

(20 U.S.C. 1607(c)(1)(A))

(c) For purposes of determining eligibility for assistance under this subpart, the Assistant Secretary may determine that members of any specific ethnic group with limited English-speaking ability constitute a "minority group," as that term is used in this subpart and in § 185.11, upon a finding that such group has been denied equal educational opportunity because of language barriers and cultural differences. Applications for assistance under this subpart relating to local educational agencies which are implementing plans described in § 185.11 (a) or (b) with respect to Negroes, American Indians, Spanish-surnamed Americans, Portuguese, Orientals, Alaskan natives, or Hawaiian natives shall be considered only on the basis of such plans. No plan affecting a minority group other than those named in the preceding sentence shall be deemed to qualify an applicant for assistance under this subpart if it results in any increase in minority group isolation for any member of any minority group named in the preceding sentence.

(20 U.S.C. 1619(9)(A))

§ 185.52 Authorized activities.

(a) Funds made available under this subpart shall be used for the activities described in § 185.51, where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01.

(20 U.S.C. 1607(c)(1))

(b) All applications for assistance under this subpart shall contain a plan for implementation of any educational program developed or proposed to be developed, whether or not assistance is sought for such implementation. No more than 25 per centum of the funds made available under this subpart shall be awarded for development activities pursuant to § 185.51(a)(1).

(20 U.S.C. 1607(c)(1))

(c) All applications for assistance under this subpart shall contain a plan for in-service training of teachers and other ancillary educational personnel in skills related to implementation of the educational programs described in § 185.51(a), including cultural awareness, oral or written language skills in a language other than English, and diagnostic evaluation and prescriptive teaching techniques.

(20 U.S.C. 1607(c)(1); Senate Rept. No. 92-61, p. 23)

(d) All programs, projects, or activities assisted under this subpart shall be specifically designed to complement any programs, projects, or activities assisted under subparts B and C of this part, or under title I or title VII of the Elementary and Secondary Education Act of 1965 or other programs of Federal financial assistance related to the purposes of this subpart.

(20 U.S.C. 1607(c)(3))

(e) Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(i) and (a)(2) shall provide for the participation of nonminority group children as well as those from minority groups, unless the applicant conclusively demonstrates that such participation will not contribute to the success of the proposed program, project, or activity. Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(ii) and (a)(2) shall provide for such participation. All applications for assistance under this subpart shall include activities with respect to the educational programs described in both §§ 185.51(a)(1) (i) and (ii).

(20 U.S.C. 1607(c)(1))

(f) The limitations on authorized activities set forth in §§ 185.12 (b), (c), and (d) shall apply to activities assisted under this subpart.

(20 U.S.C. 1601(b), 1606(a), 1607(c)(1))

§ 185.53 Applications.

(a) Application by local educational agencies for assistance under this subpart shall comply with the requirements of §§ 185.13 (a) through (n). Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary.

(20 U.S.C. 1607(c)(1), 1609(a))

(b) Applications by nonprofit private agencies, institutions, or organizations shall comply with the requirements of §§ 185.63 (a), (b)(2), (b)(4), (b)(5), (b)(6), and (b)(7).

(20 U.S.C. 1607(c)(1))

(c) In addition to the assurances and information required by paragraph (a) or paragraph (b) of this section, applications for assistance under this subpart shall contain the following information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will assure that the applicant will use funds received under the Act only for the activities described in § 185.52;

(2) In the case of nonprofit private applicants, evidence that the proposed activity has been requested by one or more local educational agencies which are implementing a plan described in § 185.1 (a) or (b). Such evidence may include (i) a copy of a school board resolution or other final official action requesting the assistance of the applicant, or (ii) a letter from the school board chairman or superintendent of a local educational agency requesting such assistance. No application by a nonprofit private applicant shall be approved less than 10 days after a copy of said application has been submitted by the Assistant Secretary to the appropriate State educational agency for comment, unless the Assistant Secretary has received comments from such agency upon such application prior to expiration of the 10-day period.

(3) Information as to (i) the number and percentage of minority group children in the affected school district from environments in which a dominant language is other than English who receive

instruction of any kind (prior to the application for assistance under this subpart) in such language, the average number of hours per day such instruction is provided, and the educational goals of such instruction; (ii) the extent to which minority group children are separated from nonminority group children by or within classes for any part of the day (*a*) for the provision of instructional or other services to such minority group children or (*b*) for purposes of ability grouping or homogeneous instruction, and the educational justification for such separation (including the information required by §§ 185.43(c) (1) through (4)); (iii) the extent to which materials utilized for reading instruction are varied (by primary language, subject matter, or intended level of instruction) as between the various schools in the affected school district, or between the various classrooms within such schools; and (iv) the amount of Federal funds, if any, applied for and received by the affected local educational agency for the current academic year under titles I, II, III, and VII of the Elementary and Secondary Education Act of 1965 and the Education Professions Development Act. The application shall specify the minority group of which such children are members.

(20 U.S.C. 1607(c) (1) and (3))

§ 185.54 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following objective criteria (60 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of such agency for the fiscal year or years for which assistance is sought who are from environments in which a dominant language is other than English (30 points); and

(2) The effective net reduction in minority group isolation, as defined in § 185.14(a)(2), in terms of the number and percentage of children affected, in all the schools operated by such agency accomplished or to be accomplished by the implementation of a plan described in § 185.11 (a) or (b) (30 points).

(20 U.S.C. 1607(c)(1))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the following criteria (55 points):

(1) *Needs assessment (10 points).* (i) The severity of needs assessed by the applicant in relation to the inequality of educational opportunity available to minority group children who are from environments in which a dominant language is other than English, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data and other objective evidence, the existence of such needs.

(2) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified, and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (28 points)*—(i) *Project design (12 points).* The extent to which (*a*) the proposed program, project, or activity provides for development and implementation of the educational programs described in § 185.51(a) in an imaginative and sensitive manner; (*b*) the proposed services are concentrated upon a group of participants which is sufficiently limited and specific to give promise of measurable growth for each participant; (*c*) such services are sufficiently intensive to give promise of such growth; (*d*) the proposed program, project, or activity emphasizes individualized instruction and services; (*e*) the application includes innovative plans to meet the goals of the Act which extend instruction in language skills to other areas of the curriculum in an integrated setting, and which include nonminority group children in activities other than those relating to the educational programs described in § 185.51(a)(1)(ii); (*f*) the applicant proposes to extend bilingual/bicultural instructional techniques to academic areas other than those with respect to which assistance is made available; (*g*) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; and (*h*) the proposed program, project, or activity makes use of existing bilingual/bicultural research and instructional materials;

(ii) *Staffing (10 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities; (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity; and (*c*) proposes to utilize credentialed bilingual teachers and to provide career development opportunities for paraprofessional staff members with bilingual capabilities;

(iii) *Delivery of services (2 points).* The extent to which the proposed program or project sets out a plan for meeting the logistical requirements of the proposed activities, including a description of adequate and conveniently available facilities and equipment; and

(iv) *Parent and community involvement (4 points).* The extent to which the application (*a*) delineates specific opportunities for community and program or project committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.55, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (5 points).* The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity; and (iv) the proposed program, project, or activity has been coordinated with existing programs and resources.

(5) *Evaluation (6 points).* The extent to which the application sets out a format of objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; (iii) an assessment of the validity of such instruments when used to evaluate the language skills, academic aptitude, or general intelligence of children whose primary language is other than English; and (iv) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1607(c)(1), 1607(c)(2)(A)(ii)(II), 1607(c)(3), 1609(a)(11).)

(c) *Funding criteria.* (1) In determining amounts to be awarded to applicants for assistance under this subpart, the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance under this subpart and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a program, project, or activity of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications

meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.

(2) No more than 30 per centum of the funds available for grants or contracts pursuant to this subpart in any fiscal year shall be awarded to applicants proposing to carry out programs, projects, or activities with respect to local educational agencies in any one State, unless the Assistant Secretary determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(20 U.S.C. 1607(c)(1))

§ 185.55 Program or project committees.

(a) *Local educational agencies*—(1) *Consultation; public hearing; publication.* Local educational agencies applying for assistance under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a), (b), (e), and (f). For purposes of this subparagraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the program or project committee required by this paragraph.

(2) *Composition of committee.* (i) In order to establish a program or project committee as required by this paragraph, a local educational agency shall designate at least five civic or community organizations, each of which shall select a member of the committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served by the proposed program, project, or activity.

(ii) Such agency shall, after consultation with the appropriate teachers' organization(s), either (*a*) designate two classroom teachers, one of whom is a member of the minority group whose educational needs the proposed program, project, or activity is designed to meet, to serve as members of the committee required by this paragraph, or (*b*) delegate the responsibility for such selections to the appropriate teachers' organization(s).

(iii) Such agency shall designate two administrators or school board members, one of whom is a member of a minority group as described in subdivision (ii) of this subparagraph, to serve as members of the committee required by this paragraph.

(iv) At least 50 per centum of the members of a committee formed under this subparagraph must be members of a minority group as described in subdivision (ii) of this subparagraph. At least 50 per centum of the members of the committee shall be parents of children directly affected by a plan described in § 185.11 (a) or (b), or a program, project, or activity assisted under this subpart. In addition to members appointed pursuant to paragraph (a)(2) (i), (ii), and (iii) of this section, and taking into account the students to be appointed pursuant to paragraphs (a)(2)(v) of this section, such agency shall select the minimum number of additional persons as may be necessary to meet the requirements of this subdivision.

(v) Committee members appointed pursuant to paragraphs (a)(2) (i), (ii), (iii), and (iv) of this section shall select at least two secondary students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the committee required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the local educational agency.

(3) *Approval by committee.* No application by a local educational agency for assistance under this subpart shall be approved which is not accompanied by the written comments of a committee formed in accordance with paragraph (a)(2) of this section, indicating that a majority of the members of such committee have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by committee.* No amendment to the program, project, or activity of a local educational agency assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of a committee formed in accordance with paragraph (a)(2) of this section have been involved in the development of, and a majority of such members has approved, such amendment of or addition to the program, project, or activity. Comments indicating such approval shall be included with any application submitted by such agency for such amendments or additions. Amendments or additions suggested by the committee required by this paragraph shall be forwarded by the local educational agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(5) *Student advisory committees.* The local educational agency shall comply with the requirements of § 185.41(h) as to student advisory committees, except that at least 50 per centum of the members of each such committee shall be members of a minority group as described in subparagraph (2)(ii) of this paragraph: *Provided, however,* That if such agency is receiving assistance under subpart B, C, or D as of the date specified in § 185.41(h)(1), and if members of such a minority group have been selected as members of such committees at the appropriate secondary schools, such committees shall be deemed to comply with the requirements of this subparagraph.

(20 U.S.C. 1607(c)(2)(A)(i), 1607(c)(2)(B))

(b) *Nonprofit private applicants*—(1) *Consultation; publication.* Nonprofit private agencies, institutions, or organizations applying for assistance under this subpart shall comply with the requirements of §§ 185.65 (a), (d), and (e). For purposes of this subparagraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the program or project board required by this paragraph. Applications submitted by nonprofit private applicants shall describe in detail how such program or project boards will exercise policymaking authority with respect to the proposed program, project, or activity.

(2) *Composition of board.* (i) In order to establish a program or project board as required by this paragraph, the applicant shall designate at least 5 civic or community organizations, each of which shall select a member of the board. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(ii) The applicant shall invite the appropriate local educational agency to designate as members of the board described in this subparagraph a classroom teacher and an administrator or school board member, one of whom is a member of a minority group as described in paragraph (a)(2)(ii) of this section.

(iii) At least 50 per centum of the members of the board formed under this subparagraph must be members of a minority group as described in paragraph (a)(2)(ii) of this section. Such board shall have at least 10 members. At least 50 per centum of the members of such board shall be parents of children directly affected by a plan described in § 185.11 (a) or (b), or a program, project, or activity assisted under this subpart. In addition to members appointed pursuant to paragraphs (b)(2) (i)and (ii) of this section, and taking into account the students to be appointed pursuant to paragraph (b)(2)(iv) of this section, the applicant shall select the minimum number of additional persons as may be necessary to meet the requirements of this subdivision.

(iv) Board members appointed pursuant to paragraphs (b)(2) (i), (ii), and (iii) of this section shall select at least two secondary school students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the board required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the appropriate local educational agency.

(3) *Approval by board.* No application for assistance under this subpart shall be approved which is not accompanied by the written comments of a board formed in accordance with paragraph (b)(2) of this section, indicating that a majority of the members of such board have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by board.* No amendment to a program, project, or activity assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of such board have

been involved in the development of, and a majority of such members has approved, such amendment of or addition to such program, project, or activity. Comments indicating such approval shall be included with any application submitted by such applicant for such amendments or additions. Amendments or additions suggested by the board required by this paragraph shall be forwarded by the applicant, with or without comment, to the Assistant Secretary for his consideration.

(20 U.S.C. 1607(c)(2)(A)(ii)(I), 1607(c)(2)(B))

(c) *Provision of information.* To the extent possible, applicants for assistance under this subpart shall cause the publications required by this section, and the materials required to be furnished to the committees or boards established pursuant to this section, to be made available both in the English language and in the dominant language of the appropriate minority group as described in paragraph (a)(2)(ii) of this section.

(20 U.S.C. 1607(c)(2))

§ 185.56 Limitations on eligibility; nonpublic participation.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying for assistance under this subpart.

(20 U.S.C. 1605(d), 1607(c)(1), 1609 (a) and (b), 1611(c))

§§ 185.57–185.60 [Reserved]

Subpart H—Educational Television

§ 185.71 Eligibility for assistance.

(a) Any public or nonprofit private agency, institution, or organization with the capability of providing expertise in the development of television programing may apply for assistance, by grant, from funds reserved pursuant to § 185.95(b)(3) to pay the cost of development and production of integrated children's television programs of cognitive and affective educational value. For purposes of this subpart, "programs of cognitive and affective educational value" are those which teach concrete academic skills and encourage interracial and interethnic understanding.

(20 U.S.C. 1610 (a), (b)(1); Senate Rept No. 92-61, p. 24)

(b) No more than five grants shall be awarded pursuant to this subpart during the fiscal year ending June 30, 1973.

(20 U.S.C. 1610(b)(1))

§ 185.72 Authorized activities.

(a) Funds made available under this subpart shall be used to pay the normal and necessary expenses of researching, planning, writing, editing, staging, directing, performing, producing, reproducing, and distributing integrated children's television programs, where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such programs shall be either a standard-length series addressing an area of concern described in paragraph (a)(1), (2), or (3) of this section, or 1-minute "spots" addressing any of the following areas of concern:

(1) Bilingual/bicultural approaches to assisting minority group children from environments in which a dominant language is other than English in the development of reading, writing, and speaking skills (in both the English language and the language of their parents or grandparents), and to instilling in both minority and nonminority group children an understanding and appreciation of each other's history and cultural background;

(2) Supplemental or introductory instruction in basic reading and mathematics skills and concepts, art and music, and basic science concepts;

(3) Instruction in family life-related academic skills directed particularly at secondary school age children;

(4) Dropout counseling and other approaches to the problems of dropouts;

(5) Encouraging and enriching the understanding and appreciation of school age children for the art, music, literature, and other cultural attainments of their own and other racial or ethnic groups;

(6) Reduction of interracial or interethnic tension and conflict.

(20 U.S.C. 1610(b)(1))

(b)(1) No more than one grant for a standard-length series shall be awarded for any one of the areas of concern described in paragraphs (a)(1), (2), and (3) of this section in any fiscal year, and no more than two grants shall be awarded for 1-minute "spots" as described in paragraph (a) of this section in any fiscal year, unless the Assistant Secretary determines that the applications pending before him for additional grants for programing directed to the of exceptional merit or promise.

(2) No more than one grant shall be awarded for television programing directed to a particular racial or ethnic group in a particular geographical area in any fiscal year, unless the Assistant Secretary determines that the applications pending before him for additional grants for programing directed to the same group in the same area are of exceptional merit or promise.

(20 U.S.C. 1610(b)(1))

(c) Television programs developed in whole or in part with assistance made available under this subpart shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship. An application for assistance under this subpart shall include an assurance that the procedures to be followed, and the standards or criteria to be applied, in making such programs freely available for transmission will be developed in conjunction with the Assistant Secretary upon completion of production of a designated portion of the proposed television programing. For purposes of this paragraph, where the costs of transmission are met by a commercial firm, a brief statement to that effect at the beginning or end of such transmission shall not be considered commercial sponsorship. No television program developed in whole or in part with assistance made available under this subpart shall be used or transmitted in such a manner as to result in a financial benefit to any person or organization.

(20 U.S.C. 1610(b)(2); Senate Rept. No. 92-61, pp. 24-25)

(d) Funds made available under this subpart shall not be used for construction, repair, or remodeling of any building or facility, or for the purchase of any equipment which has an extended useful life and is not consumed in use.

(20 U.S.C. 1610(b)(1))

§ 185.73 Applications.

(a) *General.* An applicant for assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall contain such information and set forth such policies and procedures as will assure that the applicant will use funds received under this subpart only for the activities described in § 185.72.

(20 U.S.C. 1610(b)(1))

(b) *Basic assurances.* Applications for assistance under this subpart shall comply with the requirements of § 185.13 (a), (b), (c), (d), (f), (h), (k)(1)(i) and (ii), (k)(2), and (m).

(20 U.S.C. 1609(a), 1610(b)(1))

(c) *Assurances by local educational agencies.* Applications by local educational agencies for assistance under this subpart shall comply with the requirements of § 185.13 (g), (i), (j), (k)(1)(iii), (k)(3), and (l), in addition to the requirements specified in paragraph (b) and (e) of this section. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary.

(20 U.S.C. 1609(a), 1610(b)(1))

(d) *Assurances by other applicants.* Applications by public or nonprofit private agencies, institutions, or organizations (other than local educational agencies) under this subpart shall comply with the requirements of §§ 185.63(b)(2), (5), and, where appropriate,

§ 185.63(b)(3), in addition to the requirements specified in paragraphs (b) and (e) of this section.

(20 U.S.C. 1610(b)(1))

(e) *Additional information and assurances.* Applications for assistance under this subpart shall contain the following information, in addition to the assurances and information required by the applicable paragraphs of this section:

(1) A detailed description of the integrated children's television programs to be developed and produced with assistance made available under this subpart, together with an identification of the audience to be reached by such programs and a statement of the educational and other gains to be achieved;

(2) A statement of the name, address, position, duties, prior experience in educational television and school and community affairs, race, and (in the case of applications related to an activity described in § 185.72(a)(1)) the bilingual/bicultural background of all persons permanently employed (or to be employed) in positions of responsibility by the applicant on its development, production, and administrative staffs;

(3) A detailed description of the formative evaluation procedures to be employed by the applicant in measuring and evaluating the educational and other change to be achieved by children viewing the television programs for which assistance is sought;

(4) A statement of past activities engaged in by the applicant or its officers or employees indicating the relative capability of the applicant to provide expertise in the development of integrated children's television programing, and to develop and produce the proposed television programs; and

(5) Information as to the research and development techniques to be employed (or which have previously been employed), production standards to be observed, nonbroadcast materials to be utilized in support of the proposed television programing, and field activities and other measures to be undertaken in order to insure target audience participation in ongoing program development.

(20 U.S.C. 1610(b) (1) and (3))

(f) *Application procedure.* The Assistant Secretary may require the information described in this section to be submitted either in a single application or sequentially, and may require additional information and assurances of selected applicants.

(20 U.S.C. 1610(b)(1))

§ 185.74 Criteria for assistance.

In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following criteria:

(a) *Needs assessment (10 points).* (1) The extent to which the applicant has undertaken a comprehensive assessment, on the basis of test data, audience surveys, and other objective evidence, of the educational and other needs of the target population, and the magnitude of the needs so assessed; (2) the extent to which the applicant has undertaken a reasonable numerical estimate of the expected or potential target audience; and (3) the size of the potential audience so estimated.

(20 U.S.C. 1610(b)(1))

(b) *Statement of objectives (13 points).* (1) The degree to which the application (1) sets forth specific, measurable objectives in relation to the needs identified, and (2) specifically describes, on the basis of modern research and development techniques, the issues and subject matter related to such needs which will be addressed by the proposed television programing.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(B))

(c) *Activities (35–37 points)*—(1) *Program content and design (10 points).* The extent to which the proposed television programing promises to reach the expected or potential target audience and to encourage and sustain the participation, interest, and educational and other growth of such audience, by use of minority and nonminority group performers or characters and by other means;

(2) *Staffing (12 points).* (i) The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed television programing; and (ii) the extent to which minority group personnel are employed (or will be employed) in responsible positions on the development, production, and administrative staffs of the applicant;

(3) *Facilities capability (10 points).* The extent to which the application describes a level of production facilities capability sufficient to meet the requirements of the proposed television programing, including a description of adequate and conveniently available production facilities and equipment;

(4) *Supplementary materials (2 points).* In the case of applications for standard-length series, the extent to which such application sets forth a plan of activities, such as the creation, production, and dissemination of nonbroadcast materials, designed to intensify and amplify the effects of the proposed programing; and

(5) *Parent and community involvement (3 points).* The extent to which the application (i) delineates specific opportunities for continuing community and advisory committee participation in the development and evaluation of the proposed television programing in addition to those required by § 185.75, and (ii) includes evidence that such participation has been encouraged and has in fact occurred.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(d) *Resource management (6) points).* The extent to which the application contains evidence that (1) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (2) the costs of project components are reasonable in relation to the expected benefits; and (3) needed resources will be purchased or otherwise obtained in such a manner as to insure that project deadlines will be met.

(20 U.S.C. 1610(b)(1))

(e) *Evaluation (5 points).* The extent to which the application sets out a detailed format, including specific study designs, for applying formative evaluation techniques prior to and during the initial phases of production of the proposed television programing, in order to determine the production and presentation techniques which offer the greatest promise of achieving the stated objectives.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(C))

(f) *Funding criteria.*—In determining amounts to be awarded to applicants for assistance under this subpart, the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively developing and producing its proposed television programing, in relation to the amount of funds available for assistance under this subpart and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth proposed television programing of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.

(20 U.S.C. 1610(b)(1))

(g) In making the determinations required under this section, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, educational television, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1610(b) (1) and (3))

§ 185.75 Advisory committees.

(a) Public or nonprofit private agencies, institutions, or organizations (other than local educational agencies) applying for assistance under this subpart shall comply with the requirements as to advisory committee participation set forth in § 185.65, except for the second sentence of § 185.65(b)(2). For purposes of this paragraph, references in said section to a "plan or project described in § 185.11" or "program, project, or activity" shall be understood to refer to

the proposed television programing for which assistance is sought.

(b) Local educational agencies applying for assistance under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a) through (g). For purposes of this paragraph, references in said paragraphs to a "plan or project described in § 185.11" or "program, project, or activity" shall be understood to refer to the proposed television programing for which assistance is sought.

(20 U.S.C. 1609(a) (2) and (3), 1609(b))

(c) Where the primary area to be served by the proposed television programing for which assistance is sought under this subpart is larger than the school district of a single local educational agency, members of the advisory committees required by this section, and civic or community organizations designated to select such members, shall be selected so as to represent the larger area to be served.

(20 U.S.C. 1610(b)(1))

§ 185.76 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this part. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1609 (a) and (b), 1610(b)(1))

§§ 185.77–185.80 [Reserved]

Subpart I—Evaluation

§ 185.81 Eligibility for awards.

Any State educational agency, institution of higher education, or private agency, organization, or institution (including an advisory committee established by a local educational agency pursuant to § 185.37, § 185.41, § 185.55(a), § 185.75(b), or § 185.94) may submit a proposal for a contract, from funds reserved pursuant to § 185.95(b)(4), for the purpose of evaluating specific programs or projects assisted under this part.

(20 U.S.C. 1612)

§ 185.82 Authorized activities.

Funds awarded pursuant to this subpart shall be used to pay the normal and necessary expenses of planning, instrument development and administration, executing statistical designs (including randomization and controls), data collection and analysis, and reporting incident to evaluation of programs, projects, or activities assisted under this part, as well as overall management of such evaluations, where such expenses would not otherwise be funded.

(20 U.S.C. 1612)

§ 185.83 Applications.

(a) *Assurances and information.* Proposals submitted pursuant to this subpart shall comply with the requirements of §§ 185.13 (a), (b), (c), (f), and (m) and 185.63(b)(2). Such proposals shall contain such information, and set forth such policies and procedures, as will assure that the offeror will use funds received under this subpart only for the activities described in § 185.82. In addition, such proposals shall contain the following information:

(1) A detailed description of the objectives of the proposed evaluation, as they relate to the purposes set forth in § 185.01;

(2) A detailed description of the technical approach, management plan, statistical design (including appropriate randomization and controls), and techniques of data collection, analysis, and synthesis to be utilized or employed in the proposed evaluation;

(3) A statement of the name, position, race, and prior relevant experience of all persons permanently employed (or to be employed) in positions of responsibility by the offeror in connection with the proposed evaluation; and

(4) A statement of past activities engaged in by the offeror or its officers or employees indicating the relative capability of the offeror to conduct the proposed evaluation.

(20 U.S.C. 1612)

(b) *Procedures.* (1) Proposals under this subpart shall be submitted in response to requests for proposals. The Assistant Secertary may require the information described in this section to be submitted either in a single document or sequentially, and may require additional information and assurances of selected offerors.

(2) Contracts under this subpart shall be subject to the requirements of the Federal Procurement Regulations (41 CFR Ch. 1 and 3), to the extent that such regulations are not inconsistent with the provisions of this subpart.

(20 U.S.C. 1612)

§ 185.84 Criteria for awards.

(a) The Assistant Secretary shall determine the merits of proposals submitted under this subpart on the basis of the following criteria:

(1) *Statement of objectives.* The degree to which the offeror sets out specific objectives for the proposed evaluation, in relation to the purposes described in § 185.01, as demonstrated by background discussion and objective analysis included in its proposal;

(2) *Technical approach.* The extent to which the proposal sets out a technical approach which promises to achieve the stated objectives;

(3) *Management plan.* The extent to which the proposal sets out a plan for effective management of the proposed evaluation, including a specific timetable for completion of project components and specific staff assignments;

(4) *Data techniques.* The extent to which the proposal sets out effective techniques for collection, analysis, and synthesis of data in connection with the proposed evaluation;

(5) *Staff capabilities.* The extent to which the proposal demonstrates (i) the presence or availability of staff members with relevant technical and management experience, and (ii) past experience on the part of the offeror or its officers or employees in conducting evaluations similar to that for which funds are requested;

(6) *Resource management.* The extent to which the proposal contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) provisions have been made for maximum utilization of existing facilities and resources; and

(7) *Scope.* The extent to which the offeror proposes an evaluation of sufficient comprehensiveness to insure results of general applicability and reliability.

(8) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, evaluation, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1612)

(b) *Funding criteria.*—In determining amounts to be awarded under this subpart, the Assistant Secretary shall consider the additional cost to an offeror (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed evaluation, in relation to the amount of funds available for contracts under this subpart and the other applications pending before him. The Assistant Secretary shall not be required to approve any proposal which does not meet the requirements of the Act or this part, or which sets forth a proposed evaluation of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to offerors (whose proposals meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section with respect to each type of evaluation for which proposals are requested.

