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This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 8070..... Pub. Law 93-112
Rehabilitation Act of 1973
(Sept. 26, 1973; 87 Stat. 355)

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

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

Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that the organizational designation of the Office of the Deputy Assistant Secretary for Territorial Affairs has been changed to the Office of the Director of Territorial Affairs. This section is further amended to reflect the following title change: from Staff Assistant Secretary for Public Land Management to Staff Assistant to the Director, Office of Territorial Affairs.

Effective on October 3, 1973, § 213.3312 (a) (10) is revoked, § 213.3312(1) is amended, and § 213.3312(1) (12) is added as set out below.

§ 213.3312 Department of the Interior.
(a) Office of the Secretary. * * *
(10) [Revoked]

(1) Office of the Director of Territorial Affairs. * * *
(12) One Staff Assistant to the Director.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.73-21072 Filed 10-2-73; 8:45 am]

PART 213—EXCEPTED SERVICE Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Director, Office of Federal Contract Compliance, is excepted under Schedule C.

Effective on October 3, 1973, § 213.3315 (i) (1) is added as set out below.

§ 213.3315 Department of Labor.

(i) Office of Federal Contract Compliance. (1) One Special Assistant to the Director.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.73-21073 Filed 10-2-73; 8:45 am]

PART 213—EXCEPTED SERVICE Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Deputy Commissioner, Youth Development, is excepted under Schedule C.

Effective on October 3, 1973, § 213.3316 (a) (32) is added as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

(a) Office of the Secretary. * * *
(32) Deputy Commissioner, Youth Development.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.73-21071 Filed 10-2-73; 8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-474; Order No. 493]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Order Adopting Certain Definitions to Standardize End Use Classifications

SEPTEMBER 21, 1973.

Effective upon the date of issuance of this order, the Commission amends its regulations by adding new § 2.78(c) (18 CFR 2.78(c)), a set of definitions to standardize end use classifications and priority-of-service categories.

Our authority to so amend our regulations stems from 5 U.S.C. 553 and sections 4, 5, 7, and 16 of the Natural Gas Act (15 U.S.C. sections 717c, 717d, 717g).

On March 26, 1973, the Commission issued a notice of this proposed rule-making and a request for comments. The date on which comments were due was April 12, 1973. As of July 9, 1973, 105 comments on our proposed definitions had been received.

The Commission's authority to promulgate definitions of this type was challenged by only one respondent, Piedmont Natural Gas Company. It contends that inflexible application of definitions of end-use curtailment to all pipelines in all circumstances is unlawful and contrary to the public interest. It proposes that end-use curtailment should be based on 1) whether or not the equipment involved in any particular

requirement can use alternate fuels and 2) the size of the requirement.

Iowa-Illinois Gas and Electric Company proposes that the proceeding be terminated as not in the public interest. It contends that the interpretation and application of guidelines such as these must be left to the discretion of the local state commissions and distribution companies who are best able to determine the proper uses of available gas.

Approximately 20 percent of the replies requested a conference before definitions are finalized. Nearly all respondents requested notification if a conference were held.

Comments received on the proposed definitions themselves are listed below:

Residential. Forty-three replies were received on this category. The principal concern centers on the alleged difficulty of separating uses in apartment buildings. In many instances it is contended that the information needed to separate single metered units from central plant complexes is not available and even though the information could be obtained, human needs customers could be denied service solely because they lived in single metered multi-unit complexes or apartments, rather than having a separate meter for each unit.

The only opposition to the use of gas for residential purposes is in ornamental applications such as gas lights.

The Commission believes that the definition for residential use should remain unchanged. The problem with lack of data to distinguish direct residential usage from central heating plant usage in apartment buildings is not sufficient reason to change the definition. The distributors should be required to secure the data in the proper form. Uses for gas lights do not represent significant quantities of consumption and no meaningful purpose would be served by attempting to specifically identify and prevent these uses. As a practical matter, curtailment of part of a residential customer's gas use is physically impossible. Local authorities could require that the uses be discontinued completely but it is not likely that the effort would be worthwhile.

Commercial. Most of the 26 replies pertaining to this category present the same complaint relating to difficulties in identifying apartment uses for residential and commercial purposes. Some respondents suggest that these two categories be combined into one category on the basis that both are high priority uses.

The Commission concludes these two categories should remain distinct and separate. The suggested consolidation

has been rejected by the Commission in Opinion No. 647-A, United Gas Pipe Line Company, Docket Nos. RP71-29; RP71-120, as being counter to its policy of according the highest priorities to residential and small commercial consumers. The problem relating to non-availability of data regarding apartment uses should be solved by securing the data.

Industrial.—The majority of responses to this category request that gas used for certain agricultural purposes be classified as "commercial" based on the contention that it aids in the production of food and that the volumes were small in comparison to normal industrial gas usage.

The Commission sees no reason to remove agricultural uses from the industrial classification. Historically these natural gas markets have been considered industrial and no special category should be adopted for purposes of establishing a definition. The definition of industrial use is reasonable and should not be changed.

Firm service. The major problems raised by the parties with respect to this definition was its reference to the delivery of specific volumes in the contract and the claim that the definition did not include reference to force majeure situations.

For example, it is claimed that there are no specific volumes contained in firm contracts offered in the state of California. It is also claimed that many off-peak customers have specific volumes contained in their contracts. Others argue, further, that it is obviously the Commission's intent to consider residential and small commercial customers as firm, but these high priority users may not have any specific volume in their contracts.

The Commission believes that the definition for firm service should remain unchanged. The existing definition covers the preponderance of contracts and service agreements conventionally utilized by the natural gas industry. No single definition could conceivably be drafted to cover every aberrational agreement between buyer and seller.

Parties claiming that their contract should be classified firm rather than interruptible can do so in an appropriate proceeding.

Interruptible service. As with the firm category above, the problem of the delivery of specific volumes received considerable attention.

The Commission decision made above and reasons therefor are reiterated here.

Plant protection gas. The comments basically request clarification of that portion of the definition relating to alternate fuel use. It is contended that propane and other gaseous fuels should not be considered as alternate fuels in this definition since the availability of these gaseous substitutes is limited and the volumes of natural gas needed as plant protection is a very small portion of total industrial usage.

In view of the current propane situation and the impracticality of using small

SNG or LNG plants, the Commission concludes that this definition be modified to exclude propane and other gaseous fuels as alternate fuels for purposes of qualifying natural gas use for inclusion in the plant protection category. This would have the effect of providing natural gas for this small requirement and at the same time, lessening the demand for propane held for this contingency. Since no small SNG or LNG plants have been constructed for this purpose, to our knowledge, this action would have no effect in that regard.

Feedstock gas. The responses to this definition pertained to the minor differences in the definitions on page 3 and page 5 of the Notice in Docket No. 474. The definition is subject to little interpretive disagreement and should be adopted as originally proposed.

Process gas. Of the 58 comments received, all requested clarification of the term "technically feasible" or requested that the economics of an alternate fuel be considered. It is claimed that since propane, SNG, and LNG are always technically feasible substitutes for natural gas and the fact that these products are dependent upon the availability of natural gas, they should not be considered in the definition. Further comment is made regarding the economic infeasibility of constructing small SNG and LNG facilities.

The Commission hereby modifies the definition for process gas to the effect that propane and other gaseous fuels are not considered alternate fuels for purposes of the definition, and resultant placement in priority-of-service. This will have the effect of providing natural gas for firm requirements, where liquid or solid alternate fuels are not technically feasible, in priority-of-service (2)¹ instead of (3) of the Commission's Statement of Policy, Order No. 467-B, issued March 2, 1973.

The net effect would be to relieve demand on propane, which is in critically short supply, by providing more assurance of natural gas service reliability to process gas users by removing uncertainty as to their priority-of-service placement. It is important to note that process gas users cannot convert to alternate fuels such as fuel oil, crude oil or coal. This distinguishes their predicament from that of boiler fuel or other indirect flame applications.

Boiler fuel. The responses to this category either request that gas used for turbines to generate electricity be excluded or that the efficiency of the turbine or boiler be considered when curtailment is required. The basic contention for not including gas turbines for electric generation is that gas turbines are used predominantly in the summer months for

¹ Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection requirements. (3) All industrial requirements not specified in (2), (4), (5), (6), (7), (8), or (9).

human needs electric consumers, and would be used only in emergency situations due to the high production expense required in this type of generation. It is further contended that gas used for turbines in a total energy system has an efficiency of 80 percent. This same type of efficiency argument is used for boilers. It is claimed that gas used in boilers where the steam is reused, as in refineries, will produce an efficiency of 80 percent compared to 30 percent for boiler generation of electricity.

The Commission believes that the definition for boiler fuel should remain unchanged. There is nothing ambiguous about the language; it is quite clear. The inclusion of gas used in turbines for electric generation is, in our judgment, a necessary step in upgrading natural gas consumption. The large amount of gas consumed by electric utilities for boiler fuel in steam plants would be diverted in part to use in gas turbines and rendered ineffective our intent to curtail these uses.

Alternate fuel capabilities. The responses to this definition generally comment on: (1) The fact that alternate fuels are more expensive and that the economics of alternate fuels are not considered; (2) the availability of alternate fuels; and (3) that there is always a technically feasible alternate fuel. This definition has been the subject of much discussion in the recent past and need not be voluminously treated herein. Any arbitrary equivocation on this definition would have the effect of restricting and further delaying conversion efforts. This would be clearly counterproductive in view of the worsening gas supply situation.

Special circumstances can be viewed under procedures available for extraordinary relief.

Various other definitions are suggested by respondents such as: (1) Peak day, (2) storage injection requirements, (3) emergency gas, (4) requirements, (5) start-up gas, (6) Turbine fuel, and (7) alternate fuels.

In our opinion, these additional definitions are not necessary and would further exacerbate the problem of obtaining meaningful end-use data in pipeline curtailment proceedings. To the extent that several major pipelines have sent out, and received answers to, detailed end-use questionnaires on the basis of Docket No. R-474 definitions, it would be desirable to maintain the integrity thereof unless changes are compelled by the public interest. This does not appear to be the case here except for the minor modification set forth above.

The Commission finds: (1) The amendment to our regulations and the definitions hereinafter set forth are necessary and appropriate in carrying out the provisions of the Natural Gas Act.

(2) The effective date provisions of 5 U.S.C. § 553 do not apply with respect to the amendment of our regulations here adopted.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as

amended, particularly sections 4, 5, 7, and 16 (52 Stat. 822, 824, 825; 56 Stat. 83, 84, 61 Stat. 459; 76 Stat. 72; 15 U.S.C. sections 717c, 717d, 717f) orders:

(A) Part 2 of the Commission's general rules of practice and procedure, general policy and interpretations, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new § 2.78(c) which will read as follows:

§ 2.78 Utilization and conservation of natural resources—natural gas.

(c) When used in paragraphs (a) and (b) of this section, the following terms will be defined as follows:

Residential. Service to customers which consists of direct natural gas usage in a residential dwelling for space heating, air conditioning, cooking, water heating, and other residential uses.

Commercial. Service to customers engaged primarily in the sale of goods or services including institutions and local and federal government agencies for uses other than those involving manufacturing or electric power generation.

Industrial. Service to customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power.

Firm service. Service from schedules or contracts under which seller is expressly obligated to deliver specific volumes within a given time period and which anticipates no interruptions, but which may permit unexpected interruption in case the supply to higher priority customers is threatened.

Interruptible service. Service from schedules or contracts under which seller is not expressly obligated to deliver specific volumes within a given time period, and which anticipates and permits interruption on short notice, or service under schedules or contracts which expressly or impliedly require installation of alternate fuel capability.

Plant protection gas. Is defined as minimum volumes required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of an alternate fuel. This includes the protection of such material in process as would otherwise be destroyed, but shall not include deliveries required to maintain plant production. For the purposes of this definition propane and other gaseous fuels shall not be considered alternate fuels.

Feedstock gas. Is defined as natural gas used as a raw material for its chemical properties in creating an end product.

Process gas. Is defined as gas use for which alternate fuels are technically feasible such as in applications requiring precise temperature controls and precise flame characteristics. For the purposes of this definition propane and other gaseous fuels shall not be considered alternate fuels.

Boiler fuel. Is considered to be natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity.

Alternate fuel capabilities. Is defined as a situation where an alternate fuel could have been utilized whether or not the facilities for such use have actually been installed.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20957 Filed 10-2-73; 8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 45—MARGARINE AND OLEOMARGARINE

Order Amending Margarine Standard and Revoking Standard for Liquid Margarine

Correction

In FR Doc.73-19568, appearing on page 25671 of the issue for Friday, September 14, 1973, the words "on or before October 15, 1973" in the last paragraph, should read "on October 15, 1973."

SUBCHAPTER C—DRUGS

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

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

Ophthalmic Ointment, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (65-016V) filed by KASCO-EFCO Laboratories, Inc., Post Office Box 730, Hicksville, NY 11802, proposing the safe and effective use of zinc bacitracin, polymyxin B sulfate, and neomycin sulfate for ophthalmic use in dogs and cats. The supplemental application is approved.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (1), 82 Stat. 347; 21 U.S.C. 360b(1)) and under authority delegated to the Commissioner (21 CFR 1.120), Parts 135a and 146e are amended as follows:

1. Part 135a is amended by adding the following new section:

§ 135a.45 Zinc bacitracin, polymyxin B sulfate, neomycin sulfate ophthalmic ointment, veterinary.

(a) *Specifications.* The drug conforms to the specifications required in § 146e.422 of this chapter and is subject to the tests and methods of assay prescribed in § 141e.422 of this chapter. Each gram of the drug contains 400 units of zinc bacitracin, 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams of neomycin base), and 5000 units of polymyxin B sulfate.

(b) *Sponsor.* See code No. 082 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in the treatment of superficial bacterial infections of the eyelid and conjunctiva of dogs and cats when due to organisms susceptible to the antibiotics contained in the ointment.

(2) Apply a thin film over the cornea 3 or 4 times daily. Laboratory tests

should be conducted including in-vitro culturing and susceptibility tests on sample collected from animals prior to treatment with the drug.

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

2. Part 146e is amended in § 146e.402 (c) (4) as follows:

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

(c) * * *

(4) *It is packaged for dispensing, it does not contain cortisone or a derivative of cortisone and it is intended solely for veterinary use.* Its label and labeling shall comply with the requirements of paragraph (c) (3) of this section except that in lieu of the statement "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity except that drugs complying with § 135a.45 shall bear the statement "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian".

Effective date. This order shall be effective on October 3, 1973.

(Sec. 512(1), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: September 26, 1973.

FRED J. KINGMA,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc.73-20976 Filed 10-2-73; 8:45 am]

Title 38—Pensions, Bonuses, and Veterans Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart B—Burial Benefits

TRANSPORTATION OF BODY; COST OF SHIPPING CASE

On page 21946 of the FEDERAL REGISTER of August 14, 1973, there was published a notice of proposed regulatory development to amend § 3.1606 relating to the payment by the Veterans Administration of expense incurred in transporting the body to the place of burial when a veteran dies while receiving hospital or domiciliary care in a Veterans Administration facility. Interested persons were given 30 days in which to submit comments, suggestions, or objections as regarding the proposed regulation.

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

Effective date. This VA Regulation is effective September 26, 1973.

Approved September 26, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

In § 3.1606(a), subparagraph (3) is amended to read as follows:

§ 3.1606 Transportation items where veteran dies while properly hospitalized.

The transportation costs of those persons who come within the provisions of § 3.1605 (a), (b), (c) and (d) may include the following:

- (a) *Shipment by common carrier.* * * *
- (3) *Shipping case.* When a box purchased for interment purposes is also used as the shipping case, the amount payable may not exceed the usual and customary charge for a shipping case. In any such instance any excess amount would be an acceptable item to be included in the burial allowance expenses.

[FR Doc.73-21019 Filed 10-2-73;8:45 am]

Title 46—Shipping
CHAPTER I—COAST GUARD,
DEPARTMENT OF TRANSPORTATION
SUBCHAPTER Q—SPECIFICATION
 [CGD 73-11R]
PART 35—OPERATIONS
Tank Vessels Emergency Equipment
Requirements

The purpose of these amendments is to revise the regulations concerning "Fireman's outfit on manned Tank Barges with cargo tanks of 15 feet or less in depth". The amendments are based on a notice of proposed rulemaking (CGD 73-11R) issued on April 26, 1973 (38 FR 10274). That notice described the changes and solicited comments from interested parties.

No comments were received and the proposed amendments are hereby adopted without change as set forth below.

Effective Date: These amendments are effective January 3, 1974.

Dated: September 27, 1973.

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

1. § 35.30-20 is revised to read as follows:

§ 35.30-20 Emergency equipment TB/ALL

(a) Two emergency outfits are required for the following:

(1) All tankships on international voyage.

(2) All tankships over 1,000 gross tons.

(3) All tankships having cargo tanks which exceed 15 feet in depth, measured from the deck to the lowest point at which cargo is carried.

(b) One emergency outfit is required for all manned tank barges having cargo tanks which exceed 15 feet in depth, measured from the deck to the lowest point at which cargo is carried.

(c) Each emergency outfit shall be equipped as follows:

(1) One approved fresh air breathing apparatus including belt and lifeline. The length of the air hose shall be suffi-

cient to reach from the open deck, well clear of hatch or doorway, to any part of the holds, tanks, and except as provided in the following subparagraph, the machinery spaces.

(2) If it is not practicable to reach all portions of the machinery space with the airhose of the fresh air breathing apparatus, an approved self-contained breathing apparatus with adequate lifeline shall be carried for use in the machinery space. In such case, the particular apparatus provided for the machinery space shall be used for no other purpose, shall be marked indicating the restriction to its use, and shall be stowed convenient to, but outside of the machinery space.

(3) One approved 3-cell, explosion-proof flashlight constructed in accordance with subpart 161.008 of subchapter Q (specifications) of this chapter.

(4) One fire ax.

(5) Boots and gloves of rubber or other electrically nonconducting material.

(6) A rigid helmet which provides effective protection against impact.

(7) Protective clothing of material that will protect the skin from the heat of fire and burns from scalding steam. The outer surface shall be water resistant.

(d) Approved self-contained breathing apparatus with adequate lifelines may be provided in addition to the equipment required in the preceding paragraph, and may be used in any space on the vessel.

(e) Lifelines shall be of steel or bronze wire rope. Steel wire rope shall be either inherently corrosion resistant or made so by galvanizing or tinning. Each end shall be fitted with a hook with keeper having a throat opening which can be readily slipped over a 3/8-inch bolt. The total length of the lifeline shall be dependent upon the size and arrangement of the vessel, and more than one line may be hooked together to achieve the necessary length. No individual length of lifeline may be less than 50 feet in length. The assembled lifeline shall have a minimum breaking strength of 1,500 pounds.

(46 U.S.C. 170, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.4(b), 1.46 (b) and (c) (4).)

[FR Doc.73-21002 Filed 10-2-73;8:45 am]

[CGD 73-73R]

PART 162—ENGINEERING EQUIPMENT
Dry Chemical Fire Extinguisher
Requirements

The purpose of these amendments is to revise certain requirements concerning dry chemical fire extinguishers. The amendments are based on a Notice of Proposed Rule Making (CGD 73-73P) issued on June 8, 1973 (38 FR 15081). That notice described the changes and solicited comments from interested parties.

Three comments were received all favoring the proposed changes and the proposed amendments are hereby adopted without change as set forth below.

Effective Date: These amendments are effective January 3, 1974.

Dated: September 27, 1973.

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

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

1. By revoking § 162.028-3(j) (1).
2. By revoking § 162.039-3(h).

(46 U.S.C. 390b, 391a, 526g, 526p; 49 U.S.C. 1655(b) (1); 49 CFR 1.4(b), 1.46(b) and (c) (4).)

[FR Doc.73-21003 Filed 10-2-73;8:45 am]

Title 49—Transportation
CHAPTER X—INTERSTATE COMMERCE
COMMISSION
SUBCHAPTER A—GENERAL RULES AND
REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1139; Amdt. 1]

Atchison, Topeka and Santa Fe Railway Co.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 24th day of September 1973.

Upon further consideration of Service Order No. 1139 (38 FR 14944), and good cause appearing therefor:

It is ordered, That: § 1033.1139, *Service Order No. 1139, Atchison, Topeka and Santa Fe Railway Company Authorized To Operate Over Tracks of Union Pacific Railroad Company* be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

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

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1973.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21074 Filed 10-2-73;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973-74 and Subsequent Marketing Years

On pages 16878 through 16901 of the FEDERAL REGISTER of June 27, 1973, there was published a notice of proposed rule-making regarding the issuance of regulations for the determination of acreage allotments and marketing quotas for 1973-74 and subsequent marketing years. The regulations (35 FR 1084 including amendments and corrections thereto) for establishing the farm acreage allotments and marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection of refund of penalties and the records and reports incident thereto for flue-cured tobacco for the 1970-71 and subsequent marketing years are reissued with minor changes as provided herein and become applicable to the 1973-74 and subsequent marketing years.

One response was received from the Environmental Defense Fund concerning provisions of the regulations regarding certification as to use or nonuse of DDT and TDE on tobacco. It contends that the proposed regulations assume the continuing legality of the use of DDT and TDE on tobacco. The proposed regulations do not condone the use of these chemicals on tobacco but are simply to obtain information as to whether or not DDT or TDE has in fact been used on tobacco so as to determine eligibility of the tobacco for price support.

The changes in the regulations from those in effect for 1970-71 and subsequent marketing years were explained in the proposal published in the FEDERAL REGISTER on June 27, 1973. Some additional changes are made in the regulations as described below.

1. Section 725.65 is amended to provide for the apportioning of carryover tobacco that was produced on a parent farm and marketed after the effective date of a farm reconstitution.

2. Section 725.95 is amended to provide that the county committee (with concurrence of the State committee) may assess penalty for false identification or failure to account based on the actual marketing above 110 percent of the effective farm marketing quota in lieu of penalty based on 25 percent of the effective farm marketing quota when it is determined that assessment of penalty based on 25 percent of the effective quota would be unduly harsh when compared with the pounds in violation and no adverse effect on the program would result.

3. Section 725.101 is amended to require physical examination by ASCS personnel of all nonauction dealer pur-

chases from processors or manufacturers in order to determine if the tobacco is in the form normally marketed by producers.

4. Section 725.116 is added to implement provisions of Public Law 93-80 which permits certain farms to transfer (by lease) flue-cured tobacco allotments and quotas across county lines from eight counties in Georgia and four counties in South Carolina for the 1973 crop year.

Tobacco farmers are now in the process of marketing their 1973 crop of flue-cured tobacco covered by these regulations and tobacco warehousemen and farmers need to know the provisions of these regulations. Hence, it is essential that these regulations contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that the compliance with the notice, public procedure and 30 days effective date provisions of 5 U.S.C. 533 is impracticable and contrary to the public interest. The regulations contained herein shall become effective on October 3, 1973.

The regulations are as follows:

Subpart—Flue-Cured Tobacco, 1973-74 and Subsequent Marketing Years

| GENERAL | |
|--|---|
| Sec. 725.50 | Basis and purpose. |
| 725.51 | Definitions. |
| 725.52 | Location of farm for administrative purposes. |
| 725.53 | Extent of determinations, computations, and rule for rounding fractions. |
| 725.54 | Supervisory authority of State ASC Committee. |
| 725.55 | Instructions and forms. |
| ACREAGE ALLOTMENT, HISTORY ACREAGE, MARKETING QUOTAS, AND YIELDS FOR OLD FARMS | |
| 725.56 | Determination of preliminary farm acreage allotments. |
| 725.57 | Determination of preliminary farm yields. |
| 725.58 | Determination of farm acreage allotments and effective farm acreage allotments. |
| 725.59 | Determination of farm yields. |
| 725.60 | Determination of effective farm marketing quotas. |
| 725.61 | Determination of undermarketings and overmarketings for farms with allotments covered by a Cropland Adjustment Program agreement. |
| 725.62 | Determination of undermarketings and overmarketings for allotments while in eminent domain pool. |
| 725.63 | Determination of allotments and yields for divided farms. |
| 725.64 | Determination of allotments and yields for combined farms. |
| 725.65 | Determination of undermarketings and overmarketings for reconstituted farms. |
| 725.66 | Correction of errors and adjusting inequities in acreage allotments for old farms. |
| 725.67 | Time for making reduction of acreage allotment for violation of the marketing quota regulations. |
| 725.68 | Allotments and yields for farms acquired under right of eminent domain. |
| 725.69 | Determination of acreage allotments for new farms. |

| Sec. 725.70 | Approval of allotments and marketing quotas, notices to farm operators. |
|--|--|
| 725.71 | Application for review. |
| 725.72 | Lease and transfer of tobacco marketing quotas. |
| 725.73 | Determining tobacco history acreages. |
| 725.74 | Transfer of farm marketing quotas. |
| 725.75 | Transfer of tobacco farm acreage allotment for farms affected by a natural disaster. |
| 725.76-725.84 | [Reserved] |
| IDENTIFICATION OF TOBACCO, MARKETING AND OTHER DISPOSITION OF TOBACCO, AND PENALTIES | |
| 725.85 | Identification of kinds of tobacco. |
| 725.86 | Disposition of tobacco produced on excess acres. |
| 725.87 | Issuance of marketing cards. |
| 725.88 | Claim stamping and replacing marketing cards. |
| 725.89 | Invalid cards. |
| 725.90 | Misuse of marketing cards. |
| 725.91 | Identification of marketings. |
| 725.92 | Rate of penalty. |
| 725.93 | Persons to pay penalty. |
| 725.94 | Penalties considered to be due from warehousemen, dealers, buyers, and others excluding producers. |
| 725.95 | Producers penalties; false identification; failure to account; canceled allotments; overmarketing proportionate share. |
| 725.96 | Payment of penalty. |
| 725.97 | Request for return of penalty. |
| RECORDS AND REPORTS | |
| 725.98 | Producer's records and reports. |
| 725.99 | Warehouseman's records and reports. |
| 725.100 | Dealer's records and reports. |
| 725.101 | Dealer purchases of damaged tobacco or tobacco from processors or manufacturers. |
| 725.102 | Dealers exempt from regular records and reports on MQ-79, and season report for dealers. |
| 725.103 | Recordkeeping and reporting requirements for processed producer carryover tobacco. |
| 725.104 | Recordkeeping and reporting requirements for unprocessed producer carryover tobacco. |
| 725.105 | Records and reports of truckers and firms redrying, prizing or stemming tobacco and storage firms. |
| 725.106 | Separate records and reports from persons engaged in more than one business. |
| 725.107 | Failure to keep records and make reports or making false report or record. |
| 725.108 | Registration of warehousemen and dealers. |
| 725.109 | Duties of Kansas City ASCS Data Processing Center. |
| 725.110 | Examination of records and reports. |
| 725.111 | Length of time records and reports are to be kept. |
| 725.112 | Information confidential. |
| 725.113 | Determination of discount varieties. |
| 725.114 | Determination of use of DDT and TDE. |
| 725.115 | Warehouses authorized to retain producer marketing-cards between sales. |

AUTHORITY: Section 301, 313, 314, 316, 317, 363, 372-275, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 82 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; section 401, 63 Stat. 1054, as amended, sections 106, 112, 125, 70 Stat. 191, 195, 198, as amended, section 16 (e), 76 Stat. 606; 7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363.

1372-1375, 1377, 1378, 1421, 1813, 1824, 1836, 16 U.S.C. 590p(e).

§ 725.50 Basis and purpose.

The regulations contained in §§ 725.50 through 725.115 are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and are applicable to flue-cured tobacco for the 1973-74 and subsequent marketing years. They govern the establishment of farm acreage allotments and marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the keeping of records and making of reports incident thereto. Notwithstanding the above acreage allotments and marketing quotas for the 1973-74 marketing year previously established under subpart—Flue-cured tobacco 1970-71 and subsequent marketing years shall remain in effect. The applicability of the regulations for any marketing year subsequent to the 1973-74 marketing year is contingent upon the proclamation of a national marketing quota for such year pursuant to section 312(a) of the Act.

§ 725.51 Definitions.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires. References contained herein to other parts of this chapter or title shall be construed as references to such parts and any amendments now in effect or later issued. The following words or phrases are defined in Parts 718 or 719 of this chapter and shall have the meanings assigned to them by such regulations: "County committee", "County executive director", "community committee", "current year", "Department", "Deputy Administrator", "Director", "farm", "Federally owned land", "operator", "person", "preceding year", "producer", "representative of the county committee", "representative of the State committee", "Secretary", "State committee", and "State executive director".

(a) *Act*. The Agricultural Adjustment Act of 1938, as amended.

(b) *Auction sale*. A marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, including sale of all lots or baskets of tobacco at public auction in sequence at a given time.

(c) *Base period*. The five calendar years immediately preceding the year for which farm acreage allotments are currently being established.

(d) *Buyers corrections account*. The warehouse account of tobacco purchased at auction by the buyer, but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouseman and supported by an adjustment invoice from the buyer. This account shall include the pounds and

amounts deducted resulting from short baskets and short weights, and pounds and amounts added resulting from long baskets and long weights, which buyers debit or credit to the warehouseman and support with adjustment invoices.

(e) *Community average yield*. The average yield in the community as determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 percent of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield.

(f) *Current year*. The calendar year for which acreage allotments are being established, or tobacco history acreage and yields are being determined, or the farm is being considered under the provisions of the marketing quota program.

(g) *Dealer or buyer*. A person who engages to any extent in acquiring or selling tobacco in the form normally marketed by producers.

(h) *Director*. The Director, or Acting Director, Program Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(i) *Effective farm acreage allotment*. The allotment determined under § 725.58.

(j) *Effective farm marketing quota*. The quota determined under § 725.60.

(k) *Excess tobacco for a farm*. The excess tobacco on a farm for the current year shall be the quantity of tobacco marketed in the current marketing year after 110 percent of the effective farm marketing quota has been marketed.

(l) *False identification*. False identification occurs if:

(1) Tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which, in fact, was produced on a different farm;

(2) Tobacco was marketed or was permitted to be marketed in any marketing year from a farm and was not identified by a tobacco marketing card for the farm;

(3) The farm operator or any other producer on a farm permits the use of the tobacco marketing card for the farm to record a marketing of tobacco when, in fact, no tobacco was marketed from the farm.

(m) *Farm acreage allotment*. The acreage determined by multiplying the preliminary farm acreage allotment by the national acreage factor.

(n) *Farm marketing quota*. The pounds determined by multiplying the farm acreage allotment by the farm yield.

(o) *Farm yield*—(1) *Old farm*. The farm yield for an old farm is that yield determined as provided in § 725.59.

(2) *New farm*. The farm yield for a new farm is that yield determined as provided in § 725.59.

(p) *Floor sweepings*. The actual quantity of scraps or leaves of tobacco which accumulate on the warehouse floor in the

regular course of business: *Provided*, That floor sweepings above the pounds determined by multiplying 0.50 (five-tenths of 1 percent) percentage times the total first sales of producer tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco. Floor sweepings tobacco shall be kept separate from any other tobacco when sold.

(q) *Green weight*. The weight of tobacco which is in the form normally marketed by farmers prior to being redried, prized or processed.

(r) *Hogshead*. A container in which tobacco is packed and stored.

(s) *Leaf account tobacco*. All tobacco purchased or otherwise acquired by or for the account of a warehouse, and shall include but not be limited to, tobacco from buyers corrections account, sales and resales of such tobacco, floor sweepings purchased from another warehouse or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (p) of this section.

(t) *Market*. The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(u) *Marketing recorder or field assistant*. Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service county (ASCS) office, whose duties involve the preparation and handling of the records and reports pertaining to the identification of marketings of tobacco.

(v) *Marketing year*. The period beginning July 1 of the year in which the tobacco is produced and ending June 30 of the following year.

(w) *New farm*. A farm for which a tobacco allotment is established in the current year and for which there is no tobacco history acreage in the base period.

(x) *Nonauction sale*. Any first marketing of tobacco other than by a sale at auction.

(y) *Old farm*. A farm on which there is tobacco history acreage in one or more years of the base period.

(z) *Overmarketings*. The pounds by which the pounds marketed exceed the effective farm marketing quota.

(aa) *Pool*. A quantity of tobacco delivered to a marketing agent.

(bb) *Pound*. That amount of tobacco which would equal one pound standard weight.

(cc) *Preceding year*. The calendar year immediately preceding the year for which the allotments and quotas are established, or the marketing year preceding the marketing year for which the allotments and quotas are established.

(dd) *Preliminary farm acreage allotment*. The preceding year's farm acreage allotment for a farm which has tobacco history acreage in the base period.

(ee) *Preliminary farm yield*. The yield determined for a farm as provided in § 725.57.

(ff) *Processed, Processing.* A method of preparing green weight tobacco for storage in which the tobacco may be green prized, redried, stemmed, tipped or threshed and the resulting product packed in a hogshead.

(gg) *Production record.* A record prepared by a processor to account for the processing of tobacco.

(hh) *Resale.* The disposition by sale, barter, exchange, or gift between living persons, of tobacco which has been marketed previously.

(ii) *Sale day.* The period at the end of which the warehouseman bills to buyers the tobacco purchased by them during such period.

(jj) *Scrap tobacco.* The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(kk) *Strip, scrap, stem.* Types of products resulting from processing of tobacco where the tobacco is "tipped" and "threshed."

(ll) *Suspended sale.* Any marketing of tobacco at auction for which the sale is not identified by a producer marketing card or a dealer's identification card by the end of the sale day on which such marketing occurred.

(mm) *Tobacco.* Flue-cured tobacco, types 11, 12, 13, and 14, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture.

(nn) *Tobacco available for marketing.* All tobacco produced on a farm which has not been marketed and which has not been disposed of so that it cannot be marketed.

(oo) *Trucker.* A person who trucks or hauls tobacco for producers, or any other persons.

(pp) *Undermarketings.* The pounds by which the effective farm marketing quota is more than the pounds marketed.

(qq) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

§ 725.52 Location of farm for administrative purposes.

(a) *County.* The location of a farm in a county for administrative purposes shall be as provided in Part 719 of this chapter.

(b) *Community.* (1) A farm that is geographically located entirely within one community shall be assigned to that community.

(2) A farm that is geographically located in one county and in more than one community shall be assigned to the community (i) where the principal dwelling is located, or (ii) where the largest amount of cropland is located, if there is no such dwelling.

(3) A farm that is geographically located in more than one county and in more than one community shall be assigned to the community in the county in which the farm is located for administrative purposes under Part 719 of this chapter in which the principal dwelling

is located, or if the principal dwelling is not located in such county, or there is no such dwelling, to the community in such county having the largest amount of cropland.

§ 725.53 Extent of determinations, computations, and rule for rounding fractions.

(a) *General.* If rounding is prescribed herein, computations shall be carried to two decimal places beyond the number of decimal places required and digits of 50 or less beyond the required number of decimal places shall be dropped; if 51 or more, the last required decimal place shall be increased by one.

(b) *Allotments.* Farm acreage allotments shall be determined in hundredths and any allotment of less than 0.01 acre shall be increased to 0.01 acre. For example, 2.5536 equals 2.55; 2.550 equals 2.55; 2.5551 equals 2.56; 2.5582 equals 2.56; and 0.0001 equals 0.01.

(c) *Yields.* Yields shall be determined in whole pounds. For example, 2006.50 equals 2006; and 2006.51 equals 2007.

(d) *Percentage reduction for violation.* A percentage of reduction in an allotment due to a violation shall be determined in tenths percent and calculations thereof rounded to the nearest tenth percent.

§ 725.54 Supervisory authority of State ASC committee.

The State committee may take any action required by these regulations which has not been taken by a county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by a county committee which is not in accordance with these regulations, or (b) require a county committee to withhold taking any action which is not in accordance with these regulations.

§ 725.55 Instructions and forms.

The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by the Deputy Administrator.

ACREAGE ALLOTMENTS, HISTORY ACREAGE, MARKETING QUOTA AND YIELDS FOR OLD FARMS

§ 725.56 Determination of preliminary farm acreage allotments.

(a) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in § 725.73 of this part, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (1) a new farm allotment was established in any prior year but was canceled for the year preceding the current year, (2) an allotment was pooled under Part 719 of

this chapter but was canceled, or (3) the county committee determines that the cropland in the farm has been retired from agricultural production and was not and could not have been acquired under the right of eminent domain by the person or agency that acquired it: *Provided*, That this paragraph shall not preclude the determination of a preliminary farm acreage allotment for (1) an old farm that is returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part or, (ii) a farm for which an acreage allotment may be determined under the provisions of § 725.68.

(b) *Preliminary farm acreage allotment.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under paragraph (a) of this section shall be the same as the farm acreage allotment (prior to reduction for violation, prior to adjustment for lease and transfer, and prior to adjustment for undermarketings or overmarketings) established for such farm for the immediately preceding year.

§ 725.57 Determination of preliminary farm yields.

(a) *Old farms.* The preliminary farm yield for an old farm shall be the same preliminary farm yield as was in effect for such farm in the immediately preceding year.

(b) *New farms.* The preliminary farm yield for a new farm shall be determined by dividing the farm yield determined in accordance with § 725.59(b) for such farm by the national yield factor applicable for the year in which the new farm allotment was established.

§ 725.58 Determination of farm acreage allotments and effective farm acreage allotments.

(a) *Farm acreage allotments.* The farm acreage allotment shall be determined by multiplying the current year's preliminary farm acreage allotment by the national acreage factor for the current year.

(b) *Effective farm acreage allotment.* The effective farm acreage allotment for the current year shall be determined by adjusting the farm acreage allotment for the current year as follows:

(1) *Upward adjustment.* (i) Add the farm marketing quota and the pounds undermarketed in the preceding marketing year (not to exceed 100 percent of the preceding year farm marketing quota plus pounds leased to the farm for such year) and divide the result by the current year's farm yield. (ii) Add to the acreage computed under paragraph (b) (1) (i) of this section the acreage obtained by dividing the pounds leased and transferred to the farm for the current year by the current year's farm yield for the lessee farm.

(2) *Downward adjustment.* The farm acreage allotment, after adjustment under paragraph (b) (1) of this section, if

any, shall be adjusted downward as follows: (1) Subtract from the farm marketing quota the pounds overmarketed in the preceding marketing year (plus additional pounds overmarketed in any prior marketing year for which a reduction in quotas has not been made) and divide the result by the current year's farm yield.