(20 U.S.C. 1612)

§ 185.85 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies submitting proposals under this subpart.

(20 U.S.C. 1605(d))

§§ 185.86–185.90 [Reserved]

Subpart J—Special Projects

§ 185.91 Eligibility for assistance.

(a) *Special reading projects.* (1) Any local educational agency which is implementing a plan described in § 185.11 (a) or (b) may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(1), for special reading projects to improve the reading performance of minority and nonminority group children in a school affected by such a plan in which the proportion of minority group children enrolled is greater than 20 percent and no more than 50 percent.

(2) No more than $2,500,000 from funds reserved pursuant to § 185.95(b)(1) shall be awarded for grants or contracts pursuant to this paragraph during the fiscal year ending June 30, 1973.

(20 U.S.C. 1607(a))

(b) *Other projects.* The Assistant Secretary may assist, by grant or contract, any State or local educational agency or other public agency or organization (or a combination of such agencies and organizations), from funds reserved pursuant to § 185.95(b)(1) and not awarded or to be awarded pursuant to paragraph (a) of this section, for the purpose of conducting special programs or projects which the Assistant Secretary determines will make substantial progress toward achieving the purposes of the Act.

(20 U.S.C. 1607(a))

(c) *Definitions.* For purposes of this subpart, State or local educational agencies in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be State or local educational agencies within the meaning of §§ 185.02 (e) and (j).

(20 U.S.C. 1607(a), 1619 (8), (14), and (15))

(d) *Authorized activities.* (1) Assistance made available pursuant to paragraph (a) of this section shall be used for activities described in § 185.12 which would not otherwise be funded and are designed to carry out the purposes described in § 185.01 and in paragraph (a) of this section.

(2) Assistance made available pursuant to paragraph (b) of this section shall be used for activities described in or authorized by §§ 185.12, 185.22, 185.32, 185.52, 185.62, and 185.72 which would not otherwise be funded and which are designed to carry out the purposes described in § 185.01.

(3) The provisions of §§ 185.12 (b), (c), and (d) shall apply to assistance made available under this subpart.

(4) No activity assisted pursuant to paragraph (a) of this section shall be carried out with respect to a class which does not include both minority and nonminority group children. Students shall not be removed from their regularly assigned classrooms on a regular basis in order to participate in a program, project, or activity assisted pursuant to paragraph (a), but may be so removed on an occasional basis for special treatment or services.

(20 U.S.C. 1606, 1607(a))

(e) *Limitations on eligibility; nonpublic participation.* The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying for assistance under this subpart.

(20 U.S.C. 1605(d), 1607(a), 1609 (a) and (b), 1611(c))

§ 185.92 Applications.

(a) Applications by local educational agencies for assistance under this subpart shall comply with the requirements of §§ 185.13 (a) through (n). Applications by other public agencies or organizations shall be in such form, and contain such information and assurances, as may be required by the Assistant Secretary. All applications for assistance under this subpart, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(20 U.S.C. 1607(a), 1609(a))

(b) In addition to the information and assurances required by paragraph (a) of this section, applications by local educational agencies pursuant to § 185.91(a) shall contain the following additional information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will insure that the applicant will use funds received under the Act only for the activities described in § 185.91(d);

(2) A complete special reading needs assessment with regard to the affected school, in a form to be prescribed by the Assistant Secretary;

(3) The signature of the principal of the school to be served by the proposed program, project, or activity, indicating concurrence in the submission of such agency's application.

(20 U.S.C. 1607(a))

§ 185.93 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance by local educational agencies pursuant to § 185.91(a), the Assistant Secretary shall apply the following objective criteria (20 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of such agency for the fiscal year or years for which assistance is sought (10 points); and

(2) The effective net reduction in minority group isolation, as defined in § 185.14(a)(2), in terms of the number and percentage of children affected, in all the schools operated by such agency accomplished or to be accomplished by the implementation of a plan or project described in § 185.11 (a) or (b) (10 point).

(20 U.S.C. 1609(c) (1), (2), and (3))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance by local educational agencies pursuant to § 185.91(a) on the basis of the following criteria (105 points):

(1) *Needs assessment (20 points).* (i) The magnitude of needs assessed by the applicant in relation to reading achievement of students in the affected school, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data and other objective evidence, the existence of such needs. Such needs assessment shall be submitted in a form to be prescribed by the Assistant Secretary.

(2) *Statement of objectives (20 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served. At a minimum, the stated objectives shall include progress during the period of the proposed program, project, or activity toward the goal of a normal range and distribution of reading achievement in the affected school, such goal to be attained within a 3-year period.

(3) *Activities (40 points).*—(i) *Curriculum development (10 points).* The extent to which the application sets out specific procedures for the evaluation, development, and revision of the curriculum in the affected school, in relation to the needs identified;

(ii) *Staffing (20 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities; (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity; and (*c*) includes evidence that the project staff reflects the racial and ethnic makeup of the student body at the affected school; and

(iii) *Parent and community involvement (10 points).* The extent to which the application (*a*) delineates specific opportunities for community and parental participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.94 and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (5 points).* The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity; and (iv) the proposed program, project, or activity has been coordinated with existing programs and resources.

(5) *Evaluation (20 points).* The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, or other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (2), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.91(a), the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance pursuant to § 185.91(a) and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a program, project, or activity of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section until the sums allotted for such assistance have been exhausted. No more than 20 per centum of the funds made available pursuant to § 185.91(a) shall be awarded to applicants in any one State in any fiscal year, unless the Assistant Secretary determines that applications for such awards in excess of such amount are of exceptional merit or promise.

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5))

(d) *Other applications.* The merits of applications for assistance pursuant to § 185.91(b) shall be determined on the basis of the criteria set forth in § 185.14, to the extent that such criteria are applicable to the proposed program, project, or activity.

(20 U.S.C. 1607(a), 1609(c))

§ 185.94 Community involvement.

(a) *Unit task force.* Applications by local educational agencies for assistance pursuant to § 185.91(a) shall be developed by a unit task force headed by the principal of the school to be served by the proposed program, project, or activity and formed in accordance with paragraph (b) of this section.

(20 U.S.C. 1609(a)(2)(B), 1609(b))

(b) *Composition.* (1) In order to establish a unit task force as required by this section, a local educational agency shall designate two civic or community organizations broadly representative of the minority and nonminority communities to be served, each of which shall select a resident of the attendance area of the school to be served as a member of the unit task force.

(2) Such agency, after consultation with the appropriate teachers' organization(s), shall either (i) designate two teachers from the school to be served who will participate in the proposed program, project, or activity to serve as members of the unit task force, or (ii) delegate the responsibility for such selections to the appropriate teachers' organization(s).

(3) Such agency shall designate one member of its administrative staff, at the assistant superintendent level or higher, to serve as a member of the unit task force.

(4) Where the proposed program, project, or activity will affect a secondary school, the unit task force required by this section shall include at least two secondary students regularly enrolled at such school who have been selected by the student body or student government of such school.

(5) The local educational agency shall select the minimum number of additional members of such unit task force necessary to insure that (i) it will be composed of equal numbers of nonminority group members and of members from each minority group substantially represented in the school to be served, and (ii) at least half the members of such unit task force will be parents of students to be served by the proposed program, project, or activity.

(20 U.S.C. 1609(a)(2)(B))

(c) *Consultation; public hearing; publication.* Local educational agencies applying for assistance pursuant to § 185.91(a) shall comply with the requirements as to public hearings, publications, and post-award consultation set forth in §§ 185.41 (a), (b), (e), and (f). For purposes of this paragraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the unit task force required by this section.

(20 U.S.C. 1609(a) (2) and (3))

(d) *Comments and suggestions by unit task force.* No amendment to the program, project, or activity of a local educational agency shall be approved, and no additional funds made available pursuant to § 185.91(a), unless the unit task force required by this section has been involved in the development of, and a majority of its members has approved, such amendment of or addition to the program, project, or activity. Comments indicating such approval shall be included with any application submitted by such agency for such amendments or additions. Amendments or additions suggested by the unit task force shall be forwarded by the local educational agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(20 U.S.C. 1609(a)(3))

(e) *Other applicants.* Applicants for assistance pursuant to § 185.91(b) shall comply with the requirements of § 185.41, to the extent that such requirements are applicable to the proposed program, project, or activity.

(20 U.S.C. 1609(a) (2) and (3), 1609(b))

[FR Doc.73-7995 Filed 4-23-73;8:45 am]

Proposed Rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

FRESH TOMATOES

Proposed U.S. Standards for Grades

Notice is hereby given that the U.S. Department of Agriculture is considering the revision of U.S. Standards for Grades of Fresh Tomatoes[1] (7 CFR 51.1855—51.1877). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than June 30, 1973, with the Hearing Clerk, U.S. Department of Agriculture, room 112, Administration Building, Washington, D.C. 20250, where they will be available for public review during official hours of business (7 CFR 1.27 (b)).

Statement of considerations leading to the proposed revision of grade standards.—The U.S. Standards for Grades of Fresh Tomatoes were last revised in December 1956. They were amended in October 1961 to bring the color classification section in line with industry practices.

In 1970 a request was received from United Fresh Fruit and Vegetable Association's Tomato Division to provide a definition of "vine ripe" in the standards. At about the same time, the Florida Tomato Committee requested that the size requirements in the U.S. standards be changed to correspond to the size classifications developed by the committee for use in the Florida marketing order. The size requirements in the U.S. standards do not properly reflect the advances made in mechanical sizing equipment. A considerable amount of overlap is present between sizes. The Florida requirements provide no overlap and Florida producers state that the sizes have proven satisfactory over a period of several years. The Florida Tomato Committee also requested elimination of reference to Los Angeles type lug sizes and the addition of a "vine ripe" definition.

In April 1971, after preliminary consultations with industry representatives, a study draft to consider revision of the tomato standards was prepared and distributed. Incorporated in the study draft were a definition for "vine ripe" and suggested size specifications based on Florida requirements with no overlap, but with more uniform progression of sizes and with additional specifications for sizes above 5 by 6, which are not included in the Florida requirements. The study draft also made changes in format, addition of a "Classification of Defects" section and the deletion of several sections which were no longer necessary.

Most comments submitted in response to the study draft opposed both the "vine ripe" definition and USDA's suggestion for new size specifications. Florida interests preferred to change to the Florida specifications already in use. California interests wanted more information before changing the sizes.

At the request of the Western Growers Association late in 1971, USDA agreed to postpone further action toward revising the standards pending industry sponsored size research in California during the 1972 season. Results of this research, conducted by the University of California at Davis, were published in January 1973.

At a meeting early in February, attended by representatives of the Florida Tomato Committee, the Western Growers Association, United States and Mexican producers, and technical advisors, the research results were discussed and agreement reached on recommended diameter requirements with corresponding descriptive terms and alternative pack arrangements. These recommendations were subsequently approved at the annual meeting of the Tomato Division of the United Fresh Fruit and Vegetable Association in a resolution adopted and transmitted to the Department requesting revision of the U.S. grade standards. Producers, shippers, and distributors, both United States and Mexican, as well as receivers, were represented at the Tomato Division meeting.

The major change proposed in the revision of the standards is in the size requirements section. Following are the present diameter requirements and those submitted by the Tomato Division:

PRESENT SIZE REQUIREMENTS IN THE U.S. STANDARDS

	Inches	
	Minimum diameter	Maximum diameter
Los Angeles type lug size arrangements:		
7 x 8	1 11/16	2 1/16
7 x 7	2	2 1/16
6 x 7	2 1/16	2 3/16
6 x 6	2 1/16	2 3/16
5 x 6	2 1/16	2 3/16
5 x 5	2 1/16	2 3/16
4 x 5	3	3 3/16
4 x 4	3 3/16	3 3/16

SIZE REQUIREMENTS SUBMITTED IN RESOLUTION BY TOMATO DIVISION

	Diameter
Size designation:	
Mini or 7 x 8	Over 1 25/32" to 2 1/32" inclusive.
Small or 7 x 7	Over 2 1/32" to 2 9/32" inclusive.
Medium or 6 x 7	Over 2 9/32" to 2 17/32" inclusive.
Large or 6 x 6	Over 2 17/32" to 2 25/32" inclusive.
Extra Large or 5 x 6 and 5 x 5.	Over 2 25/32" to 3 1/32" inclusive.
Maxi or 4 x 5 and larger.	Over 3 1/32" and over.

After submission of the Tomato Division resolution to USDA, discussion between Department officials and tomato industry representatives revealed a definite lack of enthusiasm for the terms "mini" and "maxi". The Tomato Division then submitted a supplemental request that the terms "extra small" and "maximum large" be substituted for "mini" and "maxi", respectively. These terms are proposed for industry consideration. It was also requested that the several terms used to designate size be plainly shown to replace the former Los Angeles type lug sizes. It is hoped that this will hasten the day when the Los Angeles type lug sizes can be entirely eliminated.

Following are the proposed size requirements submitted by the UFFVA Tomato Division, presented in a way which should be more readily understood. The table indicates the size of hole through which a tomato of a given size designation will pass and the size of hole through which it will not pass:

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

	Inches	
	Minimum size (Will not pass through a round opening of the following size)	Maximum size (Will pass through a round opening of the following size)
Size designations:		
Extra small (replaces 7x8)	$1^{25}/_{32}$	$2^{1}/_{32}$
Small (replaces 7x7)	$2^{1}/_{32}$	$2^{9}/_{32}$
Medium (replaces 6x7)	$2^{9}/_{32}$	$2^{17}/_{32}$
Large (replaces 6x6)	$2^{17}/_{32}$	$2^{25}/_{32}$
Extra large (replaces 5x6 and 5x5)	$2^{25}/_{32}$	$3^{13}/_{32}$
Maximum large (replaces 4x5 and larger)	$3^{13}/_{32}$	

The resolution submitted by the Tomato Division also requested that the amount of overfill in each container marked to designate net weight be restricted to 1½ pounds. As the weight of the container has no bearing on the grade or quality of the product, this request cannot be proposed as a grade requirement. However, it would be offered for optional use in the form of a "standard weight" requirement.

Also requested was the addition of the word "mature" to each of the several color classifications in § 51.1862 of the present standards and changing the title of this section to "Color and Maturity Classification". Industry representatives state that this change is desirable because opinions have been expressed that color of tomatoes, unless tied to a maturity classification, has no meaning. There is some basis for this view inasmuch as it is reported that there are varieties of tomatoes which will color to some extent even when harvested at an immature stage. It is believed that the purpose of this request will be accomplished by the following proposed changes: (1) The present definition of "mature" would be changed to state specifically that the tomato must have reached the stage of development that would insure proper completion of the ripening process, in addition to the requirement that the contents of two or more seed cavities must have developed a jelly-like consistency with seeds well developed; and (2) paragraph (a) of the color classification section would specify that the terms would be used in describing color (or ripeness) of mature tomatoes.

The request for a "vine ripe" definition was not renewed. Discussion and correspondence concerning the original request for this definition indicated that it would be impractical to apply inasmuch as determining stage of maturity at harvest would be prohibitively expensive for certification purposes. It was suggested by some industry representatives that the definition be changed and based on stage of maturity at time of packing instead of time of harvest. However, it is recognized that color could change sufficiently between harvest and packing that the definition would have no value and could, in fact, be misleading.

Among other changes are: The new format presenting the requirements for a particular grade in logical order; and, the classification of defects section which lists limitations for defects under damage, serious damage and very serious damage headings. In lieu of the metric conversion table, specific measurements and weights appearing in the standards in terms of inches and pounds and fractions thereof are accompanied by their metric equivalents. The present sections on "Type of Pack", "Irregular Pack," and "Unclassified" are deleted. Some minor changes are made in the interest of clarity.

The proposed standards, as revised, are as follows:

GRADES

Sec.
51.1855 U.S. No. 1.
51.1856 U.S. Combination.
51.1857 U.S. No. 2.
51.1858 U.S. No. 3.

SIZE

51.1859 Size.

COLOR CLASSIFICATION

51.1860 Color classification.

TOLERANCES

51.1861 Tolerances.

APPLICATION OF TOLERANCES

51.1862 Application of tolerances.

STANDARD WEIGHT

51.1863 Standard weight.

DEFINITIONS

51.1864 Similar varietal characteristics.
51.1865 Mature.
51.1866 Soft.
51.1867 Clean.
51.1868 Well developed.
51.1869 Fairly well formed.
51.1870 Fairly smooth.
51.1871 Damage.
51.1872 Reasonably well formed.
51.1873 Slightly rough.
51.1874 Serious damage.
51.1875 Misshapen.
51.1876 Very serious damage.
51.1877 Classification of defects.

AUTHORITY.—Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADES

§ 51.1855 U.S. No. 1.

"U.S. No. 1" consists of tomatoes which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Fairly well formed; and,
(7) Fairly smooth.
(b) Free from:
(1) Decay;
(2) Freezing injury; and
(3) Sunscald.
(c) Not damaged by any other cause.
(d) For tolerances see § 51.1861.

§ 51.1856 U.S. Combination.

"U.S. Combination" consists of a combination of U.S. No. 1 and U.S. No. 2 tomatoes: *Provided*, That at least 60 percent, by count, meet the requirements of U.S. No. 1 grade.
(a) For tolerances see § 51.1861.

§ 51.1857 U.S. No. 2.

"U.S. No. 2" consists of tomatoes which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Reasonably well formed; and,
(7) Not more than slightly rough.
(b) Free from:
(1) Decay;
(2) Freezing injury; and,
(3) Sunscald.
(c) Not seriously damaged by any other cause.
(d) For tolerances see § 51.1861.

§ 51.1858 U.S. No. 3.

"U.S. No. 3" consists of tomatoes which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed; and,
(6) May be misshapen.
(b) Free from:
(1) Decay; and,
(2) Freezing injury.
(c) Not seriously damaged by:
(1) Sunscald.
(d) Not very seriously damaged by any other cause.
(e) For tolerances see § 51.1861.

SIZE

§ 51.1859 Size.

(a) The size of tomatoes packed in any type of container, when specified according to the size designations set forth in table I, shall be within the ranges of diameters specified for the respective designations.

TABLE I

	Inches		Millimeters [1]	
	Minimum size (will not pass through a round opening of the following size)	Maximum size (will pass through a round opening of the following size)	Minimum size (will not pass through a round opening of the following size)	Maximum size (will pass through a round opening of the following size)
Size designations:				
Extra small (replaces 7 x 8)	$1^{25}/_{32}$	$2^{1}/_{32}$	48	54
Small (replaces 7 x 7)	$2^{1}/_{32}$	$2^{9}/_{32}$	54	58
Medium (replaces 6 x 7)	$2^{9}/_{32}$	$2^{17}/_{32}$	58	64
Large (replaces 6 x 6)	$2^{17}/_{32}$	$2^{25}/_{32}$	64	73
Extra large (replaces 5 x 6 and 5 x 5)	$2^{25}/_{32}$	$3^{13}/_{32}$	73	88
Maximum Large (replaces 4 x 5 and larger)	$3^{13}/_{32}$		88	

[1] Conversion to metric equivalent made to nearest whole millimeter (mm).

(b) In determining compliance with the above size designations the measurement for minimum diameter shall be the largest diameter of the tomato measured at right angles to a line from the stem end to the blossom end. The measurement for maximum diameter shall be the smallest dimension of the tomato determined by passing the tomato through a round opening in any position.

(c) In lieu of specifying size according to the above-size designations, the size of tomatoes in any type of container may be specified in terms of minimum diameter or of minimum and maximum diameters expressed in whole inches, or whole inches and not less than thirty-second inch fractions thereof, in accordance with the facts.

(d) For tolerance see § 51.1861.

COLOR CLASSIFICATION

§ 51.1860 Color classification.

(a) The following terms may be used, when specified in connection with the grade statement, in describing the color as an indication of the stage of ripeness of any lot of mature tomatoes of a red fleshed variety:

(1) *Green.*—"Green" means that the surface of the tomato is completely green in color. The shade of green color may vary from light to dark;

(2) *Breakers.*—"Breakers" means that there is a definite break in color from green to tannish-yellow, pink or red on not more than 10 percent of the surface;

(3) *Turning.*—"Turning" means that more than 10 percent but not more than 30 percent of the surface, in the aggregate, shows a definite change in color from green to tannish-yellow, pink, red, or a combination thereof;

(4) *Pink.*—"Pink" means that more than 30 percent but not more than 60 percent of the surface, in the aggregate, shows pink or red color;

(5) *Light red.*—"Light red" means that more than 60 percent of the surface, in the aggregate, shows pinkish-red or red: *Provided*, That not more than 90 percent of the surface is red color; and,

(6) *Red.*—"Red" means that more 90 percent of the surface, in the aggregate, shows red color.

(b) Any lot of tomatoes which does not meet the requirements of any of the above color designations may be designated as "Mixed Color".

(c) For tolerances see § 51.1861.

TOLERANCES

§ 51.1861 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1.*—(1) *For defects at shipping point.*[3]—Ten percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided*, That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further*, That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(b) *U.S. Combination.*—(1) *For defects at shipping point.*[3]—Ten percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further*, That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by cause, exclusive of soft or decayed tomatoes.

(c) *U.S. No. 2.*—(1) *For defects at shipping point.*[3]—Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided*, That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further*, That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(d) *U.S. No. 3.*—(1) *For defects at shipping point.*[3]—Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided*, That not more than one-half of this tolerance, or 5 percent, shall be allowed for tomatoes which are very seriously damaged by insects and not more than one-tenth of the tolerance, or 1 percent, for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are very seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further*, That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by insects.

(e) *For off size.* Ten percent for tomatoes in any lot which are smaller than the specified minimum diameter, or larger than the specified maximum diameter.

(f) *For off color.* Ten percent for tomatoes in any lot which fail to meet the color specified, including therein not more than 5 percent for tomatoes which are green in color, when any term other than "Green" is specified.

APPLICATION OF TOLERANCES

§ 51.1862 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) For packages which contain more than 5 pounds (2.27 kg), and a tolerance of 10 percent or more is provided, individual packages shall have not more than 1½ times the tolerance specified, and for a tolerance of less than 10 percent individual packages shall have not more than double the tolerance specified, except that at least one defective and one off size specimen may be allowed in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade; and,

(b) For packages which contain 5 pounds (2.27 kg) or less individual packages shall have not more than 4 times the tolerance specified, except that at least one tomato which is soft, or affected by decay, and one off-size specimen may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

STANDARD WEIGHT

§ 51.1863 Standard weight.

(a) When packages are marked to a net weight of 15 pounds (6.80 kg) or more, the net weight of the contents

[3] Shipping point, as used in these standards, means the point of origin of the shipment in producing area or at port of loading for ship stores or overseas shipment, or in the ccase of shipments from outside the continental United States, the port of entry into the United States.

shall not be less than the designated net weight and shall not exceed the designated weight by more than 1½ pounds (0.68 kg).

(b) In order to allow for variations incident to proper sizing, not more than 10 percent, by count, of the packages in any lot may fail to meet the requirements for standard weight.

DEFINITIONS

§ 51.1864 Similar varietal characteristics.

"Similar varietal characteristics" means that the tomatoes are alike as to firmness of flesh and shade of color (for example, soft-fleshed, early maturing varieties are not mixed with firm-fleshed, midseason or late varieties, or bright red varieties mixed with varieties having a purplish tinge).

§ 51.1865 Mature.

"Mature" means that the tomato has reached the stage of development which will insure a proper completion of the ripening process, and that the contents of two or more seed cavities have developed a jelly-like consistency and the seeds are well developed.

§ 51.1866 Soft.

"Soft" means that the tomato yields readily to slight pressure.

§ 51.1867 Clean.

"Clean" means that the tomato is practically free from dirt or other foreign material.

§ 51.1868 Well developed.

"Well developed" means that the tomato shows normal growth. Tomatoes which are ridged and peaked at the stem end, contain dry tissue, and usually contain open spaces below the level of the stem scar, are not considered well developed.

§ 51.1869 Fairly well formed.

"Fairly well formed" means that the tomato is not more than moderately kidney-shaped, lop-sided, elongated, angular, or otherwise moderately deformed.

§ 51.1870 Fairly smooth.

"Fairly smooth" means that the tomato is not conspicuously ridged or rough.

§ 51.1871 Damage.

"Damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the tomato.

§ 51.1872 Reasonably well formed.

"Reasonably well formed" means that the tomato is not decidedly kidney-shaped, lop-sided, elongated, angular, or otherwise decidedly deformed.

§ 51.1873 Slightly rough.

"Slightly rough" means that the tomato is not decidedly ridged or grooved.

§ 51.1874 Serious damage.

"Serious damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the tomato.

§ 51.1875 Misshapen.

"Misshapen" means that the tomato is decidedly kidney-shaped, lop-sided, elongated, angular or otherwise decidedly deformed: *Provided*, That the shape is not affected to an extent that the appearance or the edible quality of the tomato is very seriously affected.

§ 51.1876 Very serious damage.

"Very serious damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the tomato.

§ 51.1877 Classification of defects.

TABLE II

REFERENCES TO AREA, AGGREGATE AREA, LENGTH OR AGGREGATE LENGTH ARE BASED ON A TOMATO HAVING A DIAMETER OF 2½ INCHES (64 MM).[1]

Factor	Damage	Serious damage	Very serious damage
Cuts and broken skins.	Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ¾ inch (10mm) in diameter.	Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ½ inch (13mm) in diameter.	Fresh or healed and extending through the tomato wall.
Puffiness	Open space in 1 or more locules materially detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end.	Open space in 1 or more locules seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end.	Open space in 2 or more locules very seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end.
Catfaces	Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ½ inch (13mm) in diameter.	Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ¾ inch (19mm) in diameter.	Channels extend into the locule, wall has been weakened to the extent that slight pressure will cause a tomato to leak, or a fairly smooth catface aggregating more than a circle 1 inch (25mm) in diameter.
Scars (other than catfaces).	No depth and aggregating more than a circle ¾ inch (10mm) in diameter.	No depth and aggregating more than a circle ⅝ inch (16mm) in diameter.	No depth and aggregating more than a circle 1 inch (25mm) in diameter.
Growth Cracks (radiating from or concentric to stem scar).	Not well healed, more than ¼ inch (3 mm) in depth, individual radial cracks more than ½ inch (13 mm) in length, aggregate length of all radial cracks more than 1 inch (25 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking.	Not well healed, more than ¼ inch (3 mm) in depth, individual radial cracks more than ¾ inch (19 mm) in length, aggregate length of all radial cracks more than 1 inch (25 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking.	Not well healed, more than ¼ inch (6 mm) in depth, individual radial cracks more than 1 inch (25 mm) in length, aggregate length of all radial cracks more than 2½ inches (63 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking, not more than ¼ inch (3 mm) in depth, individual radial cracks are not more than ¾ inch (19 mm) in length.
Hail	Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ¾ inch (10 mm) in diameter.	Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ⅝ inch (16 mm) in diameter.	Fresh, very deep or fairly smooth, shallow hail marks aggregating more than a circle 1 inch (25 mm) in diameter.
Insect injury	Materially detracts from the appearance or any insect is present in the fruit.	Seriously detracts from the appearance or any insect is present in the fruit.	Very seriously detracts from the appearance or any insect is present in the fruit.

[1] Conversion to metric equivalent made to nearest whole millimeter.

Dated April 17, 1973.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.73-7700 Filed 4-23-73;8:45 am]

Agricultural Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Exemption of Certain Raisins From Regulation

Notice is hereby given of a proposal to amend the Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 37 FR 7148) to establish rules and procedures to: Exempt raisins in experimental and specialty packs from one or more of the requirements of the minimum grade standards, together with inspection and certification requirements, as applicable; prescribe reporting requirements on such experimental and specialty packs of raisins; and exempt from all order requirements raisins produced in Southern California which are disposed of for distillation, livestock feed, or by export in natural condition to Mexico.

The proposal was unanimously recommended by the Raisin Administrative Committee pursuant to the marketing agreement, as amended, and order No. 989, as amended (7 CFR part 989; 37 FR 19621, 20022), hereinafter referred to collectively as the "order", regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Recent amendment of the order included a revision of paragraph (g) of § 989.59 to provide for exemption of experimental and specialty packs of raisins from one or more of the requirements of the minimum grade standards for packed raisins, and the inspection and certification requirements, as applicable. Such exemption would afford raisin handlers maximum flexibility in developing new raisin markets. Raisin handlers are continuously seeking new processing methods and new outlets for raisins.

Experimental packs of raisins would include, but not necessarily be limited to, packages developed to make determinations on feasibility of pack, consumer acceptance, storage characteristics, and shelf life.

Specialty packs would include both specialty processing and specialty packing. Specialty processing would include, but not necessarily be limited to, oil dressings or other techniques in processing, including moisture. Specialty packs means unusual types of containers. The proposed rules and procedures governing such exemptions would be set forth in the Subpart—Administrative Rules and Regulations by revising § 989.159(f).

Pursuant to § 989.73(c) the committee would require handlers to file certain reports on shipments of raisins pursuant to the proposed exemption. Such reporting requirements would be set forth in § 989.173(e) and would require handlers to submit reports on shipments made pursuant to such exemption promptly after the end of the crop year or after completion by him of all shipments of such exempted raisins, whichever is earlier.

The recent amendment of the order revised § 989.60 to provide that the committee may establish such rules and procedures as may be necessary to exempt from any or all regulation raisins produced in Southern California (i.e., the counties of Riverside, Imperial, San Bernardino, Ventura, Orange, Los Angeles, and San Diego) and disposed of for distillation, livestock feed, or by export in natural condition to Mexico. These raisins are from grapes which remain on the vines after the fresh table grape harvesting has been completed and dry into raisins on the vine. The committee has determined that it is not essential, at this time, to regulate such raisins and exemption of them for disposition into such outlets would not now interfere with order regulation.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, room 112, Administration Building, Washington, D.C. 20250, not later than May 4, 1973. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

1. Revise § 989.159(f) to read as follows:

§ 989.159 Regulation of the handling of raisins subsequent to their acquisition.

* * * * *

(f) *Exemption of experimental and specialty packs.*—(1) *Shipment under exemption.*—Upon obtaining approval of the committee as provided in this paragraph, any handler may ship or dispose of raisins in experimental or specialty packs without regard to one or more of the requirements of the minimum grade standards for packed raisins and inspection and certification requirements, prescribed pursuant to § 989.59. For the purpose of this exemption, experimental and specialty packs means raisins processed using methods, materials or techniques that are not normally employed in packing raisins.

(2) *Application for exemption.*—Each application for exemption shall be filed with the committee in triplicate. The application shall at least contain information as to: (i) The name and address of the handler; (ii) the estimated quantity of each varietal type of raisins for which the exemption is requested; (iii) the specific requirements in the minimum grade standards from which exemption is requested; (iv) the special processing involved; (v) the net weight of each type of container; (vi) whether disposition will be made direct to consumers, wholesalers, retailers, persons or organizations, and any special uses to be made of such raisins; and (vii) the general quality, style and condition of the raisins for which the exemption is requested.

(3) *Committee action on application.*—The Committee in its discretion shall approve each application for exemption of raisins, if it concludes that such exemption shall not jeopardize the objectives of the marketing order program. The committee shall notify the handler promptly in writing of its approval or disapproval of his application and, if the application is approved, the maximum quantity for which approval is granted. If the application is disapproved, the Committee shall inform the handler of the reasons therefor.

* * * * *

§ 989.160 [Amended]

2. Designate the current provisions of § 989.160 as paragraph (a) thereof, with a heading reading "Disposition of raisins by processors" and add a new paragraph (b) reading as follows:

(b) *Disposition of raisins produced in Southern California.*—Raisins produced from grapes dried on the vine in the counties of Riverside, Imperial, San Bernardino, Ventura, Orange, Los Angeles, and San Diego, which are disposed or for use in distillation, livestock feed, or by export in natural condition to Mexico shall be exempt from the provisions of this part.

3. Revise § 989.173(e) to read as follows:

§ 989.173 Reports.

* * * * *

(e) *Report of shipments of experimental or specialty packs under exemption.*—Each handler who obtains an exemption pursuant to § 989.59(g) for the shipment of experimental or specialty packs of raisins shall submit to the Committee on a copy of the approved application for exemption a report showing the quantity of raisins shipped or disposed of under such exemption. The handler shall submit the report promptly after the end of the crop year or after completion by him of all shipments of such exempted raisins, whichever is earlier.

* * * * *

Dated April 19, 1973.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.73-7913 Filed 4-23-73;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 7]

[DOC FF 4–72]

MATTRESSES

Proposed Amendments to Flammability Standard

On February 8, 1973, there was published in the FEDERAL REGISTER (38 FR 3608) a notice of finding that amendments may be needed in the testing procedure and sampling plan of the Flammability Standard for Mattresses (DOC FF 4–72, May 31, 1972; 37 FR 11362, June 7, 1972). The FEDERAL REGISTER notice of February 8, 1973, announced a preliminary finding that amendments may be needed in the following areas in order to protect the public against the unreasonable risk of the occurrence of mattress fires leading to death, personal injury, or significant property damage:

(a) There may be insufficient justification for the conditioning requirements of section .4(c) and the requirement for a test room in section .4(a)(1). Accordingly, it may be desirable to allow prototype mattress testing without an upper temperature limit and to allow production testing without conditioning in any draft-protected enclosure rather than a special test room.

(b) There is a possibility that, 100 percent combed cotton percale sheets required in section .4(b)(6) for use in the test may not be available in sufficient quantity or within reasonable price ranges.

(c) The standard now allows a company with multiple facilities or a group

of companies normally selling under the same name to conduct centralized prototype testing. It may be desirable to have a similar provision to allow a group of independent companies to pool their resources to carry out prototype qualification on a combined basis.

(d) The definition of "mattress prototype" now set forth in section .1(h) may be so restrictive as to prohibit valid information determined as to one class of mattress being applied to another similar class of mattress without retesting.

(e) In view of the specialized nature of the production testing required under the provisions of the Standard, there may be instances where an individual manufacturer, despite his best efforts, cannot acquire access to either "in-house" or independent testing facilities for production testing. It may, therefore, be desirable to authorize the Federal Trade Commission, upon proof submitted by the manufacturer, on a case-by-case basis to suspend temporarily, production testing under such rules as it may prescribe. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress which meets all other requirements of the standard.

Proposed amendments.—After review and analysis of the comments received, and information developed through further research, it is hereby found that amendments in the test procedure and sampling plan of the Flammability Standard for Mattresses, DOC FF 4–72, are needed. It is preliminarily found that the amendments which are set out in full at the end hereof are:

(a) Needed for mattresses to protect the public against unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage;

(b) Reasonable, technologically practicable, and appropriate, and are stated in objective terms; and

(c) Limited to mattresses which currently present unreasonable risks specified in (a) above.

Basis for proposed amendments.—The proposed amendments are based on petitions received from interested parties, public comment, and research conducted by the Department. These amendments apply to areas intended to resolve problems that many manufacturers, particularly the small ones, are encountering. Inclusion of the amendments in the standard can be accomplished without reduction in the high level of protection to the consumer from the hazards of mattress fires which the present standard provides.

Effective date of proposed amendments.—The present Flammability Standard for Mattresses (DOC FF4–72) becomes effective June 7, 1973. All goods manufactured after June 7, 1973, are required to comply. An amendment to a flammability standard issued under the Flammable Fabrics Act normally becomes effective 12 months from the date on which such amendment is promulgated, unless the Secretary of Commerce finds for good cause shown, that an earlier or later date is in the public interest and publishes the reason for such finding.

It is hereby proposed that good cause has been shown that an earlier effective date of these amendments is in the public interest. This proposal is based on information received from this Department through petitions, supporting documents thereto, and research conducted by the Department which indicates that compliance with the Flammability Standard for Mattresses by smaller manufacturers would be substantially accelerated by the addition of the amendments accompanying this notice, thereby providing the public with increased protection against unreasonable risk of the occurrence of fire leading to death or personal injury.

Further, some industry sources state that it is not economically feasible for them to comply with the standard for 1 year. The Department's independent investigation shows that the majority of mattress manufacturers could comply with the requirements of the proposed amended standard within 6 months.

Accordingly, the Department requests comments as to whether the effective date of the standard, as amended, should be extended for some period up to 6 months.

Applicability of proposed amendments.—As in the case with all flammability standards issued under the Flammable Fabrics Act, the proposed amendments contemplated, herein, would apply to all domestic and imported mattresses as defined in the Standard (DOC FF 4–72). Pursuant to section 4(b) of the Flammable Fabrics Act, as amended (15 U.S.C. 1193(b)), the amendments exempt mattresses in inventory or with the trade as of the date on which the amendments become effective.

Reissuance of the standard.—The amendments are expected to be included in the mattress flammability standard (DOC FF 4–72) under sections .1(h), .4(a)(1), .4(b)(2)a1, .4(b)(2)a2(a), .4(b)(2)a2(b), .4(b)(6), .4(c) and .4(d)(1). In addition, new sections .4(b)(9) and .4(b)(10) will be added to include compliance marketplace sampling and postponement of production testing. An addition to section .4(b)(1) will be made to allow submittal of alternate sampling plans involving testing of components of mattresses for approval by the Department of Commerce. Inclusion of the amendments in the standard requires that certain portions of other sections of the standard be revised.

In the light of the foregoing, reissuance of the standard to include all changes is considered appropriate. Appended hereto, is the proposed standard to be reissued as the Standard for the Flammability of Mattresses (DOC FF 4–72; as amended).

Participation in proceedings.—All interested persons are invited to submit written comments relative to the proposed amended flammability standard on or before May 24, 1973. Written comments should be submitted in at least four (4) copies to: The Assistant Secretary for Science and Technology, room 3862, U.S. Department of Commerce, Washington, D.C. 20230, and may include any data or other information pertinent to the subject.

Inspection of relevant documents.—The written comments received pursuant to this notice will be available for public inspection at the Central Reference and Records Inspection Facility of the Department of Commerce, room 7043, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230. A supporting document is available for inspection in the above facility. The document contains in more detail the basis for the proposed amendments which are summarized in the preceding portions of this notice.

Issued April 17, 1973.

BETSY ANCKER-JOHNSON,
Assistant Secretary
for Science and Technology.

The proposed amendments to sections .1(b), .4(a)(1), .4(b)(1), .4(b)(2)a1, .4(b)(2)a2(a), .4(b)(2)a2(b), .4(b)(6), .4(c), .4(d)(1) and the addition of new sections .4(b)(9) and .4(b)(10) to the Standard for the Flammability of Mattresses (DOC FF 4–72) are as follows:

MATTRESSES

FLAMMABILITY STANDARD FOR MATTRESSES

Sec.
.1 Definitions.
.2 Scope and application.
.3 General requirements.
.4 Test procedure.
.5 Mattress pads.
.6 Glossary of terms.

.1 *Definitions.*—In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191) and § 7.2 of the "Procedures" (33 FR 14642, October 1, 1968), the following definitions apply for the purpose of this standard:

(a) "Mattress" means a ticking filled with a resilient material used alone or in combination with other products and intended or promoted for sleeping upon. This definition includes, but is not limited to, mattress pads, adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, convertible sofa bed mattresses, corner group mattresses, daybed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses. This definition excludes sleeping bags, pillows, mattress foundations such as box springs, liquid and gaseous filled tickings such as water beds and air mattresses, upholstered furniture such as chaise lounges, drop-arm loveseats, press-back lounges, push-back sofas, sleep lounges, sofa beds (including jackknife sofa beds), sofa lounges (including glide-outs), studio couches, and studio divans (including twin studio divans and studio beds), and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table

pads, stroller pads, crib bumpers, and playpen pads.

See 6, Glossary of terms for definition of the above.

(b) "Ticking" means the outermost layer of fabric or related material that encloses the mattress core and upholstery materials.

(c) "Core" means the main support system that may be present in a mattress, such as springs, foam, or hair block.

(d) "Upholstery material" means all material, either loose or attached, between the ticking or between the ticking and the core of the mattress, if a core is present.

(e) "Tape edge" (edge) means the seam or border edge of a mattress.

(f) "Quilted" means stitched through the ticking and one or more layers of upholstery material.

(g) "Tufted" means buttoned or laced through the ticking and upholstery material and/or core.

(h) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress size. If it has been shown as a result of prototype qualification testing that a material has not influenced the ignition resistance of the mattress prototype, substitution of another material for such material shall not be deemed a difference in materials for purposes of prototype definition. If it is determined or suspected that material has influenced the ignition resistance of the mattress prototype, a dimensional change in that material shall be deemed a difference in materials for purposes of prototype definition unless it can be shown that such dimensional change will not reduce the ignition resistance of the mattress prototype.

(i) "Mattress type" means mattresses sharing a method of assembly, such as tufted, multineedle continuous quilt, deep panel quilt, and smooth top, and all materials affecting cigarette ignition, but excluding differences in mattress size. More than one mattress prototype may be included in a single mattress type, provided each prototype has the same method of assembly.

(j) "Production unit" (unit) means a quantity of mattresses of one mattress type. This quantity is predetermined by the mattress manufacturer subject to the maximum number specified in the applicable parts of .4(b), Specimens and sampling. No mattress completed while other mattresses of the same type are in production shall be excluded from the production unit to which such other mattresses are assigned.

(k) "Surface" means one side of a mattress which is intended for sleeping upon and which can be tested.

.2 *Scope and application.*—(a) This standard provides a test method to determine the ignition resistance of a mattress when exposed to a lighted cigarette.

(b) All mattresses, as defined in .1(a), are subject to the requirements of this standard.

(c) Mattresses which are subject to the coverage of the motor vehicle safety standard, No. 302, subject: "Flammability of Interior Materials—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses" (36 FR 290), issued by the National Highway Traffic Safety Administration, are excluded from coverage under this standard, unless also intended or promoted for uses included in .1(a).

(d) One of a kind mattress, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Federal Trade Commission.

.3 *General requirements.*—(a) *Summary of test method.*—The method involves the exposure of the mattress surface to lighted cigarettes as the standard igniting source in a draft-protected environment and the measurement of the ignition resistance of the mattress. These exposures include smooth, tape edge, and quilted or tufted locations, if they exist on the mattress surface. Two-sheet tests are also conducted on similar surface locations. In the latter test, the burning cigarettes are placed between the sheets.

(b) *Test criterion.* Testing the mattress surface in accordance with the testing procedure set forth in .4, Test procedure, individual cigarette test locations pass the test if the char length on the mattress surface is not more than 5.1 cm (2 in) in any direction from the nearest point of the cigarette. (In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 2-inch char length if, in his opinion, an obvious ignition has occurred.)

.4 *Test procedure.*—(a) *Apparatus.*—(1) *Test room.*—The test room shall be large enough to accommodate a full-scale mattress in a horizontal position and to allow for free movement of personnel and air around the test mattress. The room shall be equipped with a support system (platform, bench, etc.) upon which a mattress may be placed flat in a horizontal position at a reasonable height for making observations. For thin, flexible mattresses and mattress pads, the top surface of the support system shall be nonmetallic. The test area shall be draft-protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing.

The test room atmospheric conditions shall be greater than 18° C (65° F) and at less than 55 percent relative humidity, except for production testing.

(2) *Ignition source.*—The ignition source shall be cigarettes without filter tips made from natural tobacco, 85±2 mm long with a tobacco packing density of 0.270±0.020 g/cm^3 and a total weight of 1.1±0.1 gm.

(3) *Fire extinguisher.*—A pressurized water fire extinguisher, or other suitable fire extinguishing equipment, shall be immediately available.

(4) *Water bottle.*—A water bottle fitted with a spray nozzle shall be used to extinguish the ignited portions of the mattress.

(5) *Scale.*—A linear scale graduated in millimeters, 0.1 inch, or one-sixteenth inch divisions shall be used to measure char length.

(6) *Other apparatus.*—In addition to the above, a thermometer, a relative humidity measuring instrument, a knife or scissors, and tongs are required to carry out the testing.

(b) *Specimen and sampling.*—(1) *General.*—The test criterion of .3(b) shall be used in conjunction with the following mattress sampling plan, or any other approved by the Department of Commerce that provides at least the equivalent level of fire safety to the consumer. Alternate sampling plans submitted for approval shall have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. If such alternate sampling plan involves testing of components of mattresses or materials used in mattresses, its submittal shall be supported by clear evidence of the necessary correlation of the results of such testing with those results from testing as prescribed hereunder.

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: (1) Prototype qualification and (2) production testing. In addition, a batch sampling plan is given which may be used for small production quantities, when shipping requirements prohibit the use of the basic plan, or for other reasons at the discretion of the manufacturer.

(a) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 500 mattresses of a mattress type or the quantity produced in 3 consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 3 consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the unit came from a single manufacturing lot of such material or 50 consecutive production units, at least 20,000 mattresses, have all been accepted in production testing as set forth in .4(b)(2)(a)(2).

(1) *Prototype qualification.*—For prototype qualification, the term "manufacturer" shall mean: (a) With respect to a company having one manufacturing facility, that company; (b) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (c) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group or companies or a portion of that group or (a) or (b) above, as that company elects.

Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to .4(d), Testing. If all the cigarette test locations on all six surfaces satisfy the test criterion of .3(b), accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterian of .3(b), reject the mattress prototype.

If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to .4(d), Testing. If all the cigarette test locations on both surfaces satisfy the test criterion of .3(b), accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of .3(b), reject the mattress prototype for that company or manufacturing facility.

Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of the preceding paragraph or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification, not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(2) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Federal Trade Commission. If it is desired to use only mattresses of a specified size (e.g., "twin") for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in .4(b)(2)(a)(1), is either accepted or rejected according to the following plan:

(a) *Norman sampling.*—From each unit randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to .4(d) testing. If all the cigarette test locations on both surfaces meet the test criterion of .3(b), accept the unit. If two or more individual cigarette test locations fail the test criterion of .3(b), reject the unit. If only one individual cigarette test location fails the test criterion of .3(b), select enough additional mattresses to provide four additional surfaces for test. Test each of the four additional surfaces according to .4(d) testing. If all the cigarette test locations on the four additional surfaces meet the test criterion of .3(b), accept the unit. If one or more of the individual cigarette test locations on the four additional surfaces fail the test criterion of .3(b), reject the unit.

Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(b) *Reduced sampling.*—The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan. In this case, the production quantity for reduced sampling may be increased to up to two units, still not to exceed the production of 3 consecutive calendar months.

From this production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to .4(d) testing. If all the cigarette test locations on both surfaces meet the test criterion of .3(b), accept this production quantity. If two or more individual cigarette test locations fail the test criterion of .3(b), reject this production quantity. If only one individual cigarette test location fails the test criterion of .3(b), accept this production quantity.

Rejection shall include all mattresses in the production quantity under test. Rejection also results in the loss of prototype qualification for all prototypes included in the production quantity under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(b) *Batch sampling plan.*—For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility.

A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(1) *Batch unit qualification and acceptance.*—Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to .4(d) testing. If all the cigarette test locations on the four surfaces meet the test criterion of .3(b), accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of .3(b), reject the unit.

After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification or unit acceptance of any other production unit.

(3) *Disposition of rejected units.*—Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in .1(a) except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in .4(b)(2)(a) Basic Sampling Plan.

(4) *Records.*—Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with rules and regulations established by the Federal Trade Commission.

(5) *Preparation of mattress samples.*—The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection.*—The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 170–200 threads per square inch and fabric weight of 155±14 g/m^2 (3.4±0.4 oz/yd.^{2}), or of another type approved by the Department of Commerce. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation.*—The sheets shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.*—Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plan by FTC.*—The FTC may submit, for approval by the Secretary of Commerce, sampling plans for use in market testing of items covered by this standard. For

approval, such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such FTC plans will, in fact, fail this standard.

Production units found to be noncomplying under these provisions shall be deemed not to conform to this standard.

(10) *Postponement of production testing.*—Temporary suspension of production testing may be granted on a case-by-case basis by the Federal Trade Commission in those instances where an individual manufacturer proves, under rules prescribed by FTC, that he cannot acquire access to either "in house" or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress which meets all other requirements of the standard.

(c) *Conditioning.*—(1) *Prototype and batch.*—The mattresses, washed sheets, and cigarettes shall be conditioned in air at a temperature greater than 18° C. 65° F.) and a relative humidity less than 55 percent for at least 48 hours prior to test. The mattresses, washed sheets, and cigarettes shall be removed from any packaging and supported in a suitable manner to permit free movement of air around them during conditioning. The mattress meets this conditioning requirement if the mattress and/or all its component materials, except the metallic core, have been exposed only to the above temperature and humidity conditions for at least 48 hours prior to testing the mattress.

(2) *Production.*—Mattresses to be tested according to .4(b)(2)(a) (2) production testing shall be exempt from conditioning as specified in .4(c)(1). However, the mattresses shall not be exposed to any environmental conditions which promote resistance to cigarette ignition. Sheets and cigarettes in their normally used condition (dry) shall be used.

(d) *Testing.*—(1) *General.*—Mattress specimens selected for testing in prototype and batch sampling shall be tested in a test room with atmospheric conditions of a temperature greater than 18° C. (65° F.) and a relative humidity less than 55 percent. If the test is not performed in the conditioning room, the mattress shall be tested within 1 hour after removal from the conditioning room.

(a) Light and place one cigarette at a time on the mattress surface. (If previous experience with the same type of mattress has indicated that ignition is not likely, the number of cigarettes which may be lighted and placed on the mattress at one time is left to the test operator's judgment. The number of cigarettes must be carefully considered because a smoldering or burning mattress is extremely hazardous and difficult to extinguish.) If more than one cigarette is burning at one time, the cigarettes must be positioned no less than 6 inches apart on the mattress surface. Each cigarette used as an ignition source shall be well lighted but not burned more than 4 mm (0.16 in) when placed on the mattress. (Fire extinguishing equipment must be readily available at all times.)

(b) If a cigarette extinguishes before burning its full length, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location on the mattress surface until either (a) the number of cigarettes specified in .4(d)(1)(c) have burned their full lengths, (b) the number of cigarettes specified has extinguished before burning their full lengths, or (c) the number of cigarettes specified have resulted in failure according to .3(d) test criterion.

(c) At least 18 cigarettes shall be burned on each mattress test surface, 9 in the bare mattress tests and 9 in the two-sheet tests. If three or more mattress surface locations (smooth surface, tape edge, quilted, or tufted areas) exist in the particular mattress surface under test, three cigarettes shall be burned on each different surface location. If only two mattress surface locations exist in the particular mattress surface under test (tape edge and smooth surface), four cigarettes shall be burned on the smooth surface and five cigarettes shall be burned on the tape edge.

(2) *Bare mattress tests.*—(a) *Smooth surfaces.*—Each burning cigarette shall be placed directly on a smooth surface location on the test surface on the half reserved for bare mattress tests. The cigarettes should burn their full lengths on a smooth surface without burning across a tuft or stitching of a quilted area. However, if this is not possible because of mattress design, then the cigarettes shall be positioned on the mattress in a manner which will allow as much of the butt ends as possible to burn on smooth surfaces. Report results for each cigarette as pass or fail as defined in the test criterion.

CAUTION.—Even under the most carefully observed conditions, smoldering combustion can progress to the point where it cannot be readily extinguished. It is imperative that a test be discontinued as soon as ignition has definitely occurred. Immediately wet the exposed area with a water spray (from water bottle), cut around the burning material with a knife or scissors and pull the material out of the mattress with tongs. Make sure that all charred or burned material is removed. Ventilate the room.

(b) *Tape edge.*—Each burning cigarette shall be placed in the depression between the mattress top surface and the tape edge, parallel to the tape edge on the half of the test surface reserved for bare mattress tests. If there is no depression at the edge, support the cigarettes in place along the edge and parallel to the edge with straight pins. Three straight pins may be inserted through the edge at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see figure 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(c) *Quilted location.*—If quilting exists on the test surface, each burning cigarette shall be placed on quilted locations of the test surface. The cigarettes shall be positioned directly over the thread in the depression created by the quilting process on the half of the test surface reserved for bare mattress tests. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(d) *Tufted location.*—If tufting exists on the test surface, each burning cigarette shall be placed on tufted locations of the test surface. The cigarettes shall be positioned so that they burn down into the depression caused by the tufts and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts on the half of the test surface reserved for bare mattress tests. Report results for each cigarette as pass or fail as defined in the test criterion.

(3) *Two-sheet tests.*—Spread a section of sheet smoothly over the mattress surface and tuck under the mattress on the second half of the test surface, which has been reserved for the two-sheet test. Care must be taken that hems or any other portion of the sheet which is more than one fabric thickness, is neither directly under nor directly over the test cigarette in the two-sheet test.

(a) *Smooth surfaces.*—Each burning cigarette shall be placed directly on the sheet covered mattress in a smooth surface location as defined in the bare mattress test. Immediately cover the first sheet and the burning cigarettes loosely with a second, or top, sheet (see figure 2). Do not raise or lift the top sheet during testing unless obvious ignition has occurred or until the cigarette has burned out. (The extinguishment of the cigarette may be determined by holding the hand near the surface of the top sheet over the test location. If neither heat is felt nor smoke observed, the cigarette has burned out.) If ignition occurs, immediately remove the sheet and cigarette and follow the cautionary procedures outlined in the bare mattress test. Report results for each cigarette as pass or fail as defined in the test criterion.

(b) *Tape edge.*—Each burning cigarette shall be placed in the depression between the top surface and the tape edge on top of the sheet,, and immediately covered with a second sheet. It is important that the airspace be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument.

In most cases, the cigarettes will remain in place throughout the test; however, if the cigarettes show a marked tendency to roll off the tape edge location, they may be supported with straight pins. Three straight pins may be inserted through the bottom sheet and tape at a 45° angle such that one pin supports the cigarette at the burning end, one at the

center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see figure 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(c) *Quilted locations.*—If quilting exists on the test surface, each burning cigarette shall be placed in a depression caused by quilting, directly over the thread and on the bottom sheet, and immediately covered with the top sheet. It is important that the airspace be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(d) *Tufted locations.*—If tufting exists on the test surface, each burning cigarette shall be placed in the depression caused by tufting, directly over the tuft and on the bottom sheet, and immediately covered with the top sheet. It is important that the airspace be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. The cigarettes shall be positioned so that they burn down into the depression caused by the tuft and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts. Report results for each cigarette as pass or fail as defined in the test criterion.