(2) Subtract from the acreage computed under (1) of this subparagraph the (a) acreage obtained by dividing the pounds leased and transferred from the farm for the current year by the current year's farm yield for the lessor farm, and (b) acreage reduced because of a violation of the marketing quota regulations.

§ 725.59 Determination of farm yields.

(a) *Old farms.* The farm yield for an old farm shall be determined by multiplying the preliminary farm yield for the farm by the national yield factor for the current year.

(b) *New farms.* The farm yield for a new farm shall be that yield, not to exceed the community average yield, which the county committee determines for the farm taking into consideration (1) the soil and other physical factors affecting the production of tobacco on the farm, and (2) the farm yields determined for other farms on which the soil and other physical factors affecting the production of tobacco are similar.

§ 725.60 Determination of effective farm marketing quotas.

The effective farm marketing quota for a farm for the current year shall be the farm marketing quota determined by multiplying the farm acreage allotment for the current year by the farm yield established for the current year, adjusted as follows:

(a) *Upward adjustment.* The farm marketing quota shall be adjusted upward by adding (1) the pounds undermarketed in the preceding marketing year, not to exceed 100 percent of the farm marketing quota for the preceding marketing year, plus pounds leased and transferred to the farm in such year, and (2) the pounds leased and transferred to the farm for the current year.

(b) *Downward adjustment.* The farm marketing quotas, after adjustment, if any, under paragraph (a) of this section, shall be adjusted downward by subtracting (1) the pounds overmarketed in the preceding marketing year plus additional pounds overmarketed in any prior year for which a reduction in quota has not been made, (2) the pounds reduced for violation of the tobacco marketing quota regulations for a prior year, and (3) the pounds leased and transferred from the farm for the current year.

§ 725.61 Determination of undermarketings and overmarketings for farms with allotments covered by a cropland adjustment program agreement.

The farm marketing quota established for a farm, which is covered by a cropland adjustment program agreement, shall be considered as zero for the pur-

pose of determining undermarketings and overmarketings for such farm.

§ 725.62 Determination of undermarketings and overmarketings for allotments while in eminent domain pool.

The farm marketing quota established for an allotment which is in the eminent domain pool for the current year shall be considered as zero for the purpose of determining undermarketings and overmarketings.

§ 725.63 Determination of allotments and yields for divided farms.

(a) *Allotments.* Farm acreage allotments for divided farms shall be divided pursuant to the provisions of Part 719 of this chapter. History acreages and other basic data shall be apportioned among the divided tracts as provided in Part 719 of this chapter, except as provided in paragraphs (b) and (c) of this section.

(b) *Preliminary farm yields—(1) Where contribution method is used.* Where a tract is separated from the parent farm and the tobacco acreage allotment is divided by the contribution method, the preliminary farm yield shall be determined as follows:

(i) Where a preliminary farm yield was established for the tract prior to the time the tract became part of the parent farm such yield shall be the preliminary farm yield for the tract.

(ii) Where the tract is one for which a preliminary farm yield has never been established, the preliminary farm yield shall be the same as the preliminary farm yield for the parent farm.

(2) *Where the contribution method is not used.* When a farm is divided and the allotments are divided by any method other than the contribution method, the preliminary farm yield for such tract shall be the same as the preliminary farm yield established for the parent farm.

(c) *Farm yield.* The farm yield for a tract separated from a parent farm by division shall be determined by multiplying the preliminary farm yield by the national yield factor for the current year.

§ 725.64 Determination of allotments and yields for combined farms.

(a) *Allotments.* Farm acreage allotments and history acreages and other basic data for combined farms shall be computed for the base period in accordance with Part 719 of this chapter, except as provided in paragraph (b) of this section.

(b) *Yields.* The farm yield for a combined farm shall be the weighted average of the farm yields established for the parent farms. The preliminary farm yield for the combined farm shall be determined by dividing the farm yield for the combined farm by the national yield factor for the current year.

§ 725.65 Determination of undermarketings and overmarketings for reconstituted farms.

(a) *Divisions.* Undermarketings and overmarketings of the parent farms shall

be apportioned among the divided tracts in the same ratio as the marketing quotas are established for the divided tracts.

(b) *Combinations.* Undermarketings of the parent farm shall be the total undermarketings of the combined farms and overmarketings of the parent farm shall be the total overmarketings of the combined farms.

(c) *Apportioning Carryover Marketing-Division.* Where carryover tobacco produced on a parent farm is marketed after the effective date of a reconstitution, such marketing shall be charged to the divided tracts in the same ratio as the marketing quotas are established for the divided tracts or as the county committee determines that: (i) the proceeds from such marketing is received by the owner or operator of one or more of the divided tracts, or (ii) the owners of the divided tracts agree.

§ 725.66 Correction of errors and adjusting inequities in acreage allotments for old farms.

(a) *General.* The farm acreage allotment for an old farm may be adjusted to correct an error or adjust an inequity if the county committee determines, with the approval of a representative of the State committee, that the adjustment is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community in which the farm is located. The reserve for adjusting inequities under this paragraph will be prorated to States based on the relationship of the total of the preliminary farm acreage allotments in each State to the national total of preliminary farm acreage allotments. Correction of errors shall be made out of that portion of the national reserve held at the national level.

(b) *Basis for adjustment.* Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster as determined under Part 718 of this chapter; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Not to exceed 1 percent of the national acreage allotment minus that part of the national reserve set aside for establishing new farm allotments shall be made available for adjusting inequities and correction of errors. The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage apportioned the county for such purpose.

(c) *CAP farms.* The allotment for a farm under a cropland adjustment program agreement shall be given the same consideration under this section as the allotments for other old farms.

(d) *Approved acreage.* Acreage approved for a farm under this section becomes a part of the farm acreage allotment. The farm marketing quota for such farm shall be adjusted by multiplying the adjusted farm acreage allotment by the farm yield.

§ 725.67 Time for making reduction of acreage allotment for violation of the marketing quota regulations.

Any reduction in the farm acreage allotment for a farm for the current year required for any of the reasons provided in § 725.98 shall be made no later than April 1 of the current year. If the reduction is not made by such date for the current year, the reduction shall be in the farm acreage allotment next established for the farm, but no later than by April 1 in the subsequent year: *Provided*, That no reduction shall be made in the acreage allotment for any farm for a violation if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

§ 725.68 Allotments and yields for farms acquired under right of eminent domain.

(a) *Allotments and marketing quotas.* The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and reallocation from the pool shall be administered as provided in Part 719 of this chapter. Where all or a part of an allotment is pooled, all or a proportionate part of the farm marketing quota shall be pooled.

(b) *Yields for receiving farms.* The farm yield for a farm to which pooled acreage allotment and marketing quota are transferred shall be determined by dividing the farm marketing quota (including the transferred farm marketing quota) by the farm acreage allotment (including the transferred farm acreage allotment). The preliminary farm yield shall be determined by dividing the farm yield by the national yield factor for the current year.

(c) *Undermarketings and overmarketings.* Undermarketings of the farm acquired by eminent domain shall be added to the marketing quota for the receiving farm and overmarketings of the acquired farm shall be subtracted from the marketing quota of the receiving farm.

(d) *Release and reapportionment.* The displaced owner of a farm may not later than the date specified in Part 731 of this chapter, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for flue-cured tobacco. The marketing quota for the pooled acreage shall be adjusted downward by the amount determined by multiplying the acreage released by the farm yield for the farm acquired by eminent domain. The county committee may reapportion, not later than the date specified in Part 731 of this chapter the

released acreage or any part of it to other farms in the county on the basis of past acreage of tobacco, land, labor, and equipment available for the production of tobacco, crop rotation practices, and soil and other physical factors affecting the production of tobacco. The marketing quota for the farm to which released acreage is reapportioned shall be adjusted upward by the amount determined by multiplying the reapportioned acreage by the farm yield for such farm. The allotment acreage reapportioned shall not, for purposes of establishing future farm allotments, be regarded as planted on the farm to which the allotment was reapportioned. No release and reapportionment of allotment acreage hereunder shall be the result of any private negotiations between individuals. Any acreage released shall be released to the county committee and such acreage shall be reapportioned only by the county committee.

§ 725.69 Determination of acreage allotments for new farms.

The acreage allotment, other than an allotment made under § 725.68, for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 50 percent of the average of the acreage allotments established for two or more but not more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That, if an acreage is not planted to tobacco on a new tobacco farm, such allotment shall be automatically reduced to zero.

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* A new farm allotment may be established if each of the following conditions is met:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only a part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they jointly own.

(2) *Interest in another farm.* The farmer operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota for any kind of tobacco is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry or other agricultural products produced for home consumption or other use on the farm. The estimated return from the production of the requested new farm allotment shall not be included.

(b) *Income from nonfarming.* Non-farming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be

accepted as experience gained in meeting this requirement) during at least two of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5 years. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire allotment designated by owner where farm reconstituted.* A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm tobacco allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(4) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 5 years from the date the former owner was displaced.

(5) *Downward adjustment.* The acreage allotments established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(6) *False information.* Any new farm acreage allotment which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 725.70(d) apply.

§ 725.70 Approval of allotments and marketing quotas, and notices to farm operators.

(a) *Review by State committee.* All farm acreage allotments, yields, and marketing quotas shall be determined by

the county committee of the county in which the farm is located and shall be reviewed by a representative of the State committee. The State committee may revise or require revision of any determination made under these regulations. All acreage allotments, yields, and marketing quotas shall be approved by a representative of the State committee, and no official notice of acreage allotment and marketing quota shall be mailed to a farm operator until such allotment and marketing quota has been so approved, except that revised notices without such prior approval may be mailed in cases (1) resulting from reconstitutions that do not involve the use of additional acreage or marketing quota, or (2) of allotment reductions due to failure to return marketing cards where a satisfactory report of disposition of tobacco is not otherwise furnished.

(b) *Notice to farm operator.* An official notice of the effective farm acreage allotment and the effective farm marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farms shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. Insofar as practical, all notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing or a printout summary of such data shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of the notice of allotment and marketing quota certified as true and correct shall be furnished without charge to any person interested in the farm for which the allotment is established.

(c) *Mailing notices.* If the records of the county committee indicate that the acreage allotment and marketing quota established for any farm may be changed because of (1) a violation of the marketing quota regulations for prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, the mailing of the notices may be delayed: *Provided*, That the notice of allotment and marketing quota for any farm shall be mailed no later than April 1 of the current year.

(d) *Allotment erroneous notice.* If the official written notice of the farm acreage allotment and marketing quota issued for any farm erroneously stated an acreage allotment larger than the correct effective farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for the current marketing year only, if the county committee determines (with the approval of the State executive director) that (1) the error was not so gross as to place the operator on

notice thereof, and (2) the operator, relying upon such notice and acting in good faith (i) materially changes his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) and (ii) has planted an acreage of tobacco in excess of the correct effective farm acreage allotment.

(e) *Marketing quota erroneous notice.* If the official notice of acreage allotment and marketing quota issued for a farm erroneously stated a marketing quota larger than the correct effective farm marketing quota, the marketing quota shown on the erroneous notice shall be deemed to be the marketing quota and the basis for marketing quota penalty computation for the farm for the current marketing year only, if the county committee determines (with approval of the State executive director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) that the operator, relying upon such notice and acting in good faith (i) materially changed his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) had planted tobacco on the farm and was not notified of the correct farm marketing quota prior to planting the tobacco. Undermarketings and overmarketings for farms for which the erroneous notice of marketing quota is applied shall be determined based on the correct effective farm marketing quota for the farm.

§ 725.71 Application for review.

(a) *If marketing quotas are in effect.* Any producer who is dissatisfied with the farm acreage allotment and farm marketing quota established for his farm may, within 15 days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASCS county office to have such allotment and quota reviewed by a review committee. The procedure governing the review of farm acreage allotments and marketing quotas is contained in Part 711 of this chapter, which is available at the ASCS county office.

(b) *If marketing quotas are not in effect.* Any producer who is dissatisfied with the farm acreage allotment may request reconsideration of such allotment in accordance with Part 780 of this chapter, Appeal Regulations, and amendments thereto, which are available in the county ASCS office.

§ 725.72 Lease and transfer of tobacco marketing quotas.

(a) *General.* For the 1970 and subsequent crop years, notwithstanding the provisions of §§ 725.51 through 725.71, but subject to the limitations provided in this section, the owner and operator (acting together if different persons) of any farm for which an old farm tobacco acreage allotment is established for the current year may lease and transfer all

or any part of the farm marketing quota established for such farm to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for flue-cured tobacco for use on such farm. The allotment established for a farm as pooled allotment under Part 719 of this chapter may be leased and transferred during the 3-year life of the pooled allotments. The lease and transfer of marketing quotas shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) *Leased agreement period.* Any lease shall be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) *Filing and approval of transfer agreement.*—(1) *General.* The approval or disapproval of an agreement to transfer all or any part of an effective farm marketing quota shall be the responsibility of the county committee. Notwithstanding this paragraph, the county committee may redelegate authority to approve transfers to the county executive director or other county office employees. In addition, county office employees in market town locations designated by the State committee shall have authority to approve annual transfers under the terms and conditions of this section even though the farms involved (which must be located in the same county) may be from a different county or State than the county committee supervising the market town location, subject to the review of the county committee for the county where the farms are administratively located.

(2) *Filing transfer agreements.* The transfer by lease of an effective farm marketing quota or any part thereof shall not be effective until a copy of the lease, determined by the county committee to be in compliance with the provisions of this section, is filed by the parties to the transfer with the county committee of the county where the farms are administratively located or with a designated county office employee at a market town location not later than November 30 of the current crop year. The filing of a properly executed record of transfer of allotment or quota, Form ASCS-375, will be considered to meet the requirements of this paragraph.

(3) *Record of transfer on ASCS-375.* No lease and transfer of any quota under this section for 1972 and subsequent crops shall become effective until a record of transfer has been executed on Form ASCS-375 and filed with the county committee by the parties to the transfer; *Provided,* That county office employees in market town locations designated by the State committee shall have authority to approve annual leases and transfers under the terms and conditions of this section even though the farms involved (which must be located in the same county) may be from a different county or State than the county commit-

tee supervising the market town location, subject to review of the county committee for the county where the farms are administratively located. If the owner and operator of the farm from which transfer by lease is made are different persons, both owner and operator shall execute the record of transfer; however, only the signature of the owner or operator of the receiving farm is required. A State or county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located or in a market town location, they may be witnessed in any State or county office convenient to the owner's or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or similar hardship cases may be met by mail, provided a request is made by the producer.

(4) *Approval of transfer agreement filed after June 14.* Notwithstanding paragraphs (c) (1) through (3) of this section, the approval of a transfer by lease of any marketing quota filed after June 14 of the current crop year shall be subject to the following:

(i) If the lessor's farm marketing quota is 2,000 pounds or less, any transfers may be approved subject to other conditions and limitations in this section; or

(ii) If the lessor's farm marketing quota exceeds 2,000 pounds, the transfer shall not be approved unless the acreage of tobacco planted on both the lessee's and lessor's farm during the current year was at least 50 percent of the farm acreage allotment in effect for each of such farms at the time of certification of acreage except where the county committee with approval of a State committee representative determines that the parties to the transfer were prevented from timely filing for reasons beyond their control. In the case of a revised certification of acreage for the farm, the last certification filed shall be the one used for determining if the farm meets the 50 percent planting provision, applicable to leases and transfers filed after June 14.

(5) *Approval of transfer agreements filed after final certification date.* Approval of any transfer agreement filed after the final certification date for the county shall be limited to 1 year. The 50 per centum of cropland limitation in paragraph (d) of this section shall not apply to 1-year leases approved under this subparagraph.

(6) *Approval of leases for pyramiding quota prohibited.* The county committee shall not approve a lease and transfer to a farm where it is determined that the primary purpose of the transfer is to pyramid the quota on the farm (Pyramiding for the purpose of this subparagraph means leasing to and from the farm for a period of 2 or more years to protect and increase the quota with no

satisfactory evidence of plans for producing the quota during such period.)

(d) *Marketing quota basis for lease and transfer.* Marketing quota, pound for pound, shall be the basis for lease and transfer under the acreage-poundage program. The computed acreage for pounds leased and transferred to a lessee farm (the sum of its own allotment and the upward adjustment in acreage for lease and transfer) shall not exceed 50 per centum of the cropland acreage in the lessee farm, but this proviso shall not apply to transfers approved under subparagraph (5) of paragraph (c) of this section. The maximum marketing quota that may be leased and transferred from a farm shall be limited to the effective farm marketing quota for the lessor farm.

(e) *Adjustment of acreage allotment.* The acreage allotment for a farm involved in a lease and transfer agreement shall be adjusted as follows:

(1) The acreage allotment for the lessee farm shall be adjusted upward by the number of acres obtained by dividing the pounds leased and transferred to the farm by the current year's farm yield for the lessee farm.

(2) The acreage allotment for the lessor farm shall be adjusted downward by the number of acres obtained by dividing the pounds leased and transferred from the farm by the current year's yield for the lessor farm.

(f) *Allotment acreage considered fully planted.* For purpose of establishing allotments for subsequent years, the tobacco acreage computed for pounds transferred from a lessor farm shall be considered to have been planted on the lessor farm.

(g) *Marketing quota for a new farm.* Marketing quota established for a new farm shall not be transferred by lease.

(h) *Pooled allotments.* Marketing quotas established for allotments in a pool pursuant to Part 719 of this subchapter may be eligible for transfer during the 3-year life of the pooled allotment. An agreement to transfer shall not serve to extend the life of such pooled allotment.

(i) *Limitation on transfer to and from a farm (subleasing).*—(1) *Filed before June 15.* The county committee shall not approve any transfer filed for the current year before June 15 where after approval a transfer would be in effect both to and from the same farm: *Provided,* That a transfer may be approved where an allotment and quota is temporarily transferred from a farm for one or more years and the farm is subsequently combined with another farm that is otherwise eligible to receive allotment and quota by transfer.

(2) *Filed after June 14.* The county committee may approve a transfer filed for the current year after June 14 either to or from the same farm (but not both) irrespective of whether any transfer filed before June 15 is in effect for the farm.

(j) *Revised notices.* A revised notice showing the effective farm acreage allotment and effective farm marketing quota

after transfer shall be issued by the county committee to each of the operators of all farms involved in the transfer agreement.

(k) *Violations.* If consideration of a violation is pending which may result in an allotment reduction for a farm for the current year, the county committee shall delay approval of any lease and transfer from the farm until the violation is cleared or the allotment reduction is made. However, if the allotment reduction in such a case cannot be made effective for the current crop year before April 1, a 1-year transfer from the farm may be approved by the county committee. In any case, if, after a transfer of a tobacco marketing quota has been approved by the county committee, it is determined that the allotment for the farm from which the marketing quota is leased is to be reduced for a violation, the allotment reduction for such farm shall be delayed until the following year unless the allotment and quota after any reduction due to overmarketings or transfer is equal to or greater than the reduction for violation.

(l) *Marketing quota after transfer approval.* The acreage allotment and marketing quota finally determined (after transfer) for a farm under the provisions of this section shall be the allotment and marketing quota for such farm for the current year only for the purposes of determining: (1) Excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco, (3) eligibility for price support, (4) undermarketings and overmarketings, and (5) the amount of reduction in allotment and quota for violation of the tobacco marketing quota regulations. Notwithstanding this paragraph (1), a transfer after the farm has certified to acreage planted shall not be considered in determining excess acreage or eligibility for price support. The amount of reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any lease and transfer.

(m) *Cancellation, dissolution, or revision of transfer.*—(1) *Cancellation.* Any transfer of allotment and quota under this section which was approved in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee.

(2) Such cancellation shall be effective as of the date of approval for purposes of determining overmarketings and undermarketings from the farms, and for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalties purposes if (a) the transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and (b) the parties to the transfer agreement were not notified of the cancellation before the market-

ings for the receiving farm exceed the correct effective farm marketing quota. The provisions of this paragraph (m) (1) (i) of this section shall not preclude application of the erroneous notice provisions under § 725.70 where such provisions are applicable.

(ii) Where a transfer of allotment and quota is canceled because of fraud on the part of the owner or operator of the transferring farm but without fault on the part of the owner or operator of the receiving farm, such cancellation shall be effective as of the date of approval except for purposes of determining eligibility for price support and marketing quota penalties for the receiving farm. In such case the overmarketings shall be charged against the farm from which the transfer of allotment and quota was made if such farm, after any such reconstitution as may be necessary as a result of the fraud, is assigned an allotment and quota against which the overmarketings could be charged; otherwise, the overmarketings shall be charged against any other farm involved in the fraud having an allotment and quota after any reconstitution required by such fraud: *Provided*, That any overmarketings on the receiving farm which is in excess of the amount of quota involved in the canceled lease shall be charged against the receiving farm.

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee by November 30 of the current crop year. In such case, an official notice of the effective farm acreage allotment and effective farm marketing quota, reflecting the dissolution or revision, shall be issued by the county committee to each of the operators involved in the transfer agreement. If the request to dissolve or revise the lease is made after November 30 of the current crop year, but prior to the last crop year for which the transfer agreement is effective, the next allotments and quotas established for the farms shall reflect the dissolution or revision.

(n) *Reconstitutions after transfer.* Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in the current year shall be the allotment after transfer has been made. However, in the case of a division, the county committee may allocate, under Part 719 of this chapter, the transferred quota involved to the tracts involved in the division as the parent farm owner and operator designate in writing. In the absence of a written designation, the county committee shall apportion the leased quota.

(o) *Consent of lienholder.* No transfer of allotment other than by annual lease shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder.

(p) *Recomputation of allotment and quota for other than annual transfers.*

The acreage allotment and marketing quota transferred shall be recomputed and adjusted where appropriate each year the transfer is in effect.

(q) *Allotment and marketing quota on land under restrictive lease.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

§ 725.73 Determining tobacco history acreages.

Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(a) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for the current year if:

(1) In the current year or either of the 2 preceding years (i) the sum of (a) the final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter, (b) the acreage computed for pounds leased and transferred from the farm under lease and transfer provisions, and (c) the acreage regarded as planted to tobacco under the conservation programs and practices determined pursuant to Part 719 of this chapter, was as much as 75 per centum of the farm's history allotment (basic allotment minus acreage reduced for (1) overmarketings and (2) violation of marketing quota regulations), or (ii) the farm acreage allotment is or was in the eminent domain allotment pool; or

(2) The farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco.

(b) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under paragraph (a) of this section, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(1) Final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter.

(2) Acreage computed for pounds leased and transferred from the farm.

(3) Acreage regarded as planted to tobacco under the conservation programs and practices.

§ 725.74 Transfer of farm marketing quotas.

There shall be no transfer of farm marketing quotas except as provided in §§ 725.72, 725.75, 725.116, and Part 719 of this chapter.

§ 725.75 Transfer of tobacco farm acreage allotment for farms affected by a natural disaster.

(a) *Designation of counties affected by a natural disaster.* The Deputy Administrator shall determine for any year beginning with the 1970 crop, those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any or all of the tobacco acreage allotments for any farm in the county. The county committee shall post in the county office a notice of any such determination affecting the county and, to the extent practicable, shall give general publicity in the county to such determination.

(b) *Application of transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco acreage within the farm tobacco allotment for such year to another farm or farms in the same county or in any other nearby county in the same or another State if such acreage cannot be timely planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county committee for the county in which the farm affected by such disaster is located. If the application involves a transfer to a nearby county, the county committee for the nearby county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the smaller of (1) the farm allotment established under this part less such acreage planted to tobacco and not destroyed by the natural disaster, or (2) the acreage requested to be transferred.

(d) *County committee approval.* The county committee shall approve the transfer if it finds that the following conditions have been met:

(1) All or part of the farm allotment for the farm from which the acreage is to be transferred could not be timely planted or replanted because of the natural disaster and planting was not prohibited by the lease in the case of lands owned by the Federal Government.

(2) One or more of producers of tobacco on the farm from which the acreage is to be transferred will be a bona fide producer engaged in the production of tobacco on the farm to which the acreage is to be transferred and will share in the crop or in the proceeds of the tobacco.

(e) *Cancellation of transfers.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, State committee, or the Deputy Administrator may cancel such transfer. Action by the county committee to cancel a transfer shall be subject to the approval of the State committee or its representative.

(f) *Acreage history credits and eligibility as an old tobacco farm.* Any

acreage transferred under this paragraph shall be considered for the purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred.

(g) *Closing dates.* The closing date for filing applications for transfers with the county committee shall be July 15 of the current year. Notwithstanding such closing date requirement, the county committee may accept applications filed after the closing date upon a determination by the county committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State committee approves such determination.

§§ 725.76—725.84 [Reserved]

IDENTIFICATION OF TOBACCO, MARKETING AND OTHER DISPOSITION OF TOBACCO, AND PENALTIES

§ 725.85 Identification of kinds of tobacco.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of a kind and type shall be considered such kind and type without regard to any factor or historical or geographical nature which cannot be determined by examination of the tobacco. The term "tobacco" with respect to any farm located in an area in which one or more of a kind and type of tobacco classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture, is normally produced shall include all acreage of tobacco, excluding other kinds subject to marketing quotas and Georgia Florida cigar wrapper, on a farm unless the county committee with the approval of the State committee determines from satisfactory proof furnished by the operator of the farm that a part or all of the production of such acreage has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind of tobacco not subject to marketing quotas. Any tobacco produced in the same area as a kind of tobacco which is subject to marketing quotas (except Georgia Florida cigar wrapper) shall be considered as a kind subject to marketing quotas unless it is classified by an AMS Inspector as a kind which is not subject to marketing quotas prior to its removal from the area in which the kind of tobacco subject to marketing quotas is produced.

§ 725.86 Disposition of tobacco produced on excess acres.

Disposition of tobacco produced on excess acreage prior to harvest shall be subject to the provisions of Part 718 of this chapter.

§ 725.87 Issuance of marketing cards.

(a) *General.* (1) A marketing card (MQ-76) shall be issued for the current marketing year for each farm having

tobacco available for marketing. Cards shall be issued in the name of the farm operator except that (i) cards issued for tobacco grown for experimental purposes only shall be issued in the name of the experiment station, and (ii) cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest. The face of the marketing card may show the name of other interested producers. For cards issued in Florida, North Carolina, South Carolina, and Virginia, the harvested acreage shall be shown on the face of the card. A marketing card may be issued in the name of a producer who is not the farm operator if the county committee determines pursuant to the procedure in paragraph (a) (2) of this section that such producer has been or likely will be deprived of the right to use the marketing card issued for the farm to market his proportionate share of the crop.

(2) If the county committee has reason to believe that one or more producers on the farm have been or likely will be deprived of the right to use such marketing card to market his or their proportionate share of the crop, a hearing shall be scheduled by the county committee and the operator of the farm and the producer or producers involved shall be invited to be present, or to be represented, at which time they shall be given the opportunity to substantiate their claims concerning the use of the farm marketing card to market each such producer's proportionate share of the effective farm marketing quota for such crop. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice. A summary of the evidence presented at the hearing shall be prepared for use of the county committee. If the farm operator or other producer(s) on the farm do not attend the hearing, or are not represented, the county committee may take whatever action it deems proper on the basis of information available to it. If the county committee finds that any producer on the farm has been or likely will be deprived of the right to use the marketing card issued for the farm to market his proportionate share of the crop, the marketing card issued for the farm shall be recalled and a separate marketing card, showing 110 percent of the producer's proportionate share of effective farm marketing quota shall be issued to each such producer who it is determined has been or likely will be deprived of the opportunity to market his proportionate share of the crop and another marketing card (or other cards if considered preferable by the county committee) shall be issued showing 110 percent of the balance of the effective farm marketing quota to enable the other producers on the farm to market their proportionate shares. The marketing cards issued pursuant to this subparagraph shall reflect the proportionate pounds, if any, already marketed by each producer.

(3) The procedure in paragraph (a) (2) of this section shall not apply to

a person who was a producer on the farm in a prior year but who is not a producer on the farm during the current crop year.

(b) *Person authorized to issue marketing cards.* The county executive director shall be responsible for the issuance of marketing cards.

(c) *Rights of producers and successors-in-interest.* (1) Each producer having a share in tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

(2) Any person who succeeds, other than as a dealer, in whole or in part to the share of a producer in the tobacco available for marketing from a farm, shall, to the extent of such succession, have the same rights to the use of the marketing card and bear the same liability for penalties as the original producer.

(d) *Farms not eligible for price support.* The marketing card issued for a farm shall have the notation "No Price Support" where either of the following conditions exist:

(1) The farm is determined not to be in compliance with the tobacco allotment therefor under the provisions of Part 718 of this chapter.

(2) Tobacco is produced on land owned by the Federal Government in violation of a lease restricting the production of tobacco, even though the allotment for the farm is not exceeded.

(3) The county committee has determined that the tobacco was treated with DDT or TDE after being transplanted in the field or after being harvested from the farm.

(e) *Cards for tobacco grown by publicly owned experiment stations.* A marketing card shall be issued to identify tobacco grown for experimental purposes by or for publicly owned experiment stations.

(f) *Farm quota data entered on marketing card and supplemental card.* (1) Any marketing card issued to market tobacco shall show when issued, in the space provided on the reverse side, the pounds computed by multiplying 110 percent times the effective farm marketing quota: *Provided*, That, if the tobacco available for marketing from the farm is determined by the county committee or the county executive director to be less than the effective farm marketing quota and the quota is not eligible to be transferred from the farm under the provisions of § 725.72, the pounds determined to be available for marketing shall for purposes of issuing a marketing card and showing thereon the farm's 110 percent of quota data, be considered the effective farm marketing quota for the farm: *Provided further*, That if any producer on the farm shows to the satisfaction of the county committee or county executive director that there are available for marketing from the farm pounds of tobacco above the pounds considered as the effective farm marketing quota under the provisions above, the data shown on the marketing card shall

be increased accordingly but not to exceed the pounds which were or would have been computed under paragraph (f) (1) of this section.

(2) Where the farm operator requests, a supplemental marketing card bearing the same name and identification as shown on the original marketing card may be issued for a farm upon return to the county office of an original marketing card or a supplemental marketing card. The pounds computed as the balance of 110 percent of quota from prior marketing card shall be shown in the first space on the reverse side of the marketing card.

(3) Two or more marketing cards may be issued for a farm if the farm operator so requests in writing and specifies in writing the number of pounds to be assigned to each card. In such case, each marketing card shall show the assigned quota plus 10 percent of such assigned quota in the space "110 percent of quota."

(4) If, when authorized under Part 1421 of this title, a producer requests and obtains from the county committee an interim advance of CCC funds on part or all of his flue-cured tobacco crop prior to marketing thereof, the estimated quantity of tobacco upon which the interim advance was made shall be entered in parentheses on the reverse side of the marketing card in the space for recording sales. Any poundage balance of the "110 percent of quota" data shall be entered below the estimated pounds upon which an interim advance was made.

(g) *Marketing cards for producers of registered or certified flue-cured tobacco seed.* Any producer of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage to seed production without such tobacco being charged against the farm's allotment, affecting the farm's eligibility for price support or affecting the farm's status in determining marketing penalties. A marketing card may be issued for a farm without regard to the tobacco acreage which is being produced for seed purposes if an agreement is signed by the farm operator, and the producer if different from the operator which provides:

(1) For the destruction of all tobacco produced on the acreage designated for seed production and that no tobacco produced on such acreage will be harvested.

(2) (i) For paying the cost of compliance visits to a farm by representatives of the county committee under Part 718 of this chapter in connection with the determination of the acreage designated for seed production. During the first compliance visit to the farm the acreage designated for seed production shall be determined and staked off.

(ii) The producer(s) signing the agreement shall agree to timely notify the county office when the tobacco seed has been harvested so that arrangements can be made for a representative of the county committee to determine that no acreage designated for seed production has been harvested and to witness destruction of the tobacco leaves.

(3) That the planting of the tobacco acreage for seed production will not create history acreage for the purpose of establishing future farm allotments.

(4) That if the county committee determines that any of the terms and conditions of the agreement have been violated or any material misrepresentation in connection with the agreement has been made, any marketing card issued for the farm in recognition of the agreement shall be recalled and canceled, and a marketing card shall be issued to reflect all the tobacco produced on the farm and that the tobacco produced on the farm is not eligible for price support.

(h) *Other data entered on marketing cards and supplemental card.* Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

(i) *Lease only marketing card.* A marketing card for lease only may be issued in the name of the farm operator for a farm where there is no tobacco available for marketing in the current year if the farm is otherwise eligible to lease marketing quota. A lease only card shall not be issued for any farm where a marketing card was issued in the current year based on a determination by the county committee or the county executive director that the tobacco available for marketing from the farm was less than the effective farm marketing quota for the current year.

§ 725.88 Claims stamping and replacing marketing cards.

(a) *Stamping to show claims.* (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt record, the face of the marketing card issued for the farm shall bear the notation "U.S. Claim" followed by the amount of indebtedness. The name of the indebted producer if different from the farm operator, shall be recorded directly under the claim notation. A notation showing indebtedness to the United States shall constitute notice to any warehouseman or loan organization that, subject to prior liens, the net proceeds from any price support loan due the debtor shall be paid to the United States to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notice and information of indebtedness to the United States shall not constitute a waiver by the producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action and the producer may reject price support from which such indebtedness would be deductible. As claim collections are made, the amount of the claim shown on the card shall be revised to show the claim balance, and the tobacco sale bill shall show the amount collected. A claim free marketing card shall be issued when the claim has been paid.

(2) Any marketing card may be marked for the purpose of notifying warehousemen or loan organizations that the tobacco being marketed pursuant

to such card is subject to a lien held by the United States.

(b) *Replacing, exchanging, or issuing additional marketing cards.* Subject to the approval of the county executive director, two or more marketing cards may be issued for any farm. Upon the return to the county office of a marketing card which has been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card bearing the same name, information, and identification as the used card shall be issued for the farm. A new marketing card shall be issued to replace a card which has been determined by the county executive director who issued the card to have been lost, destroyed, or stolen.

§ 725.89 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid under any one of the following conditions:

(1) It is not issued or delivered in the form and manner prescribed.

(2) Any entry is omitted or is incorrect.

(3) It is lost, destroyed, stolen, or become illegible.

(4) Any erasure or alteration has been made and not properly initialed by the county executive director or a marketing recorder.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county executive director who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning valid cards.* In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county executive director who issued the card or by a marketing recorder), the farm operator, or the person having the card in his possession, shall return it to the county office at which it was issued.

§ 725.90 Misuse of marketing card.

Any information which causes a marketing recorder, a member of a State, county, or community committee, or an employee of the State or county office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm, shall be reported immediately by such person to the county or State office.

§ 725.91 Identification of marketings.

(a) *Identification of producer marketings.* Each auction and non-auction marketing of tobacco (except for Georgia Florida cigar wrapper) from a farm in a quota area in the current year shall be identified by a marketing card, Form MQ-76, issued for the farm unless prior to marketing an AMS certification shows it to be nonquota tobacco. The reverse side of the marketing card shall show in

pounds: (1) 110 percent of quota, (2) balance of 110 percent of quota after each sale, and (3) date of each sale. Each producer sale at auction shall be recorded on a Form MQ-72-1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on Form MQ-72-2, Report of Tobacco Nonauction Purchase. For producer sales at nonauction, the dealer purchaser shall execute Form MQ-72-2 and shall enter the data on MQ-76. For producer sales at auction, Form MQ-72-1 and Form MQ-76 shall be executed only by the ASCS marketing recorder.

(b) *Verification of penalty by warehousemen or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouseman or dealer to determine whether the amount of penalty shown to be due has been correctly computed. Such warehouseman or dealer shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.

(c) *Check register.* The serial number of the tobacco sale bill(s) shall be recorded by the warehouseman on the check register or check stub for the check written covering the auction sale of tobacco by a producer.

(d) *Identification of dealer marketings of resale tobacco.* Each auction and nonauction marketing of resale tobacco in the current year shall be identified by a dealer identification card, Form MQ-79-2, issued to the dealer.

(e) *Separate display on auction warehouse floor.* Any warehouseman upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each different kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Identify each basket by a distinguishably different basket ticket clearly showing the kind of tobacco except where the tobacco is represented to be a non-quota kind the basket ticket shall have imprinted thereon the type designation for the kind of quota tobacco normally marketed in the area.

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco (quota and nonquota) sold at auction over the warehouse floor.

(f) *Cross-reference of tobacco sale bill number to prior tobacco sale bill covering tobacco identified by the same marketing card to be sold the same day.* Each warehouseman shall for each lot of tobacco weighed in on his floor for sale the same day cross-reference the tobacco sale bill to each prior tobacco sale bill for tobacco identified by the same marketing card. To accomplish the cross-reference, each other tobacco sale bill number shall be entered by the warehouseman in the "Remarks" space on the tobacco sale bill, on all copies, at the time he weighs in the tobacco at the warehouse.

(g) *Identification of returned first sale (producer) tobacco.* When resold at auc-

tion, tobacco which has been previously sold and returned to the warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouseman, it shall be identified as leaf account resale tobacco.

§ 725.92 Rate of penalty.

(a) *Basic rate.* The basic penalty rate shall be equal to seventy-five percent (75%) of the average market price for the immediately preceding marketing year as determined by the Crop Report-Service, U.S. Department of Agriculture. The rate of penalty and average market price will be determined for each marketing year and announced in paragraph (b) of this section or amendment thereto.

(b)(1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

| Marketing year: | Cent per pound |
|-----------------|----------------|
| 1972-73 | 85.3 |

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY

| Marketing year: | Cent per pound |
|-----------------|----------------|
| 1973-74 | 64 |

§ 725.93 Persons to pay penalty.

The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Auction sale.* The penalty due on marketings by a producer through an auction sale shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonauction sale.* The penalty due on tobacco acquired directly from a producer, other than at an auction sale, shall be paid by the person acquiring the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer in the case of a sale.

(c) *Marketing outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

Any marketing of tobacco under one of the following conditions shall be considered to be a marketing of excess tobacco.

(a) *Auction sale without marketing card.* Any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card at the time of marketing shall be considered to be a marketing of excess tobacco and the penalty thereon shall be collected and remitted by the warehouseman unless prior to marketing, an AMS inspection certificate is obtained

showing that the tobacco is of a kind not subject to marketing quotas.