.5 *Mattress pads.*—(a) *Testing.*—Mattress pads shall be tested in the same manner as mattresses according to .4 Test Procedure except for laundering.

(b) *Laundering.*—Mattress pads which have had a chemical fire retardant treatment or contain any chemically fire retardant treated components, shall be tested in accordance with .4 test procedure in the condition in which they are intended to be sold, and after they have been washed and dried 10 times according to the procedure prescribed in method 124—1969 of the American Association of Textile Chemists and Colorists washing procedure 6.2(III), with a water temperature of 60°±2.8° C. (140°±5° F.), and drying procedure 6.3.2.(B). Maximum load shall be 3.46 kg (8 lbs.) and may consist of any combination of test items and dummy pieces. Alternately, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Federal Trade Commission.

Such laundering is not required of mattress pads which are not intended to be laundered, as determined by the Federal Trade Commission.

Mattress pads which are not susceptible to being laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has previously been found acceptable by the Federal Trade Commission.

(c) *Labeling.*—(1) *Treatment Label.*—If a mattress pad has had a chemical fire retardant treatment or contains any fire retardant treated components, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Federal Trade Commission.

(2) *Care label.*—All mattress pads which have had a chemical fire retardant treatment or contain any fire retardant treated components shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Federal Trade Commission.

.6 *Glossary of Terms.*—(a) *Basket pad.*—Cushion for use in an infant basket.

(b) *Box spring.*—A bedspring that consists of springs attached to a foundation and enclosed in a cloth covered, upholstered frame.

(c) *Bunk beds.*—A tier of beds, usually two or three, in a high frame complete with mattresses (see fig. 3).

(d) *Car bed.*—Portable bed used to carry a baby in an automobile.

(e) *Carriage pad.*—Cushion to go into a baby carriage.

(f) *Chaise lounge.*—An upholstered couch chair or a couch with a chair back. It has a permanent back rest, no arms, and sleeps one (see fig. 3).

(g) *Convertible sofa.*—An upholstered sofa that converts into an adult sized bed. Mattress unfolds out and up from under the seat cushioning (see fig. 3).

(h) *Corner groups.*—Two twin size bedding sets on frames, usually slipcovered, and abutted to a corner table. They also usually have loose bolsters slipcovered (see fig. 3).

(i) *Crib bumper.*—Padded cushion which goes around three or four sides inside a crib to protect the baby. Can also be used in a playpen.

(j) *Day bed.*—Day bed has foundation, usually supported by coil or flat springs, mounted between arms on which mattress is placed. It has permanent arms, no back rest, and sleeps one (see fig. 3).

(k) *Dressing table pad.*—Pad to cushion a baby on top of a dressing table.

(l) *Drop-arm loveseat.*—When side arms are in vertical position, this piece is a loveseat. The adjustable arms can be lowered to one of four positions for a chaise lounge effect or a single sleeper. The vertical back support always remains upright and stationary (see fig. 3).

(m) *High riser.*—This is a frame of sofa seating height with two equal size mattresses without a backrest. The frame slides out with the lower bed and rises to form a double or two single beds (see fig. 3).

(n) *Infant carrier and lounge pad.*—Pad to cushion a baby in an infant carrier.

(o) *Mattress foundation.*—Consists of any surface upon which a mattress is placed to lend it support for use in sleeping upon.

(p) *Mattress pad.*—A thin, flat mat or cushion for use on top of a mattress.

(q) *Pillow.*—Cloth bag filled with resilient material such as feathers, down, sponge rubber, urethane, or fiber used as the support for the head of a person.

(r) *Playpen pad.*—Cushion used on the bottom of a playpen.

(s) *Portable crib.*—Smaller size than a conventional crib. Can usually be converted into a playpen.

(t) *Press-back lounges.*—Longer and wider than conventional sofa beds. When the lounge seat is pressed lightly, it levels off to form, with the seat, a flat sleeping surface. The seat slopes, in the sitting position, for added comfort (see fig. 3).

(u) *Push-back sofa.*—When you push on the back of the sofa, it becomes a bed. Lift the back and it is a sofa again. Styled in tight or loose cushions (see fig. 3).

(v) *Roll-a-way bed.*—Portable bed which has frame which folds in half with the mattress for compact storage.

(w) *Sleep lounge.*—Upholstered seating section is mounted on a sturdy frame. May have bolster pillows along the wall as backrests or may have attached headrests (see fig. 3).

(x) *Stroller pad.*—Cushion used in a baby stroller.

(y) *Sofa bed.*—These are pieces in which the back of the sofa swings down flat with the seat to form the sleeping surface. All upholstered. Some sofa beds have bedding boxes for storage of bedding. There are two types: The one-piece, where the back and seat are upholstered as a unit, supplying an unbroken sleeping surface; and the two-piece, where back and seat are upholstered separately (see fig. 3).

(z) *Sofa lounge—(includes glide-outs).*—Upholstered seating section is mounted on springs and in a special frame that permits it to be pulled out for sleeping. Has upholstered backrest bedding box that is hinged. Glide-outs are single sleepers with sloping seats and backrests. Seat pulls out from beneath back and evens up to supply level sleeping surface (see fig. 3).

(aa) *Studio couch.*—Consists of upholstered seating section on upholstered foundation. Many types convert to twin beds (see fig. 3).

(bb) *Studio divan.*—Twin size upholstered seating section with foundation is mounted on metal bed frame. Has no

arms or backrest, and sleeps one (see fig. 3).

(cc) *Trundle bed.*—A low bed which is rolled under a larger bed. In some lines, the lower bed springs up to form a double or two single beds as in a high riser (see fig. 3).

(dd) *Twin studio divan.*—Frames which glide out (but not up) and use seat cushions, in addition to upholstered foundation to sleep two. Has neither arms nor backrest (see fig. 3).

CIGARETTE LOCATION

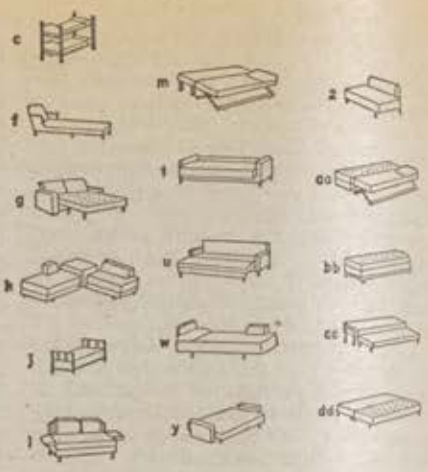


FIGURE 3

[FR Doc.73-7613 Filed 4-19-73;8:45 am]

MATTRESS PREPARATION

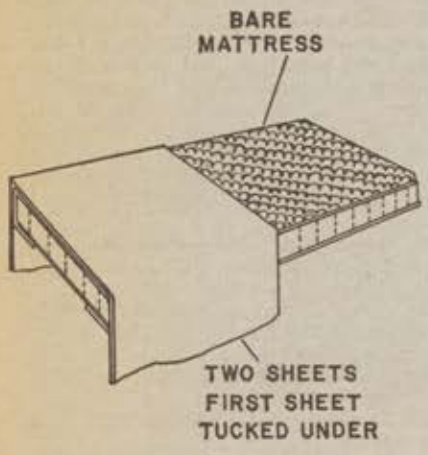
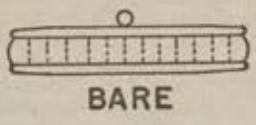
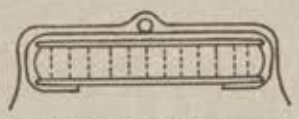


FIGURE 1





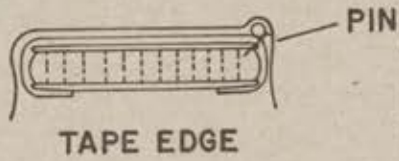


FIGURE 2

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVE

Proposed Revocation of Use of Mercaptoimidazoline

An order published in the FEDERAL REGISTER of July 26, 1962 (28 FR 7092) provided for the use of "mercaptoimidazoline" in the production of vulcanized natural or synthetic rubber closure sealing gaskets at a level not to exceed 1 percent by weight of the gasket composition (21 CFR 121.2550). A subsequent order published in the FEDERAL REGISTER of February 1, 1963 (29 FR 969) provided for use of "2-mercaptoimidazoline" as an accelerator in the production of rubber articles at a level not to exceed 1.5 percent by weight of the rubber article (21 CFR 121.2562).

An order published in the FEDERAL REGISTER of August 6, 1966 (32 FR 10575) amended § 121.2514 in paragraph (b)(3)(xxxi) can end cements to provide for use of substances, including "mercaptoimidazoline", listed in § 121.2550(b)(5).

It has come to the attention of the Commissioner of Food and Drugs that it is possible for the subject additive to rearrange to form ethylenethiourea which

may be a health hazard. In the absence of data to show that the rearrangement does not occur, the uses of the subject additive cited above can no longer be regarded as having been shown to be safe as required by section 409 of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1785–1788, as amended; 21 U.S.C. 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend part 121 as follows:

1. In § 121.2550 by deleting from table 1 of paragraph (b)(5) the item "Mercaptoimidazoline".

2. In § 121.2562 by deleting from paragraph (c)(4)(ii)(b) the item "2-Mercaptoimidazoline".

Interested persons may, on or before June 25, 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 April 17, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73–7851 Filed 4–23–73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 73]

[Airspace docket No. 73–SW–20]

JOINT-USE RESTRICTED AREA AND CONTROLLED AIRSPACE

Proposed Designation and Alteration

The Federal Aviation Administration (FAA) is considering amendments to parts 71 and 73 of the Federal Aviation Regulations that would designate a joint-use restricted area in a portion of the VFR corridor between El Paso, Tex., and Alamogordo, N. Mex., and alter the description of the continental control area to reflect the establishment of the restricted area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 24, 1973, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Air Force has requested the designation of a joint-use restricted area within a major portion of the VFR corridor between El Paso, Tex., and Alamogordo, N. Mex., with altitude extending from surface to unlimited. During the period under control by the using agency, the proposed restricted area will preclude hazards to air and ground personnel, equipment and facilities in the VFR corridor that could result from inadvertent fallout of missile debris impacting in R–5107B and R–5103. The requested joint-use airspace would be under control by the using agency only during missile operations currently estimated at 2 or 3 hours duration, twice per month, effective October 1, 1973, through December 31, 1973. Subsequent missile firing periods, estimated at this rate, may occur after this period and they will be designated by NOTAM's published 24 hours in advance.

Since the missiles will leave and reenter restricted airspace at or above FL 600, they will not adversely affect aviation activities and therefore, no restricted corridor is proposed between the launch and impact sites. However, the using agency must comply with provisions of part 101 of the Federal Aviation Regulations before conducting any missile activity outside restricted airspace, including obtaining any necessary waivers.

Restricted areas R–5107B and R–5103 are the only land areas within the White Sands Missile Range (WSMR) in which missiles can be retrieved from launchings made in the Blanding, Utah, area. Impact areas within R–5107B and R–5103 are being selected to preclude fallout from the missiles' second stage. Missile launches and landings will be performed primarily during nighttime hours during periods of minimum air and ground traffic activity. Sufficient advance notices of missile operation will be provided to the public and users of air and ground space by news media, FAA flight service station broadcasts and NOTAM's. The latter will announce, 24 hours in advance, the specific periods of area activation. Coordination and communication will also be made between Holloman AFB, the launch site, WSMR control and the air traffic control facilities.

In consideration of the foregoing, the FAA proposes the following airspace actions:

1. R–5107H, White Sands Missile Range, N. Mex., would be designated in part 73 of the Federal Aviation Regulations as follows:

BOUNDARIES

Beginning at latitude 32°06'00" N., longitude 106°15'30" W. and extending northeastward along the Southern Pacific Railroad to latitude 32°28'00" N., longitude 106°02'00" W.; to latitude 32°27'40" N., longitude 106°00'00" W.; to latitude 32°36'00" N., longitude 106°00'00 W.; to latitude 32°36'00" N., longitude 106°00'00" W.; to latitude 32°25'00" N., longitude 106°06'00" W.; to latitude 32° 05'00" N., longitude 106°18'20" W. to point of beginning.

Designated altitudes.—Surface to unlimited.

Time of designation.—Continuous October 1, 1973 to December 31, 1973. All subsequent firing periods will be designated by NOTAM's published 24 hours in advance.

Controlling agency.—Federal Aviation Administration, Albuquerque ARTC Center.

Using agency.—Air Force Special Weapons Center, Air Force Systems Command, Kirtland Air Force Base, N. Mex.

2. The description of the continental control area in part 71 of the Federal Aviation Regulations would be altered to include joint-use Restricted area R–5107H.

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

Issued in Washington, D.C. on April 16, 1973.

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

[FR Doc.73–7842 Filed 4–23–73;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Part 172]

[Docket No. HM–103]

HAZARD INFORMATION SYSTEM

Request for Information for Environmental Impact Statement

On June 27, 1972, 37 FR 12660, The Hazardous Materials Regulations Board issued an advance notice of proposed rulemaking announcing that it was considering adoption of a hazard information system that would provide for more complete identification of the hazards of materials in transportation. One commenter requested the Board to issue an environmental impact statement pursuant to the National Environmental Policy Act, 42 U.S.C. section 4332. The Board has carefully considered this issue, and believes that no statement is necessary because the adoption of a hazard information system will not have a significant impact on the environment. However, the Board requests that any party having information regarding the need for an environmental impact statement submit this information to the Board. Comments are requested by May 22, 1973, and should be addressed to Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on April 18, 1973.

ALAN I. ROBERTS,
Secretary.

[FR Doc.73–7862 Filed 4–23–73;8:45 am]

[49 CFR Part 173]

[Docket No. HM-102]

FLAMMABLE, COMBUSTIBLE, AND PYROPHORIC LIQUIDS, DEFINITIONS

Request for Information for Environmental Impact Statement

On June 15, 1972, 37 FR 11898, The Hazardous Materials Regulations Board issued an advance notice of proposed rulemaking announcing that it was considering amendment of the flammable liquid definition and adoption of a new class "Combustible Liquid." One commenter requested the Board to issue an environmental impact statement pursuant to the National Environmental Policy Act, 42 U.S.C. section 4332. The Board has carefully considered this issue, and believes that no statement is necessary because the adoption of these definitions will not have a significant impact on the environment. However, the Board requests that any party having information regarding the need for an environmental impact statement submit this information to the Board. Comments are requested by May 22, 1973, and should be addressed to Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on April 18, 1973.

ALAN I. ROBERTS,
Secretary.

[FR Doc.73-7863 Filed 4-23-73;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 25435; EDR-241]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Proposed Classification

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments to part 241 of its economic regulations (14 CFR part 241), which would (1) classify revenues from certain persons traveling at reduced rates as "Other Operating Revenues" and (2) classify the related traffic statistics as nonrevenue.

The background and principal features of the proposed amendment are described in the attached explanatory statement, and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743 and 766, as amended; 49 U.S.C. 1324 and 1377).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before May 24, 1973, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. upon receipt thereof.

Dated April 18, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

It appears to the Board that a significant divergence exists among carriers in accounting and reporting for passengers traveling under reduced-rate transportation authorized under section 403(b) of the act, resulting in distorting passenger revenues, revenue passenger-miles and yields. This is due, we believe, to the lack of specific instructions in the Uniform System of Accounts and Reports for Certificated Air Carriers. Therefore, it is deemed appropriate to achieve uniformity in this respect.

The passenger revenue classification is intended to encompass revenues from transportation services offered to the public. The classification is not intended to cover revenue received from airline employees, officers and directors, or others who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's Economic Regulations, or from travel agents, cargo agents and tour conductors traveling at reduced fares. In general, the carriers are under no common-carrier obligation to provide such services for this noncommercial traffic and presumably they do not provide capacity for such persons. By the same token, the measurement of the carriers' productive use of capacity, as indicated by their revenue passenger load factor, should not reflect such traffic. Similarly, the carriers' average yield should not reflect such transportation since the carriers' yield is often used as an indicator of the average fare produced by their fare structures.

Accordingly, the Board is proposing herein that persons traveling at reduced rates pursuant to the provisions of section 403 of the act and part 223 of the Board's Economic Regulations, as well as travel agents, cargo agents, and tour conductors, who have paid less than the normal fare be excluded from the passenger revenue classification (account 3901) and be recorded in Account 3919, "Other Operating Revenues" with the related traffic statistics classified as nonrevenue.[1] For monitoring purposes, revenue from the foregoing passengers (included in account 3919 on schedule P-1.1 or P-1.2, "Income Statement") and related nonrevenue passenger-miles (included in item K160 on schedule T-1(a), "Traffic and Capacity Statistics by Class of Service") would be reported quarterly on schedule P-2, "Notes to Income Statement."

It is proposed to amend part 241 of the Economic Regulations (14 CFR part 241), as follows:

1. Amend the definitions of "Traffic, nonrevenue" and "Traffic, revenue" in section 03—Definitions for Purposes of this System of Accounts and Reports, as follows:

Section 03—Definitions for Purposes of this System of Accounts and Reports

* * * * *

Traffic, nonrevenue—passengers and cargo transported by air for which no remuneration or token service charges are received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's Economic Regulations, as well as travel agents, cargo agents, and tour conductors traveling at reduced fares are also considered nonrevenue traffic.

* * * * *

Traffic, revenue—passengers and cargo transported by air for which remuneration is received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's Economic Regulations, travel agents, cargo agents, and tour conductors traveling at reduced fares, and other passengers and cargo carried for token service charges, are not considered as revenue traffic.

2. Amend paragraph (a) of Account 01 Passenger and paragraph (a) of account 19 other operating revenues, in section 12—Objective classification—Operating revenues, as follows:

Section 12—Objective Classification—Operating Revenues

* * * * *

01 Passenger (a) Record here revenue from the transportation of passengers by air including infants transported at reduced fares, berth charges, surcharges for premium services and other similar charges. Revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's Economic Regulations, as well as revenue from travel agents, cargo agents and tour conductors traveling at reduced fares, and revenues from service charges for passengers traveling on a nonrevenue basis shall be recorded in objective account 19 other operating revenues.

* * * * *

[1] Section 403(b) authorizes, inter alia, the carriers to offer reduced-rate transportation to ministers of religion on a space-available basis. Since such persons are members of the general public and constitute commercial traffic, the provisions of the proposed rules would not be applicable to traffic and revenue generated by ministers of religion who are traveling at reduced rates.

19 Other operating revenues (a) Record here revenues associated with air transportation conducted by the air carrier, not provided for in profit and loss accounts 01 through 09, inclusive, such as revenue from (1) airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's Economic Regulations, as well as travel agents, cargo agents and tour conductors traveling at reduced fares, (2) service charges for failure to cancel or for late cancellation of air transportation reservations, and (3) nontransportation service charges collected on both revenue and nonrevenue flights.

3. Amend Section 24—Profit and Loss Elements, by adding paragraph (h) to Schedule P–2—Notes to Income Statement, as follows:

Section 24—Profit and Loss Elements

* * * * *

Schedule P–2—Notes to Income Statement

* * * * *

(h) Revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403 of the Federal Aviation Act and part 223 of the Board's economic regulations as well as travel agents, cargo agents and tour conductors traveling at reduced fares (included in account 3919 on schedule P–1.1 or U–1.2) and related nonrevenue passenger-miles (included in item K160 on schedule T–1(a)) shall be reported in this schedule on a quarterly basis.

[FR Doc.73–7888 Filed 4–23–73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Notice of Opportunity for Public Comment on Proposed Transportation and/or Land-Use Control Strategies

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. In the preamble to the May 31 approval/disapproval of implementation plans, the Administrator noted that where the adoption of transportation and/or land-use control schemes were necessary to achieve the national standards for carbon monoxide and photochemical oxidants, submittal of those control strategies could be deferred until February 15, 1973. This was done because of the general lack of information and practical experience necessary to permit the development of meaningful transportation control schemes.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit decided the case of *Natural Resources Defense Council, Inc., et al.* v. *Environmental Protection Agency* (Civil Action No. 72–1522) and seven related cases. The court ordered the Administrator to cancel 2-year extensions which had been granted for the attainment of the carbon monoxide and photochemical oxidants standards where transportation controls would be necessary and to require States to submit transportation control plans on April 15, 1973. States were notified of this court decision by telegram from the Administrator and in the FEDERAL REGISTER of March 20, 1973 (38 FR 7323).

In its order, the court also stated that the Administrator shall permit the public to comment on the State transportation control strategies and on the request by the Governor of any State, pursuant to section 110(e) of the Clean Air Act, for an extension of the date for attainment of a primary standard. This notice is issued to advise the public that proposed implementation plans for the States listed below have been received by the Environmental Protection Agency and that comments may be submitted on whether those proposed control strategies should be approved or disapproved by the Administrator as required by section 110 of the Clean Air Act. Public comment is also solicited on whether any request for an extension of time for meeting the primary standards should be granted by the Administrator. Because the plans must be approved or disapproved by June 15, time for comment must be limited. Accordingly, only comments received on or before May 15, 1973, will be considered.

The control strategies for the States listed below are submitted to the EPA pursuant to section 110 of the Clean Air Act which requires States to have implementation plans to achieve the national ambient air quality standards. These control strategies are designed to achieve the ambient air quality standards for carbon monoxide and photochemical oxidants. The Administrator's decision to approve or disapprove the plans is based on whether they meet the requirements of section 110(a)(2)(A)–(E) and EPA regulations in 40 CFR part 51. A more detailed description of the plans received is set forth below.

ARIZONA

The State of Arizona submitted a proposed implementation plan control strategy to the Administrator on April 13, 1973, to achieve the national ambient air quality standards for carbon monoxide and photochemical oxidants in the Phoenix-Tucson interstate region. The plan was adopted by the State Division of Air Pollution Control after public hearings which were held on January 25, 1973 in Phoenix, Ariz. The Governor of the State of Arizona has requested an 18-month extension for achieving the primary standards for carbon monoxide and photochemical oxididants. The control strategy submitted to EPA includes provisions for mandatory vehicle inspection and maintenance, the imposition of retrofits on all pre-1974 light-duty motor vehicles, the use of evaporative emission controls on storage tanks and the conversion of 10,000 vehicles to natural gas power. Copies of the proposed control strategy are available for public inspection during normal business hours at the Library of the Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif., and in the office of the State of Arizona Division of Air Pollution Control at 4019 North 33d Avenue, Phoenix, Ariz. Additional copies are available in the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. and the Pima County Air Pollution Control Division, 151 West Congress, Tucson, Ariz. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 04111.

TEXAS

A control strategy for attainment and maintenance of the national standards for photochemical oxidants in the Austin-Waco, Metropolitan Dallas-Fort Worth, Corpus Christi-Victoria, and Metropoliton Houston-Galveston intrastate and El Paso-Las Cruces-Alamogordo interstate regions was submitted on April 16, 1973. It was adopted by the Texas Air Control Board after public hearings on April 4 in San Antonio, Dallas, and Houston, Texas. The Governor of Texas has requested a 2-year extension of time for achieving the primary standard for photochemical oxidants in these regions.

The control strategy is designed to achieve various reductions in hydrocarbon emissions in ten Texas counties. It includes regulations prohibiting tampering with emission control devices, requiring the availability of low-lead gasoline and controlling volatile carbon compounds at storage areas, during loading and unloading operations, and during disposal of waste gas. Copies of the plan Public Affairs, Environmental Protecare available for public inspection during normal working hours at the Office of tion Agency, Region VI, 1600 Patterson Street, Dallas, Tex. and the Texas Air Control Board, 820 East 53d Street, Austin, Tex. 78751. Copies are also available for inspection at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be submitted to the Regional Administrator, Environmental Protection Agency, Region VI, 1600 Patterson Street, Dallas, Tex. 75201.

VIRGINIA

A transportation control strategy for the attainment and maintenance of the national standards for carbon monoxide and photochemical oxidants in the National Capital Interstate Region was submitted on April 16, 1973. It was adopted by the State Air Pollution Control Board after public hearings in Fairfax, Va., on March 28, 1973. The Governor of Virginia

has requested a 2-year extension of time for achieving the primary standards for both pollutants. The control strategy proposes to achieve a 55 percent reduction in carbon monoxide and a 60 percent reduction in hydrocarbons by requiring all pre-1975 vehicles to be equipped with retrofit devices, requiring inspection and maintenance of light- and heavy-duty vehicles, adding 1,300 buses to the transit system and imposing a $2.00 parking surcharge in high density employment centers. The strategy also provides for a carpool locater system and preferential parking treatment for carpools, restrictions on daytime operation of heavy-duty trucks, installation of vapor recovery devices on gasoline pumps and holding tanks, restrictions on hydrocarbon emissions from stationary sources, and curtailment of aircraft ground operations.

Copies of the proposed control strategy are available for public inspection during normal working hours at the northern Virginia office of the State Air Pollution Control Board, 7115 Leesburg Pike, room 104, Falls Church, Va., and the Office of Public Affairs, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Street, Philadelphia, Pa. 19108. Copies are also available in the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be submitted to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19108.

PENNSYLVANIA

The State of Pennsylvania submitted a proposed implementation plan control strategy to the Administrator on April 16, 1973, for the attainment and maintenance of the national standards for carbon monoxide and photochemical oxidants in the southwest Pennsylvania intrastate region and the national standards for carbon monoxide in the Metropolitan Philadelphia interstate region. It was adopted by the State Environmental quality Board after public hearings on April 5 in Philadelphia and on April 6 in Pittsburgh. The Governor of the State has requested a 2-year extension for attainment of the primary standards in both regions.

The proposed control strategy is designated to achieve a 70 percent reduction in carbon monoxide emissions in Philadelphia and reduction of 57 percent carbon monoxide and 54 percent hydrocarbons in Pittsburgh. The strategy includes provisions for inspection and maintenance of vehicles with pollution control systems, expansion of the bus system through the purchase of new buses, setting aside of exclusive bus lanes, staggering of working hours and a parking surcharge.

Copies of the proposed strategies are available at the Office of Public Affairs, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19108, and at the following locations in the State: Department of Environmental Resources, Fulton Building, Harrisburg, Pa.; Regional Office of Department of Environmental Resources, 1875 New Hope Road, Pittsburgh, Pa.; Allegheny County Bureau of Air Quality Control, 301 39th Street, Pittsburgh, Pa.; Bureau of Air Management Service, 4320 Wissahickon Avenue, Philadelphia, Pa. Copies are also available at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be submitted to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19108.

UTAH

The State of Utah submitted a proposed implementation plan control strategy to the Administrator on April 17, 1973, for the attainment and maintenance of the national standards for carbon monoxide in the Wasatch Front intrastate region. The control strategy was adopted by the Utah Air Conservation Commission and the Utah State Board of Health following a public hearing on March 26, 1973, in Salt Lake City, Utah. The Governor of Utah has requested a 2-year extension of time for achievement of the primary standard for carbon monoxide in the region.