(b) *Nonauction sale.* Any nonauction marketing of tobacco which:

(1) is not identified by a valid marketing card and recorded at the time of marketing on MQ-79, Dealer's Report, the marketing card, and MQ-72-2, Report of Tobacco Nonauction Purchase; or,

(2) if purchased prior to the opening of the local auction market for the current year, is not identified by a valid marketing card and recorded on MQ-79, the marketing card, and MQ-72-2, Report of Tobacco Nonauction Purchase not later than the end of the calendar week which includes the first sale day of the local auction markets, shall be considered a marketing of excess tobacco. The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ-79, unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(c) *Leaf account tobacco.* If part or all of any marketing of leaf account tobacco (including tobacco from the buyers correction account), when added to prior leaf account resales, is in excess of prior leaf account purchases, such marketing shall be considered to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The actual quantity of floor sweepings which the State executive director determines have been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the maximum allowable floor sweepings for the season determined by multiplying the limitation set forth in § 725.51 (p) by total first sales at auction.

(d) *Dealer's tobacco—(1) Excess resale rule for mixed reporting of data.* If during any marketing year a warehouseman or a dealer has transactions in more than one kind of tobacco and his reports of marketings result in excess resales, penalty of such excess resales shall be due from such dealer at the highest rate of penalty applicable to any kind of tobacco reported or due to be reported under these regulations.

(2) *Excess resales above purchases.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale, which, when added to prior resales by such dealer (as shown or due to be shown on Form MQ-79), is in excess of his total prior purchases (as shown or due to be shown on such Form MQ-79) shall be considered to be a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(1) During the auction marketing season the penalty due from the dealer shall be withheld by the warehouseman

from the proceeds due the dealer and immediately transmitted by the warehouseman to a marketing recorder.

(ii) Penalty due from a dealer which was not withheld by a warehouseman under paragraph (d) (2) (i) of this section shall be remitted weekly by him to the State office with his reports on Form MQ-79.

(e) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouseman or dealer, but which is not so reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the State executive director. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Marketings falsely identified by a person other than the producer.* If any marketing of tobacco by a person other than the producer is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by such person.

(g) *Carryover tobacco.* Any tobacco on hand and reported or due to be reported under § 725.99(g) (16) for warehousemen and § 725.100(c) (4) for dealers shall be included as a resale in determining whether an account has excess resales. Unless the warehouseman furnishes proof acceptable to the State committee and unless the dealer furnishes proof acceptable to the State executive director, showing that such account does not represent excess tobacco, penalty at the full rate shall be paid thereon by such warehouseman or dealer.

§ 725.95 Producers penalties; false identifications; failure to account; canceled allotments; overmarketing proportionate share.

(a) *Penalties for marketing over 110 percent of farm quota.* Penalty at the full rate shall be due on any marketings which exceed 110 percent of the effective farm marketing quota.

(b) *Penalties for false identification or failure to account.* If any producer falsely identifies or fails to account for the disposition of any tobacco, produced on a farm, penalty at the full rate shall be due on the larger of: (1) The actual marketings above 110 percent of the effective farm marketing quota, or (2) the amount of tobacco equal to 25 percent of the effective farm marketing quota. The requirement of subparagraph (2) shall not be applied if the county committee determines (with concurrence of State committee) that assessment of penalty based on 25 percent of the effective farm marketing quota would be unduly harsh when compared with the pounds in violation and no adverse effect on the program would result.

The requirements of this paragraph need not be applied if it is determined by the State and county committees that

the pounds in violation are very small when compared to the effective quota, and no adverse effect on the operation of the tobacco program would result.

(c) *Cancelled allotment.* If part or all of the tobacco produced on a farm has been marketed and the allotment for the farm is canceled, any penalty due on the marketings shall be paid by the producers.

(d) *Overmarketing proportionate share of effective farm marketing quota.* If the county committee determines that the farm operator or another producer on the farm has marketed more than 110 percent of his proportionate share of the effective farm marketing quota with intent to deprive some other producer on the farm from marketing his proportionate share of the same crop of tobacco, such operator or other producer shall be liable for marketing penalties at the full rate per pound for each pound marketed above 110 percent of his proportionate share of the effective farm marketing quota: *Provided*, That the sum of such penalties shall not exceed the total penalty due on total marketings above 110 percent of the effective farm marketing quota for the farm on which such tobacco was produced. Before assessment of penalty pursuant to this paragraph (c), a hearing shall be scheduled by the county committee and the operator and affected producers shall be invited to be present, or to be represented, to determine whether the operator or another producer on the farm has marketed more than 110 percent of his proportionate share of the effective farm marketing quota. The notice of the hearing shall request the farm operator and affected producers to bring to the hearing floor sheets and other relevant supporting documents. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice and any action taken to impose penalty shall be taken after the hearing. If the farm operator or other affected producer does not attend the hearing, or is not represented, the county committee may take whatever action it deems necessary to assess penalty against the proper producers. If a hearing under § 725.87(a) is being held, and it is practicable to do so, such hearing and the hearing under this paragraph may be combined.

(e) *Penalties not to be assessed.* Where the operator or another producer on the farm markets a quantity of tobacco above 110 percent of the effective marketing quota for the farm and such overage is found to have been caused by the failure to record or improper recording of tobacco poundage data on the marketing card, that amount of the penalty as was due to such failure to record or improper recording will not be required to be paid by the farm operator or other producer on the farm if: (1) For amounts of \$10 or less, the county committee, and (2) for amounts above \$10, the county committee, with the approval of the State committee, determines that each of the following conditions is applicable: (1) the failure to record or incorrect recording

resulted from action or inaction of a marketing recorder or another ASCS employee, and (ii) the farm operator or another producer on the farm had no knowledge of such failure or error. Overmarketings for a farm for which the marketing penalty will not be paid pursuant to the provisions of this paragraph (d) shall be determined based upon the correct effective farm marketing quota and correct actual marketings of tobacco from the farm.

§ 725.96 Payment of penalty.

(a) *Date due.* Penalties shall become due at the time the tobacco is marketed, except that in the case of false identification or failure to account for disposition of tobacco, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount due to the ASCS State office not later than the end of the calendar week in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Agricultural Stabilization and Conservation Service may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) *Auction sale—net proceeds.* If the penalty due on any auction sale of tobacco by a producer is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producer, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonauction sale.* Nonauction sales of excess tobacco shall be subject to the full rate of penalty and shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

§ 725.97 Request for return of penalty.

Any producer of tobacco and any other person who bore the burden of the payment of any penalty after the marketing of all tobacco available for marketing from the farm may request the return of the amount of such penalty which is in excess of the amount required to be paid. Such request shall be filed on Form MQ-85, Farm Record and Account, with the county office within 2 years after the payment of the penalty. Approval of return of penalty to producers shall be by the county committee, subject to the approval of the State executive director.

RECORDS AND REPORTS

§ 725.98 Producer's records and reports.

(a) *Failure to file reports or filing false reports.* If any producer on a farm files an incomplete or incorrect report, fails to file a report, or files or aids or acquiesces in the filing of any false report with respect to (1) the acreage of tobacco grown on the farm or (2) the amount of tobacco produced on or marketed from

the farm, the tobacco allotment, next established for any such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the failure to file, filing of, or aiding or acquiescing in the filing of, such report was not intentional on the part of any producer on the farm and that no producer on the farm could reasonably have been expected to know that the report was false: *Provided*, That the failure to file or the filing of or aiding or acquiescing in the filing of the report will be construed as intentional unless a correct report is filed and any penalty is paid in full, or (ii) no person connected with the farm for the year for which the allotment is being established caused, aided, or acquiesced in the filing of the false report or failure to file a report. If a farm operator in a certification county (as defined in Part 718 of this chapter) files a certification of tobacco acreage on the farm and, after a farm visit and measurement of the acreage, it is determined by the county committee (with approval of the State committee) that the certification was false (either under certification or over certification) in what amounts to a scheme or device to defeat the purpose of the program, the allotment next established for the farm shall be reduced. If the condition in paragraph (a) (2) (i) and (ii) of this section are not applicable, the next established allotment shall be reduced by the pounds computed as follows: The acreage falsely certified (difference between certified and measured acreage) shall, for the year of the violation, be multiplied by the farm yield. Such method of determining the amount of allotment reduction also is provided for in paragraph (h) of this section.

(b) *Report of tobacco grown for experimental purposes.* For farms on which tobacco is being grown for experimental purposes only, the director of a publicly owned agricultural experiment station shall furnish the State ASCS office, prior to the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, a report for each current year showing the following information:

(1) Name and address of the publicly owned agricultural experiment station.
(2) Name of the owner, and name of the operator if different from the owner, of each farm on which tobacco is grown for experimental purposes only.

(3) The amount of acreage of tobacco grown on each farm for experimental purposes only.

(4) A certification signed by the Director of the publicly owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only, the tobacco was grown under his direction, and the acreage of each plot was considered necessary for carrying out the experiment.

(c) *Harvesting second crop tobacco from the same acreage.* If, in the same calendar year more than one crop of tobacco was grown from (1) the same

tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested.

(d) *False identification.* Where false identification (see § 725.51(1)) occurs as to any tobacco, the acreage allotments next established for the farm or farms and kind of tobacco involved shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing: *Provided*, That the marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided or acquiesced in such marketing. The requirements of this paragraph need not be applied if it is determined by the State and county committees that the pounds in violation are very small when compared to the effective quota, and no adverse effect on the operations of the tobacco program in the area would result.

(e) *Report on marketing card.* The operator of each farm on which tobacco is produced shall return to the ASCS county office each marketing card issued for the farm whenever marketings from the farm are completed, and, in no event, later than 20 days, in the year of issuance of the card, after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within 15 days after written request by certified mail from the county executive director shall constitute failure to account for disposition of all tobacco marketed from the farm unless disposition of tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county committee. Upon failure to satisfactorily account to the county committee for disposition of flue-cured tobacco marketed from the farm the allotment next established for such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county committee and a representative of the State committee, that (1) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided*, That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made; or (2) no person connected with such farm for the year for which the allotment is being established, caused, aided, or acquiesced in the failure to furnish such proof.

(f) *Report of production and disposition.* In addition to any other reports

which may be required by this subpart, the operator on each farm or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request by certified mail from the State or county committee, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ-108, Report of Production and Disposition, a written report of the acreage, production and disposition of all tobacco produced on the farm by sending the same to the State or county committee showing, as to the farm at the time of filing such report: (1) The number of fields (patches or areas) from which tobacco was harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed, and the number of pounds marketed, the gross price paid and the date of the marketings, and (5) the complete details as to any tobacco disposed of other than by sale. The operator on each farm or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request on Form MQ-108-1 from the county committee, within the 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ-108-1 a written report of the amount of tobacco produced on the farm which is unmarketed at the end of the marketing season and its location, and the amount of tobacco produced on any other farm which is unmarketed at the end of the marketing season and which is stored on the farm and its location. Failure to file the MQ-108 or MQ-108-1 as requested, the filing of an MQ-108 or MQ-108-1 which is found by the State or county committee to be incomplete or incorrect shall, to the extent that it involves tobacco produced on the farm constitute failure of the producer to account for disposition of tobacco produced on the farm and the quota next established for such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county or State committee that failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided*, That (i) such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the quota is being established caused, aided, or acquiesced in the failure to furnish such proof.

(g) *Amount of allotment reduction.* The amount of reduction in the allot-

ment for the current year for a violation described in paragraph (a), (d), (e), or (f) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective effective farm marketing quota for the farm for the year in which the violation occurred. Such percentage shall then be applied after application of the national factor to the preliminary allotment, but before adjusting for over or undermarketings. Where the amount of tobacco involved in the violation(s) equals or exceeds the amount of the farm marketing quota, the amount of reduction will be made in subsequent years for the violation(s). The quantity of tobacco in violation shall be the amount of tobacco as determined by the county committee. If the actual quantity of tobacco is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco is not known, such quantity shall be determined by taking into consideration the condition of the crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided*, That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre as so determined by the county committee shall be deemed to be the actual production per acre. Where the actual quantity of tobacco produced on acreage not included in a report of acreage is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid, by the acreage not shown on a report of acreage. Where the amount of tobacco produced on or marketed from a farm is not known, such quantities shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production on the farm as determined aforesaid, the quantity of tobacco for which proof of production and marketing has been furnished. The acreage reductions required under this section shall be in addition to any other adjustments made under these regulations and any amendments thereto later issued.

(h) *Allotment reductions for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required.

(i) *Allotment reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the

allotments for the divided farms required to be reduced. Allotment reductions are applicable, except under paragraph (c) of this section, unless the violating producer has no interest in the current tobacco crop.

(j) *Quota reduction.* If an acreage allotment reduction is made under this section, the farm marketing quota shall be reduced to reflect such reduction in an amount determined by multiplying the acreage reduction by the farm yield.

(k) *Unauthorized erasure on marketing card.* Any unauthorized erasure or alteration of any information or data on a marketing card may be considered a violation of the U.S. Criminal Statutes.

(l) *County administrative hearings in connection with violations.* Except for the failure to return a marketing card to the county office or failure to file MQ-108-1, the allotment for any farm shall not be reduced for a violation under this section until after the operator of the farm has been notified in writing by the county executive director of the time and place of a hearing to determine the nature and extent of the violation. The notice of the hearing shall request the farm operator to bring to the hearing warehouse bills (floor sheets) and other relevant supporting documents. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice and any action taken on the violation shall be taken after the hearing. If the farm operator does not attend the hearing or is not represented, the county committee may take whatever action it deems proper.

(m) *Sequence of allotment reduction where the farm allotment is to be reduced because of a violation and overmarketings.* If the tobacco allotment for a farm is to be reduced in the current year because of both (1) a violation and (2) overmarketings in a prior year, the reduction in the allotment for the violation shall be made before making the reduction for overmarketings.

(n) *Correction of farm production records.* Where farm data for actual marketings is determined to be incorrect because of a violation, the records shall be corrected for each farm on which the tobacco was produced, and for each farm whose card was used to identify the marketings.

(o) *Report on Form MQ-92, Estimate of Production.* In order to provide a basis for a determination under the first proviso in § 725.87(f)(1) and as an aid to discouraging, thwarting, and discovering violations by producers and to enforcing the provisions of the flue-cured tobacco marketing quota program, an estimate of production, Form MQ-92, shall be obtained in accordance with instructions issued by the Deputy Administrator.

§ 725.99 Warehouseman's records and reports.

Each warehouse shall keep the records and make the reports separately for each kind of tobacco (quota and nonquota) as provided in this section.

(a) *Record of marketing*—(1) *Auction sale*. Each warehouseman shall keep such records as will enable him to furnish the State office with respect to each auction sale of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller, in the case of a sale by a producer, and in the case of a resale, the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer; and, in addition, with respect to each individual basket or lot of tobacco constituting the auction sale, the following information:

(a) Name of purchaser.

(b) Number of pounds sold.

(c) Gross sale price.

(2) *Separate account records*. Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate 74-Flue-Cured Tobacco, 1973-74 and Subsequent Marketing Years account for:

(i) *Nonauction sales by farmers of tobacco purchased by or on behalf of the warehouseman*.

(ii) *Purchases and resales of leaf account tobacco*. The resale record shall include separate data for leaf account tobacco and floor sweeping tobacco.

(3) *Buyers corrections account*. Each warehouseman shall keep such records including negative adjustment invoices as will enable him to furnish a weekly report on Form MQ-71 to the State ASCS office showing the total pounds of the debits (for returned baskets, short baskets, and short weights of tobacco) and the credits (for long baskets, and long weights of tobacco) to the buyers corrections account. Where the warehouseman returns to the seller tobacco debited to the buyers corrections account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on his MQ-79, Dealer's Report. Any balancing figure reflected on the warehouseman's summary of bill-outs shall not be included in the buyers corrections account.

(4) *Tobacco sale bill and Daily Warehouse Sales Summary*. Each warehouseman shall use tobacco sales bills furnished at his expense showing, as a minimum, the following information:

(i) Tobacco sale bill number;

(ii) Registration number assigned the warehouse by the Department;

(iii) Name and address of warehouse where sale is held;

(iv) Identification of other producers having an interest in the tobacco;

(v) Check block to show tied if tobacco marketed in tied form;

(vi) Date of sale;

(vii) Number of pounds in each basket or sheet;

(viii) Name and address of seller and (a) farm number (including State and county codes) for producer tobacco, and (b) dealer registration number for resale tobacco;

(ix) Identification number, if available, for each basket or sheet of tobacco to be offered for sale;

(x) Poundage balance before sale based on 110 percent of farm quota;

(xi) Name or symbol of purchaser of each basket or sheet which is sold;

(xii) Gross number of pounds sold;

(xiii) Sales price for each basket or sheet and gross sale price for all baskets or sheets sold;

(xiv) Nonauction purchases by the warehouse holding the sale;

(xv) Tobacco grade for tobacco consigned to price support;

(xvi) Marketing quota penalty collected; and

(xvii) Amount withheld from sale to cover claims due the United States.

A copy of a suggested format for the tobacco sale bill has been filed (34 FR 1761) at the Office of the Federal Register. Copies of the suggested format may be obtained from the Director. The warehouseman shall not weigh in any tobacco for sale unless a marketing card (MQ-76 for producers, MQ-79-2 for dealers) is furnished the weighman or the tobacco is represented to be a nonquota kind which is required to be displayed in a separate area on the warehouse floor under § 725.91 (e) of these regulations. The buyer and grade space on the tobacco sale bill shall show nonauction purchases by the warehouse, tobacco grade for tobacco consigned to price support, and the symbol for tobacco bought by private buyers. At the end of each sale day, the tobacco sale bills shall be sorted and filed in numerical order by sale dates, and basket tickets shall be filed in an orderly manner by sale dates or by numerical order. A copy of the executed Form MQ-80, Daily Warehouse Sales Summary, shall be furnished to marketing recorder for the Kansas City Data Processing Center (KCDPC).

(5) *Report of farm scrap resulting from grading tobacco for farmers*. Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(6) *Report of farm scrap resulting from furnishing curing or stripping space for tobacco from farmers*. Any warehouseman or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable him to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(7) *Labeling tobacco sale bill for resale tobacco*. In the case of resales, each sale bill shall show resale and: (1) For dealers, the name of the dealer making

each resale; and (2) for the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(8) *Nonquota tobacco or quota tobacco of a different kind*. Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. Both the basket ticket and sale bill shall show the producers name and address and the State and county code and farm number on which the tobacco was produced. If an AMS inspection shows that a basket of lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared. Copies of the basket ticket and sale bill shall be furnished to the State office at the end of the sale day.

(b) *Identification of producer sales of tobacco—tobacco sale bill*. The State and county codes and the farm serial number on the marketing card identifying the tobacco to be marketed at auction shall be recorded by the warehouseman on the tobacco sale bill at the time the tobacco is weighed in and the warehouseman shall retain the marketing card where tobacco is to be sold at auction only until the producer has been paid for the sale of the tobacco or the tobacco is removed from the warehouse by the producer. In any case where a producer's marketing card is found in the possession of a warehouseman and no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for such card will be picked up by an ASCS representative for return to the producer. The warehouseman shall be responsible for the safekeeping and proper use of the marketing card during his retention of it. Each tobacco sale bill issued to cover an auction sale of tobacco from a farm for which a marketing card is issued bearing the notation "No Price Support" shall bear the same notation. A separate tobacco sale bill shall be executed to cover any tobacco which represents more than 110 percent of the effective farm marketing quota and the notation, "No Price Support" shall be shown on such tobacco sale bill. The sale of such tobacco shall be considered a separate sale. The letters, "NA" shall be shown on each line of a tobacco sale bill on which there is recorded tobacco purchased by or for the warehouse at non-auction sale and there shall be recorded on all such tobacco sale bills the farm serial number on the marketing card identifying the tobacco marketed at the time the tobacco is purchased at non-auction sale. A copy of the tobacco sale bill bearing the letters, "NA" shall be furnished the producer for any lot or basket of such tobacco purchased by the warehouseman.

(c) *Marketing card.* Each marketing of tobacco from a farm in the flue-cured tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

The card shall be executed as follows:

(1) *Auction sale.* A marketing card used to cover an auction sale shall show on the reverse side the poundage balance of the "110 percent of quota". At the time of weigh-in the tobacco sale bill shall show the poundage balance of 110 percent of the farm's quota. The tobacco sale bill shall show the pounds on which penalty is due, and the amount of the penalty.

(2) *Nonauction sale to a warehouseman at the warehouse.* A marketing card used to cover a nonauction sale of tobacco to a warehouseman shall show on the reverse side the poundage balance of the "110 percent of quota." If the tobacco sale bill includes both an auction sale and a nonauction sale such combined pounds shall be used to compute and reflect the balance of the "110 percent of quota". The tobacco sale bill shall show the pounds on which penalty is due and the amount of the penalty.

(3) *Nonauction sale (country purchase) to a warehouseman.* A marketing card used to cover a nonauction sale (country purchase) at the farm shall show on the reverse side the poundage balance of the "110 percent of quota". Each warehouseman shall record each nonauction purchase of tobacco made by him on MQ-79 and on Form MQ-72-2, Report of Tobacco Nonauction Purchase. The data to be reported on Form MQ-72-2 is set forth in § 725.100(c) (3).

(4) *Tobacco under interim advance.* If tobacco is marketed from a farm, part or all of which is tobacco upon which an interim advance was made pursuant to Part 1421 of this chapter, the tobacco sale bill and the marketing card issued for the farm shall show in parenthesis the poundage balance of the tobacco upon which an interim advance was made, and the poundage balance of any other tobacco. As the interim advance is repaid on any tobacco the quantity shown on the marketing card as that upon which an advance was made shall be reduced proportionately.

(d) *Suspended sale record.* (1) Any tobacco sale bill covering sale of tobacco for which a valid marketing card or dealer identification card was not presented shall be given to a marketing recorder who shall stamp such bills, "Suspended."

(2) When cleared, such suspended sale shall show "suspended—cleared" and date cleared. Such tobacco sale data shall be submitted to KCDPC after the sale is cleared. If a suspended sale is not cleared from suspension by the last auction sale day for the warehouse for the season, it shall be considered a sale of

excess tobacco and penalty at the full rate shall be remitted by the warehouseman.

(e) *Warehouseman's entries on other dealer's report.* Each warehouseman shall record, or have the dealer record, on MQ-79, the total purchases and resales made by each such dealer or other warehouseman during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him and carried over by him from a crop produced prior to the current crop, the entry on MQ-79 shall clearly show such fact.

(f) *Record and report of warehouseman's leaf account purchases and resales not on his floor.* Each warehouseman shall keep a record and make reports on MQ-79, Dealer's Report, showing:

(1) All nonauction purchases of tobacco, except nonauction purchases at his warehouse which are reported on MQ-80.

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

Form MQ-79 shall be prepared and a copy, including copies of Form MQ-72-2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week (at the end of each sale day during the auction season for such warehouse) in which such tobacco was purchased or resold: *Provided*, That, if tobacco is purchased prior to the opening of the local auction market, an MQ-79 shall be prepared and a copy, together with copies of MQ-72-2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance for all penalties shown by the entries on MQ-79 and Form MQ-72-2 to be due shall be forwarded to the State ASCS office with the original copy of MQ-79.

(g) *Daily warehouse sales summary.* Each warehouseman shall prepare at the end of each sale day a report on MQ-80, Daily Warehouse Sales Summary, showing for each sale day:

(1) For each manufacturer, buyer, order buyer and Flue-Cured Tobacco Cooperative Stabilization Corporation (stabilization), pounds of tobacco purchases at auction (consigned in the case of stabilization).

(2) The sum of the items for subparagraph (1) of this paragraph.

(3) Resales at auction for each person listed under subparagraph (1) of this paragraph.

(4) For each dealer subject to reporting purchases and resales on MQ-79, as originally billed, the total pounds of tobacco purchased at auction, and resales at auction.

(5) The total pounds purchased at auction for the leaf account.

(6) The total pounds purchased at nonauction at the warehouse for the leaf account.

(7) The sum of the total pounds for subparagraphs (5) and (6) of this paragraph.

(8) (i) The total leaf account resales and (ii) a separate account for total floor sweeping resales.

(9) The sum of the total purchases for paragraph (g) (2), (4) and (7) of this section.

(10) The sum of the total resales for paragraph (g) (3), (4), and (8) of this section.

(11) The totals of the purchases column on the MQ-79 representing the nonauction purchases for the warehouse leaf account.

(12) The totals of the resales column on the MQ-79 representing the nonauction resales (including floor sweepings nonauction sales) for the warehouse leaf account.

(13) For each warehouse sale of excess tobacco from a farm, the applicable farm number with daily remittance of the penalty due to accompany Form MQ-72-1.

(14) For each dealer, at time of settlement having excess resale tobacco, the applicable dealer identification number with daily remittance of the penalty due.

(15) As to the information required to be entered on MQ-80, Daily Warehouse Sales Summary, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) The total number of Forms MQ-72-1 for the sale day and the sum of pounds sold and shown on Forms MQ-72-1, and (ii) the total number of suspended sale bills and the sum of such pounds sold.

(16) At the end of the season, each warehouseman shall: (i) Report on his final MQ-80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permit its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnished to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(h) *Report to county office of long weights and long baskets.* Each warehouseman shall report to the county ASCS office or marketing recorder long weights and long baskets of producer tobacco (first sales) for which the farmer has been paid.

(i) *Report on Form MQ-78, Tobacco Warehouse Organization.* Each warehouseman shall annually, prior to opening of auction markets, furnish ASCS an executed Form MQ-78 showing:

(1) Form of business organization.
(2) Names and addresses of warehouse officials and bookkeeper.

(3) Names and addresses of other warehouses in which the officials and bookkeeper have a financial interest.

(4) Name and address of custodian of warehouse records, including their location.

(j) *Payee to be shown an auction warehouse check.* Any auction warehouse which issues a check to cover the auction or nonauction sale of tobacco shall issue such check only in the name of the payee. A warehouse check shall not be issued in the name of the seller and bearer, for example "John Doe or Bearer".

(k) *Basket, sheet or pile identification and cross referencing between tobacco sale bill, basket ticket and bill to buyer.* Each warehouseman shall, after each basket, sheet or pile is weighed in record such tobacco on the standardized tobacco sale bill, enter the bill number and line number on the basket ticket. Also, after sale by auction and when the tobacco is billed to the buyer the tobacco sale bill number and line number of the entry shall be recorded on the bill-out invoice to the buyer. In addition, the bill-out invoice shall show the warehouse registration number (warehouse code).

(l) *Handling rejected (Producer) sale after bill-out.* Where a producer rejects the sale of a basket of tobacco, and the tobacco has been billed out and bills presented to the buyer, the warehouseman shall not change the (i) MQ-76 or (ii) MQ-80 reporting the sale. If the warehouseman gains possession of the tobacco, and it is resold by such warehouseman, it shall be identified as resale tobacco.

(m) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouseman shall maintain copies of the bill-out invoice to the purchaser by grades showing the pounds purchased. In lieu of this requirement, the warehouseman may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) baskets from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchaser.

(n) *Reporting of processed leaf account or floor sweepings tobacco.* Any warehouseman who delivers tobacco to a firm for the purpose of redrying, processing or stemming of such tobacco shall by the end of the week in which such tobacco was delivered report to the State office on MQ-79, Dealer's Report: (1) the date delivered; (2) name and address of

the firm to which the tobacco was delivered and (3) the pounds of tobacco (green weight) delivered which shall be entered in the resale pounds column. Such tobacco shall be considered a resale on the date of delivery for the purpose of balancing the warehouse account and collection of penalties where penalties are due.

§ 725.100 Dealer's records and reports.

Each dealer, except as provided in § 725.102, shall keep the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided by this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number and the reporting dealer's identification number as well as the names of the warehouse and dealers involved in the transaction.

(a) *Record of marketing.* Each dealer shall keep such records as will enable him to furnish the State ASCS office with respect to each lot of tobacco purchased by him the following information:

(1) (i) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller in the case of nonauction purchases from warehousemen and dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer and as to each lot of tobacco sold by him the following information:

(i) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to the current crop, the fact that such tobacco was so bought and carried over.

(b) *Nonauction sale (country purchase) to a dealer.* (1) (i) Each purchase of tobacco from a producer from a flue-cured tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced unless prior to purchase an AMS inspection certificate is obtained showing that the tobacco offered for sale is of a kind of tobacco not subject to marketing quotas. The reverse side of the marketing card shall show the poundage balance of the "110 percent of quota". (ii) In addition a Form MQ-72-2, Report of Tobacco Nonauction Purchase, shall be prepared and shall show: (a) Date of purchase, (b) identification number of

buyer, (c) identification of producer selling the tobacco as shown on the marketing card, including his name and address and complete farm number, (d) type code 10, (e) pounds purchased, and (f) amount of penalty collected. The dealer shall record each nonauction purchase of tobacco made by him on MQ-79.

(2) If tobacco is marketed from a farm part or all of which is tobacco upon which an interim advance was made pursuant to Part 1421 of this chapter, the tobacco sale bill and the marketing card issued for the farm shall show in parenthesis the poundage balance of the tobacco upon which an interim advance was made and the poundage balance of any other tobacco. As the interim advance is repaid on any tobacco the quantity shown on the marketing card as that upon which an advance was made shall be reduced proportionately.

(c) *Record and report of purchases and resales.* (1) Except as provided in subparagraph (2) of this paragraph, each dealer shall keep a record and make reports on MQ-79, showing all purchases and resales of tobacco made by or for the dealer, and in the event of purchase or resale of tobacco bought from a crop produced prior to the current crop, the fact that such tobacco was bought by him and carried over from a crop produced prior to the current crop.

(2) Form MQ-79 shall be prepared and a copy, together with executed copies of MQ-72-2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week (for warehouseman dealer, at the end of each sale day during the auction season for such warehouse) in which such tobacco was purchased or resold, except as follows: (i) If tobacco is purchased prior to the opening of the local auction market, an MQ-79 shall be prepared and a copy, together with executed copies of Form MQ-72-2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets; (ii) if tobacco is resold in a State other than where produced, and the auction markets at such locations opens earlier than those where the tobacco would normally be sold at auction by farms, reports shall be prepared and forwarded, together with executed copies of MQ-72-2 for all nonauction purchases, not later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place.

(3) The data to be entered on MQ-72-2, Report of Tobacco Nonauction Purchase, for nonauction purchases from a producer shall be that enumerated under paragraph (b)(1)(ii) of this section. For nonauction purchases from a dealer, the data to be entered on MQ-72-2 shall be the following: (i) Date of purchase; (ii) identification number of buyer; (iii) identification number of dealer making the sale; (iv) type code 10; and (v) pounds purchased.

(4) At the end of the dealer's marketing operation, but not later than March 1, he shall for each kind of tobacco: (i) Show the word "final" on his final report, MQ-79, for the season, (ii) report on such final MQ-79 for the season the quantity of tobacco on hand and its location, (iii) permit its inspection by a representative of ASCS, and (iv) provide for weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in subdivision (iv) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(5) Notwithstanding the provisions of paragraph (c)(4) of this section, any dealer having tobacco transactions after March 1 shall make reports on MQ-79 at the end of each week, as provided in subparagraph (2).

(d) *Daily report to warehousemen for buyers corrections account.* Notwithstanding the provisions of § 725.102, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouseman for that sale day.

(3) Such reports as required under subparagraphs (1) and (2) of this paragraph shall be furnished daily, if practicable (otherwise, they shall be furnished at the end of each week), and shall show the identification number of the purchasing dealer and the identification number of the warehouse where the purchase was made.

(e) *Reporting of processed tobacco.* Any dealer who delivers tobacco to a firm for the purpose of redrying, processing or stemming of such tobacco shall by the end of the week in which such tobacco was delivered report to the State office on MQ-79 Dealer's Report; (1) the date delivered; (2) name and address of the firm to which the tobacco was delivered; and (3) the pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered as a resale on the date of delivery for the purpose of balancing the dealer account and collection of penalties where penalties are due.

(f) *Tobacco represented to be non-quota kind.* Any dealer who has displayed for AMS inspection, prior to purchase at nonauction, tobacco from a farm in a quota area that is represented to be tobacco of a nonquota kind shall:

(1) Execute a basket ticket which shall have imprinted thereon the type designation for the kind of tobacco normally marketed in the area which shows: (i) the name and address of the producer, (ii) the pounds of tobacco in the basket and (iii) the State and county code and farm number on which produced;

(2) Execute a sale bill which shows: (i) the name and address of the producer; (ii) the State and county code and farm number on which produced; (iii) the pounds in each basket and total pounds for the farm; and shall furnish a copy of each basket ticket and sale bill to the State office at the end of the sale day.

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco in the form normally marketed by producers for resale that was damaged by such things, as, but not limited to, fire and water shall prior to purchase report such plans to the State ASCS office issuing MQ-79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection for the marketable value of such damaged tobacco, and the weighing and removal of such tobacco to be witnessed by representatives of the State ASCS office. Any damaged tobacco purchased prior to reporting such plans to the State ASCS office and subsequent inspection by an ASCS representative shall be considered excess tobacco if later resold.

(b) *Purchase from processor or manufacturer.* Any dealer, warehouseman, or other person who plans to purchase tobacco for resale from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing MQ-79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection to determine the marketable value of such tobacco, and whether such tobacco is in the form normally marketed by producers.

The weighing and removal of such tobacco shall be witnessed by representatives of the State ASCS office. Any such tobacco purchased prior to reporting such plans to the State ASCS office and subsequent inspection by an ASCS representative shall be considered excess tobacco if later resold.

§ 725.102 Dealers exempt from regular records and reports on MQ-79; and season report for dealers.

(a) Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers and resells 5 percent or less of any such tobacco shall not be subject to the requirements of § 725.100 except for the requirements which relate to the reporting of non-auction purchases from producers and the requirements of paragraph (d) of § 725.100. A dealer or buyer whose resales in the form ordinarily sold by farmers exceed 5 percent of its pur-

chases as a direct result of order buying for another dealer for a service fee may report under paragraph (b) of this section in lieu of § 725.100 (except for requirements which relate to nonauction purchases from producers and requirements of paragraph (d) of § 725.100), provided prior approval is obtained from the Director, Program Operations Division.

(b) For the 1973-74 and subsequent marketing years, each dealer or buyer shall also make a report not later than March 1 of each year to the Director, Program Operations Division, showing by States where acquired, source and pounds of all tobacco purchased in the form normally marketed by farmers received by him as a result of auction or nonauction sale, including tobacco received which was not billed to him. The report shall show:

(1) For purchases at auction for each warehouse (i) USDA registration number (warehouse code), (ii) name and address of warehouse, (iii) gross pounds originally billed to the buyer, (iv) gross pounds billed to the buyer for which payment was made, (v) gross pounds from the company correction account deducted for short baskets and short weights and returned baskets, and (vi) gross pounds from the company correction account added for long baskets and long weights.

(2) For purchases at nonauction (i) name and address of seller (dealer or farmer), (ii) seller's number (dealer's registration number or farm number, including State and county code), and (iii) pounds purchased.

§ 725.103 Recordkeeping and reporting requirements for processed producer carryover tobacco.

(a) *General.* Since carryover producer tobacco, which is processed and stored, may be in excess of 110 percent of a farm's marketing quota for the current year, the determination of the date of marketing and the terms and conditions under which the tobacco is processed and stored is important. Any contract or agreement between the farm operator and the warehouseman (or marketing agent) or between the warehouseman (or marketing agent) and the processor or storage firm may be submitted to the State executive director for an opinion as to whether the agreement when executed may be considered as constituting a marketing of tobacco. Even though a favorable opinion may have been given on an agreement or contract, any act or verbal agreement which alters the terms or conditions of the agreement or contract submitted for opinion may be considered as a marketing of tobacco.

(b) *Applicability.* The provisions of this section provide the recordkeeping and reporting requirements for firms which act as marketing agent, processor, or store processed producer carryover tobacco.

(c) *Pounds to be charged to farm quota.* The pounds (green weight) delivered for processing shall be charged to the farm's marketing quota when marketed.

(d) *Marketing agent records and reports.* Each marketing agent shall keep such records that will enable him to fulfill the requirements of this section. In addition, the marketing agent shall keep all records relating to the receiving, processing, storage and sale of producer tobacco delivered to him for processing.

(1) *Basket ticket and warehouse floor sheet or other delivery receipt.* The marketing agent shall prepare a basket ticket for each basket of tobacco received from a farm. In addition, the marketing agent shall prepare a warehouse floor sheet or other delivery receipt showing as a minimum the following information:

- (i) Floor sheet or delivery receipt number;
- (ii) Name and address of marketing agent;
- (iii) Date tobacco is received;
- (iv) Number of pounds in each basket and total pounds green weight received;
- (v) State and county code and farm number on which the tobacco was produced; and
- (vi) Farm operator's name and address.

The marketing agent shall not receive any tobacco from a farm unless a current year marketing card or a document, which shows the State and county code and farm number, is furnished the weighman, certified by the executive director of the county office serving the farm.

(2) *Furnishing floor sheet or delivery receipt to the State office.* The marketing agent shall by the end of the calendar week in which the tobacco was received furnish to the State office of the State in which the marketing agent's business is located a copy of each floor sheet or delivery receipt for tobacco received during that calendar week. The marketing agent shall attach to the floor sheets or delivery receipts a transmittal memorandum showing:

- (i) Transmittal number (numbered, beginning with number one, in sequence until all floor sheets or delivery receipts are transmitted for a marketing year);
- (ii) Date of transmittal;
- (iii) Number of floor sheets or delivery receipts submitted in transmittal; and
- (iv) Total pounds green weight on floor sheets or delivery receipts delivered by such transmittal.

(3) *Furnishing floor sheet or delivery receipt and basket ticket to processor.* The marketing agent shall furnish two copies of each floor sheet or delivery receipt to the processor when the tobacco identified by such floor sheet or delivery receipt is delivered for processing. One or more copies of each basket ticket shall remain with the respective basket of tobacco.

(4) *Storage warehouse receipts.* The marketing agent is responsible for arranging for the storage and subsequent sale of the tobacco and shall not authorize release of the processed tobacco from storage until such tobacco is sold.

(5) *Sales report.* The marketing agent shall by the end of the calendar week in

which processed producer tobacco is sold furnish a sales report to the State office of the State in which his business is located showing:

- (i) Purchaser's name, address, and dealer number;
- (ii) Date of purchase;
- (iii) Date and delivery order number authorizing the storage firm to deliver the tobacco to the purchaser;
- (iv) Sale report number (number beginning with number one for each crop year in sequence until all the tobacco for which the marketing agent is responsible is sold);
- (v) For each hogshead the hogshead number, grade and original net (processed) weight;
- (vi) Total original net processed weight of sale; and
- (vii) Percentage (rounded to thousandths of a percent) pounds (original processed net weight) sold is of total net (original processed) weight of pooled tobacco processed.