The control strategy is designed to achieve a 59 percent reduction in carbon monoxide concentrations by application of traffic flow improvements, prohibition of curb parking at specified times during the day, required inspection and maintenance of vehicles, and an increase in mass transit ridership. Copies of the proposed plan are available for public inspection during normal working hours at the Office of Public Affairs, Environmental Protection Agency, Region VIII, Lincoln Towers, 1860 Lincoln Street, Denver, Colo. 80203. Copies are also available at the following locations in the State of Utah: State Department of Health, 72 East Fourth South, Salt Lake City, Utah; Public Health Center, Richfield, Utah; 154 North Main Street, Cedar City, Utah. Additional copes are available at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. All comments should be submitted to the Regional Administrator, Environmental Protection Agency, Region VIII, Lincoln Towers, 1860 Lincoln Street, Denver, Colo. 80203.

MARYLAND

The State of Maryland submitted proposed implementation plan control strategies to the Administrator on April 17, 1973, for the attainment and maintenance of the national standards for carbon monoxide and photochemical oxidants in the Metropolitan Baltimore Intrastate and National Capital interstate regions. The control strategies were adopted by the State Department of Health and Mental Hygiene after public hearings in Baltimore, Md., on April 4, 1973, and in Beltsville, Md., on March 5, 1973. The Governor of the State has requested a 2-year extension of the time for achievement of the primary standards for both pollutants in both regions.

The proposed implementation plan control strategies are designed to achieve reductions of 57 percent carbon monoxide and 70 percent hydrocarbons in the Metropolitan Baltimore Region and 55 percent carbon monoxide and 60 percent hydrocarbons in the National Capital Interstate Region. The control strategies propose to require annual inspection and maintenance of motor vehicles, installation of retrofit devices on heavy duty vehicles, installation of vapor recovery systems on gasoline pumps and storage tanks, and installation of controls on reactive hydrocarbon emissions from stationary sources. Limitations on location of signficant new sources will be imposed in the Metropolitan Baltimore region. The plan also identifies needed reductions in vehicle miles traveled of 52 percent in the Metropolitan Baltimore region and 38 percent in the National Capital interstate region.

Copies of the proposed control strategies are available for public inspection during normal working hours in the Office of Public Affairs, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19108 and the Bureau of Air Quality Control, 610 North Howard, Baltimore, Md. Copies are also available at the Office of Public Affairs, Environmental Protection Agency, 401 M Street, Washington, D.C. 20460. All comments should be submitted to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19108.

(42 U.S.C. 1857c-5.)

Dated April 19, 1973.

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

[FR Doc.73-7926 Filed 4-23-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19698]

FM BROADCAST STATIONS IN YORKTOWN, VA.

Proposed Table of Assignment; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202 (b), *Table of assignments*, FM Broadcast Stations. (Yorktown, Va.), Docket No. 19698, RM-1941.

1. On March 7, 1973, the Commission released a notice of proposed rulemaking in the above-captioned proceeding and publication in the FEDERAL REGISTER was given on March 12, 1973 (38 FR 6695). Comment and reply comment dates presently designated are April 16 and April 26, 1973, respectively.

2. On April 13, 1973, William H. Eacho, Jr. and William Swartz (Eacho and Swartz) proponents in the proceeding,

filed a petition for extension of time in which to submit comments and reply comments to and including April 26 and May 7, 1973, respectively. Eacho and Swartz states that for reasons beyond their control and because of slow mail deliveries, have not been able to gather and compile information necessary to answer the questions raised by the Commission in the notice. It states their counsel has been in contact with the counsel of Hampton Roads Broadcasting Corp., a participant in this proceeding, and they have agreed to the request for extension of time.

3. We are of the view that the public interest would be served by extending the time for filing comments and reply comments. *Accordingly, it is ordered,* That the time for filing comments and reply comments in the above docket are extended to and including April 26, 1973, and May 7, 1973, respectively.

4. This action is taken pursuant to authority found in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted April 16, 1973.

Released April 17, 1973.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-7875 Filed 4-23-73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. R-432]

STATEMENTS AND REPORTS (SCHEDULES)

Order Denying Rehearing Regarding Petition

APRIL 16, 1973.

On April 2, 1973, petitioners [1] filed an application for rehearing of our March 2, 1973, order which denied petitioners' request to amend our regulations with respect to form 423 data required by order No. 453.

Petitioners contend that we erred in not recognizing their petition as one filed under the Administrative Procedure Act for amendment of a rule. As we indicated in our March 2 order, petitioners are utilizing § 1.7(b) of the Commission's rules and regulations to collaterally attack order No. 453 and form 423. Petitioners were not denied due process inasmuch as they filed comments in the rulemaking proceeding from which form 423 was adopted. Inasmuch as they failed to seek rehearing of our March 2 order, they were precluded from appellate review of form 423, but now seek a collateral attack while our regulations are currently subject to appellate review. The Federal Power Act precludes us from permitting petitioners to circumvent the clearly defined review procedures established by the Congress.

Petitioners reiterate in summary form the substantive arguments presented in their January 16 petition. We need not restate our reasons for denial as found in our March 2 order, pages 2–5.

Ordering paragraph (B) of our March 2 order afforded petitioners the opportunity to submit a written offer of proof. The application for rehearing identifies 10 items (pp. 7–9) which are the alleged results of form 423, e.g. information gathered is widely circulated, petitioners can no longer negotiate favorable prices, a seller's market exists, petitioners do not believe the public has an interest in such data. Such general allegations in no way limit, or identify with any degree of specificity, the evidence to be presented. There are no facts set forth nor have petitioners shown that even if they have been injured, that "such injury outweighs the public benefit from full disclosure." (Ordering paragraph B.)

The Commission orders that

For the reasons set forth in our March 2, 1973, orders in docket R-432 and as set forth herein, petitioners' application for rehearing is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7909 Filed 4-23-73;8:45 am]

[1] Alabama Power Co., Carolina Power & Light Co., Central Hudson Gas & Electric Corp., Consumers Power Co., Duke Power Co., Jersey Central Power & Light Co., Metropolitan Edison Co., The Montana Power Co., New England Power Co., New Jersey Power & Light Co., Northern States Power Co. (which joined in the petition by notice to the Secretary subsequent to its filing), Pennsylvania Electric Co., Public Service Electric & Gas Co., Rochester Gas & Electric Corp., South Carolina Electric & Gas Co., Utah Power & Light Co., and Wisconsin Electric Power Co.

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 108]

LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Increase of Interest Rate on Section 502 Loans

Pursuant to authority contained in section 502 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 696), notice is hereby given that the Small Business Administration proposes to establish the interest charged for section 502 loans at a rate which takes into consideration the cost of money to the Government, such rate to be set on an annual basis.

Specifically, it is proposed to change part 108 of chapter I of title 13 of the Code of Federal Regulations by amending § 108.502-1(h) of the rules and regulations as follows:

In the middle of the first sentence after the word "lending institution shall be" strike "5½ percent per annum" and substitute in lieu thereof "at a rate (not to exceed 8 percent per annum) which shall be established annually at the beginning of each fiscal year by the Administrator, taking into consideration the average market yield on outstanding U.S. Treasury obligations of comparable maturity, plus such additional charge, if any, to cover other costs of the program as the Administrator may determine, and as consistent with the section 502 program."

Also, in the last section of the same sentence, after the words "less than," strike the words "5½ percent per annum" and insert in lieu thereof "the rate as established above."

* * * * *

The amended paragraph will read as follows:

§ 108.502-1(h) Section 502 loans.

(h) *Interest rate.* The interest rate on a direct section 502 loan to a development company and on SBA's share of a section 502 loan made in participation with another lending institution shall be at a rate (not to exceed 8 percent per annum) which shall be established annually at the beginning of each fiscal year by the Administrator, taking into consideration the average market yield on outstanding U.S. Treasury obligations of comparable maturity, plus such additional charge, if any, to cover other costs of the program as the Administrator may determine, and as consistent with the section 502 program: *Provided, however,* That where the interest on the share of the loan of the bank or other lending institution in a guaranteed or immediate participation loan is less than the rate as established above, then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. For the purposes of this paragraph, bank's share of a guaranteed participation shall be the entire amount of the loan until such time as SBA shall actually purchase its participation.

* * * * *

Interested parties may file with the Small Business Administration on or before May 24, 1973, written statements of facts, opinions, or arguments concerning the proposal. It is proposed that this change take effect beginning July 1, 1973.

All correspondence shall be addressed to:

Small Business Administration, Office of Associate Administrator for Finance and Investment, 1441 L St. NW., Washington, D.C. 20416

Dated April 9, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-7896 Filed 4-23-73;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

[Public Notice 388; Delegation of Authority 118-1]

DEPUTY SECRETARY OF STATE ET AL.

Delegation of Authority

Pursuant to the authority vested in me by section 4 of the act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658), I hereby delegate to the Deputy Secretary of State, the Under Secretary of State for Political Affairs or the Under Secretary of State for Economic Affairs the authority to perform all functions conferred upon the Secretary of State by Executive Order No. 11423 of August 16, 1968, entitled "Providing for the Performance of Certain Functions heretofore Performed by the President With Respect to Certain Facilities Constructed and Maintained on the Borders of the United States," and the authority to perform all functions conferred upon the Secretary of State by The International Bridge Act of 1972 (P.L. 92-434; 86 Stat. 731).

This delegation of authority supersedes delegation of authority No. 118 of February 5, 1969 (public notice No. 302, 34 FR 2210): *Provided*, That all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

This delegation of authority shall be deemed to have become effective on April 24, 1973.

Dated April 11, 1973.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.73-7855 Filed 4-23-73;8:45 am]

[Public Notice CM-23]

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Notice of Meeting

The U.S. Advisory Commission on International Educational and Cultural Affairs will meet in open session on Friday, May 4, 1973, at the Department of State, room 1406, 9 a.m. to 11 a.m. The agenda will include continuing discussion of the Commission's objectives, and consideration of a suggestion that private sector funding for Commission work be explored.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Staff Director by telephone in advance of the meeting. Telephone: 632-2764.

MARGARET G. TWYMAN,
Staff Director,
Commission Secretariat.

APRIL 17, 1973.

[FR Doc.73-7861 Filed 4-23-73;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

BOARD OF CONSULTANTS OF THE NATIONAL WAR COLLEGE

Notice of Public Meeting

The annual meeting of the Board of Consultants of the National War College will be held in the Classified Library of the College located at Fort McNair, Washington, D.C. 20319, on 29 and 30 May 1973. Meetings are scheduled from 0900 to 1130 and 1330 to 1600 on both days.

The purpose of the annual meeting is for the Board of Consultants to review the entire range of College operations and, where appropriate, to provide advice and recommendations to the Commandant.

The meetings will be open to the public to the extent that space limitations of the meeting place permit. Because of these limitations, interested parties are requested to reserve space by calling the College Secretariat at 202-693-8318. Reservations will be on a first-come basis.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-7890 Filed 4-23-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-7468]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 17, 1973.

The Bureau of Land Management has filed the above application for withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. ch. 2, but not from leasing under the mineral leasing laws.

The applicant desires the land to preserve, protect, and enhance the habitat of rare species of desert pupfish.

On or before May 24, 1973, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau fo Land Management, Department of the Interior, 300 Booth Street, Reno, Nev. 89502.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 17 S., R. 50 E.,
Sec. 14: Lot 11;
Sec. 35: SW¼NE¼, S½NE¼SE¼, SE¼SE¼.

The area described aggregates 136.84 acres in Nye County, Nev.

A. JOHN HILLSAMER,
Acting Chief,
Division of Technical Services.

[FR Doc.73-7880 Filed 4-23-73;8:45 am]

Office of Hearings and Appeals

[Docket No. M 73-42]

APPALACHIAN CONTRACTING CO., INC.

Petition for Modification of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), the Appalachian Contracting Co., Inc., has filed a petition to modify the application of 30 CFR 77.1605(k) to its Jellico No. 1 Mine at Jellico, Tenn.

30 CFR 77.1605 (k) reads as follows:

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner requests that the standard be modified because the placement of berms on access roads would prohibit use

of the road in wet weather. Petitioner states that it presently uses red dog on its roads and the use of this material is a must to allow continuous use of the roads in wet weather. Petitioner contends that berms would cause water to drain down the road instead of into the presently existing drainage ditches and this would wash the red dog off of the road.

As an alternate method of providing safety for the affected miners petitioner states that it will build side roads every 100 yards which would allow drivers to gain control of their trucks should it be necessary. These side roads would be built in a manner to allow drivers to stop with no danger of going over the mountain.

Petitioner contends that the alternate method will at all times provide no less than the same measure of protection afforded the miners at the affected mine by the mandatory standard and in fact would provide greater protection than the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 24, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

APRIL 10, 1973.

[FR Doc.73-7839 Filed 4-23-73;8:45 am]

[Docket No. M 73-46]

BUCKEYE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), the Buckeye Coal Company has filed a petition to modify the application of 30 CFR 75.305 to its Nemacolin Mine located at Greene County, Pa.; 30 CFR 75.305 reads as follows:

§ 75.305 Weekly examinations for hazardous conditions.

In addition to the preshift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. Such weekly examinations need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 104(d) of the Act, until such danger is abated. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

In support of its request for modification of a mandatory safety standard, petitioner states that the Nemacolin mine is an old mine with many worked-out areas. Most of the return air entries for the locations in question, from the No. 4 shaft to the No. 1 shaft, were developed over 40 years before the advent of roof bolting. Timbers installed during the mining cycle have now deteriorated and therefore many roof falls have occurred, some of which are extremely high and very tight.

Petitioner contends that air and methane readings can be taken in certain areas along the return airways to assure that the return air is traveling its proper course and usual volume so that methane does not accumulate beyond legal limits. The return aircourse is located in a non-coal producing area with only a coal track haulage entry and a supply track haulage entry located there.

As an alternate method petitioner would establish air-measuring stations at certain locations which would assure that the criteria of § 75.305 would be satisfied. The return air in question would have no effect on present workings.

Petitioner states that its guidelines would be as follows:

1. Methane and air readings will be made by a certified person.

2. Methane will not be allowed to accumulate in these return airways beyond legal limits.

3. The six measuring stations will, at all times, be maintained in good working condition and located where there are air splits.

4. A date board or book will be located at each measuring station and air and methane readings will be taken and recorded.

5. Examinations will be made at each station at least once each week.

6. The number of employees who work in this area is minimal. Each man is able to reach a separate split of air in a reasonable period of time. Each man working in this area is required to carry a one hour self-rescuing device on his person at all times.

7. A diagram showing all air splits will be posted at all measuring stations in this area and at other strategic locations.

Petitioner contends that the alternate method will at all times provide no less than the same measure of protection afforded the miners at the affected mine by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 24, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

APRIL 12, 1973.

[FR Doc.73-7840 Filed 4-23-73;8:45 am]

[Docket No. M 73-37]

UNITED STATES FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard; Correction

In FR Doc. 73-6615 appearing on page 8681 in the issue for April 5, 1973, the last paragraph should read as follows:

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 24, 1973. Such request or comments must be filed with the Office of Hearings and Appeals, Hearings Division, United States Department of the Interior, 6432 Federal Bldg., Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

APRIL 10, 1973.

[FR Doc.73-7841 Filed 4-23-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

GUNNISON NATIONAL FOREST AND GRAND MESA-UNCOMPAHGRE NATIONAL FORESTS MULTIPLE USE ADVISORY COMMITTEES

Notice of Meeting

The Gunnison National Forest and Grand Mesa-Uncompahgre National Forests Multiple Use Advisory Committees will meet at 1:30 p.m., May 12, 1973, at the Shavano Bldg., 101 North Uncompahgre Avenue, Montrose, Colo.

The purpose of this meeting is to discuss land use planning procedures, the Uncompahgre and Wilson Mountains review, and to make preliminary plans for the summer field meeting.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor John T. Minow, 216 North Colorado, Gunnison, Colo. 81230, telephone 303-641-0471. Written statements may be filed with the committee before or after the meeting.

The committees have established the following rules for public participation:

1. Any member of the public wishing to present an oral statement should notify Forest Supervisor John T. Minow at least 3 days prior to the meeting.

2. Any member of the public may be permitted to present oral statements at

the meeting by the committee chairman to the extent that time permits.

JOHN T. MINOW,
Forest Supervisor, Gunnison National Forest, Acting Forest Supervisor, Grand Mesa-Uncompahgre National Forests.

APRIL 16, 1973.

[FR Doc.73-7872 Filed 4-23-73;8:45 am]

Office of the Secretary

CATTLE INDUSTRY ADVISORY COMMITTEE

Establishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, the Secretary of Agriculture has determined that it is in the public interest to establish a Cattle Industry Advisory Committee.

The purpose of this committee will be to provide advice to the Department of Agriculture on the broad range of its activities concerning the cattle and beef industry, including (a) imports of beef, veal, cattle, and calves and their effects on the domestic economy; (b) international trade negotiations pertaining to beef and related products; (c) purchase programs and other activities designed to affect the domestic consumption of beef and veal; (d) material covering economic outlook, statistics, and current market information, and (e) developments related to prices, production, and marketing of cattle and beef, including marketing service programs. The committee will include representatives of all segments of the industry from producer to consumer.

Any comments on the establishment of this committee may be directed to John C. Pierce, Director, Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 24, 1973. All written submissions made pursuant to this notice shall be made available for public inspection at the Office of Director, Livestock Division, during regular business hours. [7 CFR 1.27(b)]

Dated April 18, 1973.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

[FR Doc.73-7860 Filed 4-23-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-343]

ACADEMY TANKERS, INC.

Notice of Application

Notice is hereby given that Academy Tankers, Inc., has filed an amendment dated April 7, 1973, to its application of November 2, 1972, with respect to the modification of its Operating-Differential Subsidy Contract No. MA/MSB-219 to carry bulk cargoes which expires on June 30, 1973 (unless extended only for a subsidized voyage in progress on that date). The additional bulk cargo carrying vessel proposed to be subsidized, and the trade in which it proposes to engage is presented below:

	Type of ship	Name of ship
Applicant's name and address: Academy Tankers, Inc., Americana Bldg., 811 Dallas Ave., Houston, Tex. 77002.	Tanker.....	SS Thomas M.

The amendment to the application may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. during regular working hours.

The vessel is to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of exports bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on November 16, 1972 (37 FR 24349).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that the above listed ship will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of any approved subsidized voyage in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of such application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before April 30, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the act is ordered to be held with respect to the application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application hereinabove described is one with respect to a vessel to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the act an additional vessel should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated April 19, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-7919 Filed 4-23-73;8:45 am]

[Docket No. S-344]

CITIES SERVICE TANKERS CORP., ET AL.

Notice of Applications

Notice is hereby given that the following corporations have filed amended applications with respect to the modification of their operating-differential subsidy contracts to carry bulk cargoes which expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The additional bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented below:

	Type of Ship	Name of Ship
Applicant's Name and Address: Cities Service Tankers Corp., 60 Wall St., New York, N.Y. 10005.	Tanker.....	SS Cities Service Miami.
Intercontinental Carriers, Inc., 511 Fifth Ave., New York, N.Y. 10017.	...do.....	SS Overseas Alice.
Overseas Bulktank Corp., 511 Fifth Ave., New York, N.Y. 10017.	...do.....	SS Overseas Valdez.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on November 16, 1972 (37 FR 24349).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any persons having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before May 2, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated April 19, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-7917 Filed 4-23-73;8:45 am]

[Docket No. S-342]

DELTA STEAMSHIP LINES, INC.

Notice of Application

Notice is hereby given that Delta Steamship Lines, Inc., has applied for operating-differential subsidy for operation of a Mini-LASH vessel on a portion of Trade Route No. 19 between U.S. Gulf of Mexico Ports and ports on the east coast of Mexico and east coast of Central America on a maximum of 20 sailings per year.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175) should by the close of business on May 7, 1973, notify the Secretary, Maritime Subsidy Board in writing, in triplicate and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on an essential service, served by citizens of the United States which would be in addition to the existng servce, or services, and if so whether the service already provided by vessels of U.S. registry on such essential service is inadequate and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated therein.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated April 19, 1973.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-7918 Filed 4-23-73;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 12

Notice of Meeting

Pursuant to Public Law 92-463 and Executive Order 11686, notice is hereby given that the Federal Information Processing Standards Task Group 12—Significance and Impact of ASCII as a Federal standard will hold a meeting from 11 a.m. to 4 p.m. on Wednesday, May, 2, 1973, in room B-163, Building 222 of the National Bureau of Standards in Gaithersburg, Md.

The purpose of the meeting is to review proposed ASCII questionnaires and to consider matters related to their processing.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Office of Information Processing Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C 20234 (phone 301-921-3551).

Dated April 19, 1973.

RICHARD W. ROBERTS,
Director.

[FR Doc.73-7958 Filed 4-23-73;8:45 am]

National Oceanic and Atmospheric Administration

GLOBAL SEA LIONS

Denial of Applications for Economic Hardship Exemption for Marine Mammals

On March 6, 1973, a notice was published in the FEDERAL REGISTER (38 FR 6088) stating that an application had been filed with the National Oceanic and Atmospheric Administration for an economic hardship exemption by Lawrence E. Bond, director, Global Sea Lions, Inc., Santa Barbara, Calif., to take 200 California sea lions for public display by various zoos and seaquaria.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (Public Law 92-522), after having considered the application and all other pertinent information and facts with regard thereto, including the notice of policy on issuance of letters of exemption for taking live animals for display purposes under the Marine Mammal Protection Act of 1972, published in the FEDERAL REGISTER on April 23, 1973 (38 FR 10032) wherein notice was given that letters of exemption would be issued only to persons conducting research with or displaying marine mammals, the Director of the National Marine Fisheries Service has determined that the request by Global Sea Lions for an undue economic hardship exemption should be denied.

Dated April 18, 1973.

ROBERT W. SCHONING,
Acting Director, National Marine Fisheries Service.

[FR Doc.73—7734 Filed 4-23-73;8:45 am]

Office of Import Programs

UNIVERSITY OF WISCONSIN, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free

entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Decision.—Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons.—Section 701.8 of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 701.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 701.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 71-00522-33-77030. Applicant: University of Wisconsin, McArdle Laboratory, Madison, Wis. 53706. Article: NMR spectrometer, model R-12A. Date of denial without prejudice to resubmission: December 27, 1972.

Docket No. 72-00189-01-77030. Applicant: Allegheny College, 520 North Main Street, Meadville, Pa. 16335. Article: NMR spectrometer, model R-12. Date of denial without prejudice to resubmission: December 15, 1972.

Docket No. 72-00410-90-59600. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: High intensity pulsed xenon arc lamps. Date of denial without prejudice to resubmission: December 1, 1972.

Docket No. 72-00458-99-03400. Applicant: Schoellkopf Geological Museum, Prospect Park, Niagara Reservation, Niagara Falls, N.Y. 14303. Article: Audio visual system. Date of denial without prejudice to resubmisison: December 18, 1972.

Docket No. 72-00619-00-28200. Applicant: North Carolina State University, Chemical Engineering, P.O. Box 5935, Raleigh, N.C. 27607. Article: Accessories only for electron spin resonance spectrometer, JES-ME-1X. Date of denial without prejudice to resubmission: December 22, 1972.

Docket No. 72-00630-55-17500. Applicant: University of Washington, Purchasing Department, Seattle, Wash. 98195. Article: Two (2) recording current meters. Date of denial without prejudice to resubmission: December 26, 1972.

Docket No. 73-00059-33-03500. Applicant: The Union Memorial Hospital, 33d and Calvert Streets, Baltimore, Md. 21218. Article: Precision automatic recording audiometer (Bekesy type). Date of denial without prejudice to resubmission: December 1, 1972.

Docket No. 73-00078-33-02700. Applicant: Attending Staff Association Harbor General Hospital, 1124 W. Carson Street, Torrance, Calif. 90502. Article: Arthroscope, type No. 21. Date of denial without prejudice to resubmission: December 8, 1972.

Docket No. 73-00245-01-43000. Applicant: University of Pittsburgh, 4200 Fifth Avenue, Pittsburgh, Pa. 15213. Article: Precision integrator/magnetometer. Date of denial without prejudice to resubmission: December 8, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-7884 Filed 4-23-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-592; NADA No. 9-336V etc.]

SCHERING CORP. ET AL.

Dienestrol Diacetate; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of February 2, 1973 (38 FR 3211), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of the following listed NADA's (new animal drug applications) with respect to the use of dienestrol diacetate which is administered to chickens and turkeys in feed for the promotion of fat distribution for tenderness and bloom:

Schering Corp., 86 Orange Street, Bloomfield, N.J. 07003, NADA Nos. 9-336 and 38-660.
Peter Hand Foundation, 2 East Madison Street, Waukegan, Ill. 60085, NADA No. 33-212.
Central Soya Co., McMillan Feed Division, Fort Wayne, Ind. 46805, NADA No. 43-946V.

Schering Corp. and Central Soya Co. advised the Commissioner that they elected not to avail themselves of the opportunity for a hearing. No response was received from the Peter Hand Foundation and this is also construed as an election not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice, and the firms' responses, the Commissioner concludes that approval of said NADA's 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 the above listed NADA's, including all amendments and supplements thereto, is hereby withdrawn effective April 24, 1973.

Dated April 16, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-7844 Filed 4-23-73;8:45 am]

Health Services and Mental Health Administration

WORKSHOPS ON HIGH BLOOD PRESSURE RESOURCES

Notice of Meetings

The workshops on high blood pressure resources sponsored by the Health Services and Mental Health Administration are scheduled to assemble during the month of May 1973:

Name	Date, time, place	Types of meeting and/or contact persons
Workshop on High Blood Pressure Resources.	May 2, 8:30 a.m., Hyatt House Hotel, San Francisco, Calif.	Open—Contact Mr. Ronald Curry, room 315, 50 Fulton Street, San Francisco, Calif., code 415-556-2288.
	—and—	
	May 10, 8:30 a.m., Center for Disease Control, Atlanta, Ga.	Open—Contact Mr. T. Griffith, room 423, 50 Seventh Street NE., Atlanta, Ga., code 404-526-4621.

Purpose. To study high blood pressure resources in the Department of Health, Education, and Welfare, regions IX and IV, and to review program experiences and needs in order to report to the National Institutes of Health Hypertension Information and Education Advisory Committee.

Agenda. Agenda items will cover resources related to the control of high

blood pressure through early screening, diagnosis, treatment and the community awareness efforts, and resources related to the planning and evaluation of such efforts.

Agenda items are subject to change as priorities dictate.

Relevant information regarding the workshops may be obtained from the contact persons listed above.

Dated April 18, 1973.

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

[FR Doc.73-5852 Filed 4-23-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-413 and 50-414]

DUKE POWER COMPANY

Notice of Availability of Draft Environmental Statement for Catawba Nuclear Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in appendix D to 10 CFR part 50, notice is hereby given that a draft environmental statement prepared by the Commission's Directorate of Licensing related to the proposed Catawba Nuclear Station, Units 1 and 2, to be constructed by Duke Power Co. in York County, S.C., is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, D.C., and in the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730. The draft statement is also being made available at the Central Piedmont Regional Planning Commission, P.O. Box 862, 107 Hampton Street, Rock Hill, S.C. 29730. Copies of the Commission's draft environmental statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The applicant's environmental report, as supplemented, submitted by Duke Power Co., is also available for public inspection at the above-designated locations. Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on December 28, 1972, 37 FR 28642.