(6) *Summary sheet.* The marketing agent shall, by the end of the week in which processed producer tobacco is sold, furnish to the State office of the State in which his business is located, a summary sheet for each farm, having tobacco in the pool showing:

- (i) Date of sale;
- (ii) Purchaser's name, address, and dealer number;
- (iii) Processed pounds sold and percentage sale is of total pounds processed rounded to thousandths of a percent;
- (iv) Sales report number on which included; and
- (v) Total pounds (green weight) sold for subject farm as of that summary computed by multiplying the farm's green weight pounds delivered for processing by a factor determined by adding (a) the percent which the pounds (original weight) of stems sold in all sales is to the total pounds net weight processed, and (b) the percent which the pounds (original weight) of strips and scrap sold in all sales is to the net weight of the strips and scrap processed; and by subtracting from the sum so determined, the lesser of the percent determined in paragraph (d) (6) (v) (a) of this section, or the percent determined in paragraph (d) (6) (v) (b) of this section, multiplied by the percent which the original weight of the strips and scrap processed is to the total pounds net weight processed. If all processed tobacco (strips, stems and scrap) is not sold to the same buyer on the same date, the marketing agent shall prepare separate summary sheets for each.

(7) *Retention of records.* The marketing agent shall keep all records including those specified in this paragraph for three years following completion of processed tobacco sales for a crop year pool.

(e) *Processor records and reports.* Each processor of producer-owned tobacco, in addition to the records and reports required by § 725.105, shall keep such records that will enable him to satisfy the requirements of this section.

In addition, the processor shall keep all records relating to the receiving, processing, storage and sale of producer carryover tobacco delivered to him for processing.

(1) *Furnishing copy of floor sheet or delivery receipt to State office.* The processor shall furnish a copy of each floor sheet or delivery receipt to the State office of the State in which his business is located by the end of each calendar week in which tobacco represented by such floor sheets or delivery receipts was delivered for processing. The processor shall attach a transmittal memorandum to the floor sheets showing:

- (i) Transmittal number (numbered beginning with number one, in sequence until all floor sheets or delivery receipts are transmitted for a marketing year);
- (ii) Date of transmittal;
- (iii) Number of floor sheets or delivery receipts submitted in transmittal; and
- (iv) Total pounds green weight on floor sheets or delivery receipts delivered by such transmittal.

(2) *Production record.* The processor shall prepare a production record and furnish a copy to the marketing agent showing the:

- (i) Hogshead number for strips, stems and scrap (the grade, gross, tare, and net weight shall be shown by the processor for each); and
- (ii) Total pounds net processed weight for tobacco received for processing from such marketing agent.

(3) *Summary of tobacco processed.* The processor shall, by the end of the month in which producer tobacco is processed, furnish the marketing agent and State office of the State in which his business is located a summary showing the pounds green weight:

- (i) Delivered for processing; and
- (ii) Processed.

(4) *Retention of records.* The processor shall keep all records relating to processing producer tobacco, including those specified in this paragraph, for three years following the year in which such tobacco is processed.

(f) *Storage firm records and reports.* Any firm storing processed producer owned tobacco, in addition to the records and reports required by § 725.105, shall:

- (1) Issue to the marketing agent a blanket warehouse receipt with a detailed listing showing for each hogshead of processed producer tobacco stored the hogshead number, grade, gross, tare and net weight; and

- (2) Keep records relating to the storage transaction for three years following the year in which the last hogshead for a respective crop year is released by the marketing agent from storage.

(g) *Dealer buyer report.* Any dealer who purchases producer processed tobacco shall, by the end of the calendar week in which such tobacco was purchased, furnish the State office of the State in which his business is located by name of marketing agent for each hogshead purchased the: (1) grade; (2) crop year, and (3) original net processed weight of each.

(h) *Processed pounds reflected on marketing card.* The county committee shall deduct the pounds green weight delivered for processing from 110 percent of the following year's marketing quota for the farm and reflect the balance on any marketing card issued for the farm.

§ 725.104 Recordkeeping and reporting requirements for unprocessed producer carryover tobacco.

(a) *General.* Since carryover producer tobacco may be in excess of 110 percent of a farm's marketing quota for the current year, the determination of the date of marketing and the terms and conditions under which the tobacco is stored is important. Any contract or agreement between the storage firm and the producer may be submitted to the State executive director for an opinion as to whether the agreement when executed may be considered as constituting a marketing of tobacco. Even though a favorable opinion may have been given on an agreement or contract, an act or verbal agreement which alters the terms or conditions of the agreement or contract submitted for opinion may be considered as a marketing of tobacco.

(b) *Applicability.* The provisions of this section provide the recordkeeping and reporting requirements for firms which act as marketing agent or store unprocessed producer carryover tobacco.

(c) *Pounds to be charged to farm quota.* The pounds green weight delivered for marketing or storage shall be charged to the farm marketing quota when marketed.

(d) *Storage firm records and reports.* Any storage firm storing unprocessed producer owned tobacco, in addition to the records and reports required by § 725.105, shall keep such records that will enable him to satisfy the requirements of this section. In addition, the storage firm shall keep all records related to receiving and storage of producer tobacco.

(1) *Basket ticket and delivery receipt.* The storage firm shall prepare a basket ticket for each basket of tobacco received from a farm. In addition, the storage firm shall prepare a delivery receipt showing as a minimum the following information:

- (i) Delivery receipt number;
- (ii) Name and address of storage firm;
- (iii) Date tobacco is received;
- (iv) Number of pounds in each basket and total pounds received from each farm;
- (v) State and county code and farm number on which the tobacco was produced; and
- (vi) Farm operator's name and address.

The storage firm shall not receive any tobacco from a farm unless a current year marketing card or a document which shows the State and county code and farm number, certified by the executive director of the county office serving the farm, is furnished when the tobacco is delivered.

(2) *Furnishing delivery receipt to the State office.* The storage firm shall, by the end of the calendar week in which tobacco was received, furnish to the State office of the State in which the business is located a copy of each delivery receipt for tobacco received during that calendar week. The storage firm shall attach to the delivery receipts a transmittal memorandum showing:

- (i) Transmittal number (numbered, beginning with number one, in sequence until all delivery receipts are transmitted for a marketing year);
- (ii) Date of transmittal;
- (iii) Number of delivery receipts submitted in transmittal; and
- (iv) Total pounds on delivery receipts submitted by the transmittal.

(3) *Identification of tobacco while stored.* Each basket of tobacco, until removal from storage, shall be identified by a basket ticket attached to the respective basket of tobacco showing the:

- (i) Farm operator's name and address;
- (ii) State and county code and farm number for the farm; and
- (iii) Pounds of tobacco in each basket.

(4) *Storage firm reports.* The storage firm shall furnish to the State office of the State in which the business is located a report by storage location and crop year showing (i) by farms the pounds of unprocessed tobacco and (ii) the total pounds of unprocessed producer tobacco at that location. Should any tobacco be moved from one storage location to another, an amended report shall be furnished by the end of the week in which such tobacco was moved. When tobacco is removed from storage, in addition to any other requirements of this subpart, the storage firm, by the end of the week in which such tobacco was removed from storage, shall furnish the State office a report showing by farm from which received:

- (a) The pounds removed from storage;
- (b) The name and address of the person receiving such tobacco; and
- (c) Date on which removed.

(5) *Retention of records.* All records relating to the storage of producer tobacco including those required by this section shall be retained by the storage firm for 3 years following the removal of such tobacco for a respective crop year from storage.

§ 725.105 Records and reports of truckers, firms redrying, prizing, or stemming tobacco, and storage firms.

(a) Each trucker shall keep such records as will enable him to furnish the State ASCS office a report with respect to each lot of tobacco received by him showing:

- (1) The name and address of the producer.
- (2) The date of receipt of the tobacco.
- (3) The number of pounds received.
- (4) The name and address of the person to whom it was delivered and the date delivered.

(b) Each firm engaged in the business of redrying, prizing, or stemming tobacco shall keep records with respect to each

lot of tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouseman, marketing agent, or other person for whom the tobacco was received.

(2) The date of receipt of tobacco.

(3) The number of pounds (green weight) received.

(4) The purpose for which tobacco was received (redrying, stemming or prizing).

(5) The amount of any advance or loan made by him on the tobacco.

(6) The disposition of the tobacco including the net weight of the tobacco (following redrying, prizing or stemming), and number of hogheads by classification (strips, stems, scrap, leaf).

(7) Person to whom delivered, pounds involved, and date delivered.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by him at auction or for which he had previously reported on Form MQ-79. Where such firm qualifies for the exemption in paragraph (a) of § 725.102, he is required to report only such tobacco received that does not belong to him.

(c) Each firm engaged in storing unprocessed tobacco shall keep records with respect to each lot of unprocessed tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouseman, marketing agent or other person for whom the tobacco was received;

(2) The date of receipt of the tobacco;

(3) The number of pounds received;

(4) The amount of any advance or loan made by him on the tobacco;

(5) The disposition of the tobacco;

(6) The person to whom delivered, the pounds involved and date delivered.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by him at auction or for which he had previously reported on Form MQ-79. Where such firm qualifies for the exemption in paragraph (a) of section 725.102, he is required to report only such tobacco received for storage that does not belong to him.

§ 725.106 Separate records and reports from persons engaged in more than one business.

Any person who is required to keep any record or make any report as a warehouseman, processor, dealer, buyer, trucker, or as a person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business.

as if he were engaged in no other business.

§ 725.107 Failure to keep records and make reports or making false report or record.

(a) *Warehousemen and dealers*—(1) *Failure to keep records or make reports.* Under the provisions of section 373(a) of the act, any warehouseman, processor, buyer, dealer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers who fails to make any report or keep any record as required, or who makes any false report or record, is guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than \$500 for each offense. In addition, any tobacco warehouseman, dealer, or buyer who fails, upon being requested to do so, to remedy a violation by submitting complete reports and keeping accurate records shall be subject to an additional fine, not to exceed \$5,000.

(2) *Failure to obtain producer's marketing card or dealer identification card.* The failure of (i) any dealer or warehouseman to obtain a producer's marketing card, MQ-76, to identify a sale of producer tobacco or (ii) any dealer or warehouseman who fails to obtain a dealer identification card, MQ-79-2, to cover a resale of tobacco, shall constitute a failure to make a report.

(b) *False representations—warehousemen, dealers, and producers.* The monetary penalties prescribed in §§ 725.94 and 725.95, and the penalties designated in paragraph (a) (1) of this section are in addition to penalties prescribed by other criminal statutes including United States Code, title 18, section 1001, which provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly committing such acts as making a false acreage report, altering a marketing card, falsely identifying tobacco or buying and selling unused "110 percent of quota poundage" on marketing cards.

§ 725.108 Registration of warehousemen and dealers.

Any dealer or warehouseman dealing in flue-cured tobacco shall be registered with the U.S. Department of Agriculture. Such registration will be handled by the North Carolina State ASCS Office, Raleigh, N.C. Any person desiring to register as a dealer or warehouseman shall complete an "Application for Dealer Identification Card" and submit it to the State office. Warehousemen will be assigned a three-digit identification number and dealers will be assigned a four-digit identification number. Persons requesting it will be issued a dealer identification card, Form MQ-79-2.

§ 725.109 Duties of Kansas City ASCS Data Processing Center.

Numerous recordkeeping and reporting provisions required by these regulations are the responsibility of the Kansas City ASCS Data Processing Center (also

referred to as KCDPC). The duties of the Center are set forth in writing in frequent issuances of internal procedures.

§ 725.110 Examination of records and reports.

For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining the information required to be furnished, in any report, but not so furnished, any warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State executive director and by employees of the Office of the Inspector General, and of the Program Operations Division and Tobacco and Peanuts Division of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, upon written request by the State executive director, all such books, papers, records, basket tickets, tobacco sale bills, buyer adjustment invoices, accounts, canceled checks, check register, check stubs, correspondence, contracts, documents, warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ-72-1, Report of Tobacco Auction Sale, journal of producer-marketing cards retained at warehouse and memoranda as the State executive director or the Director has reason to believe are relevant and are within the control of such person.

§ 725.111 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained by him for 3 years after the end of the marketing year. Records shall be kept for such longer period of time as may be requested in writing by the State executive director, or the Director.

§ 725.112 Information confidential.

All data reported to or acquired by the Secretary pursuant to the provisions of this subpart shall be kept confidential by all officers and employees of the U.S. Department of Agriculture, and by all members of county and community committees, and all county office employees and only such data so reported or acquired, as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under title III of the act.

§ 725.113 Determination of discount varieties.

(a) *Definition.* "Discount Variety" means any of the flue-cured tobacco seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XYZ), hav-

ing the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244: *Provided*, That where there is growing in a field off-type plants of not more than 2 percent, such off-type plants shall not be considered in certifying the flue-cured tobacco variety being produced. Flue-cured tobacco which is not certified to be discount variety shall be considered as "acceptable variety".

(b) *Producer's report.* (1) For each farm on which flue-cured tobacco is produced in the current year, the farm operator or any producer on the farm shall file with the county office a report on or not discount variety tobacco was bacco Varieties Planted, showing whether arbitrage profit, or where it appears that MQ-32, Certification of Flue-Cured Tobacco planted on the farm.

(2) If the farm operator or any producer on a farm certified on MQ-32 that there was not planted on the farm any discount variety of flue-cured tobacco, all of the flue-cured tobacco produced on such farm shall be considered by the county committee to be acceptable variety tobacco. If the farm operator or any producer thereon has executed and filed a report with the county office on MQ-32, which shows there was not planted on such farm(s) in the current year, any of the discount varieties of flue-cured tobacco, and the operator or a producer on the farm wishes to change the MQ-32 to show there was planted on such farm(s) a discount variety he may, at any time prior to the issuance of a marketing card for the farm, be permitted to file a new MQ-32 which shall supersede and replace the first MQ-32.

(3) If the farm operator or any producer on a farm certifies on MQ-32 that there was planted on the farm any discount variety of flue-cured tobacco, all of the flue-cured tobacco produced on such farm shall be considered by the county committee to be discount variety tobacco.

(c) *Failure to file report.* If the operator of a farm on which flue-cured tobacco is being produced in the current year fails or refuses, within 7 days after a request of the county committee on MQ-34-1, Notice of Action Required Regarding Determination of Seed Varieties of Flue-Cured Tobacco, to file a report on MQ-32, showing whether or not there was planted any of the discount varieties of flue-cured tobacco on such farm, all flue-cured tobacco produced on such farm shall be considered by the county committee to be discount variety tobacco, unless the county committee finds that failure to comply with the request was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* The farm operator having discount variety tobacco shall be given written notice by certified mail on MQ-34-2, Notice of Determination of Discount Variety of Flue-cured Tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or

sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who received a Form MQ-34-2 notifying him that the farm has discount variety tobacco when in fact an acceptable variety is being produced may recertify on Form MQ-32.

(f) *Issuance of marketing cards—(1) Notation on card.* If a farm is considered to have discount variety tobacco available for marketing and the farm is eligible for price support, the county executive director shall issue MQ-76, bearing the notation "Discount Variety—Limited Price Support". If the farm is considered to have discount variety tobacco but it is not eligible for price support, the county executive director shall issue MQ-76, bearing the notation "Discount Variety—No Price Support".

(2) *Exchange of cards.* (i) Where an MQ-76, bearing the notation "Discount Variety—Limited Price Support" is issued for a farm, the card may be exchanged at the county office for an MQ-76 without the notation, or (ii) where an MQ-76, bearing the notation "Discount Variety—No Price Support" is issued for a farm the card may be exchanged at the county office for an MQ-76 with the notation "No Price Support": *Provided,* That the farm operator establishes to the satisfaction of the county committee that there has been no commingling or substitution of discount variety tobacco produced on the farm or on any other farm operated by him, and that all discount variety tobacco has been marketed or satisfactorily disposed of, or accounted for.

(3) *Cards for publicly owned experiment stations.* MQ-76 issued to identify marketings of tobacco grown for experimental purposes by or for publicly owned experiment stations shall bear the notation "Discount Variety—Limited Price Support" if such tobacco is discount variety tobacco.

(g) *Identification of flue-cured leaf account tobacco as acceptable variety and reports on MQ-79-1, Flue-Cured.* Whenever the Director determines there is a significant amount of discount variety tobacco available for marketing in any marketing year he may cause to be initiated the provisions of this paragraph. In addition, the Director may terminate any action initiated hereunder when he determines no discount variety of flue-cured tobacco remains available for sale during the remainder of the current marketing season. Notification to warehousemen of action required under this paragraph shall be by the State executive director.

(1) *Warehousemen.* (i) Each warehouseman who offers for auction sale any leaf account flue-cured tobacco on a warehouse floor other than his own, and who requests the other warehouseman to identify such tobacco as being "acceptable variety" shall execute MQ-79-1 (Flue-Cured), Dealer's Certification—Resale Tobacco.

(ii) Each warehouseman who is participating in the Commodity Credit Cor-

poration price support program, and who identifies resale tobacco with a "certified" basket ticket indicating that such tobacco, by virtue of an executed MQ-79-1 (Flue-Cured) is of an acceptable variety shall at the time the tobacco is weighed in have such tobacco covered by an executed MQ-79-1.

(iii) Each executed MQ-79-1 (Flue-Cured) shall show the following information with respect to each lot of resale tobacco:

(a) Crop year.
(b) Name and address of warehouse where the tobacco is being offered for sale.

(c) Tobacco sale bill number and date.
(d) Date, signature of dealer and current address, and dealer identification number.

(2) *Dealer.* (i) Each dealer or any other person who offers for auction sale any resale flue-cured tobacco on a warehouse floor which is participating in the Commodity Credit Corporation price support program and on which floor eligible resale flue-cured tobacco is identified with a "certified" basket ticket, and who requests the warehouseman to identify his tobacco as being an "acceptable variety", shall execute MQ-79-1 (Flue-Cured), Dealer's certification—Resale Tobacco.

(ii) Each executed MQ-79-1 (Flue-Cured) shall show the following information with respect to resale tobacco:

(a) Crop year.
(b) Name and address of warehouse where the tobacco is being offered for sale.

(c) Date, signature of dealer and current address, and dealer identification number.

(d) Tobacco sale bill number and date.

(iii) Each dealer or any person who acquires acceptable variety tobacco in a manner which would make it ineligible for certification on MQ-79-1, or who has on hand both discount variety tobacco and acceptable variety tobacco, and desires to dispose of acceptable variety tobacco prior to disposing of the discount variety tobacco, may apply in writing to the State executive director for a special authorization to have the acceptable variety tobacco certified when offered for auction sale.

(h) *Estimate of production.* For any farm on which discount variety tobacco is being grown, a Form MQ-92, Estimate of Production, shall be obtained.

§ 725.114 Determination of use of DDT and TDE.

(a) *Definition.* DDT means a pesticide bearing the chemical, or a mixture of 1,1,1-trichloro-2,2-bis (p-chlorophenyl) ethane and 1,1,1-trichloro-2-(o-chlorophenyl) - 2 - (p-chlorophenyl) ethane. TDE means a pesticide bearing the chemical or a mixture of 1,1-dichloro-2,2-bis (p-chlorophenyl) ethane. In addition, DDT or TDE shall include any products containing derivatives of such.

(b) *Producer's report.* For each farm on which flue-cured tobacco is produced, the farm operator or any producer on

the farm shall for each year file with the county office a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco in the field or after being harvested.

(c) *Failure to file report.* If the operator of a farm on which flue-cured tobacco is being produced fails or refuses, within 7 days after a request of the county committee to file a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on such tobacco, all flue-cured tobacco of such crop produced on such farm shall be considered by the county committee to have been subjected to such a pesticide unless the county committee finds that failure to file the report was due to circumstances beyond the control of the farm operator.

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ-38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analysis of samples.* Each sample shall be analyzed for residues of DDT, TDE, and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from a farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ-38, or (2) failure to file MQ-38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT-TDE residue to be greater than or equal to 3 parts per million. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(i) *Producer's right to appeal.* Any producer on a farm who believes that the DDT-TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and

facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination on such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

§ 725.115 Warehouses authorized to retain producer marketing cards between sales.

Notwithstanding any other provision of this part, to facilitate the scheduling of farmers' tobacco to the warehouse, marketing cards with the permission of the producer may be retained at the warehouse between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(a) Warehouses eligible to retain producer marketing cards between sales. A warehouse shall be eligible to retain producer marketing cards between sales if the operator thereof shall:

(1) Execute and file on a form approved by ASCS a written request with the State committee (or county committee if designated by the State Committee.);

(2) Agree to be responsible to ASCS for an amount of money equal to the amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card.

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card.

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(iv) Tobacco marketed at the warehouse in excess of 110 percent of quota as shown on the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

(i) Name of farm operator;
(ii) Serial number of farm;
(iii) Date marketing card obtained from producer; and
(iv) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the condi-

tions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request or, in the absence of a request, return it to the producer within seven (7) days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by ASCS for failure to comply with provisions of this agreement.

(b) Penalties considered to be the responsibility of warehouseman. Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State committee (or county committee if designated by the State committee) for authorization to retain producers' marketing cards at the warehouse, with grower permission, shall be responsible to ASCS for an amount of money equal to the amount that may be assessed against producer as marketing quota penalties, provided the marketing that is the basis of such assessment occurred while the warehouse was authorized to have custody of the marketing card, for:

(1) Overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on the producer's marketing card. Except that no warehouse operator shall be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against the producer in accordance with paragraph (d) of § 725.95.

(2) Tobacco falsely identified for marketing by use of the producer's marketing card.

(3) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(4) Tobacco marketed at the warehouse in excess of 110 percent of quota as shown on the producer's marketing card.

§ 725.116 1973-74 Marketing year disaster transfers by lease.

(a) Authority. Public Law 93-80 authorizes the Secretary to permit the owner and operator of any farm in the counties listed in paragraph (b) of this section which has suffered a loss as set forth in paragraph (c) of this section to lease all or any party of such allotment or quota to any other owner or operator in the same county, or nearby counties in the same State, for use in such counties for the year 1973 on the farm or farms having a current tobacco allotment or quota of the same kind. Such lease or transfer may be made as provided in this section since it has been determined, in accordance with Public Law 83-80, that, as a result of flood, hail, wind, tornado, or other natural disaster, one or more of such counties has suffered a loss of 10 per centum or more in the number of acres of tobacco planted and that a lease of such tobacco allotment or quota will not impair the effective operation of the

tobacco marketing quota or price support program.

(b) Eligible counties. Counties eligible under the provisions of this section are as follows: (1) Georgia: Atkinson, Bacon, Berrien, Clinch, Cook, Lanier, Lowndes, and Ware; (2) South Carolina: Clarendon, Lee, Sumter, and Williamsburg.

(c) Farm eligibility conditions. The county committee shall approve transferees by lease that meet the conditions of § 725.72 of this part and the conditions specified in this section: *Provided*, That where the provisions of § 725.72 of this part conflict with the provisions of this section, the provisions of this section shall apply. A transfer by lease shall be approved by the county committee from a farm located in one of the counties listed in paragraph (b) of this section to another farm (which meets the eligibility conditions of § 725.72) in the same or nearby county within the same State; *Provided*, That the transferring farm suffered a loss of 30 per centum or more in the number of acres of tobacco planted. (This provision shall include farms which have suffered a loss of 30 per centum or more in the expected production of the number of acres of tobacco planted.) For the purpose of this paragraph, a nearby county is any county within the same State. In the case of a lease and transfer to an owner or operator in another county pursuant to this section, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this section.

Effective date: October 2, 1973.

Signed at Washington, D.C., on: September 27, 1973.

KENNETH E. FRICK,
Administrator Agricultural Stabilization and Conservation Service.

[FR Doc. 73-20979 Filed 10-3-73; 8:45 am]

CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH-318]

PART 863—SUGARCANE; FLORIDA

Fair and Reasonable Wage Rates

The Sugar Act requires Florida sugarcane producers, as one of the conditions with which they must comply to be eligible for government payments under the act, to pay all workers employed in the production, cultivation, and harvesting of sugarcane in full at not less than minimum wage rates determined by the Secretary of Agriculture to be fair and reasonable. Such determination may not be made until after investigation and

opportunity for interested persons to testify on whether the wage rates established under the previous year's determination continue to be fair and reasonable or whether such determination should be amended. A public hearing was held at Belle Glade, Florida on June 19, 1973.

The determination, which becomes effective on October 1, 1973, increases the minimum wage rate by 15 cents per hour for each class of work.

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948 (7 U.S.C. 1131(c)(1)), as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Belle Glade, Fla., on June 19, 1973, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarcane; Florida" remain in full force and effect as to the crops to which they were applicable unless and until they are superseded in subsequent determinations.

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

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

§ 863.28 Requirements.

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

(a) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher (except as provided in subparagraph (5) of this paragraph), but not less than the following, which shall become effective on October 1, 1973, and shall remain in effect until amended, superseded, or terminated:

(1) Work performed on a time basis.

| Class of worker: | Rate per hour |
|--|---------------|
| (1) Tractor drivers and principal operators of mechanical harvesting and loading equipment | \$2.45 |
| (2) All other workers, including those employed to assist in the operation of mechanical harvesting and loading equipment such as harvester cutter blade operators | \$2.15 |

(2) *Workers 14 and 15 years of age and full-time students when employed on a*

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

(3) *Apprentice operators of tractors and mechanical harvesting and loading equipment when employed on a time basis.* The hourly wage rate for a learner or apprentice, who is being trained as a tractor driver or the principal operator of mechanical harvesting or loading equipment, shall be not less than \$2.15. The training period for such workers shall not exceed 6 workweeks.

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

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

(b) *Compensable working time.* For work performed under paragraph (a) of

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

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

§ 863.29 Applicability of wage requirements.

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

welders, and other maintenance workers and repairmen.

§ 863.30 Payment of wages.

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

§ 863.31 Evidence of compliance.

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

§ 863.32 Subterfuge.

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

§ 863.33 Claim for unpaid wages.

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

§ 863.34 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment, representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has

made a full disclosure to the county committee or its representative of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer; or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid-wages.

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

§ 863.35 Checking compliance.

The procedures to be followed by county ASCS offices in checking compliance with the requirements of this part are set forth under the heading "Wage

Rate Determinations" in Handbook 3-SU, issued by the Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service. Handbook 3-SU may be inspected at local county ASCS offices, and copies may be obtained from the Florida State ASCS Office, 401 Southeast First Avenue, Gainesville, FL 32601.

STATEMENT OF BASES AND CONSIDERATIONS

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

Requirements of the act and standards employed. Section 301(c) (1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

Wage determination. This determination differs from the prior determination in that minimum hourly wage rates are increased by 15 cents per hour for each class of worker. The new minimum hourly wage rates are \$2.45 per hour for tractor drivers and principal operators of mechanical harvesting and loading equipment, and \$2.15 per hour for all other workers. Other provisions of the prior determination continue unchanged.

A public hearing was held in Belle Glade, Fla., on June 19, 1973, at which interested persons were afforded the opportunity to testify on whether the wage rates established for Florida sugarcane fieldworkers in the wage determination which became effective on October 30, 1972 continue to be fair and reasonable under the circumstances, or whether such determination should be amended.

Witnesses appearing at the public hearing on behalf of sugarcane fieldworkers recommended a minimum wage rate of \$3.18 per hour, coupled with a minimum daily guaranteed wage of \$25.44; that offshore workers receive a physical examination when leaving the U.S. as well as when entering at the beginning of the harvest season; that a panel group of workers and government officials be established to investigate labor problems; that the Florida wage hearing be held about two weeks after the sugar season is over and a handbill put in every paycheck to inform workers

of the hearing; and that the Florida wage hearing be held when offshore workers are cutting cane. Other worker representatives recommended wage rates for tractor drivers and equipment operators ranging from \$3.50 to \$4.50 per hour; \$3.00 per hour for planting cane by hand; and time and one-half for overtime with double time for holidays.

In support of their recommendations on wage rates, worker representatives testified that the average piecework earnings for agricultural work in Florida are \$3.18 per hour; that a minimum daily wage would require producers to use cane cutters at least eight hours per day; and that using cane cutters less than eight hours per day ruins their income opportunities and prevents them from working on other crops on any given day. They further testified that tractor drivers are required to help repair and service their machines. One continuous loader operator testified that he would be fired if he did not work 12 hours per day, seven days per week during cane harvest, and that he received no overtime pay.

With regard to other recommendations, worker representatives testified that offshore workers were out of the country while hearings were being held on their wage rates, and that workers were not adequately informed of the hearings.

A representative of sugarcane producers recommended that no additional worker classifications be added; that the cents per hour differentials for the job classifications contained in the current determination be maintained; that the wage rate for tractor drivers and principal operators of mechanical equipment be increased to \$2.40 per hour and for all other workers including those employed to assist in the operation of mechanical harvesting and loading equipment such as harvester cutter blade operators be increased to \$2.10 per hour; and that no other changes be made in the current determination.

In support of his recommendations, the witness testified that mechanical harvesting is not yet sufficiently widespread in Florida to determine the nature of any job classifications that will be needed for a successful commercial mechanical harvester; and that average earnings per cutter per hour for the 1972-73 crop represent an increase of 72.3 cents per hour or 39.8 percent since 1967-68, whereas productivity per cutter decreased 0.03 ton per hour or about 2 percent in the same period.

One large corporate Florida sugarcane producer-processor filed a supplemental brief in which they stated that each Florida producer uses a pay period of two weeks, and that an audit of each producer's records will readily reflect that for the 1972-73 crop each cane cutter employed on a piecework basis either earned at least \$2.00 per hour, or was paid the difference between actual earnings and the \$2.00 minimum for the hours worked during each pay period, and that piecework earnings for the entire season for all workers averaged in excess of \$2.20

per hour. They further stated that hours of work per day averaged 6.26 for cane cutters employed at their company during the 1972-73 crop; and that as an employer they would prefer a workday of eight hours from each cutter as it would reduce their manpower requirements by 15 to 20 percent, resulting in greater daily earnings for each employee, and simultaneously reducing the indirect costs of recruiting, transporting, and housing the greater number of employees.

Consideration has been given to the testimony and recommendations presented at the public hearing; to the returns, costs, and profits of producing sugarcane obtained by field survey for prior crops and recast in terms of price and production conditions likely to prevail for the 1973 crop; and to other standards generally considered in wage determinations, including the cost of living and the producers' ability to pay wages.

Worker representatives generally recommended that wage rates for the various categories of workers be increased to a minimum of \$3.18 per hour (hourly increases ranging from \$0.88 to \$1.18). Producer representatives recommended an increase of 10 cents per hour for all workers. This determination increases the minimum wage rates for all workers by 15 cents per hour. The wage increases established in this determination represent a 6.5 percent increase for tractor drivers and principal operators of mechanical harvesting and loading equipment and a 7.5 percent increase for all other workers.

Based upon the *Consumer Price Index* as published by the Bureau of Labor Statistics of the U.S. Department of Labor, the cost of living rose 3.3 percent in 1972 as compared to 1971. Concurrently, the increase in minimum wage rates for Florida sugarcane workers averaged about 9 percent. Using data presently available, the Department anticipates that the cost of living will increase by about 6 percent in 1973. The increase in minimum wage rates established in this determination is expected to offset the continuing rise in living costs. The earnings of all workers on sugarcane farms in Florida are expected to average about \$2.53 per hour in 1973, or 81 cents more than the projected average general farm wage rate in the state. Moreover, information available to the Department indicates that unskilled workers employed in Florida on a piecework basis as cane cutters earned an average in excess of \$2.45 per hour during the 1972-73 harvest, as compared to the minimum hourly rate of \$2.00.

The recommendation that the wage determination be expanded to insure cane cutters a daily guaranteed minimum wage for 8 hours has not been adopted. The Department believes that the present system of minimum hourly rates for work performed is equitable for both producer and worker. It is undesirable either to force producers to pay workers for work they have not completed, or to require cane cutters to begin a new

row of cane on a given day if they do not wish to do so.

The recommendation that offshore workers receive a physical examination when leaving the U.S. as well as when entering at the beginning of the cane-cutting season has not been adopted. The Department believes that the welfare of offshore workers is adequately protected by agencies of their own government as well as federal, state, and local government agencies within the U.S., whose focus is solely on matters of worker health and safety.

The recommendations that a panel group consisting of workers and government officials be established to investigate labor problems and that the wage hearing be held during or immediately after the sugarcane harvest have not been adopted. Under the terms of current legislation, wage determinations provide for a fair and equitable division of proceeds from the production of sugar crops among producers and workers. A recent analysis of wage claims filed with local ASC committees in the domestic sugar-producing areas indicates that the claim of the worker is generally upheld. After eliminating those cases withdrawn by the worker prior to a decision by the committee and those cases disposed of by compromise between the worker and producer, the claim of the worker was upheld in about 75 percent of the cases. It is believed that this is indicative of the effectiveness of the state and county farmer committee system in handling workers' wage claims. While the Department encourages dialogue between producers and workers in order to resolve disputes or problems, it does not believe that additional administrative organs are needed to cope with matters which are within the purview of the act. With respect to the dates of hearings, it is believed that reasonable opportunity is given to sugarcane workers or their representatives to testify at the Department's public hearings on wage rates.

Reference in § 863.28(a)(2) to the certificate from the Secretary of Labor needed for the employment of full-time students under the provisions of section 14 of the Fair Labor Standards Act has been removed. That section does not apply to students employed pursuant to this determination since the rates established herein, even if reduced to the 85 percent level, would still exceed the minimum rate provided for agricultural workers in section 6 of the Fair Labor Standards Act.

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

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

provisions of the Sugar Act of 1948, as amended.

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

Effective date. This determination shall become effective on October 1, 1973.

Signed at Washington, D.C., on September 28, 1973.

KENNETH E. FRICK,
Administrator, Agricultural
Stabilization and Conservation
Service.

[FR Doc. 73-21056 Filed 10-2-73; 8:45 am]

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Reporting Requirements, and Approval To Establish, Maintain, and Use an Operating Reserve

Notice of a proposal to revise handler reporting requirements, and to include approval for the Almond Control Board to establish, maintain, and use an operating reserve, was published in the September 11, 1973, issue of the FEDERAL REGISTER (38 FR 24911). The Almond Control Board unanimously recommended the proposal.

The subparts affected by the proposal were Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.482; 38 FR 9987) and Subpart—Budget of Expenses and Rate of Assessment (§ 981.323, 38 FR 25668), respectively. They are pursuant to the amended marketing agreement and Order No. 981 (7 CFR Part 981), regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. No comments were received.

For some time, the California almond industry has been concerned with the difference between estimates of California almond production and actual production. The Control Board needs an accurate crop estimate to make annual marketing policy recommendations to the Secretary, and handlers need an accurate crop estimate to contract sales with their customers.

To obtain more accurate crop estimates, § 981.471 will provide that handlers indicate the county of production on the receipt which they issue to a producer for each lot of almonds received. The receipts are issued pursuant to § 981.71 of the order. Currently, handlers are required to submit a copy of every receipt to the Control Board to enable it to establish a handler's reserve obligation and to obtain statistical informa-

tion necessary for the conduct of its operations.

In addition, it was proposed that handlers submit a summary report to the Control Board three times a year of the quantity of almonds received for their own account, by variety and county of production. The requirement will be set forth in § 981.472.

The provisions of proposed paragraph (b) of § 981.472 provided for the summary report to be in terms of almonds received. Almonds are occasionally received by a handler but not for his account. They may be received for another handler's account, or received on a conditional basis without any handler designation. Thus, regulations under the order are applied to almonds received by a handler for his own account. Therefore, the proposed § 981.472(b) has been modified so that a handler will only report almonds received for his own account.

It was also proposed that the Control Board be given approval to establish, maintain, and use an operating reserve fund pursuant to § 981.81(c). Pursuant to paragraph (c), the operating reserve fund is for marketing promotion including paid advertising, and for the maintenance and functioning and other authorized activities of the Board. For these respective activities, the amount applicable to these purposes shall not exceed approximately one crop year's budgeted expenses for such activities. The approval to establish, maintain, and use the operating reserve will be set forth in § 981.300 in Subpart—Budget of Expenses and Rate of Assessment.

Funds for the operating reserve are obtained from money collected as assessments during any crop year and not expended at the end of the crop year's operations, pursuant to § 981.81(b). Unexpended assessment funds in excess of expenses incurred during the crop year ended June 30, 1973, will be retained in the operating reserve fund.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, the amendments to Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.482; 38 FR 9987) and Subpart—Budget of Expenses and Rate of Assessment (§ 981.323, 38 FR 25668) as set forth below are approved.

Therefore, said subparts are amended as follows:

1. In § 981.471, paragraphs (a), (b), and (c) are redesignated as paragraphs (b), (c), and (d), and a new paragraph (a) is added to read as follows:

§ 981.471 Records of receipts.

(a) Each handler, on receiving almonds for his own account, shall issue to the person from whom so received a receipt for these almonds. In addition to the information required to be shown on the receipt pursuant to § 981.71, the receipt shall also show the county in which the almonds were produced.

2. The provisions in § 981.472 are re-designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 981.472 Report of almonds received.

(b) Each handler shall submit a summary report of almonds received for his own account during the following periods:

July 1 to December 31;
January 1 to March 31;
April 1 to June 30.

Each summary report shall be submitted to the Control Board within 30 days after the end of the reporting period and shall show the quantity of almonds received for the handler's own account during the reporting period by variety and county of production.

3. A new § 981.300 is added to read as follows:

§ 981.300 Operating reserve.

(a) Approval is hereby given for the Board to establish and maintain an operating reserve fund for marketing promotion including paid advertising, and for the maintenance and functioning and other authorized activities of the Board. For the foregoing respective activities, the amount applicable to these purposes shall not exceed approximately one crop year's budgeted expenses for such activities. Approval is hereby given for the Board to use funds accumulated in the operating reserve fund for these activities.

(b) Unexpended assessment funds in excess of expenses incurred during the crop year ended June 30, 1973, shall be retained in an operating reserve fund in accordance with applicable provisions of §§ 981.80 and 981.81.

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

Dated: September 28, 1973, to become effective November 15, 1973.