Pursuant to 10 CFR Part 50, appendix D, interested persons may, on or before June 8, 1973, submit comments on the applicant's environmental report, as supplemented, and the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's environmental report and the draft environmental statement (local agencies may obtain these documents upon request). When comments thereon by Federal, State, and local officials are received by the Commission, such comments will be made available for public inspection at the Commission's public document room in Washington, D.C. and the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 19th day of April 1973.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch #4, Directorate of Licensing.

[FR Doc.73-7944 Filed 4-23-73;8:45 am]

[Docket No. 50-415]

WESTINGHOUSE ELECTRIC CORPORATION

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on March 5, 1973 (38 FR 5924) and the Atomic Energy Commission having found that:

(a) The application filed by Westinghouse Electric Corp., docket No. 50-415, complies with the requirements of the act, and the Commission's regulations set forth in title 10, chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said act and regulations,

the Commission has issued license No. XR-81 to Westinghouse Electric Corp., authorizing the export of a pressurized water reactor with a thermal power level of 1,882 megawatts to the Furnas Centrais Eletricas, S. A., Rio de Janeiro, Brazil. The export of the reactor to Brazil is within the purview of the present agreement for cooperation between the Government of the United States of America and the Government of the United States of Brazil concerning civil uses of atomic energy.

Dated at Bethesda Md., this 13th day of April 1973.

For the Atomic Energy Commission.

S. H. SMILEY,
Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.73-7873 Filed 4-23-73;8:45 am]

[Docket No. 50-418]

MITSUBISHI INTERNATIONAL CORP.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on March 29, 1973 (38 FR 8189), and the Atomic Energy Commission having found that:

(a) The application filed by Mitsubishi International Corp., docket No. 50-418, complies with the requirements of the act, and the Commission's regulations set forth in title 10, chapter I, Code of Federal Regulations, and

(b) The reactors proposed to be exported are utilization facilities as defined in said act and regulations,

the Commission has issued license No. XR-82 to Mitsubishi International Corp., authorizing the export of two pressurized water reactors, each with a thermal power level of 3,411 megawatts, to Kansai Electric Power Co., Inc., of Osaka, Japan. The export of the reactors to Japan is within the purview of the present agreement for cooperation between the Government of the United States of America and the Government of Japan concerning civil uses of atomic energy.

Dated at Bethesda, Md., this 16th day of April 1973.

For the Atomic Energy Commission.

S. H. SMILEY,
Deputy Director for Fuels and Materials Directorate of Licensing.

[FR Doc.73-7874 Filed 4-23-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 23333, 24488; Order 73-4-64]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North Atlantic Passenger Fares, Cargo Rates and Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of April 1973 (Docket 23333; Agreement C.A.B. 23609; Docket 24488; Agreement C.A.B. 23607; Docket 25054; Docket 25097; Docket 25101; Docket 25396; Docket 23486).

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the International Air Transport Association (IATA). The agreements were adopted for April 1 and April 15, 1973, effectiveness at the Composite Currency Conference held in London in March 1973, and have been assigned the above-designated C.A.B. agreement numbers.

The agreement effective April 1, 1973, would revalidate and extend the existing IATA fare structure over the North Atlantic through the balance of the year, subject to minor adjustments.[1] Presently agreed youth fares, which were approved by the Board only through March 31, 1973, would also be retained through 1973.[2] The agreement proposed for effect April 15, 1973, provides across-the-board increases in fares and cargo rates

[1] Various fares between the United States and Moscow, Warsaw, and Budapest are to be reduced. Conditions applicable to North Atlantic group fares would be altered by reducing the time required for booking and ticketing to 15 days prior to the commencement of travel, and by eliminating the 10-percent advance deposit heretofore required for affinity/incentive group travel.

[2] Order 72-12-64.

over the North Atlantic to reflect realignment of currencies stemming from the recent devaluation of the U.S. dollar. For eastbound-originating traffic specified dollar fares and rates would be increased by 6 percent. For traffic originating in certain countries in Europe, Africa, and Asia, where local currencies have declined in unit value, fares and rates would be increased in amounts varying from 2 to 12 percent. The increased fares established pursuant to this agreement are to be effective through 1973, while the increased cargo rates are to be effective through September 30, 1973, when the current North Atlantic cargo-rate agreement expires. Finally, the agreement provides for the establishment of a North Atlantic fare-development program designed to facilitate early agreement on a revised North Atlantic fare structure to be implemented January 1, 1974.

In their statements of justification, the U.S. North Atlantic carriers indicate that the agreement to retain fares at status quo was arrived at as a temporary solution to the widely disparate and strongly held positions of a number of transatlantic carriers. Despite protracted IATA negotiations dating back to the summer of 1972 and bilateral discussions between governments, agreement on a revised fare structure for implementation prior to the 1973 summer season has not been attained. To avoid an open-rate situation, the carriers agreed to extend the status quo through 1973 so as to maintain a stable fare situation in the market, and gain additional time in which to overcome unresolved differences and achieve a significant restructuring of fares for 1974.

The proposed 6-percent increase in the U.S. dollar fares will allegedly serve to offset the U.S. carriers' increased costs at foreign points. Although the revenues obtained as a result of this fare increase will to some extent exceed the additional costs incurred by the U.S. carriers, it is pointed out that the devaluation of the dollar has a greater impact on foreign-flag carriers, and that the agreement represents an approximate balancing of cost and revenue changes for the industry as a whole.

A joint complaint filed April 9, 1973, by K. G. J. Pillai, Brant S. Goldwyn and Aviation Consumer Action Project (ACAP) alleges that the existing transatlantic fares and the fares proposed for April 15, 1973 effectiveness are unreasonable and discriminatory and should be suspended and investigated.[3] The complainants request, inter alia, that the Board suspend the existing North Atlantic air fares, and disapprove the proposed agreement to extend existing fares through December 31, 1973, and provide for a 6-percent across-the-board increase to reflect the recent devaluation of the dollar. In addition, complainants request that the carriers be directed to charge, effective April 15, 1973, those fares filed by Pan American and TWA and approved by Board order 73–1–76, and later withdrawn. Finally the complaint asks that the Board order a full and comprehensive investigation of the transatlantic fare structure in order to determine the reasonableness of existing and proposed air fares and to establish standards for the carriers to follow in making their future filings.

The agreement to maintain present fares through 1973 has been reached against a background of a seris of IATA meetings the first of which was held in July 1972, individual and differing tariff filings made by most major transatlantic carriers once it became apparent that a consensus on revised fares for the 1973 season could not be reached through the IATA machinery, and intergovernmental consultations undertaken by the United States thereafter which similarly did not result in an accommodation for the upcoming summer season generally acceptable to all governments. Our disposition of the agreement is made in this context.

In order 73–1–76, the Board concluded not to suspend the transatlantic fare structure proposed by the U.S. carriers. Our decision was premised on the understanding that the structure was advanced, not as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. As we noted, however, it contained certain features which we considered significant mprovements which should be incorporated into the structure for the longer terms. The Board continues to be of this view. Most importantly, however, the U.S.-carrier proposal was expected to provide some improvement in yield and would have moved the structure in the direction of more closely relating fares to the cost of providing the respective services.

On the other hand, maintenance of the status quo for another 9 months through 1973 will only serve to perpetuate the uneconomic situation which has developed on the North Atlantic, and in all likelihood will result in a further decline in yield since the 22/45-day excursion fares will again be available at essentially last year's levels. As we have stated, there can be little doubt that this fare, although generative, has resulted in a significant amount of diversion, and that these two developments taken together were largely responsible for the decline in yield last year. This being the case, the Board is unable to conclude that extension of present fares for a further period of effectiveness constitutes a rational and economic basis for provision of transatlantic service. It is our understanding that a number of governments and carriers are in accord with this view.

The fact remains, however, that failure of the carriers to reach agreement within the IATA machinery on a more economic pattern of fares and the imminence of the peak travel season combine to make any solution other than the status quo wholly unrealistic. The traveling public and those who sell air transportation have already been subjected to considerable inconvenience, and it is imperative that firm prices now be approved so that firm travel plans can be made. This, in our view, is the paramount public interest at this point in time, and it supersedes our serious misgivings about the economic results which can be expected. In short, the Board considers approval of the agreement warranted when the broad spectrum of our responsibility to the public is taken into account. We are, however, requiring that all passenger-fare tariffs bear an expiration date of December 31, 1973,[4] to coincide with the term of the carriers' agreement.[5]

Nevertheless, we believe that the carriers must face up to the fact that this interim solution does nothing to simplify the fare structure or to produce the revenue improvement all consider necessary. Carriers, and governments if necessary, should immediately undertake to address the matter of establishing a rational fare structure for the future. Suffice it to say that a repeat of the stalemate which developed this year would be considered most unfortunate by this Board. We believe carriers and other governments should share this view. The Board expects the carriers to schedule their efforts so that a new fare structure can be arrived at and submitted for approval sufficiently early to permit full consideration of the matter well before the beginning of 1974. The Board intends to take all steps available to it to see that this objective is met.

The complainants contend that the proposed increases in passenger fares associated with currency adjustment stemming from devaluation of the U.S. dollar are unwarranted and should not be permitted. Their conclusion, however, is based on a recitation of various data, none of which is documented so as to permit a meaningful evaluation. Accordingly, we are unable to accept their allegations, and conclude that the adjustments do not appear unreasonable in light of the extent of the devaluation and its impact on the collective costs and revenues of the IATA carriers. It is clear that the consequences of the dollar devaluation are more acute for the foreign carriers than for the U.S. carriers and that some mutually acceptable balance must be achieved. As we noted in order 72–3–104 dated March 30, 1972, there appears to be no way to adjust dollar fares so as to reflect precisely the impact of the currency adjustment on each indiviual carrier and, at the same time, maintain the uniformity of fares and rates and their relationship one to another which is necessary as a competitive fact of life. The agreement to increase dollar fares and cargo rates by 6 percent

[3] The member carriers of the National Air Carrier Association (NACA) have filed comments in which they do not oppose approval of the agreement in the circumstances except for the youth fares, which they request be disapproved.

[4] As indicated, the Board's earlier approval of youth fares in order 72–12–64 was for a limited period only. We are not similarly limiting our approval herein. However, it is the Board's intention to review this aspect of the agreement in light of our ultimate decision in the Domestic Passenger-Fare Investigation-Phase 5, and take such action as appears appropriate and consistent therewith at that time.

[5] Similarly, the implementing freight rate tariffs shall bear expiration dates of September 30, 1973.

appear to be reasonably related to the range of changes in currency exchange rates, and to the probable average impact of these changes on the costs of the carriers. On this basis the agreement will be approved.

In its complaint in docket 25396, ACAP requests the Board to suspend existing North Atlantic fares and to disapprove the instant agreement which provides for new fares from April 15 forward. To fill the resulting void, ACAP urges that the Board direct the U.S. and foreign air carriers to charge those air fares earlier filed by Pan American and TWA and accepted by the Board in ordre 73–1–76. Unfortunately, suspension of the existing fares and disapproval of the proposed fares would not guarantee that the earlier Pan American an TWA filing would come into existence. While the statute accords broad suspension powers to the Board, embracing both proposed and existing rates and fares, it does not empower the Board to prescribe fares even after a hearing. Moreover, the fares filed by Pan American and TWA were protested by numerous key European governments, under the terms of our respective bilateral agreements. In subsequent consultations with those governments, we sought to no avavil to gain their acceptance of the Pan American and TWA filings and, indeed, it proved impossible to reach an agreement on any mutually acceptable alternative. Thus, it is clear that the establishment of the fare structure proposed by Pan American and TWA depends, short of an intergovernmental confrontation which could lead to the cessation of air services, not only upon its acceptability to the Board but also its acceptability to at least some key European points as well.

In disposing of the individual tariff filings made by Pan American and TWA for effect April 1, 1978 (order 73–1–76), the Board deferred action on several requests for a general investigation of the transatlantic fare structure.[6] A similar request is here before us in docket 25396. We have reviewed these requests against the background of circumstances as they have since developed, and conclude that institution of such an investigation at this time would be of doubtful usefulness. As indicated, approval of the agreement before us in no way constitutes an endorsement by this Board of the economic soundness of the fare structure to be in effect for the balance of 1973. On the other hand, it is apparently the carriers' intention to undertake discussions in IATA at the policy level beginning next month. This Government also intends to play an active role during the upcoming months as events unfold and our participation appears appropriate or necessary. We reiterate our conviction, however, that IATA should promptly and effectively resume its historically accepted role in the area of international rates. It is axiomatic that the pricing of international air services cannot be done unilaterally. For this reason, and in light of the transitional period into which the industry is moving as the public's preference for individual versus group travel becomes more apparent, the Board is unable to conclude that a formal and broad scale investigation of transatlantic fares would serve a meaningful purpose at this time. The Board can, of course, institute such a proceeding at any time should it appear desirable, and we would not hesitate to do so.

The Board acting pursuant to sections 102, 204(a), 412, and 1002 of the act does not find the following resolutions, which are incorporated in the agreement indicated, to be adverse to the public interest or in violation of the act provided that approval is subject to conditions as specified herein and those previously imposed by the Board.

Agreement CAB	IATA No.	Title	Application
23609:			
R-1	003a	Special Recision Resolution	1/2.
R-2	022j	JT12 (North Atlantic) Rules for Sales of Cargo Air Transportation (New).	1/2 (North Atlantic).
R-3	022k	JT12 (Middle-Atlantic) Special Rules for Sales of Cargo Air Transportation (New).	1/2 (Middle Atlantic).
23607:			
R-1	001b	North Atlantic Special Effectiveness Resolution (Tie-In)	1/2 (North Atlantic).
R-2	002	Standard Revalidation Resolution	1/2 (North Atlantic).
R-3	003e	Adoption Resolution	1/2 (North Atlantic).
R-4	003f	Special Readoption Resolution	1/2 (North Atlantic).
R-5	015I	North Atlantic Proportional Fares—North American (Amending).	1/2 (North Atlantic).
R-6	015II	North Atlantic Proportional Fares—North American (Amending).	1/2 (North Atlantic).
R-7	016	North Atlantic Fare Development Program (New)	1/2 (North Atlantic).
R-8	021L	Special Rules for Fares Currency Adjustments (Amending)	1/2/3.
R-9	022i	JT12 and JT123 (North Atlantic) Special Rules for Sales of Passenger Air Transportation (New).	1/2; 1/2/3 (North Atlantic).
R-10	054a	North Atlantic First-Class Fares (Amending)	1/2 (North Atlantic).
R-11	060	Economy-Class Conditions of Service (Amending)	1/2 (North Atlantic).
R-12	064aI	North Atlantic Economy-Class Fares (Amending)	1/2 (North Atlantic).
R-13	064aII	North Atlantic Economy-Class Fares (Amending)	1/2 (North Atlantic).
R-14	070d	North Atlantic 14/21 and 14/45 Day Excursion Fares (Amending)	1/2 (North Atlantic).
R-15	071g	North Atlantic 22/45 Day Excursion Fares (Amending)	1/2 (North Atlantic).
R-16	075hh	North Atlantic 30-Day Winter Group Fares—Middle East (Amending).	1/2 (North Atlantic).
R-17	076f	North Atlantic Group Fares—Israel (Amending)	1/2 (North Atlantic).
R-18	076r	North Atlantic 8/21 Day Group Fares—Israel (Amending)	1/2 (North Atlantic).
R-19	076rr	North Atlantic 21-Day Group Fares—Amman, Beirut, Cairo, Damascus, Jerusalem, Nicosia (Amending).	1/2 (North Atlantic).
R-20	076eI	North Atlantic Group—Affinity Fares (Amending)	1/2 (North Atlantic).
R-21	076eII	North Atlantic Group—Affinity Fares (Amending)	1/2 (North Atlantic).
R-22	076m	North Atlantic Bulk—Affinity and Incentive Group Prices—Portugal/Spain (Amending).	1/2 (North Atlantic).
R-23	076pI	North Atlantic 14 Day Incentive—Group Fares (Amending)	1/2 (North Atlantic).
R-24	076z	Form of Application for Affinity-Group Fares (Amending)	1/2 (North Atlantic).
R-26	084aI	North Atlantic 21- and 28-Day Group Inclusive Tour Fares (Amending).	1/2 (North Atlantic).
R-27	084aII	North Atlantic 21- and 28-Day Group Inclusive Tour Fares (Amending).	1/2 (North Atlantic).
R-28	084e	North Atlantic Winter Group Inclusive Tour Fares to Israel (Amending).	1/2 (North Atlantic).
R-29	084cc	North Atlantic Winter Group Inclusive Tour Fares to Middle East (Amending).	1/2 (North Atlantic).
R-30	084pI	North Atlantic 7/8 and 7/13 Day Winter Group Inclusive Tour Fares-Europe (Amending).	1/2 (North Atlantic).
R-31	084pII	North Atlantic 7/8 and 7/13 Day Winter Group Tour Fares—Europe (Amending).	1/2 (North Atlantic).
R-32	084pp	North Atlantic 9/16 Day Winter Group Inclusive Tour Fares—Africa (Amending).	1/2 (North Atlantic).

Accordingly, It is ordered, That:

1. Agreements CAB 23607 and 23609 set forth above are approved subject to previous conditions imposed by the Board and to the conditions set forth herein;

2. Agreement CAB 23607, R–7, be and hereby is approved, provided that copies of reports or other documents developed pursuant to the Resolution shall be filed with the Board at the time of their circulation to members;

3. Tariffs implementing the agreements shall be marked to expire on December 31, 1973, in the case of passenger fares and to expire on September 30, 1973, in the case of cargo rates;

4. An investigation is hereby instituted to determine whether individual and group youth fares adopted by resolution 003e (agreement CAB 23607, R–3) are adverse to the public interest or in violation of the Federal Aviation Act of

[6] These requests were made in a joint complaint filed by K. G. J. Pillai, Brant S. Goldwyn, and Aviation Consumer Action Project (ACAP), and in complaints filed by the member carriers of the National Air Carrier Association (NACA) and the Department of Transportation (DOT). There are also pending requests for investigation filed by NACA and ACAP in docket 23486, which will be disposed of herein.

1958, and whether the fares, rules, conditions, and provisions which are, or will be, established pursuant to such agreement are or will be unjustly discriminatory or unduly prejudicial, and if such fares, rules, conditions, or provisions are found to be unjustly discriminatory, unduly preferential, or unduly prejudicial, to determine how such fares, rules, conditions, or provisions should be altered, or what order should be made to remove such discrimination, preference, or prejudice;

5. The investigation ordered in paragraph 4 above is consolidated into that currently pending in docket 23780; and

6. Except to the extent granted herein, the complaints in Dockets 23486, 25054, 25097, 25101, and 25396 are dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-7684 Filed 4-23-73;8:45 am]

[Docket 24488, Order 73-4-77]

INTERNATIOAL AIR TRANSPORT ASSOCIATION

Order Relating to Caribbean Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of April, 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 at Miami in November 1972, encompasses the overall Caribbean area fare structure intended for effectiveness from May 1, 1973 through March 31, 1974.[1]

By Order 73-2-31, February 8, 1973, procedural dates were established for the receipt of carrier data and justifications, and comments of any interested persons. The U.S. carrier members of IATA serving the market have submitted justification and data in support of the agreement. No other comments have been received.

The agreement proposes increases in most first-class and normal economy fares, and would recast the entire promotional fare structure in the Caribbean area. Appendix A [2] sets forth a comparison of present and proposed fares, and percentage changes, for the principal markets. Normal economy fares would be increased by approximately 5 percent, and economy-class excursion fares would be increased by amounts ranging from 1 percent to 5.3 percent in the peak season.[3] First-class excursion fares and group inclusive-tour (GIT) fares would be eliminated except in the Venezuela and the Netherland Antilles markets. The agreement proposes two new promotional fares—an advance-purchase travel group fare and an individual inclusive-tour fare (IIT).

The new advance-purchase travel group fares are proposed at levels approximating the present incentive/own use group fares. The fares would be available only during the off-peak season (May 1 through December 15) to groups of at least 40 persons, and no stopovers would be permitted. Travel would be restricted to midweek departures (Tuesday through Friday from the last U.S. point),[4] and would be subject to a minimum/maximum stay of 7/30 days. The carriers would require application from the group organizer, with a 25-percent nonrefundable deposit from each passenger at least 90 days in advance, with full payment required at least 60 days prior to departure.

In general, the new IIT fares are proposed at levels about midway between the excursion fare and advance-purchase group fare during the off-peak season (May 15 through December 15). Peak-season travel (January 6 through March 31) would be priced approximately 10 percent higher.[5] The fares would be subject to a minimum/maximum stay requirement of 7/10 days and would allow one stopover. Mandatory purchase of ground arrangements would be subject to a minimum of $50 for the first 7 days, and $5 per day thereafter.

Generally the U.S. carriers maintain that their Caribbean earnings are unsatisfactory; that an increase in revenue is necessary; and that the revised promotional fare structure represents a clear improvement over the present structure. Pan American, Eastern, and American have provided detailed forecasts of revenue, costs, investment, and rate of return on the basis of the present and proposed fares.[6] The forecasts are summarized in Appendix B.[7]

Return on investment forecasts for 1973, assuming implementation of the new fare agreement, range from 4.05 percent for Pan American to 11.43 percent for American. Eastern projects a 5.54-percent return. These projected rates of return represent a substantial improvement over the results forecast assuming no change in fares, which would be 1.38, 3.65, and 6.7 percent, respectively, for Pan American, Eastern, and American. Both Pan American and Eastern project substantial operating losses if the new fares are not implemented, even though in the case of Pan American a load factor of 64.5 percent is projected.[7]

Historically, U.S.-carrier earnings in the Caribbean market have been substandard. There is a substantial amount of competition from non-IATA carriers in the area and, accordingly, a corresponding element of fare and revenue instability. We have reviewed the carrier earnings forecasts under the existing and proposed fares, as well as the carriers' operating results in 1972, and it appears that an improvement in earnings is clearly necessary. In this light, the proposed increases do not appear unreasonable, and there is little likelihood the carriers will be placed in an excess-earnings position. The restructuring of promotional fares should also effect a needed improvement in revenue, and appears to represent a distinct improvement in a number of other respects. Thus we conclude that the overall increase in revenues is warranted.

The new fare structure appears to move toward greater reliance on individually ticketed service as opposed to group travel, and elimination of certain features of the fare structure which the carriers conclude have diluted revenues in the past. Pan American's projected traffic distribution among the new fare categories attributes 6.73 percent of the traffic to the new individual inclusive tour (ITT) fare. It appears that while there may be significant diversion from higher-rated excursion-fare traffic, the net revenue effect will be favorable because of the generation of new traffic and the upgrading of present group inclusive tour traffic to this new fare.

Under the proposed structure, the new advance-purchase travel group fare will be relied upon to accommodate group travel. The conditions on the new group fare appear to be sufficiently restrictive to minimize diversion from higher fare categories. Indeed, Pan American estimates that only 1.51 percent of the traffic it projects for the year ending April 30, 1974, will travel on this fare.

The carriers' estimates of newly generated traffic to result from the new fare proposal range from 0.7 percent of present traffic in the case of Pan American to 6.02 percent in the case of Eastern.[8] Eastern estimates that 20 percent of present economy-class excursion passengers will divert to the new IIT, and that generation will equal 43 percent of diversion, thus producing a 30/70 generation/diversion ratio, and a net gain in

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[7] Minetti, member, submitted a concurrence, filed as part of the original document.

[1] The Board, by Order 73-3-118, March 29, 1973, approved a one-month extension of present fares, which would otherwise have expired March 31, 1973.

[2] Appendices A—G filed as part of original document.

[3] The resolution governing economy-class excursion fares would also be amended to impose a general limitation of two free stopovers.

[4] Tuesday and Wednesday only for the period July 1 through August 31.

[5] Peak-season travel would be permitted only on weekdays (Tuesday through Friday); the period July 1 through August 31 would also be subject to this restriction.

[6] Delta forecasts only a $357,189 revenue increase, approximately 1.7 percent of Delta's international revenues.

[7] We have adjusted the carriers' earnings figures to account for slight errors in computation.

[8] American does not project any net traffic increase due to the new fares, and Delta makes no statement.

revenue of $419, 959. For the new advance-purchase group fare. Eastern estimates a generation/diversion ratio of 60/40, effecting a net contribution to revenue of $260,000. We have examined these generation/diversion estimates and conclude that they are not unreasonable and that the net profit improvement forecast is attainable.

We support the limitation of two free stopovers on economy-class excursion fares. Circuitous routings which are encouraged by the opportunity for free stopovers create an unwarranted dilution in revenue and downward pressure on yield, and we have generally supported proposals which more closely gear charges to the actual service provided.[9] We also support the elimination of first-class excursion fares in all but two markets. While we have considerable doubt about the economic justification for first-class excursion fares in any market, the yield resulting from the remaining excursion fares does not appear unduly low. Moreover, it may be that use of the fares is generally limited to the Venezuela market as alleged.[10]

Having taken into account the considerations discussed above, and in light of all available information, the Board concludes that the passenger fares agreed to by IATA for Caribbean service are not unreasonable in terms of either level or structure, and that the agreement should be approved.

We are also herein approving an agreement adopted by mail vote for effectiveness May 1, 1973, which amends resolutions governing those GIT fares in the Caribbean area which will remain available so as to allow full refund in the event of voluntary cancellations up to 7 days before departure. Cancellations made within 7 days of departure would be subject to a 25-percent charge. In the past, a charge has been imposed for any cancellation within 14 days of departure. These changes do not appear unreasonable.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that those resolutions set forth in appendix C are adverse to the public interest or in violation of the Act;

2. It is not found that those resolutions set forth in appendix D are adverse to the public interest or in violation of the act, provided that approval is subject to conditions previously imposed by the Board;

3. It is not found that those resolutions set forth in appendix E are adverse to the public interest or in violation of the act; provided that approval is subject to the conditions stated therein;

4. It is not found that those resolutions set forth in appendix F, which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the act; and

5. It is not found that those resolutions set forth in appendix G [8] affect air transportation within the meaning of the act.

Accordingly, it is ordered That,

1. Those portions of agreement CAB 23459 set forth in appendixes C and F [8] be and hereby are approved;

2. Those portions of agreement CAB 23459, as well as agreement CAB 23561, set forth in appendix D [8] be and hereby are approved subject to conditions previously imposed by the Board;

3. Those portions of agreement CAB 23459 set forth in appendix E [8] be and hereby are approved subject to the conditions stated therein;

4. Jurisdiction is disclaimed with respect to those portions of agreement CAB 23459 set forth in appendix G [8]; and

5. Tariffs implementing the agreement shall be marked to expire on March 31, 1974.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-7887 Filed 4-23-73;8:45 am]

[8] See Order 73-1-76 of January 26, 1973.

[9] For New York-Caracas travel the round-trip yields per mile would be 9.61¢ as compared with 11.68¢ for regular first-class and 8.71¢ for normal economy service. Delta indicates that over 14 percent of its U.S.-Venezuela traffic travels on the first-class excursion fare.

COMMISSION ON CIVIL RIGHTS

CONNECTICUT STATE ADVISORY COMMITTEE

Agenda and 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 planning meeting of the Connecticut State Advisory Committee to this Commission will convene at 8 p.m. on April 25, 1973, at the Howard Johnson Motel, 400 Sargent Drive, New Haven, Conn. 06511.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office, room 1639, 26 Federal Plaza, New York, N.Y. 10007.