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

[FR Doc. 73-21052 Filed 10-3-73; 8:45 am]

[Amdt. 2]

**CHAPTER XI—AGRICULTURAL MARKET-
ING SERVICE (MARKETING AGREEMENTS
AND ORDERS; MISCELLANEOUS
COMMODITIES), DEPARTMENT OF
AGRICULTURE**

**PART 1207—POTATO RESEARCH AND
PROMOTION PLAN**

**Subpart—Rules and Regulations:
Correction**

The heading in the September 20, 1973, issue of the FEDERAL REGISTER (38 FR 26354) is hereby corrected to read "Amendment 2" rather than Amendment 1 as typed.

Dated: September 28, 1973.

CHARLES R. BRADER,
Deputy Director, Fruit and Veg-
etable Division, Agricultural
Marketing Service.

[FR Doc. 73-21051 Filed 10-2-73; 8:45 am]

Title 14—Aeronautics and Space
**CHAPTER I—FEDERAL AVIATION ADMIN-
ISTRATION, DEPARTMENT OF TRANS-
PORTATION**

[Docket No. 73-RM-1-AD; Amdt. 39-1730]

PART 39—AIRWORTHINESS DIRECTIVES

Univair (Koppers) Aeromatic Propellers

There has been failure of the blade tipping on a Univair (Koppers) Model F200-73E propeller blade which resulted in loss of propeller blade tipping. Since this condition is likely to exist or to develop in other propeller blades of the same design and since the same design propeller blades are used in Models F200, F200H, and 220 Univair (Koppers) propellers, an Airworthiness Directive is being issued to require inspection, reworking, or replacement, if necessary, of propeller blade tipping on Models F200, F200H, and 220 Univair (Koppers) propellers.

The manufacturer has issued a Service Bulletin No. 29 dated August 9, 1973, which describes the inspection required and provides for inspection and reworking or replacement by Univair Aircraft Corporation.

The failure of the blade tipping could result in a loss of the tipping and resultant structural damage to the propeller and/or the aircraft. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to be by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive.

Univair Aircraft Corporation (formerly Koppers). Applies to all propeller blades eligible in Models F200, F200H, and 220 propellers.

Compliance: Required after receipt of this Airworthiness Directive and before further flight unless already accomplished. The inspection specified in (a) below must be performed. Propeller blades found to have defective tipping must be repaired or replaced before further flight. Propeller blades found to have the late style one-piece tipping, but which have no apparent defects must be returned to Univair Aircraft Corporation, Route 3, Box 59, Aurora, Colorado 80010, within the next 25 hours of flight for inspection and rework or replacement as found necessary.

(a) Visually inspect the propeller blade tipping for evidence of loosening, loose rivets or deteriorated wood under the tipping. Measure the distance from the blade tipping outboard end to the first relief cut in the stainless steel tipping material inboard from the tip. Blades on which there is no relief cut in the stainless steel tipping material in the first five and one-half (5½) inches inboard from the tip have the late style, one-piece tipping installed.

Service Bulletin No. 29 on this same subject is available from Univair Aircraft Corporation, Route 3, Box 59, Aurora, Colorado 80010.

This amendment becomes effective October 4, 1973.

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

Issued in Aurora, Colorado, on September 24, 1973.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc. 73-21022 Filed 10-2-73; 8:45 am]

[Airspace Docket No. 72-WA-54]

**PART 71—DESIGNATION OF FEDERAL
AIRWAYS, AREA LOW ROUTES, CON-
TROLLED AIRSPACE, AND REPORTING
POINTS**

Designation of Additional Control Area

On June 21, 1973, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (38 FR 16237) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would establish an additional control area to the north of Control 1141. Control 1141 would also be altered by deleting a part of its defined limits.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, December 6, 1973, as hereinafter set forth.

In § 71.163 (38 FR 344):

1. Control 1141 is amended to read as follows: Control 1141.

That airspace within tangent lines from the circumference of a 5-mile radius circle centered at latitude 42°23'23" N., longitude 70°59'10" W., to a 15 mile radius circle centered on the midway point of a direct line between latitude 42°23'23" N., longitude 70°59'10" W., and the Yarmouth, Nova Scotia, Canada, RBN to a 5-mile radius circle centered on the Yarmouth RBN and that airspace from 18,000 feet MSL to flight level 260 inclusive bounded by a line from: Latitude 42°33'35" N., longitude 70°03'45" W.; thence to latitude 42°42'30" N., longitude 69°30'00" W.; thence to latitude 42°39'00" N., longitude 69°30'00" W.; thence to latitude 42°28'00" N., longitude 70°03'45" W.; thence to point of beginning; and that airspace extending upward from 2,000 feet MSL bounded by a line from: Latitude 42°33'35" N., longitude 70°03'45" W.; thence to latitude 42°23'45" N., longitude 70°03'45" W.; latitude 42°25'15" N., longitude 70°30'00" W.; latitude 42°26'15" N., longitude 70°30'00" W.; thence to the point of beginning; excluding the portion under the jurisdiction of Canada, the portion within the confines of Federal airways and the Boston, Mass., transition area, the portion below 2,000 feet MSL west of the

69°30'00" W. meridian of longitude and the portion below 5,500 feet MSL east of the 69°30'00" W. meridian of longitude.

2. The following additional control area is added: Brunswick, Maine.

That airspace extending upward from 2,000 feet MSL W of the 69°30'00" W. meridian of longitude and from 5,500 feet MSL E of the 69°30'00" W. meridian of longitude bounded on the N and E by a line beginning at Lat. 43°15'00" N., Long. 70°30'00" W.; and extending NE to Lat. 43°30'00" N., Long. 70°06'00" W.; thence E to Lat. 43°41'00" N., Long. 69°30'00" W.; to Lat. 43°50'00" N., Long. 68°53'00" W.; to Lat. 44°21'00" N., Long. 67°00'00" W.; thence S to the N boundary of Control 1141; on the S by the N boundary of Control 1141 to Lat. 42°41'00" N., Long. 70°30'00" W.; on the SW and W by a line 3 nautical miles NE of and parallel to the U.S. shoreline to Lat. 42°45'00" N., Long. 70°37'00" W.; thence N to point of beginning.

This amendment is made under the authority of Sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510) and Executive Order 10854 (24 FR 9565) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 24, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.73-21023 Filed 10-2-73;8:45 am]

[Airspace Docket No. 73-SW-50]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the control zone and transition area at Laredo, Tex.

On August 14, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 21937) stating the Federal Aviation Administration proposed to alter the Laredo, Tex., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351), the Laredo, Tex., control zone is amended to read:

LAREDO, TEX.

Within a 5-mile radius of Laredo International Airport (latitude 27°36'56" N., longitude 99°31'12" W.), within 1.5 miles each side of the Laredo ILS localizer northwest course extending from the ILS localizer site (latitude 27°36'12.8" N., longitude 99°30'50.2" W.) to 7 miles northwest; within 1.5

miles each side of the Laredo VORTAC 325° radial extending from the Laredo International Airport to 9.5 miles southeast, excluding that portion outside the United States. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. In § 71.181 (38 FR 435), the Laredo, Tex., transition area is amended to read:

LAREDO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Laredo International Airport (latitude 27°36'56" N., longitude 99°31'12" W.), within 3.5 miles each side of the Laredo ILS localizer northwest course extending from the 5-mile radius area to 11.5 miles northwest of the ILS outer marker; within 1.5 miles each side of the Laredo VORTAC 325° radial extending from the 5-mile radius area to the VORTAC; within a 5-mile radius of the Link Ranch Airport (latitude 27°25'32" N., longitude 99°28'21" W.), and within 3.5 miles each side of the VORTAC 015° radial extending from the 5-mile radius area to 11.5 miles northeast, excluding those portions outside of the United States.

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

Issued in Fort Worth, Tex., on September 21, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-21024 Filed 10-2-73;8:45 am]

[Airspace Docket No. 73-SW-52]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Del Rio, Tex., terminal area.

On August 17, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 22243) stating the Federal Aviation Administration proposed to alter the Del Rio, Tex., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351), the Del Rio, Tex., control zone is amended to read:

DEL RIO, TEX.

Within a 5-mile radius of Laughlin AFB (latitude 29°21'35" N., longitude 100°46'35" W.); within 2 miles each side of the Laughlin VOR 297° radial extending from the 5-mile radius zone to 7 miles northwest of the VOR; within 3 miles each side of the Laughlin TACAN 315° radial extending from the 5-mile radius zone to 14 miles northwest of

the TACAN; within 3 miles each side of the Laughlin VOR 330° radial extending from the 5-mile radius zone to 12 miles northwest of the VOR, and within 3 miles each side of the Laughlin VOR 147° radial extending from the 5-mile radius zone to 12 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. In § 71.181 (38 FR 435), the Del Rio, Tex., transition area is amended to read:

DEL RIO, TEX.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of latitude 29°23'00" N., longitude 100°50'15" W., and within 4.5 miles west and 9.5 miles east of the Laughlin VOR 147° radial extending from the 12-mile radius area to 22 miles southeast of the VOR and within 9.5 miles east of the Laughlin VOR 330° radial extending from the 12-mile radius area to 18 miles northwest of the VOR, excluding the portion outside the United States.

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

Issued in Fort Worth, Tex., on September 21, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-21025 Filed 10-2-73;8:45 am]

[Airspace Docket No. 73-SW-49]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Foraker, Okla., transition area.

On August 14, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 21937) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Foraker, Okla. The latitude describing the location of Coddling Cattle Airport as published in the FEDERAL REGISTER was shown as 30°45'00". This is in error and should be 36°45'00". Action is taken herein to make this correction.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, December 6, 1973, as hereinafter set forth.

In Section 71.181 (38 FR 435), the following transition area is added:

FORAKER, OKLA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Coddling Cattle Airport (latitude 36°45'00" N., longitude 95°53'00" W.).

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

Issued in Fort Worth, Tex., on September 21, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-21026 Filed 10-2-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-924; Amdt. 4]

PART 261—FILING OF AGREEMENTS

Miscellaneous Amendments

Part 261 of the Board's Economic Regulations (14 CFR Part 261) by its terms, is applicable to the filing of all contracts or agreements required to be filed under the provisions of section 412 of the Act. By PR-138 adopted contemporaneously herewith, the Board has amended Part 302 of its Procedural Regulations (14 CFR Part 302) so as to provide particular procedures, in a new Subpart P, for the processing of those section 412 contracts or agreements which, by their terms, are to become effective only upon or after the Board's approval. However, certain of the requirements of the new Subpart P are inconsistent with the provisions of Part 261. The Board has determined, therefore, to amend Part 261 by adding thereto a new § 261.1 which provides that the part shall be applicable to the filing of contracts or agreements processed pursuant to the provisions of Subpart P of Part 302 only to the extent not inconsistent with said Subpart P.¹

Since this amendment is procedural in nature, the Board finds that notice and public procedure hereon are not necessary, and that the amendment may be effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 261 of its Economic Regulations (14 CFR Part 261) effective September 28, 1973, to read as follows:

1. Amend the Table of Contents by adding a new § 261.1, by redesignating existing § 261.1 as § 261.1a, and by deleting and reserving § 261.7 the Table as amended to read as follows:

| | |
|--------|--|
| Sec. | |
| 261.1 | Applicability. |
| 261.1a | Who shall file. |
| 261.2 | Number of copies. |
| • | • |
| • | • |
| • | • |
| 261.7 | [Reserved] |
| 261.8 | Contracts or agreements between affiliated carriers. |

2. Add a new § 261.1, the heading and text of which to read as follows:

§ 261.1 Applicability.

The filing of copies of contracts and agreements which are required to be filed under the provisions of section 412 (a) of the Federal Aviation Act of 1958, as amended, shall be made by every air

¹ In addition, we are taking this occasion to amend various other sections in Part 261 so as to correct certain obsolete materials.

carrier which is a party thereto as provided for in this part; *Provided, however*, That the provisions of this part shall be applicable to contracts and agreements filed for the Board's prior approval pursuant to § 302.1601 of this chapter only to the extent such provisions are not inconsistent with the requirements of Subpart P of Part 302 of this chapter.

3. Redesignate existing § 261.1 as § 261.1a, and amend the text of the section to read as follows:

§ 261.1a Who shall file.

(a) Every air carrier who is a party to a contract or agreement is required to file the requisite number of copies as provided for herein:

(1) *Written contracts and agreements.* In the case of contracts and agreements formally reduced to writing and subscribed by the parties thereto, there shall be a presumption that if the required number of copies are filed by any air carrier which is a party to such contract or agreement, such filing has been made on behalf of itself and all other parties subscribed thereto.

(2) *Oral and informal contracts and agreements.* In the case of oral or memorandum contracts, if the required number of copies of memoranda thereof are filed by any air carrier which is a party to such contract or agreement, any other carrier which is a party shall be deemed to have complied with this requirement if it transmits to the Board within the time specified by § 261.4 a signed statement to the effect that it concurs in such filing.

(b) The filing of copies of contracts or agreements evidenced by resolutions or other actions of an association of air carriers may be effected in the following manner. The Secretary or other authorized officer of the association may be designated as agent for the purpose of making such filing. Each air carrier which is a member of such association shall separately transmit to the Board a written statement, signed by such air carrier, reciting that a designated person or persons holding the office of secretary or other officer of the association, or that any person or persons holding a designated office or offices of the association is constituted the attorney in fact for the filing of copies of any contracts or agreements evidenced by resolution or other action of the association to which such air carrier may become a party. Such authorizations may be revoked at any time by any air carrier by giving formal notice of revocation to the Board.

4. Amend § 261.2(a) to read as follows:

§ 261.2 Number of copies.

(a) There shall be filed with the Board two true and complete copies of all contracts and agreements which are required to be filed under the provisions of section 412(a) of the Federal Aviation Act of 1958, as amended. Oral contracts and agreements required to be filed under the provisions of said section shall be evidenced by true and complete written memoranda and true copies of such

memoranda shall be filed with the Board. The filing of contracts or agreements evidenced by correspondence or by resolutions of associations of air carriers shall be made by filing with the Board two true and complete copies of such correspondence or by resolutions of associations of air carriers shall be made by filing with the Board two true and complete copies of such correspondence or resolutions, as the case may be.

5. Amend § 261.6 to read as follows:

§ 261.6 Modifications or cancellations.

This part shall be applicable to all modifications or cancellations of contracts or agreements required to be filed under the provisions of section 412(a) of the Federal Aviation Act of 1958, as amended.

6. Delete and reserve § 261.7, the section as amended to read as follows:

§ 261.7 [Reserved]

7. Amend § 261.8(b)(1) to read as follows:

§ 261.8 Contracts or agreements between affiliated carriers.

(b) As used in this * * *
(1) Within the meaning of section 5(6) of the Interstate Commerce Act, as amended, or

(Sec. 204(a) and 412 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 770; 49 U.S.C. 1324, 1382.)

Adopted September 28, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-21050 Filed 10-2-73;8:45 am]

[Reg. PR-138; Amdt. 20]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Procedure for Processing Certain Contracts and Agreements Submitted for Prior Approval

Section 412 (a) of the Federal Aviation Act of 1958 reads in part as follows:

Every air carrier shall file with the Board a true copy * * * of every contract or agreement * * * affecting air transportation * * * between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications, or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating destructive, oppressive, or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

The Board is directed by Section 412 (b) of the Act to disapprove any such contract or agreement which it finds to be "adverse to the public interest, or in violation of this Act," and to approve those it does not so find.

At present, after a section 412 contract or agreement is filed with the Board, the staff reviews the agreement in order to assess its significance and impact upon interested third parties. Those agreements considered by the staff to have a significant impact or to raise some substantive issue concerning approval are formally docketed, affording additional notice to the public of the filing,¹ and are then further processed to the extent applicable pursuant to the provisions of Part 302 of the Board's Procedural Regulations (14 CFR Part 302). Those agreements not raising substantial issues are processed pursuant to the provisions of Subpart L of Part 302 which provides specific procedures for the processing of undocketed section 412 contracts or agreements. The chief distinction between the two procedures is that Subpart L is more informal than the general requirements otherwise pertaining in Part 302, and provides needed flexibility to both the staff and the parties for the orderly consideration of these agreements.

Most agreements filed with the Board become effective upon a specified date, agreed to by the parties, regardless of Board approval. However, occasionally agreements are filed which are to become effective only after approval. Such a condition generally reflects the parties' awareness that the agreement is likely to have a significant impact upon third parties or raises antitrust implications. As such, consideration of these agreements is normally treated by means of a docketed proceeding. However, because the procedural regulations do not at present require the filing of an application requesting approval or the filing of any supporting justification, the existing procedures have not proved totally satisfactory for the processing of those contracts or agreements requiring prior approval.

For this reason, the Board has determined to amend Part 302 so as to provide more formal procedures for consideration of those section 412 contracts or agreements filed for prior approval. The Board has determined, however, that the new procedures adopted herein need not be applied to the processing of traffic conference agreements of the International Air Transport Association (IATA). By Order 68-7-55, July 12, 1968, and subsequent directives to the U.S. carrier members of IATA,² the Board has established special procedural and informational requirements related to IATA agreements.³ Moreover, the Board ordi-

narily issues orders establishing time periods for submission of comments and material in support of or in opposition to IATA rate and fare agreements of particular significance.

Among the principal features of the new procedures are the following: (1) Contracts and agreements filed for the Board's prior approval would be required to be accompanied by an application seeking such approval, which application must conform to the requirements of sections 302.3 and 302.4 of Part 302; (2) the application would be required to explain the nature and purpose of the agreement, contain such economic or other data as the parties desire the Board to officially notice, and contain the parties' arguments in support of the contract or agreement; (3) the application would be required to be served upon known interested parties, who would then have 21 days within which to file answers either in support of or in opposition to the agreement.

Since this rule is wholly procedural in nature, the Board finds that notice and public procedure hereon are unnecessary, and the amendments may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 302 of its Procedural Regulations (14 CFR Part 302), effective September 28, 1973, as follows:

1. Amend the Table of Contents by adding a new Subpart P, the Table of Contents, as amended, to read as follows:

Subpart P—Procedure for Processing Section 412 Contracts and Agreements Submitted for Prior Approval

| Sec. | |
|----------|--------------------------|
| 302.1601 | Applicability. |
| 302.1602 | Filing. |
| 302.1603 | Title. |
| 302.1604 | Contents of application. |
| 302.1605 | Service of application. |
| 302.1606 | Posting of application. |
| 302.1607 | Additional data. |
| 302.1608 | Answers and reply. |

2. Amend § 302.1201 to read as follows:

§ 302.1201 Applicability.

This subpart sets forth the specific rules applicable to the processing of section 412 contracts and agreements which have not been docketed. After receipt by the Board of any such contract or agreement, the Director, Bureau of Operating Rights, shall assign a CAB contract number to such document. The processing of a docketed section 412 contract or agreement shall, to the extent applicable, be governed by the other subparts of this part. An undocketed agreement which is subsequently docketed shall thereafter be processed as a docketed proceeding. The provisions of this subpart shall not apply to contracts or agreements which are processed pursuant to the provisions of Subpart P of this part.

3. Add a new Subpart P which reads as follows:

Subpart P—Procedure for Processing Section 412 Contracts and Agreements Submitted for Prior Approval

§ 302.1601 Applicability.

This subpart sets forth the particular rules applicable to the processing of sec-

tion 412 contracts or agreements which are, by their terms, to become effective only upon or after the Board's approval: *Provided, however*, That the provisions of this subpart shall not apply to traffic conference resolutions of the International Air Transport Association.

§ 302.1602 Filing.

An agreement or contract submitted by an air carrier association, as defined in Part 263 of this chapter, on behalf of its members, or by an air carrier, which is, by its terms, to become effective only upon or after the Board's approval, shall be filed in accordance with the provisions of Part 261 of this chapter, except to the extent that such provisions are inconsistent with this Subpart, and shall be accompanied by an application seeking such approval. Such application shall conform to the formal requirements of Subpart A of this part. Such application shall be assigned a docket number and any additional documents filed in connection with such contract or agreement shall be identified by the assigned docket number.

§ 302.1603 Title.

The application shall be entitled "Application for Prior Board Approval of an Agreement."

§ 302.1604 Contents of application.

The application shall contain the contract or agreement, and shall explain the nature and purpose of the agreement, and how it changes any practice existing under a previously approved contract or agreement. One copy of the contract or agreement shall be certified and verified as required by section 261.5 of Part 261 of this chapter. The application shall contain economic data or other material which the applicant desires the Board to officially notice. The application may also contain argument in support of the application, provided that with respect to an application filed by an air carrier association, as defined in Part 263 of this chapter, the requirements of said Part 263 are met. The application shall also contain the names of the persons served, and a notice that any party in interest may, within twenty-one (21) days of the date the application was filed, file and serve an answer in support of, or in opposition to, the application.

§ 302.1605 Service of application.

An application for prior Board approval of an agreement shall be served as provided by section 302.8 of this part. With regard to an application filed by an air carrier association, as defined in Part 263 of this chapter, a copy of the application shall be served on the following parties who shall be presumed to have an interest in the subject matter of the application: (1) travel agent associations known or believed to the applicant to be comprised of members who would be affected by the agreement; (2) consumer representatives who have previously advised the applicant of their desire for service of such agreement(s); and (3) the Department of Justice, Antitrust Division. The Board or the Director of the Bureau of Operating Rights may order additional service made on

¹ Notice of the filing of all section 412 agreements and contracts is provided by a weekly publication of the Board entitled "Agreements Filed with the Board under section 412 (a)." See § 302.1203.

² Letters from the Secretary of the Board dated July 16, 1968, August 1, 1972, and September 29, 1972.

³ It is recognized that Order 68-7-55 and the letter-directives embraced the IATA Articles of Association as well as the Provisions for the Regulation and Conduct of Traffic Conferences. The requirements related to the former, however, are minimal. The exclusion from the requirements of this section is limited, therefore, to IATA traffic conference resolutions.

such person or persons as the facts of the situation warrant.

§ 302.1606 Posting of application.

The Board shall cause a copy of every application under this paragraph filed with it to be posted promptly on a public bulletin board at its principal offices in Washington, D.C.

§ 302.1607 Additional data.

The Board or the Director of the Bureau of Operating Rights may request the filing of additional data with respect to any application under this paragraph or any answer or reply filed by a party in interest in connection therewith.

§ 302.1608 Answers and reply.

Within twenty-one (21) days after filing of an application, any party in interest may file an answer in support of or in opposition to the application. Within fourteen (14) days after service of an answer, the applicant may file a reply thereto. Service of answers and replies shall be made upon the person whose previous filing is the subject of the responsive filing and upon the other persons who were served with such previous filing. Service shall be effected as provided by § 302.8.

(Section 204(a) and 412 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 770; 49 U.S.C. 1324, 1382.)

Adopted September 28, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-21049 Filed 10-2-73; 8:45 am]

Title 35—Panama Canal

CHAPTER I—CANAL ZONE REGULATIONS

PART 105—PILOTAGE

Waiver of Compulsory Pilotage Rule

This document revises the regulation containing the compulsory pilotage rule for vessels calling in Canal Zone waters. The purpose of the revision is to authorize the Governor of the Canal Zone, under certain circumstances and subject to certain conditions, to authorize designated vessels to navigate in the Canal Zone without a licensed Panama Canal Pilot aboard.

Section 105.1 is amended by adding thereto a new paragraph (d), reading as follows:

(d) Whenever the Governor of the Canal Zone finds that there is a critical shortage of licensed Panama Canal pilots available for movement of vessels in Canal Zone waters, he may suspend the rule on compulsory pilotage set out in paragraph (a) of this section. The Governor shall impose such conditions upon the suspension of the rule, with respect to any given vessel, as are reasonable and appropriate to protect human life and property and to safeguard the facilities of the Panama Canal.

Effective Date: This amendment will become effective on October 1, 1973.

(2 C.Z.C. § 1331, 76A Stat. 46; 35 CFR 3.1(a)(1).)

Dated: September 27, 1973.

HOWARD H. CALLAWAY,
Secretary of the Army.

[FR Doc.73-21017 Filed 10-2-73; 8:45 am]

PART 119—LICENSING OF OFFICERS

Revision of Certain License Requirements

This document revises the regulations governing the issuance by the Canal Zone Government of licenses to marine officers. The purpose of the revision is to permit credit to be given for training in nautical academics and to modify the minimum qualification requirements for the licensure of Panama Canal pilots.

1. Section 119.103 is amended as follows:

(a) The period at the end of paragraph (c) is deleted and the following is added: "; or."

(b) A new paragraph (d) is added to read as follows:

"(d) Graduation from a recognized nautical academy in the United States or from a foreign nautical academy which is determined by the Supervising Inspector to have substantially equal standards."

2. Section 119.141 is revised to read as follows:

"§ 119.141, Pilot, Panama Canal; qualifications,

(a) An applicant for a license as Pilot, Panama Canal, Of Vessels Not Over 225 Feet In Length Upon All Canal Zone Waters must meet the following minimum requirements:

(1) He must have served at least 3 years as a licensed deck officer on vessels of 4,000 gross tons or over, one year of which must have been as a second mate while holding a license issued by the U.S. Coast Guard as Second Mate Unlimited or its equivalent as determined by the Supervising Inspector; or

(2) He must have served at least 3 years as a pilot on vessels of 4,000 gross tons or over on the Great Lakes while holding a license issued by the U.S. Coast Guard as First Class Pilot, Great Lakes; or

(3) He must have served at least 2 years as master of Panama Canal Company vessels of 1,000 horsepower or over while holding a license as Master of Steam and Motor Vessels issued under § 119.61.

(4) He must be able to read and write either the English or Spanish languages and to converse fluently in English.

(5) He must have been employed by the Panama Canal Company as Pilot-in-Training for at least 17 weeks.

(b) An applicant for a license as Pilot, Panama Canal, Of Vessels Not Over 526 Feet in Length Upon All Canal Zone Waters must have been employed by the

Panama Canal Company as pilot of vessels not over 225 feet in length for at least 12 weeks.

(c) An applicant for a license as Pilot, Panama Canal, Of Vessels of Any Tonnage Upon All Canal Zone Waters must have been employed by the Panama Canal Company as pilot of vessels not over 526 feet in length for at least 52 weeks.

(d) Prior to receiving any license as Pilot under this section, an applicant must pass a prescribed examination.

(e) The qualifying periods of employment specified in paragraphs (a), (b) and (c) of this section may be shortened or lengthened by the Governor, upon recommendation of the Supervising Inspector, in special cases where the pilot demonstrates other than normal competence.

Effective date: This amendment is effective October 1, 1973.

(2 C. Z. C. § 1331, 76A Stat. 46; 35 CFR 3.3(a)(4).)

Dated September 27, 1973.

DAVID S. PARKER,
Governor.

[FR Doc.73-21018 Filed 10-2-73; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19073]

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

Report and Order; Correction

In the matter of amendment of Part 23 of the Commission's rules and regulations, international fixed public radiocommunications services, Docket No. 19073.

In the appendix to the Report and Order in the proceeding captioned above, FCC 73-859, mimeo number 01813, released August 15, 1973,¹ the present frequency tolerance standards applicable until September 19, 1975 to existing transmitters installed before September 19, 1973, as set forth in the previous § 23.30, are inadvertently omitted from the new § 23.16. As corrected, § 23.16 is set forth below.

Adopted: September 21, 1973.

Released: September 27, 1973.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Acting Secretary.

§ 23.16 Frequency tolerances.

(a) The frequency tolerance for stations in the International Fixed Public Radiocommunications Services shall be maintained as prescribed in the following table:

¹ Published August 21, 1973 (38 FR 22477), and corrected September 11, 1973 (38 FR 24901).

| Frequency range | Tolerances applicable to new transmitters installed after September 19, 1973, and to all transmitters after September 19, 1975 | |
|------------------------|--|-------------------|
| | Percent | Parts per million |
| 10-50 kHz..... | .1 | 1000 |
| 50-535 kHz..... | .02 | 200 |
| 1605-30,000 kHz..... | .0015 | 15 |
| 30-50 MHz..... | .002 | 20 |
| 50-1000 MHz..... | .0005 | 5 |
| 1000-1850 MHz..... | .001 | 10 |
| 1850-1990 MHz..... | .02 | 200 |
| 1990-2500 MHz..... | .001 | 10 |
| 2500-10,500 MHz..... | .03 | 300 |
| 10,500-40,000 MHz..... | .05 | 500 |

(b) Until September 19, 1975, the frequency tolerance of transmitters installed at stations in these services before September 19, 1973, and operating within the frequency bands set forth below, shall be maintained within the following limits:

| Frequency Range | Tolerance (Percent) |
|---------------------|--|
| 10-50 kHz..... | 0.1 |
| 50-535 kHz..... | 0.02 |
| 1605-30000 kHz..... | 0.003 |
| Above 30 MHz..... | As set forth in the radio station license. |

[FR Doc.73-21045 Filed 10-2-73;8:45 am]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—GENERAL PROVISIONS

Miscellaneous Amendments

In the FEDERAL REGISTER of August 15, 1973, there was published a list of migra-

tory birds. This list is set forth in § 10.13 beginning on page 22017.

The scaly-naped pigeon was inadvertently omitted from that list.

The scaly-naped pigeon, a member of the family Columbidae, is included in the Conventions with Canada and Mexico for the protection of Migratory Birds (39 Stat. 1702 and 50 Stat. 1311 respectively) and is protected by Federal law by virtue of the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.). That Act implements the two conventions aforesaid. The scaly-naped pigeon should be included in the list of migratory birds in section 10.13.

Also, in § 10.22—Law enforcement districts, that part of Texas within the jurisdictional area of the Corpus Christi Office and the States of Utah, Virginia, Washington, and Wisconsin were omitted through clerical error.

1. Accordingly, § 10.13 is amended by adding the words "Scaly-naped *Columba squamosa*" immediately after "Band-tailed *Columba fasciata*" in the center column of page 22017 of the FEDERAL REGISTER of August 15, 1973.

2. § 10.22—Law enforcement districts, published in the FEDERAL REGISTER of August 15, 1973, beginning on page 2201 is amended to include the districts of a part of Texas and of the States of Utah, Virginia, Washington, and Wisconsin. These were included in the proposed rulemaking of April 25, 1973, but inadvertently omitted in the final rulemaking.

Accordingly, § 10.22—Law enforcement districts, is amended to read:

§ 10.22—Law enforcement districts.

Area of Jurisdiction—

| | |
|--|--|
| Texas: That part of the State of Texas other than above. | P.O. Box 518, Corpus Christi, TX 78403. |
| Utah..... | 125 South State St., Salt Lake City, UT 84111. |
| Virginia..... | 301 Parcel Post Bldg., Richmond, VA 23219. |
| Washington..... | 495 Tyee Drive, Tumwater, WA 98502. |
| Wisconsin..... | 1406 East Washington Ave., Madison, WI 53703. |

Since these amendments correct clerical oversights, impose no new restrictions, and fall within the exception set forth in 5 U.S.C. 553(b)(3)(A) relative to interpretation of rules and rules of agency organization, it is found that notice and public procedure thereon are impracticable, unnecessary and contrary to the public interests, and these amendments are effective on Oct. 3, 1973.

(16 U.S.C. 703 et seq., 742a et seq.)

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries & Wildlife,
Fish and Wildlife Service.

SEPTEMBER 27, 1973.

[FR Doc.73-21009 Filed 10-2-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

[Docket No. FI-218]

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|-----------------|-----------------|----------------------------|---------|----------------------|----------------------|---|
| California..... | Sacramento..... | Isleton, City of. | | | | Sept. 28, 1973. Emergency. |
| Missouri..... | St. Louis..... | Peerless Park, Village of. | | | | Oct. 1, 1973. Emergency. |
| New York..... | Suffolk..... | Patehogue, Village of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), (42 U.S.C. 4001-4127), and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 24, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-20918 Filed 10-2-73;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Michigan Plan

1. *Background.* Part 1902 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the several States may submit for approval under the requirements of that section, plans to assume responsibilities for the development and enforcement of State occupational safety and health standards.

The State of Michigan submitted a comprehensive developmental occupational safety and health plan in accordance with these procedures to the Regional Administrator on November 27, 1972. On February 12, 1973, the plan was formally submitted to the Assistant Secretary and on February 16, 1973, a notice was published in the FEDERAL REGISTER (38 FR 4600) concerning the submission of the plan to the Assistant Secretary and the fact that the question of its approval was in issue before him.

The plan provides for the enactment and implementation of the Michigan Occupational Safety and Health Act of 1973 which will establish a comprehensive occupational safety and health program applying to all industries in the State with the exception of maritime and mining. All public and private employees within the State are to be covered except Federal employees, domestic workers and those engaged in mining, and maritime.

The State intends to promulgate standards for all of the issues contained in 29 CFR Parts 1910 and 1926 with the exception of Ship Repairing (§ 1910.13), Shipbuilding (§ 1910.14), Shipbreaking (§ 1910.15) and Longshoring (§ 1910.16), which standards are to be as effective as Federal standards. Michigan had originally not intended to promulgate a standard coverage coeprage machinery comparable to 29 CFR 1910.214 but it has now provided assurance that it will promulgate such standard if the hazards covered by the Federal coeprage standard are found to exist in Michigan. The State has already promulgated standards as effective as Subparts F, K, M, Q and S and the remaining Subparts are to be covered by State standards which are to be promulgated by June 1975.

The plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Michigan.

The plan sets out a unique administrative scheme for the administration and enforcement of its occupational safety and health program. The Michigan Department of Labor will have full authority to enforce and to administer laws relating to occupational safety and

construction safety while the Michigan Department of Public Health will be responsible for enforcing and administering laws concerning occupational health. Within the Department of Labor there is to be created two independent commissions whose functions shall be the promulgation of general industry and construction standards respectively. Occupational health standards will be promulgated by the Director of the Department of Health. Administrative adjudications under the plan will be the responsibility of three independent adjudicative boards, a Board of Occupational Safety Compliance and Appeals, a Board of Construction Safety Compliance and Appeals and an Occupational Health Review Commission. A further description of the plan and the proposed schedule for its development are summarized in a new Subpart T of 29 CFR part 1952 appearing below.

Interested persons were given until March 18, 1973, to submit written comments concerning the plan. Further interested persons were afforded an opportunity to request an informal hearing with respect to the plan or any part thereof upon the basis of particularized written objections to the contents of the plan.

2. *Issues.* Pursuant to this notice several comments and requests to be heard orally were received from interested persons and organizations including the Michigan Association of Plumbing—Heating—Cooling Contractors, Inc.; Michigan Mechanical Contractors Association; Municipal Consulting Services; the Society for Governmental Safety Management; Contractors and Suppliers Association of Western Michigan; the American Society of Safety Engineers, Greater Detroit, Lansing and Western Michigan Chapters; United Auto Workers; Accidental Loss Control Committee, American Metal Stamping Association; the Michigan State Chamber of Commerce; Durametall Corporation; Steelcase, Inc.; John E. Roth and Sons, Inc.; Ad Hoc Committee on OSHAM of the Coalition for Migrant Action; Greater Grand Rapids Chamber of Commerce; Michigan Farm Bureau; United States Steel Corporation; the AFL-CIO Standing Committee on Safety and Occupational Health; Michigan Manufacturers Association; the Comprehensive Health Planning Council of Southeastern Michigan; and the Michigan Press Association. These comments and our review of the plan raised significant issues which were addressed by Michigan in several supplementary letters dated April 30, 1973, July 26, 1973, August 29, 1973, and September 7, 1973, which clarified and modified the plan and are incorporated as a part of it.

In light of the modifications which the State has made in response to public comments and to comments from and discussions with the Office of Federal and State Operations, there are no significant objections to the plan which are outstanding. In addition, extensive public comment was provided on the proposed

provisions of the legislation in the State. Accordingly, the several requests for a hearing are hereby denied.

However, in light of the complexity of Michigan's proposed program it would be appropriate to discuss the major issues which were raised during the approval process.

a. *Administration*

The proposed division of authority between the Department of Labor and the Department of Public Health for the administration and enforcement of occupational safety and health standards brought criticism that such division will lead to serious conflicts and unnecessary duplication and confusion. It has also been urged that the creation of multiple boards and commissions within these departments for the purposes of standards-setting and administrative appeals will further unduly complicate the bureaucratic structure and render the State Plan less effective than the Federal Act. The fact that the administrative structure of the Michigan Plan is different than the Federal does not necessarily render it less effective. Firstly, the division of authority between the Departments and among the Boards and Commissions with regard to their respective responsibilities will be clearly delineated in order that conflict and duplication need not be a problem. Further, the proposed division of authority follows the current pattern of operation in Michigan and should be familiar to affected parties. In fact, the Departments have been operating since 1971 under an agreement providing for the coordination of occupational safety and health activities between the two departments. The State has provided assurances that within three months following passage of the proposed legislation the State will develop a new agreement which will include a description of the standards areas for which the three (3) standards-setting authorities are responsible, a description of the procedure for referring employee complaints between the Departments, and a description of the jurisdictions of the Board of Occupational Safety Compliance and Appeals, the Board of Construction Safety Compliance and Appeals and the Occupational Health Review Commission. Moreover, the Departments will be operating under the same statute and although they may vary in their implementation of legislative provisions particularly in their regulations, all regulations and actions of the Departments will be subject to careful review and monitoring by the Secretary of Labor to assure their effectiveness.

(1) *Employee complaint procedure.*

Within the general criticism of Michigan's overall structure of administration, specific concerns were expressed regarding Michigan's employee complaint procedure, its standards-setting procedures and its administrative appeals process. It was pointed out in public comments that because the legislation provides for two separate departments, this places a burden on employees to determine which department should be contacted

to deal with a specific complaint. In the present coordination agreement between the departments, it is provided that each department shall refer matters requiring the expertise of the other by telephone or in writing depending upon the particular subject's nature and urgency. Provision is also made for the investigation of referred matters with the referring department being informed of findings and actions to be taken. When immediate or imminent hazards of a critical nature are encountered appropriate action will be taken by the department which discovered the hazard with notice of the hazard and the emergency action being taken promptly communicated to the department with basic responsibility. Jurisdictional questions will be resolved with reference to the statutory authority, technical capabilities, available personnel and the interests of relevant appointed commissions. Thus, there is presently a basic outline of a system for referring employee complaints. Such a system properly implemented should permit an employee to submit his complaint to the department which in his best judgment should handle it with knowledge that the complaint will thereafter be properly channeled if necessary. The effectiveness of such procedure can only be determined through evaluation of the departments in operation, and this aspect of the plan will be carefully monitored. Further, as noted above, the State will be developing a new coordination agreement which will contain a more detailed description of the procedure for referring employee complaints between Departments.

(2) Standards-setting procedure.

As far as its standards-setting mechanism is concerned the plan is unusual in that it provides that within the Department of Labor there are to be two independent Commissions, one for the promulgation of general standards and one for the promulgation of construction standards while the Director of the Department of Public Health will be promulgating health standards. Thus, the Director of the Department of Labor lacks explicit authority over those two independent commissions with regard to the setting of safety standards. However, the State has provided assurances that these commissions will promulgate occupational safety standards which will be as effective as Federal standards. Further, upon its submission of standards comparisons, the State is being required to identify the state agency responsible for the promulgation of each particular standard.

Concern was also expressed regarding the limit of fifty (50) days pay a year for members of the Occupational Safety Standards Commission, and the Construction Safety Commission appearing in sections 15(6) and 18(6) of the proposed legislation as possibly not permitting sufficient time for the Commissions to carry out their functions under the period of heavy standards-setting outlined in the Plan. The State responded by asserting that although these two

Commissions have the authority to promulgate standards the promulgation procedure also includes advice from advisory committees and department staff who will perform much of the work necessary for the promulgation of standards and who would not be so limited as to the number of days of activity. Further, the Directors of the Departments have provided assurances that if it became necessary for the commission members to be paid for more than 50 days per year, they would immediately seek supplemental appropriations.

It was also argued that Michigan's Administrative Procedure Act and the procedures of the Department of Labor's standards-setting commissions might pose potential obstacles to the timely promulgation of standards. Such provisions include the requirement that the Department of Labor Commissions consult with an advisory committee before promulgating a permanent standard, the requirement that the Joint Committee on Administrative Rules of the Michigan Legislature be permitted to clear any standard before final promulgation with the possibility that the Legislature might prevent promulgation of a standard, and the requirement that in the promulgation of an emergency standard the Governor must approve such standard before promulgation. The State has been advised that under its procedure it should be able to promulgate an emergency temporary standard within thirty (30) days after promulgation of such standard by the Secretary of Labor and further, that it should be able to promulgate within six (6) months of Federal promulgation a permanent State standard as effective as the Federal. The State has responded that it will be able to meet these time constraints. The State also asserted that advisory committees appointed by the Commissions will act in the same manner as those appointed under section 6(b)(1) of the Federal Act. Michigan has also stated that its Joint Committee on Administrative Rules has never taken any action to prevent the promulgation of any occupational safety or health standard and that the Governor should prove to be responsive in emergency situations. The only way to determine the timeliness of Michigan's standards promulgation procedure will be to closely monitor and carefully evaluate it in operation.

(3) Appeals procedure.

Concern was also voiced that the creation of three separate appeals bodies will lead to conflicting interpretations of standards. The State, however, has asserted that each appeals body will be responsible for the distinct group of standards promulgated by the corresponding standard setting authority and therefore, there should not develop conflicting interpretations regarding a particular standard. Thus, for example, the State asserted that violations of construction standards of employers who are not primarily involved in construction will be investigated and cited by construction safety inspectors with appeals to these

citations being heard by the Board of Construction Safety Compliance and Appeals.

Question was also raised regarding Michigan's two-step appeals procedure. Michigan's legislation had provided that an employer could first petition within 15 days after receipt of a citation or proposed penalty the Department of Labor or the Department of Public Health for a modification of such citation or penalty with an employee having the right to petition for a modification of a proposed abatement period. There was then provided a second 15-day working period for an employer or employee to appeal the Department's decision to the appropriate Board. This procedure was found to be less effective than Federal procedure for it imposed no time limit upon the Director's consideration of employer and employee appeals. The State has since promised to amend its legislation to provide that the time period between the employer's receipt of a notice of proposed penalty and the date his appeal may be filed with the appropriate appeals body may be no longer than thirty (30) days.

Thus, the many different facets of Michigan's complex administrative organization will have to be closely monitored and carefully evaluated in operation to ensure and to determine their effectiveness.

(b) Temporary variances—

In addition to issues relating to the effectiveness of Michigan's administrative structure, other questions arose concerning various provisions of Michigan's proposed legislation. Firstly, under Michigan's proposed legislation the State had provided that in order for an employer to be granted a temporary variance from a standard he would have to show that he would utilize "an alternate method or means that" (would) provide an equivalent degree of safety or health protection." The Federal Act does not require such a showing by employers for purposes of obtaining a temporary variance but rather requires that an employer demonstrate that he is taking all possible steps to safeguard employees against the hazard covered by the standard from which he is seeking a variance. Under the Federal Act if an employer provided equivalent protection he would qualify for a permanent variance. It was thus pointed out to the State that the temporary variance requirements and procedures provided a regulated method for employers to come into compliance with a standard and were not intended for situations where equivalent or better protection from that provided by the standard would be available.

In response to such criticism, the State has agreed to amend its legislation to provide that in cases of applications for temporary variances an employer need not demonstrate "equivalent protection" but rather that he is taking all available steps to safeguard his employees until he has come into compliance with the standard in question.

c. Enforcement. (1) Subpoena power—

Section 29(3) of the Michigan legislation had granted the Department of Labor and the Department of Public Health the authority to compel the attendance and testimony of witnesses only in "the conduct of inspections and investigations of a specific complaint, accident, or illness" unlike section 8(b) of the Federal Act wherein the Secretary of Labor is given this subpoena power for use in the course of any inspection or investigation. In response to criticism of its limited subpoena power, the State is planning to amend section 29(3) to provide that the two Departments shall have the authority to exercise subpoena power in the conduct of their inspections and investigations under the Act.

(2) *Posting of citations*—Section 67(1) of the Michigan proposed legislation provides that "where posting is required . . . , such posting shall be centrally and conspicuously located with respect to all affected employees." This provision was found to be not as effective in giving notification to employees of employer violations as the corresponding Federal provision which requires that a citation "be prominently posted at or near each place a violation referred to in the citation occurred," for such posting calls immediate attention to the actual violation permitting identification of the hazard and creating a warning when such hazard remains unabated. The state has since promised to amend its legislation to require such posting "at or near the place of violation."

(3) *Jurisdiction over employee safety and health*—Section 16 of Michigan's proposed legislation provided that rules regulating employee safety promulgated by another state agency prior to the effective date of this legislation would prevail over rules promulgated by the Occupational Safety Standards Commission. In response to concern that such provision might limit the authority of the Department of Labor to promulgate and to enforce occupational safety standards as effective as Federal standards, the state will amend section 16 to provide that where another state agency has promulgated such rules those rules shall apply to the safety of the public while those promulgated by the standards commissions shall apply to employees.

(4) *Inspection provisions*—It was pointed out to the State that the Michigan legislation fails to specifically provide that an inspection will be made "as soon as practicable" after receipt of a legitimate complaint as does section 8 (f) (1) of the Federal Act. The State now proposes to include such a provision in its compliance manual.

The Michigan proposed legislation had failed to give department inspectors, in the course of their inspections, the authority to privately question an employer, owner, operator, agent in charge or employee as does section 8(a) (2) of the Federal Act. The State has agreed

to add such provision in order that its inspection procedures be as effective as Federal procedure.

(5) *Imminent danger*—Several questions were also raised regarding Michigan's imminent danger provision. Firstly, Michigan's definition of imminent danger failed to include conditions which could reasonably be expected to cause death or physical harm before the imminence of the danger could be eliminated through the enforcement procedures otherwise provided by the State legislation. The State will revise this definition to include such additional condition. In the last sentence of section 31(1) it is ambiguously stated that "in the issuance of such an order, consideration shall be given to any necessity to maintain the capacity of a continuous process operation and to the reestablishment of normal operations without a complete cessation of operations." Thus, it was unclear as to whether these matters would be factors in determining whether to issue an order restraining such imminent danger instead of simply being utilized to determine the terms of the order. The State will revise this sentence to ensure that the above matters will affect only the terms of the order. The State has also provided assurances that its mandamus provision can be invoked whenever it appears that a condition of imminent danger exists and the department's representative has failed to so determine that such danger exists.

(6) *Penalties*—Michigan's penalty provisions also required amendment in order to be judged at least as effective as corresponding Federal sanctions. Firstly, the legislation failed to provide explicit authorization comparable to section 10(b) of the Federal Act for the issuance of a citation for failure to abate a violation. The State has since promised to amend its legislation to provide for such citation. The State also promised to amend section 35(5) of its legislation to provide authority for assessing a penalty for a willful violation of a rule as well as a standard or order issued under the Act which results in death in order that the Michigan provision be comparable to section 17(e) of the Federal Act. With regard to Michigan's sanction for making false statements under the Act, the State had provided only for civil penalties for false statements in applications, records, plans and other documents filed or required to be maintained under the Act. The State has agreed to amend this section to provide for criminal penalties comparable to section 17(g) of the Federal Act.

(7) *Investigations of workplaces*—Michigan's proposed legislation draws a distinction between inspections and investigations with inspections being defined as an examination of a workplace for the purpose of detecting an occupational safety or health hazard or to determine compliance with the Michigan Act or standards, rules or orders promulgated pursuant to it, while investigation

is defined as a detailed evaluation or study of working conditions. The State then provided that the employee right to the walkaround and the advance notice prohibition would apply only to inspections and not to investigations. It was pointed out to the State that there was no viable basis for distinguishing between investigations and inspections as they relate to these issues of advance notice and the walkaround; for although advance notice might be necessary more often for investigations rather than for inspections it should remain the exception rather than the rule for both, and that the walkaround provision must apply to that part of an investigation involving examination of the worksite. In response to such criticism, the State will amend its proposed legislation to make its advance notice prohibition, employee walkaround provision and its advance notice penalty provision applicable to investigations as well as inspections. Exceptions to the advance notice prohibition will conform to those under the Federal Act.

(d) *Standards*—

The Michigan legislation provides that health standards are to prescribe appropriate forms of warning necessary to insure that employees are apprised of health hazards to which they are exposed including provision for suitable protective equipment, technological control, and monitoring of employee exposure with employee access to the records of such monitoring. There is no similar section in its legislation requiring such provisions in state safety standards. The State has asserted that it does not need specific statutory authority in order to apply these criteria to state safety standards, and furthermore, Michigan has pointed to assurances appearing in the plan, providing that state occupational safety standards are to be promulgated and maintained as effectively as Federal standards and that safety standards are to include where appropriate the same criteria outlined for health standards in the statute. The plan will be closely monitored to insure that the State will indeed be applying these essential criteria to state safety standards as well as to its health standards.

(e) *Further modifications*—

Other modifications of its proposed legislation that have been made by the State include the following:

(1) Amendment of section 24 to provide that standards shall prescribe appropriate forms of warning necessary to assure that employees are apprised of their exposure to health hazards and that representatives of employees as well as employees are to be given the opportunity to observe the monitoring and to have access to records of employee exposure to health hazards;

(2) Amendment of the proposed legislation to give employees or former employees access to records indicating their exposure to toxic materials or harmful physical agents;

(3) Deletion of its definition of authorized employee representative and the

elimination of the requirement that the representative of employees be an employee of the same place of employment;

(4) Amendment of the Michigan Act to provide that any department as well as any person adversely affected or aggrieved by an order of the board or commission may seek judicial review of such orders;

(5) Addition of the following language to section 27 of the proposed legislation "a variance may be modified or revoked upon application by an employer, employee or by the Department on its own motion in the manner prescribed for its issuance at any time after six (6) months from its issuance";

(6) Amendment of section 33 of the proposed legislation to provide that a citation may be issued for the violation of the "Act, order issued pursuant to the Act, or rule or standard promulgated pursuant to the Act";

(7) Amendment of section 41 of the proposed legislation to provide that employers are to have fifteen working days after receipt of a citation or a proposed penalty to appeal;

(8) Amendment of Michigan's proposed employee discrimination section to provide that employees may file complaints of discrimination against any person, as under the Federal Act, whom such employee believes has discriminated against him as a result of the exercise of his rights under the Act and assurances that the State shall provide by regulation that employees who have filed complaints of discrimination will be notified in a reasonable and timely manner of the results of investigations of such complaints; and

(9) Amendment of its trade secrets provision to allow the divulging of trade secrets information to those staff, Board or Commission members who need to know in order to "carry out the objectives" of the Act.

3. *Decision.* After careful consideration of the Michigan Plan, including the modifications thereof, and comments submitted regarding the Plan, the Plan is hereby approved under section 18 of the Act and Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State Plans generally. It also incorporates intentions as to continued Federal enforcement of Federal standards in areas covered by the Plan and the State's Developmental Schedule as set out in § 1952.263 below.

Pursuant to § 1920.20(b)(1)(iii) of Title 29, Code of Federal Regulations, the present level of Federal enforcement in Michigan will not be diminished until the State has enacted its enabling legislation. After the legislation has become effective, Federal enforcement will not be diminished where State standards are not promulgated and effective.

Among other things, the U.S. Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section

8(f), continue its Target Industry and Target Health Hazard programs, and inspect a cross-section of all industries on a random basis. Thereafter, authority will be retained to the degree necessary to assure occupational safety and health protection to employees in the State of Michigan. Part 1952 is hereby amended by adding thereto a new Subpart T reading as follows:

Subpart T—Michigan

Sec.

| | |
|----------|---------------------------------|
| 1952.250 | Description of the plan. |
| 1952.261 | Where the plan may be inspected |
| 1952.262 | Level of Federal enforcement. |
| 1952.263 | Developmental schedule. |

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608, (29 U.S.C. 667).)

§ 1952.260 Description of the plan.

(a) The plan identifies the Michigan Department of Labor and the Department of Public Health as the agencies to be responsible for administering the plan throughout the State. The Department of Labor will be responsible for promulgating and enforcing general safety and construction safety standards while the Department of Public Health will be responsible for the promulgation and enforcement of occupational health standards. Two independent commissions within the Department of Labor, the Construction Safety Commission and the Occupational Safety Standards Commission will promulgate general and construction safety standards while the Director of Public Health will promulgate health standards. Applications for variances to standards will be handled by the two Departments. Administrative adjudications will be the responsibility of the Occupational Safety Compliance and Appeals Board, the Construction Safety Compliance and Appeals Board, and the Occupational Health Review Commission.

(b) The State program is expected to extend its protection to all employees in the State (including those employed by it and its political subdivisions) except those employed by Federal agencies, maritime workers, household domestic workers, and mine workers.

(c) The Plan provides that the State agencies will have full authority to administer and to enforce all laws, rules and orders protecting employee safety and health in all places of employment in the State. It also proposes procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards, and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment, and procedures for variances and the protection of employees from hazards. It further, provides employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during and after inspections, protection of employees against discharge or discrimination in terms and conditions of employment, notice to employees or their representa-

tives when no compliance action is taken upon complaints, including informal review, notice to employees of their protections and obligations, adequate safeguards to protect trade secrets, prompt notice to employers and employees of alleged violations of standards and abatement requirements, effective remedies against employers, and the right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceeding, procedures for prompt restraint or elimination of imminent danger conditions, provision for the issuance of cease operation orders in cases where employers fail to comply with final orders for abatement, and provision for inspections in response to complaints.

(d) The State intends to promulgate standards for all of the issues contained in 29 CFR Parts 1910 and 1926 with the exception of Ship Repairing (§ 1910.13), Shipbuilding (§ 1910.14), Shipbreaking (§ 1910.15) and Longshoring (§ 1910.16), which standards are to be as effective as Federal standards. Michigan had originally not intended to promulgate a standard covering cooerage machinery comparable to 29 CFR 1910.214, but it has now provided assurances that it will promulgate such standard if the hazards covered by the Federal cooerage standard are found to exist in Michigan. The State has already promulgated standards as effective as Subparts F, K, M, Q and S and the remaining Subparts are to be covered by State standards which are to be promulgated by June 1975.

(e) The Plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Michigan. The Plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 of this title upon enactment of the proposed legislation by the State legislature. A merit system of personnel administration will be used. In addition, health and safety education and training programs are to be carried on for the benefit of employers and employees. The Department of Labor will also be conducting a Safety Director Program wherein companies which are found to have high injury incident rates will be assisted in developing safety programs.

§ 1952.261 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street, N.W., Washington, D.C. 20210; Regional Office, Occupational Safety and Health Administration, 300 South Wacker Drive, Chicago, Illinois 60606; Michigan Department of Labor, Bureau of Safety and Regulation, 2nd

Floor, 300 East Michigan Avenue, Lansing, Michigan 48926; Michigan Department of Public Health, Division of Occupational Health, Media Building, 2nd Floor, 3500 North Logan Street, Lansing, Michigan 48114.

§ 1952.262 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) of this chapter, the present level of Federal enforcement in Michigan will not be diminished until the State has enacted enabling legislation and issued standards and they become effective. Among other things, the U.S. Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f) of the Occupational Safety and Health Act of 1970, continue its target industry and target health hazard programs, and inspect a cross-section of all industries on a random basis. Thereafter, authority will be retained to the degree necessary to assure occupational safety and health protection to employees in the State of Michigan.

§ 1952.263 Developmental schedule.

(a) Enactment of the Michigan Occupational Safety and Health Act by December 1973.

(b) Promulgation of occupational safety and health standards as effective and comprehensive as those set forth in Chapter XVII of this Title 29 of the Code of Federal Regulations by June 1975.

(c) Completion of the Michigan Compliance Manual within one year after passage of the state legislation.

(d) Promulgation of regulations similar to Parts 1903, 1905 and 2200 of this Title within one year after passage of the state legislation.

(e) Promulgation of 29 CFR Part 1904 as a State regulation, including any amendments to Part 1904, within one (1) year following passage of the proposed legislation.

(f) Development of a new coordination agreement between the Michigan Departments of Labor and Public Health within three months following the passage of the proposed state legislation.

(g) Implementation of the state's public employee program within one year following passage of the proposed legislation.

(h) Within three years of plan approval all developmental steps will be fully implemented.

Signed at Washington, D.C., this 24th day of September, 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc. 73-20982 Filed 10-2-73; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ATOMIC ENERGY COMMISSION

PART 9-12—LABOR

PART 9-18—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

Miscellaneous Amendments

This amendment of the AECPR essentially deletes that material in subpart 9-12.4, Labor Standards in Construction Contracts, and reinstates it in a new subpart 9-18.7, Labor Standards for Contracts Involving Construction, with necessary rewriting and editorial changes. This change was necessary to bring the AECPR into accord with the changes relating to labor standards for contracts involving construction made in the Federal Procurement Regulations by Amendment No. 115 (FR, Vol. 38, No. 152, August 8, 1973). This change also adds a new subpart 9-12.12 to recognize the Williams-Steiger Occupational Safety and Health Act of 1970 and makes it applicable to AEC cost-type contractor procurement.

1. In Subpart 9-12.1, Basic Labor Policies, § 9-12.000, *Scope of part*, paragraph (b) is revised to read as follows:

Subpart 9-12.1—Basic Labor Policies

§ 9-12.000 Scope of part.

(b) The AECPR provisions referenced below pertain to cost-type contractor procurement: 9-12.102, 9-12.202, 9-12.302, 9-12.602, 9-12.800, 9-12.902, and 9-12.1200.

2. In Part 9-12, Labor, the entire Subpart 9-12.4, Labor Standards in Construction Contracts, is deleted and reserved.

Subpart 9-12.4—[Reserved]

3. In Part 9-12, Labor, a new Subpart 9-12.12, Williams-Steiger Occupational Safety and Health Act of 1970, is added as follows:

Subpart 9-12.12—Williams Steiger Occupational Safety and Health Act of 1970

Sec.
9-12.1200 Applicability.

AUTHORITY: Section 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, (42 U.S.C. 2201); Section 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, (40 U.S.C. 496).

Subpart 9-12.12—Williams Steiger Occupational Safety and Health Act of 1970

§ 9-12.1200 Applicability.

The requirements of FPR subpart 1-12.12 apply to cost-type contractor procurement.

4. In Part 9-18, Procurement of Construction and Contracting for Architect-Engineer Services, Subpart 9-18.7, Labor Standards for Contracts Involving Construction, is added as follows:

Subpart 9-18.7—Labor Standards for Contracts Involving Construction

| | |
|-------------|---|
| Sec. | |
| 9-18.700 | Scope of subpart. |
| 9-18.701 | Applicability. |
| 9-18.701-50 | General. |
| 9-18.701-51 | Noncoverage (Davis-Bacon and Copeland Acts) |
| 9-18.701-52 | Administrative controls and criteria for application of the Davis-Bacon Act in operational or maintenance activities. |
| 9-18.702 | Statutory and regulatory requirements |
| 9-18.702-50 | Department of Labor approval. |
| 9-18.703 | Contract clauses |
| 9-18.703-50 | Special clause of "operating-type" contracts. |
| 9-18.704 | Wage determinations. |
| 9-18.704-50 | Use and duration of wage determinations. |
| 9-18.705 | Administration and enforcement. |
| 9-18.705-50 | Responsibilities. |
| 9-18.750 | Decisions and other guides in difficult areas. |
| 9-18.750-1 | General. |
| 9-18.750-2 | Specific examples. |

Subpart 9-18.7—Labor Standards for Contracts Involving Construction

§ 9-18.700 Scope of subpart.

(a) This subpart 9-18.7 serves to implement and supplement FPR subpart 1-18.7, Labor Standards for Contracts Involving Construction.

(b) The provisions of FPR subpart 1-18.7 and this subpart shall be followed in determining whether cost-type contractor procurement actions involve covered work under the Davis-Bacon Act and such provisions apply to those procurement transactions which are determined by the contracting officer to be subject to that Act.

§ 9-18.701 Applicability.

§ 9-18.701-50 General.

The requirements set forth in FPR 1-18.702 apply to construction contracts. Although the statutes therein referenced do not contain definitions, the Secretary of Labor's regulations in 29 CFR 5.2 include definitions of "contract," "building," "work," "construction," "prosecution," "completion," "repair," "public building," and "public work." In general, contracts are classifiable as being covered by the statutes when performance by the contractor consists substantially of the erection or assembly of new plants (including laboratory or other buildings or works), or the alteration and/or repair including painting and decorating, of new or existing plants. The fact that certain contracts may be entered into without regard to general statutory requirements as to advertising for bids or proposals, or upon a cost-type basis or otherwise, is not determinative in the classification of such contracts, activities, construction projects, or other work or services performed thereunder.

§ 9-18.701-51 Noncoverage (Davis-Bacon and Copeland Acts).

(a) The requirements set forth in FPR subpart 1-18.7 in respect to the Davis-Bacon and Copeland Acts do not apply to the following:

(1) Contracts, regardless of their nature, not in excess of \$2,000. (Does not apply to the Copeland Act.) However, no item of work the cost of which is estimated to be in excess of \$2,000 shall be artificially divided into portions less than \$2,000 for the purpose of avoiding the applicability of the Davis-Bacon Act.

(2) Contracts for furnishing supplies and equipment, including installation, where the installation requires only an incidental amount of work (as defined in paragraph (c) of this section) that would otherwise be considered construction alteration and/or repair of a public building or work (see § 9-18.750-2(g)).

(3) Contracts for servicing or maintenance work in an existing plant, including installation or movement of machinery or other equipment, and plant rearrangement, which involve only an incidental amount of work (as defined in paragraph (c) of this section) that would otherwise be considered construction, alteration and/or repair (see § 9-18.750-2(g)).

(4) Contracts for operational or maintenance activities (e.g., production, research and development, or community services, as distinguished from contracts for construction). In general, these are contracts where performance by the contractor consists primarily of the utilization of existing facilities and the services of personnel to produce materials, conduct research and development, or provide community-type services, and of the use of or maintenance of plant. However, the classification of a contract as a contract for operational or maintenance activities does not necessarily mean that all work and activities at the contract location are not covered, since it may be necessary to separate out work which should be classified as covered. (See § 9-18.701-52.) As used in connection with "operational activities," the term "produce" means to manufacture, make, or refine special nuclear or other material; to separate material from other substances in which it is contained; or to make new material. The term "materials" includes supplies, articles, or equipment; the term "research and development" means the same as defined in the Atomic Energy Act of 1954, as amended.

(5) Contracts to be performed outside the States and the District of Columbia. (Does not apply to the Copeland Act.)

(6) Contracts for demolition, except when indispensable and preliminary to scheduled new construction.

(7) Contracts with a State or political subdivision thereof (although the requirements do apply, and the contract must so provide, to a subcontract thereunder with a private person or firm which involves the construction, alteration, and/or repair of public buildings or public works).

(8) Contracts with railroads for construction services to the extent that the services are performed by railroad employees covered by the Railway Labor Act.

(b) It should be noted, however, that the requirements do apply to work performed by laborers and mechanics employed by a construction contractor or subcontractor at the site of the work under a contract for the construction, alteration and/or repair, including painting and decorating of public buildings or public works, which is otherwise subject to these Acts whether or not such work would be covered if it were a separate contract.

(c) As used in paragraph (a) (2) and (3) of this section, "an incidental amount of work" is defined to mean work directly related to the installation, movement or rearrangement of equipment or machinery, relatively small in amount, and which does not include changes in a facility affecting its architectural or structural strength, stability, safety, size, or function as a public work. (See § 9-18.750-2(g) (3).)

§ 9-18.701-52 Administrative controls and criteria for application of the Davis-Bacon Act in operational or maintenance activities.

(a) Particular contracts or work items falling within one or more of the following criteria normally will be classified as noncovered.

(1) Individual work items estimated to cost \$2,000 or less. The total dollar amount of the operating contract is not a factor to be considered and bears no relation to individual work items classified as construction, alteration and/or repair, including painting and decorating. However, no item of work, the cost of which is estimated to be in excess of \$2,000, shall be artificially divided into portions less than \$2,000 for the purpose of avoiding the application of the Act.

(2) Work and services that are a part of operational and maintenance activities or which, being very closely and directly involved therewith, are more in the nature of operational activities than construction, alteration, and/or repair work. This includes work and services which would involve a material risk to continuity of operations, to life or property, or to AEC operating requirements, if performed by persons other than the operating contractor's regular production and maintenance forces: *Provided, however*, That any decision that contracts or work items are noncovered for these reasons must be made by the Manager of respective Field Office and the authority to make such a decision cannot be redelegated.

(3) Work and services, typically of a routine or recurring nature, the purpose of which is to keep facilities in a state of functional usefulness.

(4) Assembly, modification, setup, installation, replacement, removal, rearrangement, connection, testing, adjustment, and calibration of machinery and equipment. It should be noted, however,

that these activities are covered if they are part of or would be a logical part of a contract for the construction of a facility, or if construction-type work, other than defined in "Incidental" in § 9-18.701-51(c) is involved. (Also see § 9-18.750-2(g)).

(5) Experimental development of equipment, processes and devices, including assembly, fitting, installation, testing, reworking, and disassembly. This refers to equipment, processes and devices which are assembled for the purpose of conducting a test or experiment. The design may be only conceptual in character, and professional personnel responsible for the experiment participate in the assembly. Specifically excluded from the category of experimental development are buildings, building utility services, structural changes, and modifications to building utility services—as distinguished from temporary connections thereto. Also specifically excluded from this category is equipment to be used for continuous testing, e.g., a machine to be continuously used for testing the tensile strength of structural members. (Also see § 9-18.750-2(a) and § 9-18.750-2(h)).

(6) Experimental work in connection with peaceful uses of nuclear energy. This refers to equipment, processes and devices which are assembled and/or set in place and interconnected for the purpose of conducting a test or experiment. The nature of the test or experiment is such that professional personnel responsible for the test or experiment and/or the data to be derived therefrom necessarily must participate in the assembly and interconnections. Specifically excluded from experimental work are buildings, building utility services, structural changes, drilling, tunneling, excavation, and backfilling work which can be performed according to customary drawings and specifications, and utility services or modification to utility services—as distinguished from temporary connections thereto. Work in this category may be performed in mines or in other locations specifically constructed for test or experiments. (See also § 9-18.750-2(h).)

(7) Emergency work to combat the effects of fire, flood, earthquake, equipment failure, accident or other casualties, and to restart the operational activity following the casualty. Work which is not directly related to restarting the activity and which involves rebuilding or replacement of structure or structural components or equipment is excluded from this category. (See § 9-18.750-2(d).)

(8) Decontamination, including washing, scrubbing, and scraping to remove contamination; removal of contaminated soil or other material; and painting or other resurfacing: *Provided*, That such painting or resurfacing is an integral part of the decontamination activity and does not include complete replacement of large sections of paved areas or roadways.

(9) Burial of contaminated solid waste or contained liquid; however, initial preparatory work readying the burial ground for use (for example, any grading or excavating that is a part of initial site preparation, fencing, drilling wells for continued monitoring of contamination, construction of guard or other office space) is covered. Likewise, work subsequent to burial which involves the placement of concrete or other like activity is covered.

(b) The classification of a contract as a contract for operational or maintenance activities does not necessarily mean that all work and activities at the contract location are classifiable as outside of Davis-Bacon Act coverage, since it may be necessary to separate out work which should be classified as covered. Therefore, Managers of Field Offices shall establish and maintain controls for the careful scrutiny of proposed work assignments under such a contract to assure that:

(1) Contractors whose contracts do not contemplate the performance of covered work with the contractor's own forces are neither asked nor authorized to perform work within the scope of the Davis-Bacon Act.

(2) Where covered work is performed by a contractor whose contract contains provisions required by the Davis-Bacon Act, such work is performed as required by law and the contract. After such contractor has been informed, as provided in paragraph (b)(3) of this section, that certain work is covered work, the Manager's responsibility to assure compliance is the same as it would be if the work were being performed under a separate construction contract.

(3) Controls provided for above include consideration by the Manager and the contractor, before work is begun or contracted out, of the relation of the Davis-Bacon Act to (i) the annual programming of work, (ii) the contractor's work orders, and (iii) work contracted out in excess of \$2,000. The Manager may, if he concludes that it is consistent with AEC's responsibilities as described in this section, prescribe from time to time classes of work as to which applicability or nonapplicability of the Davis-Bacon Act is clear, for which he will require no further AEC determination on coverage in advance of the work. For all work the controls to be established by the Manager should provide for notification to the operating contractor before work is begun as to whether such work is covered.

§ 9-18.702 Statutory and regulatory requirements.

§ 9-18.702-50 Department of Labor approval.

The Department of Labor has previously reviewed and approved the criteria, standards, and guides set forth in § 9-18.701, § 9-18.704, and § 9-18.750, and the contract clause in § 9-18.703-50.

§ 9-18.703 Contract clauses.

Subcontracts subject to the Davis-Bacon Act under "operating type" con-

tracts (see § 9-18.703-50 below) shall include the applicable clauses in FPR 1-18.703 with such modifications as appropriate to reflect the prime-subcontract relationship. Paragraph (f) of the clause in FPR 1-18.703-1(a) shall be modified to delete reference to a prime contract subject to the Davis-Bacon Act.

§ 9-18.703-50 Special clause for "operating type" contracts.

The following article is for use in prime contracts when the prime contractor is to perform no covered work with his own forces but may procure construction by subcontract:

"Upon request of the Commission and acceptance thereof by the contractor, the contractor shall procure by subcontract the construction of new facilities or the alteration or repair of Government-owned facilities at the plant. Any subcontract entered into under this paragraph shall be subject to the written approval of the Commission and shall contain the provisions relative to labor and wages required by law to be included in contracts for the construction, alteration, and/or repair, including painting and decorating, of a public building or public work."

§ 9-18.704 Wage determinations.

§ 9-18.704-50 Use and duration of wage determinations.

In general, the Davis-Bacon Act rates applicable to a contract at the time it is awarded continue in effect during its term regardless of whether it is a fixed-price or cost-type contract. However, in the event of a substantial addition to the scope of a contract containing a "general or area wage determination," the current "general or area wage determination," including modifications thereto; shall be made applicable to the additional work. If the contract contains a "project area or installation (54A) determination," or an "individual determination," and a substantial addition to the scope of the contract is made more than 120 days from the date of the determination, a new determination is required for the substantial addition. However, it should be noted that:

(a) The minimum wage rates that will be paid to laborers and/or mechanics engaged on jobs which are programed on a fiscal year or shorter basis are those predetermined by the Secretary of Labor to be prevailing as of the date the program is approved by the AEC for performance by the contractor. However, in the event of a substantial addition to the scope of a contract containing a "general or area wage determination," the current "general or area wage determination," including modifications thereto; shall be made applicable to the additional work. If the contract contains a "project area or installation (54A) determination," or an "individual determination," and a substantial addition to the scope of the contract is made during the fiscal year or shorter basis but more than 120 days from the date of the determination, a new determination is required for the substantial addition.

Programed work will be performed by the contractor under the following conditions:

(1) Continuing contracts for minor or miscellaneous construction, alteration and/or repair, including painting and decorating;

(2) Operating contracts under which the operating contractor will perform miscellaneous covered work with his own forces.

(b) The minimum wage rates that will be paid to laborers and/or mechanics engaged on subcontracts let by an operating contractor under § 9-18.703-50 will be those in the wage determination decision of the Secretary of Labor which is current as of the date the operating contractor enters into such subcontract. (Note that a determination is not required for insertion in a prime contract for the performance of operational and maintenance activities which contains a clause such as set forth in § 9-18.703-50.)

(c) See FPR 1-18.704 for types of wage determinations procedures for requesting same, and FEDERAL REGISTER review on general or area wage determinations.

§ 9-18.705 Administration and enforcement.

§ 9-18.705-50 Responsibilities.

The statutes and regulations cited and summarized in FPR 1-18.702 and the requirements in FPR 1-18.705 impose direct responsibilities for administration and enforcement upon the Atomic Energy Commission. Therefore, Directors, Headquarters Divisions and Offices, and Managers of Field Offices, consistent with their assignments of responsibilities and delegations of authority, shall assure that AEC contract activities are carried out consistent with these laws and regulations.

§ 9-18.750 Decisions and other guides in difficult areas.

§ 9-18.750-1 General.

Section 9-18.701-52 necessarily uses general language, and in some cases the application of the criteria discussed therein to particular situations may not be clear. Therefore, this subsection covers more specifically some of the areas of particular concern to AEC and is promulgated to clarify the application of the criteria.

§ 9-18.750-2 Specific examples.

The following are applications of the regulations to particular situations. Additional narrative statements describing items of work and applicability of the Davis-Bacon Act will be developed from time to time and added to this subsection.

(a) *Land-based prototypes.* The Labor Department has held that the construction of a full-scale operating prototype of one reactor compartment and of all necessary nuclear power components and systems and propulsion equipment for a submarine is covered. (See letters of Mar. 14, and July 5, 1957, from Acting Solicitor of Labor to Director of Organization and Personnel, AEC, regarding TRITON prototype.) In another ship prototype situation, the Department has

held that assembling and fitting the components of nuclear steam propulsion units into the hull sections, including installation of the pressure vessels, turbo-generator sets, heat exchangers, control wiring, etc., is covered. (See letter of Oct. 22, 1956, from Solicitor of Labor to General Manager, AEC, regarding large ship reactor land prototype.) A later decision involving the same prototype indicates that the earlier rulings should not be construed as intended to cover all equipment assemblies irrespective of the status of construction and other pertinent factors.

(b) *Paving.* The construction of roads, including grading, and their repair—where such repair includes work on roadbeds before resurfacing, building up shoulders, forming ditches, culverts and bridges, and on the actual resurfacing of roads—is covered. However, recurring-type maintenance work, such as patching surface, filling chuck holes, patching shoulders, and resurfacing railroad crossings is noncovered. Similarly, patch and maintenance work on a parking lot, the replacement of bumper stops, and the repainting of parking dividers is noncovered.

(c) *Stationary boilers.* The construction, alteration and/or repair, including installation and rebuilding, of stationary boilers costing in excess of \$2,000 for labor and materials is covered. In contrast, inspection may reveal need for replacement of pieces of insulation, individual tubes, or other defective parts. Such maintenance, necessary to keep the boiler in safe operating condition, is non-covered.

(d) *Startup of operating activity after fire or other catastrophe.* Rebuilding of plant following a catastrophe, such as replacement of structural members, roof trusses, walls, roof, utility services, and process piping is covered. However, where process equipment can be restarted and/or operational activities resumed prior to such rebuilding, the actual work of startup, including preliminary activity, e.g., cleaning, drying, checking, adjustment, temporary services, and temporary weather protection of equipment, essential to such resumption of operational activity, is noncovered.

(e) *Rehabilitation of facilities.* By contrast with emergency services needed to restore or maintain functional usefulness, as above described, rehabilitation (e.g., painting, change-out, rearrangement and installation of equipment, replacement or repair of damaged parts of a structure or of building services or equipment) of a nonoperable facility or of significant nonoperable portions of a facility is covered. In such rehabilitation, the startup of equipment by operating employee is noncovered.

(f) *Painting.* Although painting and decorating are specifically mentioned in the Act, painting which is closely integrated with operational and maintenance activities, and such repainting as color coding of process lines and service piping (including valves and directional arrows), is noncovered; likewise, applica-

tion of various materials for localizing contamination, painting of machine tools to identify degree of contamination, preventive maintenance, repainting of machine tools, equipment and plant structures is noncovered when performed with a stable work force employed by the operating contractor.

(g) *Installation, rearrangement or adjustment of equipment.* (See also paragraph (h), *Experimental installations, of this section.*)

(1) *During construction.* In the construction of a new facility—whether it is a production plant, a laboratory, or supporting facilities, such as shops and warehouses—an integral part of a construction project is the installation of equipment (including mechanical equipment, building services, instruments, etc.), which permits the facility to be utilized for the purpose for which it was intended. Normally, the initial installation, arrangement, adjustment, balancing, calibration, and checking of such equipment is a logical part of the construction contract(s) for completion of the facility and, whether or not included within the scope of such contract(s), is covered.

(2) *Plant startup.* At the time of the turnover of an AEC facility (which frequently differs in many respects from other facilities), from construction to operation activities, if the facility is turned over a section at a time, some problems of coverage may arise. It is extremely difficult, if not impossible, to write rules or criteria that can be practically applied in all situations. Usually, it is essential that final checkout of a plant prior to the startup of plant operations be performed by personnel of the operating contractor and, as such, is not covered. The important thing is to work out a practical plan that will assure: (i) Safe and effective startup of the facility, (ii) the fulfillment of obligations under applicable statutes, and (iii) continuing construction at the facility.