The purposes of this full State Advisory Committee meeting are to discuss: (1) The Committee's correction project and consider a communication from the Danbury Prison officials; (2) the Connecticut higher education project; (3) the Puerto Rican project; and (4) the feasibility of undertaking a public and private employment study in the State of Connecticut.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., April 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-7889 Filed 4-23-73;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and 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 planning meeting of the New York State Advisory Committee to this Commission will convene at 6 p.m. on April 26, 1973, at the Brotherhood in Action Building, 560 Seventh Avenue, New York, N.Y. 10018.

Persons wishing to attend this meeting should contact the committee chairman, or the northeastern regional office, room 1639, 26 Federal Plaza, New York, N.Y. 10007.

The purpose of this meeting shall be for the full State advisory committee to meet with community groups and begin working on a sex discrimination project for the State of New York.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., April 18, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-7891 Filed 4-23-73;8:45 am]

SOUTH CAROLINA STATE ADVISORY COMMITTEE

Agenda and 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 planning meeting of the South Carolina State Advisory Committee to this Commission will convene at 7:30 a.m. on April 27, 1973, in room 202, Columbia Building, 1203 Gervais Street, Columbia, S.C. 29201.

Persons wishing to attend this meeting should contact the committee chairman, or the southern regional office, room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

The purpose of this meeting shall be to evaluate the status of the South Carolina State Committee's fiscal year 1973 program plans and to project program plans for fiscal year 1974.

This meeting will be conducted pursuant to rules and regulations of the Commission.

Dated at Washington, D.C., April 18, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-7892 Filed 4-23-73;8:45 am]

CIVIL SERVICE COMMISSION

MECHANICAL ENGINEER, ANN ARBOR, MICH. SMSA

Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-830 MECHANICAL ENGINEER [1]

Geographic coverage: Ann Arbor, Mich., SMSA.
Effective date: First day of the pay period beginning April 29, 1973.

(PER ANNUM RATES)

Grade	1	2	3	4	5	6	7	8	9	10
GS-5	$10,007	$10,264	$10,521	$10,778	$11,035	$11,292	$11,549	$11,806	$12,063	$12,320
GS-7	11,422	11,739	12,056	12,373	12,690	13,007	13,324	13,641	13,958	14,275

[1] (Special rates limited to mechanical engineers engaged in motor vehicle emission control mobile source compliance program and mobile source standards program.)

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the roles in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after each date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723, of new appointees to positions cited.

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

[FR Doc.73-7871 Filed 4-23-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal from Warehouse for Consumption

APRIL 19, 1973.

The Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971 between the Governments of the United States and the Republic of China contains the following language:

A schedule of handicraft and art articles which shall be exempt from the limitations of this agreement shall be developed by the two governments and incorporated into the agreement as annex C.

On March 22, 1973, agreement was reached between the two governments concerning the composition of annex C.

Accordingly, there is published below a letter of April 19, 1973, from the chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that specific items, certified exempt by the Government of the Republic of China, shall henceforth and until further notice not be subject to the levels of restraint established by the aforementioned Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

APRIL 19, 1973.

COMMISSIONER OF CUSTOMS,
Department of Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you by the chairman of the Committee for the Implementation of Textile Agreements on September 29, 1972, which designated levels of wool and man-made fiber textile products produced or manufactured in the Republic of China which may be entered for consumption or withdrawn from warehouse for consumption; and amends but does not cancel the directive of September 27, 1972, which established an export visa requirement for the entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in the Republic of China.

Under paragraph 14 of the Wool and Man-Made Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, effective as soon as possible and until further notice the handicraft and art articles listed below, produced or manufactured in the Republic of China, and entered in accordance with the provisions of this directive, shall not be subject to nor counted in any level of restraint now or hereafter put into effect:

a. Pincushions;

b. Embroideries (needlework), of man-made fabrics with design embroidered with wool thread;

c. Handmade carpets, i.e., in which the pile was inserted or knotted by hand;

d. Christmas or Easter ornaments having a nontextile core or a nontextile structured frame and man-made fiber textile covering; and

e. Toy (novelty) animals, birds, or insects with a plastic, wire or other nontextile core that are covered or decorated with textile thread or fiber.

To qualify for exemption from levels of restraint, each shipment of the above cited "Exempt Items," shall be accompanied by a certification issued by the Government of the Republic of China. The certification shall be a stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document or other commercial invoice when such form is used). Each certification will consist of the authorized signature of the official issuing the certification; identify the items exempted; indicate the date the certification was signed and certified; and carry the certificate number. A facsimile of the stamp, along with the signature of the official authorized to issue the exempt certification is enclosed.

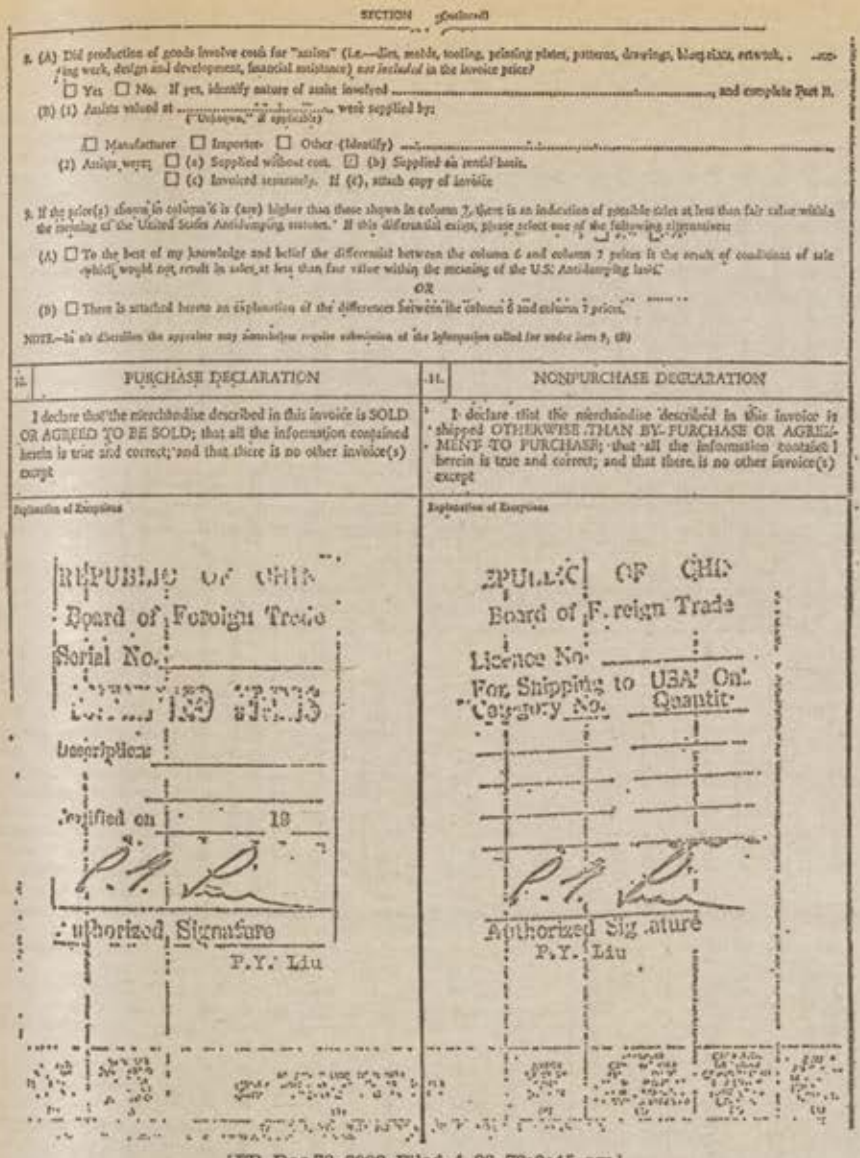
All merchandise covered by an invoice which has an exempt certification but contains both exempt and nonexempt textile items will be denied entry.

In addition to the certification stamp, each shipment of exempt items from the Republic of China will be accompanied by a signed visa in accordance with the visa arrangement agreed to by the Governments of the United States and the Republic of China on August 16, 1972.

The actions taken with respect to the administration of controls on imports of cotton textiles and cotton textile products, wool textile products, and man-made fiber textile products produced or manufactured abroad have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.



SECTION [illegible]

8. (A) Did production of goods involve costs for "assists" (i.e.—dies, molds, tooling, printing plates, patterns, drawings, blueprints, artwork, engineering work, design and development, financial assistance) *not included* in the invoice price?

☐ Yes ☐ No. If yes, identify nature of assist involved ..... and complete Part B.

(B) (1) Assists valued at ..... (Estimate, if applicable) were supplied by:

☐ Manufacturer ☐ Importer ☐ Other (Identify) .....

(2) Assists were: ☐ (a) Supplied without cost. ☑ (b) Supplied at arm's length.
☐ (c) Invoiced separately. If (c), attach copy of invoice.

9. If the price(s) shown in column 8 is (are) higher than those shown in column 7, there is an indication of possible sales at less than fair value within the meaning of the United States Antidumping statute." If this differential exists, please select one of the following alternatives:

(A) ☐ To the best of my knowledge and belief the difference between the column 8 and column 7 prices is the result of conditions of sale which would not result in sales at less than fair value within the meaning of the U.S. Antidumping law;

OR

(B) ☐ There is attached hereto an explanation of the differences between the column 8 and column 7 prices.

NOTE.—In all circumstances the appraiser may nonetheless require submission of the information called for under item 9, (B)

10. PURCHASE DECLARATION	11. NONPURCHASE DECLARATION
I declare that the merchandise described in this invoice is SOLD OR AGREED TO BE SOLD; that all the information contained herein is true and correct; and that there is no other invoice(s) except	I declare that the merchandise described in this invoice is shipped OTHERWISE THAN BY PURCHASE OR AGREEMENT TO PURCHASE; that all the information contained herein is true and correct; and that there is no other invoice(s) except
Explanation of Exceptions	Explanation of Exceptions
REPUBLIC OF CHINA Board of Foreign Trade Serial No. Description Certified on 19 P.Y. Liu Authorized Signature P.Y. Liu	REPUBLIC OF CHINA Board of Foreign Trade Licence No. For Shipping to USA/Can Category No. Quantity P.Y. Liu Authorized Signature P.Y. Liu

[FR Doc.73-8002 Filed 4-23-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Advisory Committee, created by section 7(b) of Executive Order 11695, will meet on May 1, 1973, in Chicago, Ill.

The purpose of the meeting is to provide advice to the Cost of Living Council on the operation of the economic stabilization program in the food industry and other matters related to food costs and prices.

The Director of the Cost of Living Council has determined that the meeting will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the committee.

Issued in Washington, D.C., on April 23, 1973.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-8070 Filed 4-23-73;10:34 am]

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Determination To Close Meeting

The Director of the Cost of Living Council has determined that the meeting of the Food Industry Wage and Salary Committee to be held, as previously announced, on April 25, 1973, will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the committee.

Issued in Washington, D.C., on April 23, 1973.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-8069 Filed 4-23-73;10:34 am]

LABOR-MANAGEMENT ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that a meeting of the Labor-Management Advisory Committee created by section 8 of Executive Order 11695 will be held on May 2, 1973.

The purpose of the meeting is to provide advice to the Chairman of the Cost of Living Council on methods for improving the collective bargaining process and for assuring wage and salary settlements consistent with gains in productivity and the goal of stemming the rate of inflation.

The Director of the Cost of Living Council has determined that the meeting will consist of an exchange of opinions, that the discussion, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the committee.

Issued in Washington, D.C., on April 23, 1973.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-8071 Filed 4-23-73;10:34 am]

ENVIRONMENTAL PROTECTION AGENCY

AGENCY COMMENTS ON ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Notice of Availability

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period from March 1, 1973, to March 15, 1973.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this reviewing period. The list includes the Federal agency responsible for the statement, the number, and title of the statement, the classification of the nature of EPA's comments as defined in appendix II, and the EPA source for copies of the comments as set forth in appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reivewing period. The listing will include the Federal agency responsible for the statement, the number, and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in appendixes I, III, and IV.

Copies of the EPA order 1640.1, setting forth the policies and procedures for EPA's review of agency actions, may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

SHELDON MEYERS,
Director,
Office of Federal Activities.

Dated April 13, 1973.

APPENDIX I

DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN MARCH 1, 1973, AND MARCH 15, 1973

Responsible Federal Agency	Title and Identifying Number	General nature of comments	Source for copies of comments
Atomic Energy Commission	D-AEC-00072-SC: Future High Level Waste Facilities, Savannah River Plant, S.C.	ER-2	A
Do.	D-AEC-00094-UT: Rio Algom Corp., Humeca Uranium Mill, Utah.	ER-2	A
Do.	D-AEC-00089-OR: Trojan Nuclear Plant, Oreg.	ER-2	A
Department of the Interior	D-BOR-60069-MO: Little Blue Tract Land Acquisition, Jackson, Mo.	LO-2	H
Corps of Engineers	D-COE-00087-PR: Aguirre Power Complex Puerto Rico Permit.	EU-2	C
Do.	D-COE-32402-VA: York River Navigation Project, Va.	ER-2	D
Do.	D-COE-36202-PA: Darby Creek-Cobbs Creek Watershed, Flood Control, Pa.	ER-2	D
Do.	D-COE-36213-IA: Clinton, Iowa Local Protection Project, Mississippi River.	ER-2	H
Department of Agriculture	D-DOA-36119-MS: Moorhead Bayou Watershed, Sunflower County, Miss.	LO-1	E
Do.	D-DOA-36193-OH: Chippewa Creek Watershed Project, Wayne County, Ohio.	ER-2	F
Do.	D-DOA-60070-MA: Ogunquit Sand Dune Land Stabilization Measure 9, Mass.	ER-2	B
Do.	D-DOA-83019-ND: Center Plant—Precipitator Installation, N. Dak.	LO-1	I
Do.	D-SCS-36216-AR: Big Running Water Ditch Watershed, Ark.	LO-2	G
Department of Transportation	D-DOT-54034-GA: Metropolitan Atlanta Rapid Transit System, Ga.	LO-2	E
Do.	D-FAA-51219-OH: Bolton Field Airport, Columbus, Ohio.	LO-2	F
Do.	D-FAA-51221-IL: Kewanee Municipal Airport, Kewanee, Ill.	LO-1	F
Do.	D-FAA-51222-WI: Rusk County Airport, Lady Smith, Wis.	LO-1	F
Do.	D-FAA-51223-MI: Bishop Airport, Flint, Mich., Genesee County.	3	F
Do.	D-FAA-51225-KS: Beloit Municipal Airport, Beloit, Kans.	LO-1	H
Do.	D-FAA-51227-IA: Cresco Municipal Airport, Cresco, Iowa.	LO-1	H
Do.	D-FAA-51229-NC: Columbus County Airport, Whiteville, N.C.	LO-2	E
Do.	D-FAA-51250-UT: Salt Lake City International Airport Expansion Project, Utah.	ER-2	I
Do.	D-FHW-41617-CA: State Rte. 29/121, Freeway Development, Napa County, Calif.	LO-2	J
Do.	D-FHW-41648-SD: F-8490, Brown County, S. Dak., State-U.S. 12N 3 Miles.	ER-2	I
Do.	D-FHW-41672-IN: U.S. 20, State Route 331 to St. Joseph, Elkhart Colline, Ind.	LO-2	F
Do.	D-FHW-41676-MI: East Boulevard Extension, Oakland County, Pontiac, Mich.	LO-2	F
Do.	D-FHW-41677-IL: Robeson Hills Rest Area, Lawrence County, Ill.	LO-1	F
Do.	D-FHW-41687-TN: State Route 1, State Project 37001-0237-04, Hawkins County, Tenn.	LO-2	E
Do.	D-FHW-41688-SC: Richland County, U.S. 176 River Drive, Columbia, S.C.	LO-2	E
Do.	D-FHW-41700-NB: U.S. 281 (Burlington Avenue) Hastings, Adams County, Nebr.	LO-1	H
Do.	D-FHW-41708-NB: U.S. Highway 81 Reconstruction, Madison County (F-81), Nebr.	LO-1	H
Do.	D-FHW-41716-OR: Interstate 82/182 Prosser, Wash., to Interstate 80N, Oreg.	LO-2	K
Do.	D-FHW-41723-MI: M-99 From Waverly Road, Eston Rapids, Eston County, Mich.	LO-2	F
Do.	D-FHW-41726-AK: Improvements on Debarr Avenue and Boniface Parkway, Alaska.	LO-2	K
Do.	D-FHW-41741-AK: Denali Rest Area, Alaska.	LO-1	K
Do.	D-UMT-54028-NY: Long Island Extension, Urban Mass Transit, N.Y.	LO-2	C
Federal Power Commission	D-FPC-03084-CO: Panhandle Eastern Pipeline Co., Docket CO-72-18, Colo.	LO-2	I
Do.	D-FPC-08001-NY: Blenheim-Gilboa Project No. 2685, Gilboa-Leeds, N.Y.	3	C
Do.	D-FPC-61116-MA: License For Northfield Mountain Recreation Project, Mass.	LO-2	B
General Services Administration	D-GSA-90004-PA: Metropolitan Correctional Center, Philadelphia, Pa.	LO-1	D
Department of Housing and Urban Development.	D-HUD-80007-CA: Anaheim Hill Development, Orange County, Santa Ana, Calif.	ER-2	J
Do.	D-HUD-85006-TX: Olympia Subdivision, Bexar County, Tex.	ER-2	G
Department of Justice	D-JUS-90075-CA: Airborne Low Light Level Viewing System, Calif.	LO-1	J

APPENDIX II—DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further

study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these aspects.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonably available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

If a draft impact statement is assigned a category 3, no rating will be made of the project or action, since a basis does not generally exist on which to make such a determination.

APPENDIX III

FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN MARCH 1, 1973, AND MARCH 15, 1973

Responsible Federal Agency Identifying Number	Title	General Nature of Comments	Source for Copies of Comments
Department of Defense.	F-DOD-11024-CA: Armed Forces Reserve Center, Los Alamitos, Calif.	General Agreement. Air Force Adequately Accommodated EPA Draft Comments.	J
Department of Transportation.	F-FHW-41679-NM: U.S. 82, Artesia East to Loco Hills, Eddy County, N. Mex.	No Objections to the Proposed Project.	G

APPENDIX IV

REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN MARCH 1, 1973 AND MARCH 15, 1973

Agency	Title	General Nature of Comments	Source for Copies of Comments
None.			

APPENDIX V

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, room 847, 26 Federal Plaza, New York, N.Y. 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, suite 300, 1421 Peachtree Street NE., Atlanta, Ga. 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, Ill. 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Tex. 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Mo. 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, room 916, 1860 Lincoln Street, Denver, Colo. 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Wash. 98101.

[FR Doc.73-7694 Filed 4-23-73;8:45 am]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on May 30 and 31, 1973, beginning at 8:30 a.m. at the Velvet Cloak Motor Hotel, 1505 Hillsborough Street, Raleigh, N.C.

Purpose of the meeting will be to review information on proposed new source performance standards under section 111 of the 1970 Clean Air Act, as well as information on implementation of section 111(d) of the act.

Performance standards will be discussed for Group 11A: Nonferrous smelting plants, including copper, lead, and zinc; and Group III: Aluminum reduction plants, ferroalloy plants, coal preparation plants, kraft pulp mills, iron and steel mills, phosphate fertilizer plants and stationary gas turbines.

The meeting will be open to the public to the extent that seating arrangements permit. Any member of the public wishing to participate or present a paper should contact the Executive Secretary, Mr. Bruce Hogarth, EPA, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711.

The telephone number is 919-688-8146, extension 437.

ROBERT L. SANSOM,
Assistant Administrator
for Air and Water Programs.

[FR Doc.73-7924 Filed 4-23-73;8:45 am]

PETROCHEMICAL INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Petrochemical Industry Advisory Committee will be held from 8:30 a.m. to 4:30 p.m. on May 3, 1973, in the National Environmental Research Center, Conference Dining Room, Building B, Research Triangle Park, N.C.

The meeting will be primarily concerned with a review of the Second Interim Report containing a study of various petrochemical industries submitted by the Houdry Division of Air Products, the contractor for the study.

The meeting will be open to the public. Any member of the public wishing to attend or participate or present comments should contact Mr. Leslie B. Evans, Executive Secretary, Petrochemical Industry Advisory Committee, 919-688-8146, extension 295.

ROBERT L. SANSOM,
Assistant Administrator
for Air and Water Programs.

[FR Doc.73-7925 Filed 4-23-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19668; FCC 73-380]

CONNELLSVILLE BROADCASTERS, INC.

Memorandum Opinion and Order and Notice of Apparent Liability Revising Hearing Order

In regard application of: Connellsville Broadcasters, Inc., Connellsville, Pa., for renewal of license for radio station WCVI, docket No. 19668, file No. BR-1550.

1. The Commission has under consideration: (a) Its order, FCC 73-25, released January 9, 1973, and published January 24, 1973 at 38 FR 2348, designating this proceeding for hearing; (b) a petition for modification of designation order filed February 6, 1973, by Connellsville Broadcasters, Inc. (Connelsville); and (c) comments filed

February 20, 1973 by the Chief, Broadcast Bureau.

2. In the order referred to above, the captioned renewal application was designated for hearing on various issues, including an issue to determine whether the licensee of WCVI failed to make the necessary sponsor identification announcements in connection with political broadcasts as required by section 317 of the Communications Act and § 73.120 of the Commission's rules. In its petition now before us, Connellsville points out that a bill of particulars was served upon it by the Chief, Broadcast Bureau on January 29, 1973; that according to the bill of particulars some of the alleged violations of the rules and act of which it has been charged occurred within a 1 year period preceding the release of the designation order in this case; [1] and that, consequently, such violations may give rise to the assessment of a monetary forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended. In view of the foregoing, Connellsville thus requests a modification of the designation order in this proceeding to include a notice of apparent liability for any alleged violation for which a monetary forfeiture may be assessed.

3. In prior cases similar to this proceeding, we have included appropriate forfeiture notices and, accordingly, believe that such a procedure should be followed here.[2] The inclusion of such notice is not to be taken as indicating in any way what the initial or final disposition of this case should be. That judgment will be made on the particular facts of this case after a full evidentiary inquiry.

4. *Accordingly, it is ordered,* That the petition for modification of designation order filed February 6, 1973, by Connellsville Broadcasters, Inc. is granted to the extent that the designation order is amended to include a notice of apparent liability for monetary forefeiture for violations occurring within 1 year of the issuance of this amendment.

5. *It is further ordered,* That the order designating this proceeding for hearing, FCC 73-25, released January 9, 1973, is revised to include the following:

11. *It is further ordered,* That if it is determined that the hearing record does not warrant an order denying the application of Connellsville Broadcasters, Inc., for renewal of license for station WCVI, Connellsville, Pa., it shall also be determined, whether in the light of evidence adduced pursuant to issue No. 3 in this proceeding concerning political announcements made over station WCVI during the period April 19-24, 1972, Connellsville Broadcasters, Inc. should be assessed a forfeiture in the amount of $10,000 or some lesser sum pursuant to section 503(b) of the Communications Act of 1934, as amended.

6. *It is further ordered,* That the Secretary of the Commission shall send a copy of this memorandum opinion and order by certified mail, return receipt requested, to Connellsville Broadcasters, Inc., licensee of station WCVI, Connellsville, Pa.

Adopted April 11, 1973.

Released April 17, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-7876 Filed 4-23-73;8:45 am]

[1] Connellsville states that it is alleged among other things, in par. 9 of the bill of particulars that the required sponsorship identification was not included in certain political announcements (Sinchak for State committeeman) which were broadcast over station WCVI during the period from Apr. 19 through Apr. 24, 1972.

[2] *Cosmopolitan Broadcasting Corp.*, F.C.C. 72-1137, released Dec. 19, 1972; *Star Stations of Indiana, Inc.*, 28 FCC 2d 691 (1971); *Transamerica Broadcasting Corp.*, 24 F.C.C. 2d 824 (1970); and *Cathryn C. Murphy*, 24 F.C.C. 2d 216 (1970).

[3] Commissioner Robert E. Lee absent.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

April Meetings

APRIL 19, 1973.

In accordance with Public Law 92-463, Federal Advisory Committee Act, the following is a listing of April meetings of the Radio Technical Commission for Marine Services (RTCM):

Assembly (Annual Meeting).
Chairman: FCC Commissioner Richard E. Wiley.
Wednesday, Thursday, and Friday; April 25, 26, and 27, 1973.
Washington Plaza Hotel, 5th at Westlake, Seattle.
Principal agenda items:
1. Introductory remarks.
2. Committee reports.
a. Executive Committee, and
b. Special committees.
3. Report of the Exective Secretary.
4. Future assembly meetings.
5. Election of assembly member applicants.
6. Election of chairman.

Special Committee No. 65, Ship Radar, 23d meeting, Thursday, April 26, 1973, Washington Plaza Hotel, Seattle, Wash.
Principal agenda items:
1. Progress report of working group on reliability.
2. Status reports on other working groups and associated activities.
Chairman, SC-65, Irvin Hurwitz, Federal Communications Commission, Washington, D.C. 20554. [Phone: 202-632-7197.]

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by special committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

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

APRIL 19, 1973.

[FR Doc.73-7978 Filed 4-23-73;8:45 am]

FEDERAL MARITIME COMMISSION

FLAGSHIP CRUISES, INC. AND AMERICAN PRESIDENT LINES

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 May 14, 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 for approval by:

Mr. E. T. Sommer, Vice President, American President Lines, 1625 I Street NW., Washington, D.C. 20006.

Agreement No. 10002 is a general passenger agency agreement between Flagship Cruises, Inc., and American President Lines whereby Flagship Cruises, Inc., appoints American President Lines its general passenger sales agent in West Coast area: Alaska, California, Hawaii, Oregon, Washington, Idaho, Arizona, New Mexico, Nevada, and Colorado with respect to all vessels owned or operated by Flagship Cruises, Inc., to perform services enumerated in the agreement under covenants, conditions, and terms as set forth in the agreement.

Dated April 19, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7877 Filed 4-23-73;8:45 am]

MARYLAND PORT ADMINISTRATION AND ATLANTIC & GULF STEVEDORES, 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 May 14, 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:
Mr. Eldered N. Bell, Jr., Maryland Port Administration, 19 South Charles Street, Baltimore, Md. 21201.

Agreement No. T-2773, between the Maryland Port Administration (Port) and Atlantic & Gulf Stevedores (A & G), provides for the 1-year lease to A & G of pier 1, Clinton Street Terminal, Baltimore, Md. The facility is to be used solely as a waterfront terminal and purposes incidental thereto. As compensation, the Port is to receive all dockage and wharfage fees but not less than an amount that would have been assessed under Port's Terminal Services Tariff, subject to a $50,000 advance payment each quarter. Dockage and wharfage will be assessed in accordance with the rates published in the Baltimore Marine Terminal Association Tariff.

Dated April 18, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7878 Filed 4-23-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-17379 etc.]

CERTIFICATES OF CONVENIENCE AND NECESSITY

Applications, Abandonment of Service, and Petitions To Amend [1]

APRIL 11, 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 May 7, 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.