(3) *Equipment and equipment assemblies.* While the current construction status of a public building or public work is not controlling as to coverage of supply-installation-type contracts, this is a factor to be considered in judging the applicability of the Davis-Bacon Act. The Labor Department has ruled (Walsh-Healey Rulings and Interpretations No. 3, section 6(b)) that while contracts in excess of \$10,000 for equipment, including erection or installation are subject to the Walsh-Healey Act, they may be also covered under the Davis-Bacon Act where more than an incidental amount (see § 9-18,701-51(c)) of work is involved. Examples given in this ruling include furnishing and installation of mechanical equipment such as elevators or of generators requiring prepared foundations or housing. In a specific situation, the Department has indicated that a contract for furnishing the initial installation of piping, wiring, gas exhaust fans, plumbing, sheet metal work, and related activities to install

kitchen and baking equipment was comparable to the basic plumbing, wiring, and heating contracts and was covered (see letter of Aug. 12, 1958, from Acting Assistant Solicitor of Labor to the Director, AFMPP-PR-3, Procurement and Production, the Air Force (Attention: Col. Treacy), regarding the Air Force Academy). While this situation involves an initial installation, alteration or rearrangement of existing facilities involving such work to accommodate new or different equipment is also covered. Conversely, it follows that where the test of more than an incidental amount of construction is not met, and where the installation, rearrangement or adjustment of equipment is not a logical part of any current related construction project, it is noncovered.

(4) *Special leased systems.* Most, but not all, contracts involving the installation of telephone, detective and other leased systems are not covered when the work is performed by employees of the companies supplying the services and the material and equipment installed is owned by such companies. (See discussion in letter of Aug. 12, 1958, from Acting Assistant Solicitor of Labor to the Director, AFMPP-PR-3, Procurement and Production, the Air Force (Attention: Col. Treacy), regarding the Air Force Academy, of one situation in which an extension of the distribution system of the telephone company to supply service to the Air Force was held to be noncovered and of another situation in which the movement of telephone company lines by the telephone company to a location more convenient to the Air Force was held to be covered.) A contract for a telephone central system to be installed by the manufacturer and owned by the United States has been held to be covered. (See letter of Oct. 22, 1958, from the Solicitor of Labor to the Director, AFMPP-PR-3, Procurement and Production, the Air Force (Attention: Col. Treacy), regarding Patrick Air Force Base.)

(h) *Experimental installations.* Within AEC programs, a variety of experiments are conducted involving materials, fuels, coolants, processes, equipment, etc. Certain types of situations where tests and experiments have sometimes presented coverage questions are described below.

(1) *Set-ups of devices and/or processes.* The proving out of investigative findings and theories of a scientific and technical nature for extension into practical application may require the set-up of various devices and/or processes at an early or preprototype stage of development. These may vary from laboratory bench size upwards. As a rule, these set-ups are made within established facilities (normally laboratories); required utility connections are made to services provided as a part of the basic facilities; and the activity as a whole falls within the functional purpose of the facility. Such set-ups may be for exploring mechanical or electrical design suitability,

physical or chemical properties, or for collecting data to verify or reject scientific hypotheses. Such set-ups are noncovered. Preparatory work for the set-up requiring structural changes or modifications of basic utility services—as distinguished from connections thereto—is covered. Illustrative of noncovered set-ups of devices and/or processes are the following:

(i) Assembly of piping and equipment within existing "hot cell" facilities for proving out a conceptual design of a chemical processing unit;

(ii) Assembly of equipment, including adaptation and modification thereof, in existing "hot cell" facilities to prove out a conceptual design for remotely controlled machining equipment;

(iii) Assembly of the first graphite pile in a stadium at Stagg Field in Chicago;

(iv) Assembly of materials and equipment for particular aspects of the direct current thermonuclear experiments to explore feasibility and to study other ramifications of the concept of high energy injection and to collect data thereon.

(2) *Loops.* Many experiments are carried on in equipment assemblies called loops in which liquids or gases are circulated under monitored and controlled conditions. For purposes of determining Davis-Bacon coverage, loops may be classed as loop facilities or as loop set-ups. Both of these classes of loops can include in-reactor loops and out-of-reactor loops. In differentiating between clearly identified loop set-ups and loop facilities, an area exists in which there have been some questions of coverage, such as certain loops at the Material Test Reactor and Engineering Test Reactor at the National Reactor Test Site. Upon clarification of this area, further illustrations will be added. In the meantime, the differentiation between loop set-ups and loop facilities must be made on a case-by-case basis, taking into account the total criteria set forth in this subpart.

(i) *Loop set-ups.* The assembly, erection, modification and disassembly of a loop set-up is noncovered. A noncontroversial example of a loop set-up is one which is assembled in a laboratory, e.g., Oak Ridge National Laboratory, Argonne National Laboratory, and Lawrence Radiation Laboratory, for a particular test and thereafter disassembled. However, preparatory work for a loop set-up requiring structural changes or modifications of basic utility services—as distinguished from connections thereto—is covered as is material and equipment that is installed for a loop set-up which is a permanent part of the facility or which is used for a succession of experimental programs.

(ii) *Loop facilities.* A loop facility differs from a loop set-up in that it is of a more permanent character; usually, but not always, of greater size; normally in-

volves the building or modification of a structure; sometimes is installed as a part of construction of the facility; and may be designed for use in a succession of experimental programs over a longer period of time. Examples of loop facilities are the in-reactor "K" loops at Hanford and the large Aircraft Nuclear Propulsion loop at National Reactor Test Site. The on-site assembly and erection of such loop facilities are covered. However, once a loop facility is completed and becomes operational, the criteria set forth above for operational and maintenance activities apply.

(3) *Reactor component experiments.* Other experiments are carried on by insertion of experimental components within reactor systems without the use of a loop assembly. Illustrative of reactor facilities erected for such experimental purposes are the special power excursion test reactors (SPERT) at the National Reactor Test Site, which are designed for studying reactor behavior and performance characteristics of certain reactor components. Such a facility may consist of a reactor vessel, pressurizing tank, coolant loops, pumps, heat exchangers, and other auxiliary equipment as needed. The facility also may include sufficient shielding to permit work on the reactor to proceed following a short period of power operation and buildings as needed to house the reactor and its auxiliary equipment. The erection and on-site assembly of such a reactor facility is covered work but the components whose characteristics are under study are excluded from coverage. To illustrate, one of the SPERTs planned for studies of nuclear reactor safety is designed to accommodate various internal fuel and control assemblies as required to conduct a particular test. Accordingly, the internal structure of the pressure vessel is so designed that cores of different shapes and sizes may be placed in the vessel for investigation, or the entire internal structure may be easily removed and replaced by a structure which will accept a different core design. Similarly, the control rod assembly is arranged to provide for flexibility in the removal of instrument leads and experimental assemblies from within the core.

(4) *Tests or experiments in peaceful uses of nuclear energy.* These tests or experiments are varied in nature and some are only in a planning state. These tests or experiments consist of a single or series of nuclear or nonnuclear detonations for the purposes of acquiring data. The data can include seismic effects, radiation effects, amount of heat generated, amount of material moved and so forth. Some of these tests are conducted in existing mines while others are conducted in locations specifically constructed for the tests or experiments. In general, all work which can be performed in accordance with customary drawings and specifications as well as other work in connection with prepara-

tion of facilities is treated as covered work. Such work includes tunneling, drilling, excavation and backfilling, erection of buildings or other structures, and installation of utilities. The installation of the nonnuclear material or nuclear device to be detonated, the instrumentation, and connections between such material or device and the instrumentation are treated as noncovered work.

(5) *Tests or experiments in military uses of nuclear energy.* As in the case in § 9-18.750-2(h)(4), these tests or experiments can be varied in nature. However, under this category it is intended to include only detonations of nonnuclear material or nuclear devices. The material or devices can be detonated either underground, at ground level or above the ground. These tests or experiments have been conducted in, on, or in connection with facilities specifically constructed for such tests or experiments. As is the case with respect to tests or experiments in peaceful uses of nuclear energy, all work which can be performed in accord with customary drawings and specifications as well as other work in connection with preparation of facilities are treated as covered work. Such work includes building towers or similar structures, tunneling, drilling, excavation and backfilling, erection of buildings or other structures, and installation of utilities. The installation of the nonnuclear material or nuclear device to be detonated, the instrumentation, and connections between such material or device and instrumentation are treated as noncovered work.

(i) *Construction site contiguous to an established manufacturing facility.* As AEC-owned property sometimes embraces several thousands of acres of real estate, a number of separate facilities may be located in areas contiguous to each other on the same property. These facilities may be built over a period of years, and established manufacturing activities may be regularly carried on at one site on the property at the same time that construction of another facility is underway at another site. On occasion, the regular manufacturing activities of the operating contractor at the first site may include the manufacture, assembly and reconditioning of components and equipment which in other industries would normally be done in established commercial plants. While the manufacture of components and equipment in the manufacturing plant is noncovered, the installation of any such manufactured items on a construction job is covered.

Effective Date: These amendments are effective October 3, 1973.

Dated at Germantown, Maryland, this 27th day of September, 1973.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

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Title 32A—National Defense, Appendix
 CHAPTER XIII—ENERGY POLICY OFFICE
 EPO REG. 3—MANDATORY ALLOCATION
 PROGRAM FOR PROPANE

On August 31, 1973 the Energy Policy Office announced a proposed regulation for the mandatory allocation of petroleum products. The proposed program was published on September 5 in the FEDERAL REGISTER (38 FR 23977). Hearings were held in Washington, D.C. on the proposed regulations on September 7, 1973. After consideration of the comments received during these hearings and in writing, the Director of the Energy Policy Office, is issuing the following regulations for the mandatory allocation of propane.

All correspondence, reports, or inquiries should be addressed to: Director of the Office of Oil and Gas, Department of the Interior, P.O. Box 19407, Washington, D.C. 20036.

A new Chapter XIII is added to Title 32A CFR consisting of the following EPO Reg 3:

Sec.

- 1 Purpose and intent.
- 2 Definitions.
- 3 Allocation system.
- 4 Constraints on shipments from propane storage.
- 5 Pricing provisions.
- 6 Force majeure.
- 7 Hardships.
- 8 Records and access to records.
- 9 Effective date.
- 10 Termination date.
- 11 Certification.

AUTHORITY: Section 203(a)(3) of the Economic Stabilization Act as amended by PL MANDATORY ALLOCATION PROGRAM FOR PROPANE 93-28; 12 USC 1904 (Note); EO 11695, 38 FR 1473; COLC Order 39, 38 FR 22909.

Section 1 Purpose and intent.

(a) The purpose of this regulation is to assure that available supplies of propane are directed to those customers to whom propane is essential for their physical well-being, for the production of agricultural commodities, and such other essential needs as more fully identified in the priorities. Because supplies of propane will probably be insufficient to meet all market demands, non-priority users can expect to receive less than their full requirements and should plan accordingly.

(b) The distinctive problem with propane is that significant quantities are owned by relative newcomers who will not necessarily make it available for purchase by historic suppliers and resellers of propane.

Sec. 2 Definitions.

(a) "Propane" is, for purposes of this regulation, a hydrocarbon whose chemical composition is predominately C₃H₈. Propane-butane mixes supplies to end users are included in this definition. Excluded from this definition are raw mixed streams of natural gas liquids, no component of which has at any time been separated:

(b) "Secretary" means the Secretary of the Interior or his designee.

(c) "Priority customers" are those end-use customers to the extent they use propane for any of the following uses and where no feasible alternate fuel is available:

- (1) Residential use.
- (2) Agricultural production.
- (3) Food processing.
- (4) Mass transit vehicles.
- (5) Buildings primarily utilized for housing medical and nursing patients.
- (6) Industrial vehicles or equipments (such as forklift and other similar equipment) used primarily in enclosed facilities where alternative vehicles or equipment cannot be utilized because of gaseous emissions.

(7) Essential government services, such as fire and police use.

(8) Oil and gas well drilling and field production operations, and fuel for pipelines and other transportation for delivering propane to markets.

(9) Commercial requirements with total annual consumption not to exceed 15,000 gallons per year per location.

(10) Peak shaving, (the use of propane-air mixtures to supplement normal supplies of pipeline gas for distribution by gas utilities during periods of high demands) limited to volumes of propane equivalent to those amounts contracted for or purchased for delivery during the heating season extending from September 1, 1972 through April 30, 1973, regardless of whether those volumes were used during such heating season. No priority use of propane will be granted to a gas utility as long as it continues gas service to interruptible industrial customers or to customers who can use alternate fuels, other than natural gas.

(d) "End use customer" is any final consumer of propane whether for fuel, raw material, or other use.

(e) "Reseller" means any firm or that part of such a firm which carries on the trade or business of purchasing propane, and reselling it without substantially changing its form.

(f) "Supplier" is any person, firm, or corporation, or that part of such supplier who produces propane in a natural gasoline plant, refinery, or elsewhere, or who imports propane for sale, transfer, or exchange to another supplier, reseller, or an end-use customer. Those firms which import propane for their own use are excluded from this definition. "Suppliers" shall include those producers of natural gas who have their gas processed for their account by others and retains title to their liquids produced.

Sec. 3 Allocation system.

(a) *Sales by suppliers.* Suppliers who produce or otherwise supply propane to other suppliers will sell to those suppliers, the same proportion of their total propane available for sale, transfer or use after deduction of sales for current priority customers as they sold in periods October 2, 1972 through April 30, 1973.

(b) *Priority allocation.* (1) All propane suppliers and resellers must first provide propane for the normal priority requirements of their priority customers of record as of September 1973, and priority customers assigned under paragraph (b) (5) and (6) of this section, before making sales to non-priority customers.

(2) Suppliers shall provide to their resellers the supplies that those resellers need to meet the requirements of their priority customers. In those instances where a reseller is supplied by more than one supplier, his needs for his priority customers shall be supplied to him in the same proportion as those suppliers sold to him in the year ended April 30, 1973. Sales made to customers at the request of the Federal Government in the year ending April 30, 1973, will not be included in establishing proportional base period sales.

(3) Each reseller shall certify to his supplier or reseller his requirements for priority customers, and that to the best of his knowledge his customers alleged priority use is in fact a priority use. Each reseller shall certify that he has made his customers aware of the propane shortage, of the need for conservation of propane and other fuels and of ways by which fuel savings can be achieved. Such certifications shall be in the hands of suppliers 7 days prior to the end of each month, and shall give reasonable estimates of his priority customers' needs from that date through April 30, 1974.

(4) All propane received by resellers under priority certification shall be sold only to priority customers.

(5) Priority customers or resellers to priority customers or resellers who are unable to find a supplier may be assigned to a supplier by the Secretary. Assignments made by the Secretary will be made as equitably as possible considering normal regional supply patterns, normal distribution networks and the available supply of the supplier as ascertained by the allocation factor.

(6) No reseller may refuse to supply a priority customer whose requirements correspond to the normal commercial practices of the reseller. However, no reseller may be required to serve a customer whose method, location or terms of delivery differ significantly from the reseller's established business practices.

(7) In the event that a supplier's or a reseller's immediate supplies may be insufficient to meet the full requirements of his priority customers, the supplier/reseller shall sell to all his customers on a pro rata basis until requirements can be met.

(8) In the event a reseller certifies to a supplier or reseller a volume of propane for priority sale which appears to be excessive in relationship to the quantity delivered during the corresponding period of the previous year, the supplier may request verification from the Secretary that such excess deliveries are justified. The Secretary may require supporting data from priority customers or resellers as he deems necessary.

(c) *Non-priority allocation.* (1) Each month suppliers will determine their total supplies of propane available for sale or internal use as a raw material feedstock through April 30, 1974. From this amount they will subtract the projected requirements for their and their resellers' current priority customers. The remaining difference is the supplier's net available supply.

(2) Resellers shall certify to their suppliers no later than 15 days from the date this allocation program becomes effective (in the proportion referenced above) the amount of propane sold to non-priority customers during the period October 2, 1972 through April 30, 1973.

(3) The supplier will calculate an allocation fraction as follows: Divide the net available supply by the sum of the suppliers sales to non-priority customers, internal raw material uses, and non-priority sales to resellers as certified above, all during the period October 2, 1972 through April 30, 1973. This allocation fraction will be updated monthly and certified by all suppliers and shall be sent to the Secretary 2 days prior to the end of each month.

(4) The proportional base period sales is the quantity of propane which must be offered for sale to a particular non-priority customer or reseller or which may be used as a raw material by a supplier during the period October 2, 1973 through April 30, 1974; it shall be equal to the volume of such sales or internal use during the period October 1, 1972 through April 30, 1973, multiplied by the current allocation fraction. In no event, however, shall a supplier use an allocation fraction greater than 1.0. In the event a supplier's net available propane supply is of sufficient magnitude that its allocation fraction exceeds 1.0, the supplier shall make allocations based on an allocation fraction of 1.0 and report to the Secretary the volumes of surplus propane before the first of the month. Unless advised by the Secretary within 10 days to the contrary such surplus propane may be sold or used at its owner's discretion.

(5) Resellers shall sell those supplies to his nonpriority customers in the proportions certified in paragraph (c) (2) of this section.

Sec. 4 Constraints on shipments from propane storage.

(a) All operators of propane storage facilities with a capacity in excess of 500,000 gallons who store propane for other individuals or firms shall report to the Secretary within 10 days of the effective date of this regulation the total volume, locations and ownership of pro-

pane held by each such account. This same information shall be reported as of the end of each month within 5 days of the close of that month. This does not apply to individuals or firms who store propane in their owned facilities for their own use.

(b) (1) Operators of such storage facilities shall not release for shipment after October 2, 1973, to non-priority customers any quantity of propane which exceeds shipments from such storage to those respective consumers during the period September 1, 1972 through April 30, 1973. Amounts of such shipments in the base period shall be reported to the Secretary within 10 days of the effective date of this regulation, by the operators of the propane storage facilities.

(2) Operators of such storage facilities may request the Secretary to determine the priority or non-priority status of owners of propane in storage.

(c) Operators of such storage facilities shall not release for shipment to gas utilities after October 2, 1973, any quantity of propane which, taken together with receipts by that utility by purchase or contract after September 1, 1973, exceeds that quantity which is designated as priority use for that utility under the provisions of Section 2, paragraph (j).

(d) No restrictions other than reporting to the Secretary are imposed on the release of propane for shipment to priority customers or to resellers for sale to priority customers or to suppliers or to hardship cases certified by the Secretary. In the event propane embargoed for release from storage is purchased by suppliers, the volume purchased must be included in the supplier's total available propane supply. In the event propane embargoed for release from storage is purchased by priority customers or by resellers for sale to priority customers, the priority customer or reseller shall immediately notify his supplier or reseller of the volume purchased. The supplier will reduce the volume of propane budgeted for delivery to that priority customer or reseller by the volume of the reported purchase. The intent of this provision is to redirect propane supplies to conventional market channels. Owners of propane embargoed from shipment from storage are urged to sell such embargoed product to historic propane marketers.

Sec. 5 Pricing provisions.

No seller of propane may charge a price in excess of the price authorized under Subpart L of Part 150, Title 6, Code of Federal Regulations.

Sec. 6 Force majeure.

No person shall be held liable by any other person for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with this regulation or any other rule, regulation, or order issued pursuant to the mandatory allocation program for propane notwithstanding that this regulation or any other such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid.

Sec. 7 Hardships.

Persons who, as determined by the Secretary, suffer exceptional hardship as a direct consequence of this regulation may petition the Secretary for relief. The relief fashioned by the Secretary shall be such as, in his discretion after investigation and hearing, if a hearing is requested, will, to the full and practicable extent in his judgment, afford the petitioner a means, if one is available, for obtaining part or all of the propane which the petitioner seeks. The inability or non-priority customers to obtain propane will not be deemed in itself an exceptional hardship.

Sec. 8 Records and access to records.

Suppliers, resellers, operators of propane storage facilities, and users of propane shall maintain complete records of all of their transactions in propane and shall maintain the same on a current basis available for inspection by representatives of the Secretary. Persons concealing material facts or making false statements with regard to or in connection with their operations under this regulation are guilty of a crime and upon conviction may be punished therefore by fine or imprisonment or both.

Sec. 9 Effective date.

The program shall become effective on October 3, 1973.

Sec. 10 Termination date.

This program shall remain in effect (with amendments as required) until terminated by the President or until authority is revoked under section 203(a) (3) of the Economic Stabilization Act.

Sec. 11 Certification.

All certifications by an individual or firm to another individual or firm or the Secretary shall be certified for correctness by an officer of the reporting company. The provisions of 18 U.S.C. 1001 shall apply to all submissions made.

JOHN A. LOVE,
Assistant to the President.

[FR Doc.73-21175 Filed 10-2-73;10:13 am]

Proposed Rules

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

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Changes in Customs Region IV

A survey of the activity at the Customs station at Washington, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV), indicates that the volume of traffic no longer justifies its retention as a Customs station. The principal function at Washington, North Carolina, was marine documentation, which was transferred to the United States Coast Guard in 1967. There have been no Customs transactions or activities in that area since the time of transfer.

Accordingly, notice is hereby given that, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 165, revised (T.D. 53654), it is hereby proposed to revoke the designation of Washington, North Carolina, as a Customs station.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than November 2, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved September 24, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the
Treasury.

[FR Doc.73-21012 Filed 10-2-73; 8:45 am]

[19 CFR Parts 4, 8, 12, 18, 19, 20, 24, 56,
127, and 147]

GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

Notice of Proposed Rulemaking

Notice is hereby given that under the authority of 5 U.S.C. 301, Revised Stat-

ute 251, as amended (19 U.S.C. 66), and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to revise the Customs Regulations relating to general order, unclaimed, and abandoned merchandise.

This proposed revision follows a new format and is part of the general revision of Customs Regulations. It replaces the provisions of § 24.25, portions of part 56, and part 20 with the proposed part 127, General Order, Unclaimed, and Abandoned Merchandise.

The principal changes in the proposed part 127 are as follows:

1. Section 127.1 contains a listing of all of the merchandise which is considered general order merchandise.

2. Section 127.3 contains the provisions of part 56 implementing Presidential Proclamation No. 2948 relating to the granting of extensions of the general order period in order to consolidate related material in a single section. The portion of part 56 relating to warehouses has been included in proposed part 144. Upon adoption of the two proposed parts, part 56 will be deleted.

3. Section 127.12 distinguishes the types of abandoned merchandise as voluntarily abandoned merchandise and involuntarily abandoned merchandise for clarity.

4. Section 127.13 regarding the storage of unclaimed and abandoned merchandise provides that this merchandise shall be sent under a permit to a class 1, 3, 4, or 5 warehouse. If none is available, then the district director, with approval of the Commissioner, may rent suitable premises in a class 2 warehouse. There is also a reference to § 4.37(f) which is the redesignation of § 20.1(b) concerning permits to discharge unclaimed cargo which is not unladen.

5. Section 127.24 more clearly provides for the giving of notice of sale of unclaimed and abandoned merchandise.

6. Section 127.36 combines § 24.25 with § 20.6 (f) and (g) regarding claims for surplus proceeds of sale of unclaimed and abandoned merchandise, including trade fair articles, keeping related matter together.

Accordingly, the proposed revision and conforming amendments are set forth below:

Chapter I of title 19 of the Code of Federal Regulations, is amended by adding part 127 to read as follows:

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

Sec.
127.0 Scope.

Subpart A—General Order Merchandise

- Sec.
127.1 Merchandise considered general order merchandise.
127.2 Withdrawal from general order for entry or exportation.
127.3 Extension of general order period.

Subpart B—Unclaimed and Abandoned Merchandise

- 127.11 Unclaimed merchandise.
127.12 Abandoned merchandise.
127.13 Storage of unclaimed and abandoned merchandise.
127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

Subpart C—Sale of Unclaimed and Abandoned Merchandise

- 127.21 Time of sale.
127.22 Place of sale.
127.23 Appraisal of merchandise.
127.24 Notice of sale.
127.25 Advertisement of sale.
127.26 Catalogs.
127.27 Conduct of sale.
127.28 Special merchandise.
127.29 Unsold merchandise.

Subpart D—Proceeds of Sale

- 127.31 Disposition of proceeds.
127.32 Expenses of cartage, storage, and labor.
127.33 Chargeable duties.
127.34 Auctioneer's commissions.
127.35 Presentation of accounts.
127.36 Claim for surplus proceeds of sale.
127.37 Insufficient proceeds.

AUTHORITY: R.S. 251, as amended, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624. Other statutory provisions interpreted or applied and additional authority are cited in the text or in parentheses following the sections affected.

§ 127.0 Scope.

This part sets forth regulations pertaining to general order merchandise, unclaimed merchandise, and abandoned merchandise, the storage and sale thereof and the distribution of the proceeds from the sale thereof. Regulations regarding the abandonment of merchandise by the importer to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506 (1)), appear in part 158 of this chapter.

Subpart A—General Order Merchandise

§ 127.1 Merchandise considered general order merchandise.

Merchandise shall be considered general order merchandise when it is taken into the custody of the district director and deposited in the public stores or a general order warehouse at the risk and expense of the consignee for any of the following reasons:

(a) Whenever entry of any imported merchandise is not made within the time

PROPOSED RULES

provided by law or regulations prescribed by the Secretary of the Treasury.

(b) Whenever entry is incomplete because of failure to pay estimated duties.

(c) Whenever, in the opinion of the district director, entry cannot be made for want of proper documents or other causes.

(d) Whenever the district director believes that any merchandise is not correctly or legally invoiced.

(e) Whenever, at the request of the consignee or the owner or master of the vessel or person in charge of the vehicle in which merchandise is imported, any merchandise is taken possession of by the district director after the expiration of 1 day after entry of the vessel or report of vehicle.

(Sec. 490, 46 Stat. 726, as amended; (19 U.S.C. 1490))

§ 127.2 Withdrawal from general order for entry or exportation.

(a) *Exportation within 1 year from date of importation.* Merchandise in general order may be exported without examination or appraisal if the merchandise is delivered to the exporting carrier within 1 year from the date of importation. This merchandise may be entered within 1 year from date of importation for immediate transportation to any port of entry designated by the consignee.

(b) *After expiration of 1 year from date of importation.* Entry for immediate transportation shall be permitted after the expiration of the 1-year period only for the purpose of filing an entry for consumption at the port of destination.

(c) *Withdrawal of less than single general order lot.* The withdrawal from general order of less than a single general order lot shall not be permitted except as provided for in § 8.8 of this chapter.

(Sec. 490, 46 Stat. 726, as amended; (19 U.S.C. 1490))

§ 127.3 Extension of general order period.

(a) *Extensions of 1 year each.* Pursuant to the authority in Proclamation No. 2948 issued by the President on October 12, 1951, (16 FR 10589), the initial 1-year period for general order merchandise in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be extended for successive periods of 1 year each upon compliance with paragraph (b) of this section. There is no limit to the number of extensions that may be granted. If the application is submitted after the expiration of the 1-year period or the latest extension thereof, the new extension shall be retroactive to the expiration of the previous period. An extension shall not be granted if the merchandise has been disposed of by the Government.

(b) *Documents required for extension.* The following documents shall be presented to the district director at the port where the merchandise is stored each time an extension is requested:

(1) The written application for extension, in duplicate, executed by the consignee.

(2) Evidence that the applicant is the consignee, such as the bill of lading or a signed or certified duplicate thereof or a carrier's certificate covering the merchandise. It will not be necessary that the evidence be furnished with applications for any subsequent extensions when made by the same applicant.

(3) A statement on the application by the proprietor of the warehouse in which the merchandise is stored consenting to the extension, or certifying that all charges or amounts due or owing to the proprietor for storage or handling of the merchandise concerned up to the date of the beginning of the requested period of extension have been paid.

(c) *Form of application.* For merchandise in general order, applications for extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be made in duplicate and in substantially the following form:

(Date)
The District Director of Customs

Sir: In accordance with the provisions of Treasury Decision No. 52896, of December 28, 1951, application is hereby made for an extension (or further extension) of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, for 1 year in the case of the merchandise described below:

Quantity and description of the merchandise:

Name of port where imported: _____

Dated of importation: _____

Present location of merchandise: _____ (address)

of warehouse where the merchandise is

Additional information: _____ (here state stored)

whether any previous extension has been al-

lowed or application made for such exten-

sion and, if so, the details thereof)

(name of consignee)

By _____ (name and title)

The undersigned hereby consents to the granting of the 1-year extension requested herein, or

The undersigned hereby certifies that all charges or amounts due or owing to the undersigned for storage or handling of the merchandise described above up to the date of the beginning of the 1-year period of extension requested herein have been paid.

(date) (warehouse proprietor)

By _____ (name and title)

(d) *Extension of carrier's bond.* In each case in which the merchandise remains charged against a carrier's bond,

Customs Form 3587, and an extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), is desired, there shall be furnished to the district director at the port where the charge against the bond was made the agreement of the principal and sureties on such bond in the following form:

EXTENSION OF CARRIER'S BOND

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case in which the merchandise remains charged against a carrier's bond the principal on such bond shall agree to the extension and shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the carrier's bond described below was furnished in connection with the entry for transportation in bond indicated, and it is now desired to extend the liability under such bond for a period of 1 year from the date of maturity of the bond (*):

Name of carrier: _____

Date of bond: _____

Date of approval: _____

Class and number of transportation in

bond entry: _____

Dated: _____

Port where charge against bond was

made: _____

Description of merchandise: _____

Date of importation: _____

Now, Therefore, This is to certify that

_____ principal, and

and _____ sureties on the carrier's

bond referred to above, hereby stipulate and

agree that their liability under said bond (*)

shall continue unchanged and in full force

and effect to the same extent as if no exten-

sion had been granted for a period of

1 year from the date of maturity of the

bond (*).

WITNESS our hands and seals this _____

day of _____, 19_____

Signed, sealed and delivered in the presence

of—

(Name) (Address)

(Name) (Address)

(Name) (Address)

(Name) (Address)

(Name) (Address)

(Name) (Address)

(surety) [SEAL]

(*) Here insert the words "as extended" if

a previous extension has been allowed.

(e) *Payment of charges.* If the merchandise concerned is stored in the public store, all charges or amounts due or owing to the Government for the storage or handling of the merchandise up to the date of the beginning of the 1-year period of extension requested shall be paid

as a condition precedent to the granting of the extension.

(f) *Approval of application.* If the application is approved by the district director, he shall endorse the fact and date of his approval on both copies of the application, retain the original as his record of the transaction, and return the duplicate to the consignee for his records. If the application is disapproved by the district director, he shall retain both copies on file in his office and advise the applicant in writing as to the reasons for his disapproval.

(Sec. 318, 46 Stat. 696; (19 U.S.C. 1318))

Subpart B—Unclaimed and Abandoned Merchandise

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which shall remain in Customs custody for 1 year from the date of importation thereof or a lesser period for special merchandise as provided by §§ 127.28 (c), (d), and (h), or for any extensions of the general order period as may be granted pursuant to § 127.3, and without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 726, as amended; (19 U.S.C. 1491))

§ 127.12 Abandoned merchandise.

(a) *Involuntarily abandoned merchandise.* The following shall be considered to be involuntarily abandoned merchandise:

(1) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which are still in Customs custody at the expiration of 3 months after the closing date of the fair for which they were entered. (See § 147.47 of this chapter.)

(2) Any imported merchandise upon which any duties or charges are unpaid, remaining in bonded warehouse beyond the 3-year warehouse period or extension thereof.

(b) *Voluntarily abandoned merchandise.* The following merchandise shall be considered to be voluntarily abandoned merchandise and the property of the United States Government:

(1) Merchandise which is taken possession of by the district director at the request of the consignee, or owner or master of the vessel or person in charge of the vehicle in which the merchandise was imported.

(2) Merchandise abandoned by the importer to the United States within 30 days after entry in the case of merchandise not sent to the public stores for examination, or within 30 days after the release of the examination packages or merchandise in the case of merchandise sent to the public stores for examination.

(3) Articles entered for a trade fair under the provisions of section 3 of the

Trade Fair Act of 1959 (19 U.S.C. 1752), which have been abandoned to the United States within 3 months of the closing of the fair.

(4) Merchandise in a bonded warehouse abandoned by the consignee within 3 years from the date of original importation. (See subpart D of part 158 of this chapter.)

(Secs. 490, 506, 559, 563, 46 Stat. 726, as amended, 732, as amended, 744, as amended, 746, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1490, 1506, 1559, 1563, 1753))

§ 127.13 Storage of unclaimed and abandoned merchandise.

(a) *Place of storage.* Unclaimed and abandoned merchandise shall be sent under a permit to a class 1 warehouse (public store) or to a suitable warehouse of class 3, 4, or 5 specially designated for the purpose by the district director. If no warehouse of these classes is available, the district director may, with the approval of the Commissioner of Customs, rent suitable premises in a class 2 warehouse. (For permit to discharge unclaimed cargo which is not unladen see § 4.37(f) of this chapter.)

(b) *Payment of storage and expenses.* Storage at the ordinary rates and all other expenses shall be paid by the owner or consignee of the merchandise upon entry thereof. If the goods are sold, such charges shall be paid from the proceeds of the sale to the extent that proceeds are available.

(Sec. 490, 46 Stat. 726, as amended (19 U.S.C. 1490))

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale.* If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in subpart C of this part unless entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(b) *Entry of merchandise subject to sale.* Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b)), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor.* The following merchandise for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid which remains in bonded warehouse beyond the 3-year warehouse period or extension thereof.

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

Subpart C—Sale of Unclaimed and Abandoned Merchandise

§ 127.21 Time of sale.

All unclaimed and abandoned merchandise shall be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the Commissioner of Customs. Regular sales shall be made once every year or more often at the discretion of the district director.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753))

§ 127.22 Place of sale.

All merchandise at a port other than a headquarters port which becomes subject to sale, including explosives, perishable articles and articles liable to depreciation, shall be promptly reported to the headquarters port for disposition. The district director, in his discretion, may sell such merchandise as well as merchandise at the headquarters port which is subject to sale, at the headquarters port or any other port within the district.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753))

§ 127.23 Appraisal of merchandise.

Before unclaimed and abandoned merchandise is offered for sale, it shall be appraised in accordance with sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot shall be reported.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.24 Notice of sale.

Notice of sale shall be sent on Customs Form 5251, 30 days prior to the date of sale, or 30 days prior to the transfer of merchandise to the place of sale, to the following:

- (a) Importer, if known; or
- (b) Consignee, if name and address can be ascertained; or
- (c) Shipper, his representative or agent, if merchandise is consigned to order or consignee cannot be ascertained; or
- (d) Warehouse transferee; or
- (e) Lienholder.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.25 Advertisement of sale.

(a) *Regular advertising.* Except as prescribed in sections 127.28(c), (d), and (h), and in paragraph (b) of this section, a brief notice of the time and place of sale shall be given for three successive weeks, immediately preceding the sale, in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper is to be selected by the district director and publication of the notice shall be authorized on the standard form provided for that purpose. The notice shall designate the place where catalogs may be obtained and a reasonable opportunity to inspect the merchandise shall be afforded prospective purchasers.

(b) *Where proceeds are insufficient to pay expenses and duties.* If the district director is satisfied that the proceeds of the sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time specified in paragraph (a) of this section.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.26 Catalogs.

Catalogs, if used, shall specify the marks, numbers, and description of packages, the description and quantities of their contents, the appraised value thereof, and also the domestic value at the time and place of the examination of the merchandise. They shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.27 Conduct of sale.

Sales may be conducted by the district director, any employee designated by him or by a public auctioneer.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.28 Special merchandise.

(a) *Drugs, seeds, plants, nursery stock, and other articles required to be inspected by Department of Agriculture.* Before drugs, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be immediately destroyed.

(b) *Pesticides and devices.* Pesticides and devices intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life (other than man or other than bacteria,

virus, or other microorganism on or in living man or other living animals) shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with the requirements of the law and regulations of that Agency. If found not to comply with such requirements, they shall be immediately destroyed.

(c) *Explosives, dangerous articles, fruit, and perishables.* Unclaimed explosives and other dangerous articles, and fruit and other perishable articles shall be sold after 3-days' public notice. When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the district director may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available.

(d) *Articles liable to depreciation.* Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 or more than 10 days, as the district director may determine, if in his opinion such merchandise will depreciate and sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 1 year.

(e) *Tobacco and tobacco products.* Tobacco articles and tobacco materials as defined in 26 U.S.C. 5702(j) and (k), may be sold for domestic consumption only if they will bring an amount sufficient to pay the expenses of sale as well as the internal revenue tax. If these articles cannot be sold for domestic consumption in accordance with the foregoing conditions, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(f) *Distilled spirits, wines, and malt beverages.* All unclaimed and abandoned distilled spirits, wines, and malt beverages may be sold for domestic consumption if they will bring an amount sufficient to pay the internal revenue tax. If they cannot be sold for domestic consumption in accordance with the foregoing condition, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. The sale must be conducted in accordance with the alcoholic beverage laws of the state in which the sale is held.

(g) *Other merchandise subject to internal revenue taxes.* All other unclaimed and abandoned merchandise subject to internal revenue taxes may be sold for domestic consumption if it will bring an amount sufficient to pay the internal revenue tax. If, in the opinion of the district director, it is insufficient in value to justify its sale, the merchandise shall be destroyed, unless it can be advantageously sold for export from continuous Customs custody or unless the Commis-

sioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(h) *Unclaimed merchandise remaining on dock.* Unclaimed merchandise remaining on the dock which, in the opinion of the district director, will not sell for enough to pay the cost of cartage and storage shall be sold at public auction upon public notice of not less than 6 or more than 10 days.

(Secs. 491, 492, 46 Stat. 727, as amended, sec. 201, 72 Stat. 1412, 68A Stat. 716, as amended, 86 Stat. 995; (19 U.S.C. 1491, 1492, 26 U.S.C. 5688, 5753))

§ 127.29 Unsold merchandise.

Merchandise offered for sale but not sold shall be included in the next regular sale of unclaimed and abandoned merchandise. If the district director is satisfied that such merchandise is unsalable or of no commercial value, it shall be destroyed.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1599))

Subpart D—Proceeds of Sale

§ 127.31 Disposition of proceeds.

From the proceeds of sale of merchandise remaining in public stores or in bonded warehouse beyond the time fixed by law, the following charges shall be paid in the order named:

(a) Internal revenue taxes.

(b) Expenses of advertising and sale.

(c) *Expenses of cartage, storage and labor.* When the proceeds are insufficient to pay such charges fully, they shall be paid pro rata. (For merchandise entered for warehousing, see § 127.32 of this subpart.)

(d) Duties.

(e) Any other charges due the United States in connection with the merchandise.