Docket No. and date filed	Applicant	Purchaser and location	Price per M ft³	Pressure base
G-17379 ..... C 3-16-73 F	Texaco, Inc. (successor to Cities Service Oil Co.), P.O. Box 2420, Tulsa, Okla. 74102.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	[4] 26.4725	14.65
G-17379 ..... C 3-16-73 F	Texaco, Inc. (successor to Getty Oil Co.).	....do.....	[4] 26.0492	14.65
G-17379 ..... C 3-16-73 F	Texaco, Inc. (successor to Mobil Oil Corp.).	....do.....	[4] 26.4725	14.65
G-17379 ..... C 3-16-73 F	Texaco, Inc. (successor to Sun Oil Co.).	....do.....	[4] 26.4725	14.65
CI61-137 ..... E 2-16-73	Columbia Oil Corp. (successor to Mobil Oil Corp.), P.O. Box 1071, San Angelo, Tex. 76901.	CRA, Inc., Brooks, Canyon Number 2 and Canyon Number 3 Fields, Irion County, Tex.	13.0	14.65
CI69-551 ..... C 3-30-73	Jones & Pellow Oil Co., 2821 Northwest 50th St., Oklahoma City, Okla. 73112.	Michigan Wisconsin Pipe Line Co., acreage in Woodward County, Okla.	[3] 15.0	14.65
CI73-46 ..... C 2-26-73	Amoco Production Co., P.O. Box 591, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Blanco Pictured Cliffs Field, San Juan County, N. Mex.	[3] [5] 28.0	15.025
CI73-531 ..... B 2-9-73	American Petrofina Co., of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Texas Eastern Transmission Corp., Midway Field, San Patricio County, Tex.	Depleted	
CI73-532 ..... F 2-5-73	Frank H. Walsh (successor to Sohio Petroleum Co.), P.O. Box 30, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Surveyor Field, Washington County, Colo.	10.0	16.4
CI73-533 ..... B 2-9-73	Herman Geo. Kaiser (Operator), et al., 4120 East 51st St., Tulsa, Okla. 74135.	Michigan Wisconsin Pipe Line Co., Roscoe northwest, Major County, Okla.	Uneconomic	
CI73-534 ..... B 2-9-73	....do.....	Cities Service Gas Co., northeast Waynoka, Woods County, Okla.	Uneconomic	
CI73-554 ..... B 2-20-73	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, East Laketon Field, Gray County, Tex.	Depleted	
CI73-561 ..... A 2-26-73	Pubco Petroleum Corp., P.O. Box 869, Albuquerque, N. Mex., 87103.	El Paso Natural Gas Co., Pictured Cliffs and Blanco, Mesa Verde Fields, San Juan and Rio Arriba Counties, N. Mex.	[3] [4] 22.0 [3] [5] 28.0	15.025
CI73-602 ..... (CI64-619) F 3-8-73	Ashland Oil, Inc. (successor to Cities Service Oil Co. & Skelly Oil Co.), P.O. Box 1503, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Garden Island Bay Field, Plaquemines Parish, La.	22.250	15.025
CI73-613 ..... F 3-15-73	Intercontinental Energy Corp. (Operator), et al. (successor to Samedan Oil Corp.), suite 2300, 299 Park Ave., New York, N.Y. 10017.	Southern Natural Gas Co., Main Pass Area, Plaquemines Parish, La.	[3] 26.0	15.025
CI73-617 ..... A 3-19-73	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Northern Natural Gas Co., acreage in Hemphill County, Tex.	[3] 47.0	14.65
CI73-619 ..... B 3-16-73	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Meyersville Field, DeWitt and Goliad Counties, Tex.	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] 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 M ft³	Pressure base
CI73-634 B 3-19-73	Southwest Gas Producing Co., Inc., P.O. Box 2927, Monroe, La. 71201.	Texas Eastern Transmission Corp., East Unionville Field, Lincoln Parish, La.	(5)	-------
CI73-635 A 3-26-73	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Columbia Gas Transmission Corp., acreage in Pike County, Ky.	[7] 45.0 [8] 50.0	14.73
CI73-652 A 3-30-73	Thomas G. Vessels, 180 Cook St., Denver, Colo. 80206.	Panhandle Eastern Pipe Line Co., Wattenberg and other fields, Weld, Adams, Elbert, Lincoln, Arapahoe and Washington Counties, Colo.	[2] 22.913	14.65

[1] Applicant is willing to accept a certificate at assignor's last filed rate.
[2] Subject to upward and downward Btu adjustment.
[3] Applicant is willing to accept a certificate at 24 cents.
[4] For gas delivered from wells completed prior to June 1, 1970.
[5] For gas delivered from wells completed on or subsequent to June 1, 1970.
[6] Mississippi River Transmission Corp. proposes to acquire and develop the Vaughn Sand in the East Unionville Field as an underground gas storage reservoir.
[7] For volumes of gas less than 5,000 MCFD.
[8] For volumes of gas greater than 5,000 MCFD.

[FR Doc.73-7637 Filed 4-23-73;8:45 am]

[Docket No. CP73-250]

COLORADO INTERSTATE GAS CO. AND COLORADO INTERSTATE CORP.

Notice of Application

APRIL 17, 1973.

Take notice that on March 28, 1973, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in docket No. CP73-250 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities in order to increase the delivery capacity of its existing Wyoming pipeline by 30,885 M ft³ per day at 14.65 lb/in²a:

1. A 3,300-horsepower compressor unit at the existing Wamsutter Compressor Station in Sweetwater County, Wyo.; and

2. A total of 30.3 miles of 24-inch pipeline, looping the existing 22-inch Wyoming main line in three segments: 1.30 miles west from the Wamsutter Compressor Station, in Sweetwater County, Wyo., 9.2 miles in Carbon County, Wyo. and 8.1 miles in Weld County, Colo.

Applicant states that the additional horsepower will insure full design peak day deliveries under an upset condition. Applicant alleges that if a compressor unit is presently lost at any main line station, peak day deliveries cannot be maintained since it has experienced an unexpected loss of approximately 30,000 M ft³ in peak day deliveries from the Power River area of Wyoming, a situation which is contrary to its system design philosophy. Applicant further states that the proposed 30.3 miles of pipeline loop will enable new gas supplies in the Wyoming area to become available to Applicant by increasing the capacity of its Wyoming pipeline, which is presently operating at a load factor of over 99 percent. Applicant indicates that increased deliveries of gas resulting from a Wyoming line capacity increase could be used to relieve its southern system supply sources and/or the Fort Morgan Storage Field and could permit a more rapid development of the Boehm Storage Field, for which Applicant is seeking authorization from the Commission in docket No. CP73-237.

Applicant asserts that no additional peak day or annual sales are proposed, only an increase in its system delivery capacity in order to provide more flexibility in its operations.

Applicant estimates the total cost of the proposed project at $3,722,000, which it plans to finance from current working funds on hand, funds from operations, short-term borrowings, or long-term arrangements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 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.

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.73-7905 Filed 4-23-73;8:45 am]

[Docket No. E-8056]

OTTER TAIL POWER CO.

Notice of Application

APRIL 16, 1973.

Take notice that on April 9, 1973, Otter Tail Power Company, (Applicant), of Fergus Falls, Minnesota, filed an application seeking an order, pursuant to section 204 of the Federal Power Commission, authorizing the issuance of 300,000 common shares, par value $5 per share, for public sale and an exemption from competitive bidding requirements in connection therewith.

The common shares will be issued to repay short-term borrowings made to finance the company's 1973 construction program.

Any person desiring to be heard or to make any protest with reference to such application should, on or before May 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. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7906 Filed 4-23-73;8:45 am]

[Docket No. E-8114]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Notice of Application

APRIL 16, 1973.

Take notice that on April 6, 1973, Public Service Co. of Indiana, Inc. (Applicant) of Plainfield, Indiana, filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of $75,000,000, in unsecured promissory notes to commercial banks and to commercial paper dealers.

The promissory notes to be issued by the Applicant to commercial banks will be issued on various days prior to June 30, 1974, but no note will mature more than 12 months after date of issue or renewal. The interest rate of such

notes will be at the prime loan interest rate of the banks in effect from time to time.

The promissory notes issued to commercial paper dealers will be issued on various days prior to June 30, 1974, but no note will mature more than 9 months after date of issue nor will any note be extended or renewed. The interest rate on such notes will be dependent upon the term of the notes and the money market conditions at the time of issuance. According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed $55,000,000, an amount which is less than 25 percent of Applicant's operations ending January 31, 1972.

The proceeds from the issuance of the notes will be used, among other things, to finance in part the Applicant's construction program through 1975. Applicant estimates that construction expenditures through 1975 will total about $388,700,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 8, 1973, file with the Federal Power Commision, 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 application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7907 Filed 4-23-73;8:45 am]

[Docket No. RP72-71, etc.]

SOUTHWEST GAS CORP.

Notice of Proposed Changes in Rates and Charges

APRIL 16, 1973.

Take notice that on April 9, 1973, Southwest Gas Corp. (Southwest) tendered for filing Second Revised Sheet No. 3A, constituting Original PGA-1, in its FPC Gas Tariff, Original Volume No. 1. According to Southwest the purchased gas cost adjustment is reflected in sheet No. 3A, in its one-part rates, on the basis of a 0.138-¢/thm increase equal to the amount by which El Paso has increased its one-part rate in its rate schedule PL-4 under which the company purchases all gas resold to its jurisdictional customers. The company believes that since the increase is identical to those submitted by El Paso, Exhibit A attached to the Commission Order No. 452 in docket No. R-406 is not required and if a waiver of exhibit A is needed Southwest requests such waiver.

Southwest states that it used the unrecovered purchased gas cost account as authorized in its purchased gas adjustment clause to accumulate the overcharge of .127-¢/thm in December due to El Paso's identical decrease of December 1, 1972, and 0.055 ¢/thm decrease for January through March, which is the difference between El Paso's decrease of 0.127 ¢/thm mentioned above and their increase of 0.072 ¢/thm on January 1, 1973. Southwest will refund the overcharge for these months concurrent with its March 1973 billing to its jurisdictional customers to comply with Commission order dated March 30, 1973, in dockets Nos. RP72-71, RP72-100, and RP72-121. Southwest requests that this filing became effective April 1, 1973, and if necessary Southwest requests a waiver of the regulations to permit this as the filing was actually filed by letter dated February 14, 1973, and rejected by the above-mentioned Commission order dated March 30, 1973, due to a deficiency of El Paso's previous filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 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 April 26, 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 this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7908 Filed 4-23-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs., Temporary Reg. F-176]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.*—This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.*—This regulation is effective immediately.

3. *Expiration date.*—This regulation expires April 30, 1973.

4. *Revocation.*—This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number, date, and subject:

F-49, June 3, 1969, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-81, December 4, 1970, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-85, February 16, 1971, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-86, February 16, 1971, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-118, August 26, 1971, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-132, January 19, 1972, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-140, March 16, 1972, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

F-156, September 8, 1972, Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

APRIL 17, 1973.

[FR Doc.73-7879 Filed 4-23-73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

GEORGIA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Georgia, dated April 5, 1973, and published April 11, 1973 (38 FR 9189) is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 4, 1973:

The counties of:

Chattooga De Kalb Gordon

Dated April 19, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-7882 Filed 4-23-73;8:45 am]

MICHIGAN

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Michigan, dated April 13, 1973, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 12, 1973:

The county of: Arenac.

Dated April 18, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-7854 Filed 4-23-73;8:45 am]

TENNESSEE

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Tennessee, dated March 23, 1973, and

published March 29, 1973 (38 FR 8194); and amended March 29, 1973, and published April 5, 1973 (38 FR 8697), is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 21, 1973:

The counties of:

Cannon. Grundy.

Dated April 19, 1973.

DARRELL M. TRENT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-7883 Filed 4-23-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5298]

C.B.M.C. CAPITAL CORP.

Notice of Issuance of License

On February 15, 1973, a notice was published in the FEDERAL REGISTER (38 FR 4542) stating that C.B.M.C. Capital Corp., 150 Hinsdale Street, Brooklyn, N.Y. 11207, had filed an application with the Small Business Administration, pursuant to section 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR section 107.102 (1972)) for a license to operate as a small business investment company pursuant to the provisions of section 301(d) of the Small Business Investment Act of 1958, as recently amended.

Interested parties were given to the close of business March 2, 1973, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued license No. 02/02-5298 to C.B.M.C. Capital Corp., pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended.

Dated April 17, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-7893, Filed 4-23-73;8:45 am]

[License No. 03/04-0095]

REBA INVESTMENT CO.

Notice of License Surrender

Notice is hereby given that Reba Investment Company, 147 Granby Street, Norfolk, Va. 23510, has surrendered its license to operate as a small business investment company pursuant to section 107.105 of the Small Business Administration's rules and regulations governing small business investment companies (13 CFR section 107.105 (1972)).

Reba Investment Company was licensed as a small business investment company on December 9, 1963, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises therefrom are canceled.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

Dated April 18, 1973.

[FR Doc.73-7894 Filed 4-23-73;8:45 am]

[Notice of Disaster Loan Area 969]

MICHIGAN

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Michigan as a major disaster area following severe storms and flooding, beginning on or about March 16, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in Bay, Berrien, Huron, Iosco, Macomb, Monroe, Saginaw, Sanilac, St. Clair, Tuscola and Wayne Counties.

Applications may be filed at the:

Small Business Administration District Office, 1249 Washington Blvd., Detroit, Mich. 48226

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than June 13, 1973.

Dated April 16, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-7895 Filed 4-23-73;8:45 am]

DEARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Notice of Meeting

The spring meeting of the Business Research Advisory Council will meet at 9:30 a.m., May 10, 1973, in Conference Room B of the Interdepartmental Auditorium, 14th and Constitution Avenue NW., Washington, D.C. The agenda for this meeting is as follows:

1. Commissioner's discussion of the Bureau's program.
2. Reports of the Committees of the Business Research Advisory Council:
   a. Manpower and Employment.
   b. Occupational Safety and Health.
   c. Productivity and Technological Developments.
   d. Wages and Industrial Relations.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-961-2559.

Signed at Washington, D.C., this 18th day of April 1973.

BEN BURDETSKY,
Deputy Commissioner of Labor Statistics.

[FR Doc.73-7885 Filed 4-23-73;8:45 am]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON HEAT STRESS

Notice of Meeting

Notice is hereby given that the Standards Advisory Committee on Heat Stress, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, May 1, 1973, at 9:30 a.m., and Wednesday, May 2, 1973, at 9:30 a.m., in conference room B, departmental auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

The agenda provides for the full committee to continue their discussion of the document entitled "Occupational Exposure to Hot Environments," prepared by the National Institute of Occupational Safety and Health. If time permits, the committee will then break into working groups to consider recommendations relating to the following aspects of heat stress:

(1) Criteria of temperatures;
(2) Measurements of environment and work load;
(3) Medical requirements; and
(4) Training of workers and supervisors, and engineering and administrative aspects of control of exposures.

The meeting shall be open to the public. Written data, views, or arguments concerning the subjects to be considered may be filed with the Committee's executive secretary, together with 20 copies, by April 30, 1973. Any such submissions, timely received, will be provided to the members of the Committee.

Communications to the executive secretary should be addressed as follows:

Mr. Wendell Blair, executive secretary, Standards Advisory Committees, room 509, Railway Labor Building, Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of April 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-7886 Filed 4-23-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 226]

ASSIGNMENT OF HEARINGS

APRIL 19, 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.

AB 68, Lake Superior & Ishpeming Railroad Co., abandonment between Munising and Marquette, and Lawson and Little Lake, in Alger and Marquette Counties, Mich., FD 27267, Michigan Corp. Trans Northern, Inc.—acquisition and operation—between Munising and Eben Junction, Alger County, Michigan, now assigned May 21, 1973, at Marquette, Mich., is postponed to June 11, 1973, at Marquette, Mich., in a hearing room to be later designated.

MC 87720 sub 83, Bass Transportation Co., Inc. now being assigned hearing May 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB-5 sub 85, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., 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 19, 1973, at Millerton, N.Y., postponed to Apr. 30, 1973, in the community room, second floor, Village Community Bldg., Dutchess Ave., Millerton, N.Y.

MC-109373, National Trucking, Inc., now assigned June 11, 1973 at Austin, Tex., is canceled and application dismissed.

AB-5 sub 68, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment between Bellefontaine and St. Marys, Logan and Auglaize Counties, Ohio, now assigned May 14, 1973, at Wapakoneta, Ohio, will be held in the City Council Chambers, City Bldg., Willoughby St.

AB-5 sub 80, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment between Washington Court House and Clarksville, Clinton and Fayette Counties, Ohio, now assigned May 17, 1973, at Wilmington, Ohio, will be held at the Laurel Oaks Vocational School Bldg., No. 1, Airport Rd. off Route 73.

MC 100623 sub 38, Hourly Messengers, Inc., doing business as H. M. Package Delivery Service, now assigned May 30, 1973, at Washington, D.C., is postponed to June 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7901 Filed 4-23-73;8:45 am]

[Notice No. 258]

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 May 14, 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-74140. By order entered April 11, 1973, the Motor Carrier Board approved the transfer to Romaine Kocer, doing business as Kocer Implement, Wagner, S. Dak., of the operating rights set forth in certificate No. MC-3711, issued July 21, 1953, to Herschel Ells, doing business as Wagner Motor Service, Wagner, S. Dak., authorizing the transportation of general commodities, with the usual exceptions, over a regular route, between Wagner, S. Dak., and Sioux City, Iowa, serving no intermediate points; and livestock and farm products, over irregular routes, from Wagner, S. Dak., and points in South Dakota within 25 miles of Wagner, to Sioux City, Iowa. Owen R. Wipf, 115 South Main Street, Wagner, S. Dak. 57380, attorney for applicants.

No. MC-FC-73910. By order of April 6, 1973, the Motor Carrier Board conditionally approved the transfer to Rubber City Express, Inc., Akron, Ohio, of certificate No. MC-134570 issued November 5, 1971, to Mayes, Inc., Columbus, Ohio, authorizing the transportation of: *Tires*, from Mansfield, Ohio, to points in Pennsylvania, New York, New Jersey, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Indiana, Illinois, and Iowa, and *materials and supplies*, except in bulk, used in the manufacture of tires, from Chicago, Ill., to Mansfield, Ohio. Paul F. Beery, Paul F. Beery Co., suite 1660, 88 East Broad Street, Columbus, Ohio, 43215, applicant's attorney.

No. MC-FC-74251. By order entered April 12, 1973, the Motor Carrier Board approved the transfer to Ohio Valley Charter Service, Inc., East Liverpool, Ohio, of the operating rights set forth in certificate No. MC-109417 (sub-No. 2), issued April 1, 1971, to John W. Young, doing business as Inter-City Transit and Ohio Valley Charter Service, East Liverpool, Ohio, authorizing the transportation of passengers and their baggage in the same vehicle, in special operations, in round trip sightseeing and pleasure tours, beginning and ending at points in Carroll, Jefferson, and Mahoning Counties, Ohio, and Hancock County, W. Va., and extending to points in the United States (including Alaska, but excluding Hawaii), restricted against the performance of service between points in Mahoning County, Ohio, on the one hand, and, on the other, Waterford Park Race Track near Chester, W. Va.; and passengers and their baggage in the same vehicle, in round trip charter service, beginning and ending at points in Carroll, Jefferson, and Mahoning Counties, Ohio, and Hancock County, W. Va., and extending to points in the United States (including Alaska but excluding Hawaii). James R. Allison, 25 East Rebecca Street, East Palestine, Ohio, attorney for applicants.

No. MC-FC-74369. By order of April 12, 1973, the Motor Carrier Board approved the transfer to SCA Disposal Service of New England, Inc., Boston, Mass., of certificate of registration No. MC-121042 (sub-No. 1) issued to Cal's Motor Trans., Inc., Assonet, Mass., evidencing a right to engage in interstate or foreign commerce, in the transportation of general commodities, solely within the State of Massachusetts. Frank J. Weiner, attorney, 15 Court Square, Boston, Mass. 02108.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7902 Filed 4-23-73;8:45 am]

PIPELINE ADVISORY COMMITTEE ON VALUATION

Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Pipeline Advisory Committee on Valuation. The meeting will convene on Tuesday, May 1, 1973, at 9 a.m., in room 216, in the basement of the Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20423.

The purpose of the meeting is to consider and analyze cost data and information utilized in the determination of annual price/cost indices for pipeline facilities and equipment. The meeting will be open to the public. Any member of the public may file a written statement with the Committee, before or within 1 week following the meeting.

The names of the members of the Committee, agenda, minutes of the meeting and any other information pertaining to the meeting may be obtained from Mr. John A. Gray, Director, Bureau of Accounts, Interstate Commerce Commission, 12th and Constitution Avenue N.W., Washington, D.C. 20423.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7903 Filed 4-23-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—APRIL

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

3 CFR

Page

PROCLAMATIONS:

2032 (see PLO 5342) 8445
2372 (see PLO 5342) 8445
3279 (modified by Proc. 4210) 9645
4205 9151
4206 9215
4207 9217
4208 9575
4209 9577
4210 9645
4211 10065
4212 10067

EXECUTIVE ORDERS:

10761 (revoked by Proc. 4210) 9645
10918 (revoked by 11710) 9071
11710 9071
11711 9483
11712 9657
11713 10069

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Reorganization Plan No. 1 of 1973 9579

5 CFR

213 ..... 8448, 8588, 8737, 9073, 9219, 9427, 9485, 9583, 9793, 9986, 10076

6 CFR

130 ..... 8505, 8588, 9024, 9825, 10077

7 CFR

6 ..... 9427, 9659
68 ..... 9074, 9583
301 ..... 8659, 8660, 10071
319 9005
354 9006
722 8508
724 ..... 9153, 9219
728 9583
905 9075
907 ..... 8425, 8660, 9219
908 ..... 8425, 8661, 9006, 9220, 9485, 9559, 9987
909 8508
910 ..... 8747, 9291, 9793
966 9486
981 ..... 9592, 9987
989 10074
1103 8748
1434 9988
1468 9075
1472 9075
1701 8589
1823 ..... 8662, 8663

PROPOSED RULES:

51 10106
52 9302
210 9234–9236
220 ..... 9236, 9237
225 9234–9237
760 9234
777 9436
989 ..... 8749, 10109

7 CFR—Continued

Page

PROPOSED RULES—Continued

981 9582
989 8749
1030 ..... 8518, 9025
1032 9513
1050 9513
1103 8751
1121 9303
1125 8520
1427 9025
1701 ..... 9026, 9027, 9309

8 CFR

Page

1 8590
103 8590
212 8590
214 8591
264 8591
299 8592
312 8592
499 8592

PROPOSED RULES:

100 8449

9 CFR

73 ..... 9007, 9659
78 ..... 9087, 9989
82 ..... 9088, 9486
83 9659
101 ..... 8426, 9221
123 ..... 8426, 9221
305 9793
316 9088
318 9088
331 9584
381 ..... 9590, 9794

PROPOSED RULES:

203 9238
318 9513
319 9170
327 ..... 8449, 9829
381 ..... 9513, 9829

10 CFR

2 9591
50 9585

12 CFR

201 9076
265 8592
303 9221
563 9153
749 9427

13 CFR

121 ..... 9007, 9291

PROPOSED RULES:

108 10120

14 CFR

39 ..... 8508, 8509, 8643, 9221, 9486, 9487, 9586, 9660, 9990
61 9292

14 CFR—Continued

Page

71 ..... 8428, 8509, 8643, 8737, 9008, 9157, 9221, 9292, 9427, 9428, 9487, 9488, 9586, 9961, 9991
73 ..... 9077, 9157, 9292
75 9428
95 8428
97 ..... 8643, 9292, 9661
139 9795
189 9008
221 9222
229 9008
298 8430
385 9992
399 9222

PROPOSED RULES:

39 ..... 8667, 10011
8751, 9091, 9092, 9314, 9441, 9515
71 ..... 8522, 8667–8669, 9029, 9092, 9093, 9240, 9241, 9442, 9443, 9515–9517, 9593, 10011, 10012, 10117
73 10117
139 9517
241 10118
249 9030
371 9030

15 CFR

370 9662
373 9662
374 9663
379 9663

PROPOSED RULES:

7 10110

16 CFR

4 8644
13 ..... 8645–8649, 9157, 9223–9225, 9663, 9798–9800, 9802

PROPOSED RULES:

433 8600

17 CFR

211 9158
230 9489
231 ..... 9158, 9587
240 ..... 9160, 9489, 9665
241 9158
270 8592

PROPOSED RULES:

230 8600
249 9443
270 8601
275 9520

18 CFR

1 ..... 8738, 9293, 9992
2 ..... 9802, 9994, 9995
154 9802

PROPOSED RULES:

2 ..... 9315, 9316
141 10121
154 10014
157 10014

41 CFR—Continued — Page

PROPOSED RULES—Continued

15–16 8458
71 8522
114–50 9302

42 CFR

PROPOSED RULES:

57 9314
80 10010

43 CFR

4 10086

PUBLIC LAND ORDERS:

5158 (corrected by PLO 5342) 8445
5290 (corrected by PLO 5343) 8445
5242 (corrected by PLO 5343) 8445
5343 8445

PROPOSED RULES:

Ch. II 10009
23 10008
2800 8449

45 CFR

15 8492
16 9906
177 9669
185 10092
205 8743, 9819
206 9819
233 8743, 9819
1061 8445
1067 9433
1301 9434

PROPOSED RULES:

183 9437
189 9472, 9830

46 CFR — Page

1 10087
70 9081
80 9081
136 10087
137 10087
310 9166, 10087
380 9590

PROPOSED RULES:

Ch. IV 9241
512 9601
544 9241

47 CFR

0 8744
1 9169
2 9228
21 8569, 9017
25 8569
64 8744
73 8746, 9297, 9822
83 9590

PROPOSED RULES:

2 9170, 9833
18 9170, 9833
21 9170, 9833
64 8753
73 8461, 8754, 9170, 9315, 9833, 10120
74 9170, 9833
81 9833
89 9170, 9833
91 9170, 9833
93 9170, 9833

49 CFR — Page

1 9081
7 10092
71 9228, 9668
192 9083
553 9824
571 8514, 9668
577 9509
1033 8445, 8446, 8516, 8598, 8657, 9229, 9230, 9232, 9668
1036 8517, 8657

PROPOSED RULES:

85 9030
171 10013
172 10117
173 10118
212 9594
225 9597, 9830
570 8451
571 8600, 8752, 9598, 9676, 9830
572 8455
574 9030
1300 8461, 8601
1303 8601
1304 8601
1306 8601
1307 8601
1308 8601
1309 8601

50 CFR

28 9169, 9232, 9825
32 9490
33 8599, 8657, 8658, 9018, 9084, 9233, 9590
240 9018

PROPOSED RULES:

33 8664

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	*Date*
8419–8499	April 2
8501–8559	3
8561–8636	4
8637–8730	5
8731–8998	6
8999–9063	9
9065–9143	10
9145–9207	11
9209–9284	12
9285–9419	13
9421–9475	16
9477–9567	17
9569–9638	18
9639–9785	19
9787–9956	20
9957–10058	23
10059–10144	24