(f) Any sum due to satisfy a lien for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4 73 Stat. 18; (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.32 Expenses of cartage, storage, and labor.

The expenses of cartage, storage, and labor for merchandise entered for warehousing shall be paid in the following order:

(a) When such merchandise was warehoused in public stores, expenses of storage and labor shall be paid after expenses of sale (pro-rated when proceeds are insufficient to pay them fully) and any cartage charges shall be paid last.

(b) When such merchandise was warehoused in a bonded warehouse, expenses of storage, cartage, and labor shall be paid last (pro-rated when proceeds are insufficient to pay them fully).

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.33 Chargeable duties.

The duties chargeable on any merchandise within the purview of this subpart shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale. Household and personal effects of the character provided for in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), which belong to persons who have not arrived in this country before the effects become subject to sale, are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.34 Auctioneer's commissions.

The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be based on the amount of the successful bid.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.35 Presentation of accounts.

Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the district director for payment within 10 days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for different lots sold.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.36 Claim for surplus proceeds of sale.

(a) *Filing of claim.* Claims for the surplus proceeds of the sale of unclaimed or abandoned merchandise shall be filed with the district director at whose direction the merchandise was sold. The following shall be used in filing a claim:

(1) *Unclaimed merchandise.* Claims for surplus proceeds of the sale of unclaimed merchandise which has become abandoned and sold under section 491 of the Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(2) *Involuntarily abandoned merchandise—(1) Warehouse goods deemed abandoned.* Claims for surplus proceeds of sale of warehouse goods deemed involuntarily abandoned sold under section 559 of the Tariff Act of 1930, as amended (19 U.S.C. 1559), shall be established by reference to the warehouse entry, or, if the right to withdraw the merchandise from warehouse has been transferred, by reference to the documents by which the transfer was made.

(ii) *Trade fair articles deemed abandoned.* Claims for surplus proceeds of sale of trade fair articles deemed involuntarily (mandatorily) abandoned under section 4 of the Trade Fair Act of 1959 (19 U.S.C. 1753(c)), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic copy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(See § 147.47 of this chapter.)

(b) *Payment of claim.* If a claim of the owner or consignee of unclaimed or abandoned merchandise for the surplus proceeds of sale is properly established as provided in this section, such proceeds of sale shall be paid to him pursuant to section 493 of the Tariff Act of 1930, as amended (19 U.S.C. 1493).

(c) *Doubtful claims.* Any doubtful claims for the proceeds of sale along with all pertinent documents and information available to the district director shall be forwarded to the Commissioner of Customs for instructions or for referral to the General Accounting Office for direct settlement.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.37 Insufficient proceeds.

(a) *Warehouse merchandise deemed involuntarily abandoned.* If the proceeds of sale of warehouse merchandise deemed involuntarily abandoned are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the warehouse entry bond.

(b) *Unclaimed merchandise and trade fair articles involuntarily abandoned.* If the proceeds of sale of unclaimed merchandise or trade fair articles involuntarily abandoned are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed, and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee.

(Secs. 491, 492, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1492, 1493, 1559, 1753))

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.37 is amended by adding paragraph (f) as follows:

§ 4.37 Lay order; general order.

(f) Whenever, pursuant to section 457 or 490, Tariff Act of 1930, as amended (19 U.S.C. 1457, 1490), the district director shall take possession of a cargo which is unclaimed and not unladen, he shall require, as a condition for granting a

permit to discharge, that the vessel be removed at the expense of the owner to the wharf, pier, or other place most convenient to the general order stores.

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

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

In § 8.25, paragraph (d) is amended by substituting "subpart D of Part 127" for "20.6".

Section 8.38 is amended by substituting "127.14(c)" for "20.3(c)".

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

PART 12—SPECIAL CLASSES OF MERCHANDISE

In § 12.13, paragraph (a) is amended by substituting "subparts C and D of Part 127", for "§§ 20.5 and 20.6".

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

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

In section 18.12, paragraph (a) is amended by substituting "127.2" for "20.2".

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

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

In § 19.6, paragraph (a) is amended by substituting "127.14(c)" for "20.3(c)".

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

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE

Chapter I of title 19, Code of Federal Regulations, is amended by deleting Part 20—Disposition of Unclaimed and Abandoned Merchandise.

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

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Part 24, Chapter I, title 19, Code of Federal Regulations, is amended by deleting § 24.25.

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

PART 56—EXTENSIONS OF TIME PURSUANT TO PROCLAMATION OF THE PRESIDENT UNDER SECTION 318, TARIFF ACT OF 1930

Part 56, Chapter I, title 19, Code of Federal Regulations, is amended by deleting §§ 56.1(a)(1), 56.2, and 56.3(a).

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

PART 147—TRADE FAIRS

Section 147.47 is amended by inserting "(See subpart D of part 127)" at the end of the second sentence.

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

For ready comparison there is attached a table of sources.

Prior to the adoption of the revision, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than October 2, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved September 24, 1973.

EDWARD L. MORGAN,
Assistant Secretary
of the Treasury.

ANNEX TO NOTICE OF PROPOSED RULE MAKING
PARALLEL REFERENCE TABLE

(This table shows the relation of sections in proposed part 127 to 19 CFR parts 20, 24, and 56)

| Proposed Part 127 section | 19 CFR Section |
|---------------------------|-----------------------|
| 127.0 | New. |
| 127.1(a)-(e) | New. |
| 127.2(a)-(b) | 20.2(a). |
| 127.2(c) | 20.2(b). |
| 127.3(a) | 56.1(a). |
| 127.3(b) | 56.1(a), 56.2(c). |
| 127.3(c) | 56.3(a). |
| 127.3(d) | 56.2(a). |
| 127.3(e) | 56.2(b). |
| 127.3(f) | 56.2(d). |
| 127.11 | New. |
| 127.12(a)-(b) | New. |
| 127.13(a) | 20.1(a), 19.1(a). |
| 127.13(b) | 20.1(c). |
| 127.14(a) | 20.3(a). |
| 127.14(b) | 20.3(b). |
| 127.14(c) | 20.3(c). |
| 127.21 | 20.5(a). |
| 127.22 | 20.5(d). |
| 127.23 | 20.5(b). |
| 127.24 | 20.5(j). |
| 127.25(a) | 20.5(e). |
| 127.25(b) | 20.5(h). |
| 127.26 | 20.5(i). |
| 127.27 | 20.5(a). |
| 127.28(a) | 20.5(c). |
| 127.28(b) | New. |
| 127.28(c) | 20.5(f). |
| 127.28(d) | 20.5(g). |
| 127.28(e) | 20.4. |
| 127.28(f) | New. |
| 127.28(g) | 20.4. |
| 127.28(h) | 20.5(g). |
| 127.29 | 20.5(k). |
| 127.31 | 20.6(f) & (g); 24.25. |
| 127.32 | 20.6(h). |
| 127.33 | 20.6(c). |
| 127.34 | 20.6(d). |
| 127.35 | 20.6(e). |
| 127.36 | 20.6(b). |
| 127.37(a) | 20.6(i). |
| 127.37(b) | 20.6(a). |

[FR Doc.73-21015 Filed 10-2-73;8:45 am]

[19 CFR Part 6]

INTERNATIONAL AIRPORTS OF ENTRY

Proposed Revocation of International Airport Status of San Diego International Airport

A review of the airport operations at San Diego International Airport (Lindbergh Field), San Diego, California, indicates that, to alleviate the congestion caused by general aviation type aircraft, and to eliminate a safety hazard caused by commingling of multiengine jet aircraft with light aircraft, it has become necessary to revoke the status of San Diego International Airport (Lindbergh Field), San Diego, California, as an international airport. The revocation would not preclude aircraft arriving from foreign countries from applying for permission to land under the provisions for a landing rights airport. Aircraft denied permission to land could easily be handled, without undue inconvenience to the public, at any of the several airports in that area having available Customs service.

Therefore, notice is hereby given that under the authority of sec. 1109(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), it is proposed to revoke the designation of San Diego International Airport (Lindbergh Field), San Diego, California, as an international airport (airport of entry) for civil aircraft and for merchandise carried thereon arriving from places outside the United States.

Consideration will be given to relevant data, views, or arguments pertaining to the proposal which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than November 2, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved September 24, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the
Treasury.

[FR Doc.73-21013 Filed 10-2-73;8:45 am]

[19 CFR Part 175]

PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, AND WHOLESALEERS

Proposed Amendment of Customs Regulations Pertaining to Procedure Following Petition

Notice is hereby given that under authority of R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624, it is proposed to amend the Customs Regulations per-

taining to the procedure to be followed after a petition has been filed pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer, producer, or wholesaler, or by a duly authorized attorney or agent on its behalf.

Although section 516 does not require that an opportunity be given to interested parties to present their views prior to publication of a decision on a petition, it does not preclude it. The giving of notice would permit a more informed decision on the petition, and would result in a more equitable procedure by permitting interested parties to present their views on the questions raised by the petition. The proposed amendment provides for the publication of a notice in the FEDERAL REGISTER that a petition has been filed under sec. 516, and provides an opportunity for comment by interested parties.

Accordingly, it is proposed to amend § 175.21 by changing the heading, adding a new paragraph (a), and designating the present matter as paragraph (b) as set forth below:

§ 175.21 Notice of filing of petition and inspection of documents and papers.

(a) *Notice of filing of petition.* Upon the filing of a petition, a notice shall be published in the Federal Register setting forth that a petition has been filed by an American manufacturer, producer, or wholesaler, identifying the merchandise which is the subject of the petition, and its present and claimed appraised value or classification or rate of duty. The notice shall invite interested persons to make such written submissions as they desire within such time as is specified in the notice.

(b) *Inspection of documents and papers.* A petitioner shall not be permitted in any case to inspect documents or papers of the consignee or importer which are exempted from disclosure under § 103.7 of this chapter.

Prior to adoption of the amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than November 2, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Bureau of Customs, Regulations Division, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: September 24, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-21014 Filed 10-2-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 958]

ONIONS GROWN IN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of a proposed \$152,580 budget and a three and one-half cent per hundredweight rate of assessment for the Idaho-Eastern Oregon Onion Committee for its fiscal period ending June 30, 1974. This committee was established under Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958).

This marketing order program regulates the handling of onions grown in designated counties in Idaho and Malheur County, Oregon, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 12, 1973. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 958.217 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1974, by the Idaho-Eastern Oregon Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to \$152,580.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be \$0.035 per hundredweight of onions handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated September 27, 1973.

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

[FR Doc.73-20978 Filed 10-2-73;8:45 am]

[7 CFR Part 966]

TOMATOES GROWN IN FLORIDA

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of a proposed \$139,500 budget and

a rate of assessment of one-half cent per 30-pound equivalent of tomatoes for the Florida Tomato Committee for its fiscal period ending July 31, 1974. The committee was established under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966).

This marketing order program regulates the handling of tomatoes grown in designated counties in the State of Florida, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 15, 1973. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 966.210 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1974, by the Florida Tomato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to \$139,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-half cent (\$0.005) per 30-pound container of tomatoes, or equivalent quantity, handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: September 28, 1973.

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

[FR Doc.73-21053 Filed 10-2-73;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 260]

INSPECTION AND CERTIFICATION OF FISHERY PRODUCTS

Fees and Charges

Notice is hereby given that pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), it is proposed to amend §§ 260.70 and 260.71 of Part 260—Inspection and Certification related to Fees and Charges. The intent of the proposal is to adjust rates to provide for reimbursement to the Department for government costs attributable to the program for inspection and certification of fishery products. This adjustment is necessary due to a decrease in

the participation by industry in the program over the last year. It is proposed that the new rates become effective January 1, 1974. However, the proposed rates do not include automatic increases, as provided for in § 260.81, which may occur in December 1973 if a Federal Pay Bill is enacted.

Interested persons may submit written comments in regard to the proposed amendments to the regulations to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. All relevant material received not later than November 19, 1973 will be considered.

ROBERT M. WHITE,
Administrator.

1. In § 260.70 paragraphs (b) (1) and (d) (2) are revised as follows:

§ 260.70 Schedule of fees.

(b) Unless otherwise provided in the regulations in this part, the fees to be charged and collected for any inspection service performed under the regulations in this part shall be based on the applicable rates specified in this section for the type of service performed.

(1) Type I—Official establishment and product inspection—contract basis.

| | Per Hour |
|---|----------|
| Regular Time..... | \$14.50 |
| Overtime..... | 18.15 |
| Sunday and Legal Holidays (2 hour minimum)..... | 21.75 |

The contracting party shall be charged at an hourly rate of \$14.50 per hour for regular time; \$18.15 per hour for overtime in excess of 8 hours per shift per day; and \$21.75 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this section.

(2) Type II—Lot inspection—Officially and unofficially drawn samples.

| | Per Hour |
|---|----------|
| Regular Time..... | \$18.15 |
| Overtime..... | 22.70 |
| Sunday and Legal Holidays (2 hour minimum)..... | 27.75 |
| Minimum Fee..... | 13.60 |

For lot inspection services performed between the hours of 7 a.m. and 5 p.m.: Monday through Friday—\$18.15 per hour;

For lot inspection services performed at times Monday through Friday other than 7 a.m. to 5 p.m., and on Saturdays (2 hours minimum)—\$22.70 per hour;

For lot inspection services performed on Sunday and national legal holidays (2 hour minimum)—\$27.75 per hour.

The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be \$13.60.

(d) * * *

(2) Fees to be charged for any analysis performed at a government laboratory not specifically shown in this paragraph

(d) will be based on the time required to perform such analyses at an hourly rate of \$14.50.

2. Section 260.71 is revised as follows:

§ 260.71 Fee for inauguration of inspection service on a contract basis.

Prior to inauguration of inspection service, a fee of \$17.50 per contract hour of inspection service will be charged and collected following completion of the final establishment survey and approval of it as an official establishment. The number of hours to which the fee for inauguration applies is the minimum number of man-hours of inspection per week determined in accordance with § 260.97(a).

[FR Doc. 73-21028 Filed 10-2-73; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 273]

LIMULUS AMEBOCYTE LYSATE

Additional Standards

Correction

In FR Doc. 73-19808 appearing at page 26130 in the issue for Tuesday, September 18, 1973, make the following changes:

1. In § 273.5022, second line, the word "each" should be inserted after the word "unless".

2. In § 273.5023(b), eighth line, the word "Lystate" should read "Lysate".

Social Security Administration

[20 CFR Part 410]

[Reg. No. 10]

BLACK LUNG BENEFITS

Payment of Benefits

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Acting Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. Various members of Congress have indicated that dual entitlement for any black lung beneficiary was not intended when the Federal Coal Mine Health and Safety Act of 1969 was enacted. Continuing congressional interest in this matter has resulted in the introduction of proposed amendments to the law to prevent dual entitlement of widows of miners. The proposed amendment which is responsive to this concern would expand the black lung regulations to

cover any situation where an individual is found to be eligible for black lung benefits based on the coal mine employment of more than one miner. The proposed amendment provides that the benefits payable to or on behalf of an individual who is entitled to black lung benefits and/or qualifies as a dependent for purposes of augmentation of benefits, based on the disability or death due to pneumoconiosis arising out of the coal mine employment of more than one miner, shall be at a rate equal to the highest rate of benefits for which entitlement was established by reason of eligibility as a beneficiary, or by reason of his or her qualification as a dependent for benefit augmentation purposes.

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

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program No. 13.806, Special Benefits for Disabled Coal Miners.)

Dated August 9, 1973.

ARTHUR E. HESS,
Acting Commissioner
of Social Security.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

Approved September 28, 1973.

Part 410 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

In § 410.510, new paragraph (g) is added to read as follows:

§ 410.510 Benefit rates.

(g) Eligibility based on the coal mine employment of more than one miner. Where an individual, for any month, is entitled (and/or qualifies as a dependent for purposes of augmentation of benefits) based on the disability or death due to pneumoconiosis arising out of the coal mine employment of more than one miner, the benefit payable to or on behalf of such individual shall be at a rate equal to the highest rate of benefits for which entitlement is established by reason of eligibility as a beneficiary, or by reason of his or her qualification as a dependent for augmentation of benefit purposes.

[FR Doc. 73-21083 Filed 10-2-73; 8:45 am]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Income and Resources

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments add new Subparts K (Income and Exclusions) and L (Resources and Exclusions) to the new Part 416 (20 CFR). Part 416 comprises the policies and procedures for payment of supplemental security income to aged, blind, or disabled individuals under title XVI of the Social Security Act, as amended by section 301 of the Social Security Amendments of 1972 (Public Law 92-603), enacted October 30, 1972. This amendment to title XVI of the Social Security Act is effective January 1, 1974.

Proposed Subpart K defines income and the exclusions from income and establishes the policies and limitations pertaining to income to be excluded and income to be counted for persons eligible or applying for benefit under title XVI of the Act.

Proposed Subpart L defines resources and the exclusions from resources. This subpart establishes the policies and limitations pertaining to the determinations of resources to be excluded, resources to be counted and for the disposition of excess resources for persons eligible or applying for benefits under title XVI of the Act.

Proposed regulations implementing the provisions pertaining to the treatment of income and resources for "essential persons" contained in Public Law 93-66, will be published at a later date.

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

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102, 1601, 1602, 1611, 1612, 1613, 1614(f), and 1631(d), 49 Stat. 647, as amended, 86 Stat. 1465, 1466, 1468, 1470, 1473; 42 U.S.C. 1302.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated August 24, 1973.

ARTHUR E. HESS,
Acting Commissioner
of Social Security.

Approved: September 28, 1973.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

Subpart K—Income and Exclusions

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416.1180 Consideration of income.

Subpart K—Income and Exclusions

§ 416.1101 Income—general.

(a) Under title XVI of the Act, an individual's income includes all of his own income in cash or in kind, both earned income and unearned income. It also includes all of the income of his or her eligible spouse (as defined in Subpart A of this part). In addition, an individual's income is deemed to include:

(1) Certain income of his or her ineligible spouse who lives in the same household, or

(2) If the individual is a child as defined in Subpart A of this part, certain income of his parent and the spouse of such parent who live in the same household.

(b) The income limits for a calendar quarter are \$390 for an individual and \$585 for an individual and an eligible spouse, i.e., if countable income (see § 416.1115) equals or exceeds these limits, no benefit under title XVI may be paid for that quarter.

§ 416.1102 Income defined.

(a) *Meaning of income.* The term "income" for purposes of title XVI means the receipt by an individual of any property or service which he can apply, either directly or by sale or conversion, to meeting his basic needs for food, clothing, and shelter.

(b) *Earned income.* The term "earned income" is defined in section 1612(a) (1) of the Act by reference to the definition of wages for purposes of the earnings test (see § 404.429(c) of this chapter) and net earnings from self-employment for coverage purposes (see § 404.1050 of this chapter) under title II of the Act.

(c) *Unearned income.* The term "unearned income" means all income that is not included in the definition of "earned income" (see §§ 416.1125—416.1138).

§ 416.1105 Conversion or replacement of resource.

(a) *Conversion of resource.* Any cash received from the sale of a resource as defined in § 416.1201 is not income, but retains the character of a resource.

(b) *Insurance payment on excluded resource.* The cash proceeds of casualty insurance to replace an excluded resource are not income. For treatment as a resource see § 416.1232.

§ 416.1107 Supplementary medical insurance premiums.

The term "income" does not include the amount of a premium payment for supplementary medical insurance under title XVIII of the Act which is paid by a third-party insurer on behalf of a beneficiary.

§ 416.1109 Medical and social services.

(a) *Medical services.* The term "income" does not include the value of any third-party payment for medical care or medical services furnished to a beneficiary. This exclusion from income also applies to room and board furnished during medical confinement and paid for by such third party.

(b) *Social services.* The term "income" does not include the value of advice, consultation (e.g., on educational plans, money management), training (e.g., on chores which the individual might be able to perform for himself), or other services of a strictly social nature furnished an individual by any governmental or private agency.

§ 416.1112 Income tax refund.

Since income taxes are included as income when determining the amount of wages (see § 416.1102(a)) or unearned income (see § 416.1120) of an individual, a refund of such taxes will not be included as income unless they were not previously included as income in determining eligibility for or the amount of a benefit under title XVI of the Act.

§ 416.1115 Countable income defined.

(a) The amount of a beneficiary's countable income for a calendar quarter (or shorter period, when applicable) is used to determine whether he is or is not eligible for benefits under title XVI of the Act and, if he is eligible, the amount

payable. Countable income is the amount of an individual's income which affects payments under title XVI. It is the sum of:

(1) His total earned income (as set forth in § 416.1102(a)) less his earned income exclusions (as set forth in §§ 416.-1145-416.1175); and

(2) His total unearned income (as set forth in § 416.1102(b)) less his unearned income exclusions (as set forth in §§ 416.-1145-416.1171).

(b) The countable income so determined may not have a negative value; it never can be less than zero. After countable income has been determined for a calendar quarter (or month, where applicable), the amount thereof is subtracted from the benefit amount otherwise payable to the beneficiary.

§ 416.1120 Availability of unearned income.

In determining the amount of unearned income the amount actually available to the individual is considered. The gross amount is reduced by any ordinary and necessary expenses incurred in getting or receiving the unearned income. However, reduction is not permitted below a zero value. For example, where an individual receives compensation for damages incurred in an automobile accident, the amount of unearned income under title XVI is the final settlement amount less ordinary and necessary legal, medical, and other expenses which are deducted prior to his receipt of the settlement. An amount earmarked to replace the damaged automobile could be excluded from income under § 416.1105(b). Personal income tax withheld from unearned income before it is paid to the individual is not a deductible expense and, therefore, does not reduce the amount of the unearned income to the individual (e.g., income tax withheld from lottery winnings).

§ 416.1125 Unearned income; support and maintenance.

(a) Unearned income includes support and maintenance furnished in cash or in kind. Support and maintenance may generally be defined as room and board, and would also include other incidentals necessary to an individual's normal sustenance.

(b) In the case of any eligible individual (or eligible individual and eligible spouse) living in another person's household and receiving support and maintenance in kind from such person, such individual's (or eligible individual and eligible spouse) payment standard of \$130 per month (or \$195 per month for an eligible individual and eligible spouse) will be reduced by one-third in lieu of including the value of such support and maintenance as unearned income to the individual (or eligible individual and eligible spouse).

(c) Such one-third reduction in the payment standard will apply only for months wholly spent in the household of another person. Thus, the reduction is made beginning with the first full calendar month in which an individual (or eligible individual and eligible spouse)

lives in another person's household and ends with the last such full calendar month.

(d) Such one-third reduction will apply regardless of whether the individual (or eligible individual and eligible spouse) is making any payment for support and maintenance (room and board) to the person in whose household he is living.

(e) Such one-third reduction in the payment standard will not apply where an individual (or eligible individual and eligible spouse) are living in a commercial establishment (e.g., rooming or boarding house) or institution. "Another person's" household refers to the household of a private individual.

(f) Such one-third reduction in the payment standard will not apply where only support or maintenance (i.e., room or board) is furnished in kind; both support and maintenance must be furnished for such reduction to apply. Where only support or maintenance is furnished in kind, the value of such support or maintenance will be included as unearned income in accordance with paragraph (a) of this section.

(g) In the case of an eligible individual with an eligible spouse such one-third reduction in the payment standard will not apply where only an eligible individual or the eligible spouse is living in another person's household. Any support and maintenance received in kind will be included as unearned income. Absent evidence to the contrary, such support and maintenance will be valued at \$32.50 per month (\$35 per month effective July 1, 1974, and thereafter).

(h) Such one-third reduction in the payment standard will not apply to the payment standard of any individual who is subject to the provisions of § 416.1185 and is living in the household of the person from whom income is or would be deemed.

§ 416.1130 Unearned income; annuities, pensions, and similar payments.

The following types of periodic payments are among those included in unearned income; however, this list is not all-inclusive:

(a) *Annuities.* Annuities are periodic payments calculated on an annual basis which are in the nature of returns on prior payments or services. They may be received from any source.

(b) *Pensions or retirement payments.* Normally, pension or retirement payments are paid to a worker following his retirement from employment. Such payments may be paid directly by a former employer; however, they also may be paid from a fund, insurance, or any similar-purpose source.

(c) *Disability benefits.* Disability benefits normally are paid to one who has suffered injury or impairment. Such payments are not limited to those arising from an employment relationship. Such payments may be made by an employer or from any insurance or other public or private fund.

(d) *Veterans compensation and pension.* Veterans payments are based on

service in the armed forces; but this service is not limited to the U.S. armed forces. Such payments may be made by the U.S. Veterans Administration, another country, a State or local governmental entity, or any other organization or entity.

(e) *Workmen's compensation payments.* Workmen's compensation payments are awarded to an injured employee or to his dependents. This includes payments under Federal and State workmen's compensation statutes, Longshoremen and Harbor Worker's Act, and so forth. Amounts included in such awards for medical, legal, or related expenses paid or actually incurred by an individual in connection with such claim are deducted in determining the amount that is counted as unearned income.

(f) *Social security benefits.* Old-age, survivors, and disability insurance payments made by the Social Security Administration under provisions of the Social Security Act are unearned income. Also included are special payments at age 72 (see § 404.374 of this chapter) and payments under title IV of the Federal Coal Mine Health and Safety Act of 1969 (i.e., Black Lung Benefits).

(g) *Railroad retirement payments.* Payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board to an individual who is or was a railroad worker, or to his dependents or survivors, are unearned income.

(h) *Unemployment compensation.* All unemployment insurance benefits are unearned income.

§ 416.1132 Unearned income; prizes and awards.

In general, the term "prize" means something won in a contest, lottery, or game of chance. In general, the term "award" means something of value received as the result of a decision or judgment of a court, a board of arbitration, or the like; ordinarily it does not come from a competition. In either event, the income is unearned income in determining eligibility for and the amount of benefits payable. Where a prize or award is not in cash, the current fair market value of the item is counted as unearned income.

§ 416.1134 Unearned income; proceeds of life insurance policy.

Unearned income under title XVI of the Act includes the proceeds of any life insurance policy to the extent that the proceeds exceed \$1,500, or the amount expended by the beneficiary of the policy on the insured's last illness and burial expenses, whichever is less. Last illness and burial expenses include related hospital, medical expenses, funeral, burial plot and interment expenses, and related costs.

§ 416.1136 Unearned income; gifts, support and alimony, inheritances.

(a) *General.* Unearned income under title XVI of the Act includes gifts, support and alimony payments, and inherit-

ances. The fair market value of the item received is used where the item is not received in cash.

(b) *Gifts.* A gift may or may not be in cash. It is anything given to an individual which is:

(1) Not compensation for services or other consideration, and

(2) Without legal obligation on the donor's part.

(c) *Support and alimony.* For purposes of this section, support means contributions in cash or in kind to provide some or all of an individual's usual needs (e.g., food, shelter, clothing); it may be provided voluntarily or pursuant to court order. Alimony is the allowance made by a court to one spouse from funds of the other spouse either pending decision on a suit for separation or divorce or after decision in such suit. In some jurisdictions a court uses the term "maintenance" instead of alimony.

(d) *Inheritance.* For purposes of this section, inheritance means cash, other liquid resources, noncash items, or any right in real or personal property to which one succeeds as the result of the death of another. An inheritance counts as unearned income when it is available for support.

§ 416.1138 Unearned income; rents, dividends, interest, royalties.

(a) *General.* Unearned income under title XVI of the Act includes rents, dividends, interest, and royalties which are not income from self-employment (as defined in section 211(a) of the Act).

(b) *Rents—(1) Defined.* Rents represent compensation in cash or in kind for the use of real or personal property (e.g., land, an apartment, a room, machinery).

(2) *Amount included.* In determining the amount of rent that is unearned income (i.e., not net earnings from self-employment), net ordinary and necessary "out of pocket" expenses incurred in operating and maintaining the property are deducted from the gross rent. Such expenses shall include only those expenses necessary for the production or collection of income, as defined in sections 163, 164, and 212 of the Internal Revenue Code of 1954 and the regulations thereunder; under no circumstances will depreciation or depletion of the property be considered such an expense.

(c) *Dividends and interest.* Dividends and interest normally represent return on a capital investment, usually on stocks, bonds, and savings accounts.

(d) *Royalties.* Royalties are payments to the holder of a patent or copyright, the owner of a mine, oil well, etc., for duplication of a writing, use of an invention, extraction of a product, or the like.

§ 416.1145 Exclusions from income; order of application.

(a) For the purpose of determining countable income in accordance with § 416.1115 of this subpart, the following income shall be excluded:

(1) Return or refund by any public agency of taxes on real property or food (§ 416.1149).

(2) Assistance based on need, which is paid by any State or political subdivision in supplementation of benefits (§ 416.1151).

(3) Tuition and fee portions of grants, scholarships and fellowships (§ 416.1153).

(4) Home produce used for personal consumption (§ 416.1155).

(5) Infrequently or irregularly received income, unearned and earned, if such income does not exceed \$60 per quarter for unearned and \$30 per quarter for earned (§ 416.1157).

(6) Certain payments received for foster care (§ 416.1159).

(7) One-third of child support payments by an absent parent (§ 416.1161).

(8) Student child's earned income up to specified limits (§ 416.1163).

(9) The first \$60 per quarter of income, earned or unearned, other than income based on need (§ 416.1165).

(10) Earned income in the amount of \$195, plus one-half of the remainder of the earned income per quarter (§ 416.1167).

(11) Work expenses of the blind (§ 416.1169).

(12) Income of the blind and disabled needed to fulfill a plan for self-support (§ 416.1171).

(b) In determining the countable income in accordance with § 416.1115, the exclusions listed in paragraph (a) of this section shall apply first to unearned income, and then to earned income, where appropriate. In so applying they shall be considered in the numerical sequence in which they are listed in paragraph (a) of this section.

§ 416.1149 Refund of taxes.

Any amount refunded from any public agency, if paid on the purchase of food or the satisfaction of real property levies, shall not be considered in determining countable income under § 416.1115.

§ 416.1151 State assistance based on need.

Assistance by a State or its political subdivision which is based on need and paid in accordance with Subpart T of this part shall not be considered in determining countable income under § 416.1115.

§ 416.1153 Grants, scholarships, and fellowships.

Any portion of any grant, scholarship or fellowship, for use in paying tuition or fees to an education institution received by an individual or spouse shall not be considered in determining countable income under § 416.1115.

§ 416.1155 Home product.

The value of agricultural products raised by an individual or spouse and not raised in connection with a trade or business and consumed by such individual or his immediate family shall not be considered in determining countable income under § 416.1115.

§ 416.1157 Infrequent or irregular income.

(a) *Earned income.* Earned income as defined in § 416.1102(a) of this subpart which does not exceed \$30 per quarter in total and which is received less than twice per quarter or which cannot be reasonably anticipated shall not be considered in determining countable income under § 416.1115.

(b) *Unearned income.* Unearned income as defined in § 416.1102(b) of this subpart which does not exceed \$60 per quarter in total and which is received less than twice per quarter or which cannot be reasonably anticipated shall not be considered in determining countable income under § 416.1115.

§ 416.1159 Foster care payments.

Income to an individual or spouse which represents payment for the foster care of a child who is not an eligible individual but is living in the same home as such individual and was placed there by a public or nonprofit private child-placement or child-care agency, shall not be considered in determining countable income under § 416.1115.

§ 416.1161 Child support.

Income received as support by an individual who meets the definition of child in Subpart A of this part from an absent parent of such child shall be reduced by one-third before it is considered in determining countable income under § 416.1115.

§ 416.1165 First \$60 of unearned or earned income.

The first \$60 of unearned income or earned income received in a quarter, not otherwise excluded by §§ 416.1149 through 416.1163 shall not be considered in determining countable income under § 416.1115; except income which is paid on the basis of need shall not be excluded under this section.

§ 416.1167 Amount of earned income exclusion.

Earned income not excluded from consideration by § 416.1149 through § 416.1165 in the amount of \$195 received per quarter plus one-half of any remaining earned income received in the same quarter shall not be considered in determining countable income under § 416.1115.

§ 416.1169 Work expenses of the blind.

Earned income not excluded from consideration by § 416.1149 through § 416.1167 of an individual who is blind as defined in Subpart I shall not be considered in determining countable income under § 416.1115 of this subpart to the extent that such income is used to meet any expenses reasonably attributable to the earning of any income.

§ 416.1171 Income needed to fulfill a plan for self-support.

Earned or unearned income which has not been excluded from consideration by

§ 416.1149 through § 416.1169 shall not be considered in determining countable income under § 416.1115 to the extent that such earned or unearned income is needed to fulfill an approved plan for self-support for an individual who is disabled or blind as provided by Subpart I of this part.

§ 416.1175 Income exclusions for certain blind individuals.

For an individual who is blind as determined under a State plan, which was approved under title X or XVI of the Act, as in effect in October 1972 and who for the month of December 1973 was a recipient of aid or assistance under such State plan, the maximum amount of earned or unearned income disregarded under such State plan will be disregarded in determining countable income under § 416.1115 in lieu of applying the exclusions from income provided in § 416.516, provided that the application of the provisions of § 416.1145 would result in a larger amount of countable income.

§ 416.1180 Consideration of income.

Except as otherwise noted, income is counted in determining eligibility for and the amount of benefits payable under title XVI when it is actually received or is counted when constructively received (see § 404.1026(b)(2) of this chapter), whichever first occurs. In general, this is the first point at which it is available to the individual to use. For example, interest on a regular savings account is counted when credited to the account. Generally, wages will be counted when received. Net earnings from self-employment will be allocated and counted as received equally in each quarter of the individual's taxable year.

Subpart L—Resources and Exclusions

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| 416.1201 | Resources; general. |
| 416.1202 | Deeming of resources. |
| 416.1205 | Limitation on resources. |
| 416.1210 | Exclusions from resources; general. |
| 416.1212 | Exclusion of the home. |
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| 416.1240 | Disposition of resources. |
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- Sec.
416.1264 Spouse ineligible under a State plan in December 1973.
416.1266 Individual under special resource provision dies after December 1973.

Subpart L—Resources and Exclusions

§ 416.1201 Resources; general.

(a) *Resources; defined.* For purposes of this subpart L, resources mean cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his support and maintenance. If the individual has the right, authority or power to liquidate the property, or his share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse).

(b) *Liquid resources; defined.* Liquid resources are those properties that are in cash or are financial instruments which are convertible to cash. Liquid resources include cash on hand, cash in savings accounts or checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages and similar properties.

(c) *Nonliquid resources; defined.* Nonliquid resources include all other properties. The term includes both real and personal property. Nonliquid resources are evaluated according to their current market value except as provided in § 416.1218. For purposes of this Subpart L, the "current market value" of an item is defined as the price that item can reasonably be expected to sell for on the open market in the particular geographic area involved.

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is married (as defined in Subpart J of this part) and whose spouse is living with him in the same household (as defined in Subpart A of this part) but who is not an eligible spouse, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual.

(b) *Child.* In the case of a child (as defined in Subpart A of this part) who is under age 21, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of a parent of such child (or the spouse of such a parent) who is living in the same household (as defined in Subpart A of this part) as such child, whether or not available to such child, to the extent that the resources of such parent (or such spouse of a parent) exceed \$1,500 in the case of one parent or \$2,250 in the case of two parents (or one parent and the spouse of such parent). As used in this section, the term "parent" means the natural or adoptive parent of a child and "spouse of a parent" means the spouse (as defined in Subpart A of this part) of such natural or adoptive parent.

(c) *Applicability.* When used in this Subpart L, the term "individual" refers

to an eligible aged, blind, or disabled person, and also includes a person whose resources are deemed to be the resources of such individual (as provided in paragraphs (a) and (b) of this section).

§ 416.1205 Limitation on resources.

(a) *Individual with no eligible spouse.* An aged, blind, or disabled individual without an eligible spouse (as defined in Subpart A of this part) may have nonexcludable resources not in excess of \$1,500 and not be ineligible for benefits under title XVI of the Act. An individual who is living with an ineligible spouse may have nonexcludable resources not in excess of \$2,250 and not be ineligible for benefits under title XVI of the Act. The \$2,250 includes the resources of such spouse.

(b) *Individual with an eligible spouse.* An aged, blind, or disabled individual who has an eligible spouse may have nonexcludable resources of up to and including \$2,250 and not be ineligible for payment under title XVI of the Act. The \$2,250 includes the resources of such spouse.

§ 416.1210 Exclusions from resources; general.

In determining the resources of an individual (and spouse, if any) the following items shall be excluded:

(a) The home (including the land appertaining thereto) to the extent its value does not exceed the amount set forth in § 416.1212;

(b) Household goods and personal effects to the extent that their total value does not exceed the amount provided in § 416.1216;

(c) An automobile to the extent that its value does not exceed the amount provided in § 416.1218;

(d) Property of a trade or business which is essential to the means of self-support as provided in § 416.1222;

(e) Nonbusiness property which is essential to the means of self-support as provided in § 416.1224;

(f) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support as provided in § 416.1226;

(g) Stock in regional or village corporations held by natives of Alaska during the twenty-year period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act (see § 416.1228);

(h) Life insurance owned by an individual (and spouse, if any) to the extent provided in § 416.1230; and

(i) Restricted allotted land owned by an enrolled member of an Indian tribe as provided in § 416.1234.

§ 416.1212 Exclusion of the home.

(a) A home is excluded in determining the resources of an individual (and spouse, if any) to the extent its current fair market value does not exceed \$25,000 (\$35,000 in Alaska and Hawaii).

(b) A home, for purposes of this part, is any shelter in which the individual (and spouse, if any) has ownership interest and which is used by the individual

(and spouse, if any) as his principal place of residence. The home includes any land that appertains thereto and any related outbuildings necessary to the operation of the home.

(c) The current fair market value of a home is based on the most recent assessed value placed on it by a State or locality which imposes a value-based property tax or levy, taking into consideration the ratio between such assessed value and the market value.

(d) The proceeds from the sale of a home which is excluded from the individual's resources will also be excluded from resources to the extent they are intended to be used and are, in fact, used to purchase another home, which is similarly excluded, within 3 months of the date of receipt of the proceeds.

§ 416.1216 Exclusion of household goods and personal effects.

(a) *Household goods and personal effects; defined.* Household goods are defined as including household furniture, furnishings and equipment which are commonly found in or about a house and are used in connection with the operation, maintenance and occupancy of the home. Household goods would also include the furniture, furnishings and equipment which are used in the functions and activities of home and family life as well as those items which are for comfort and accommodation. Personal effects are defined as including clothing, jewelry, items of personal care, individual education and recreational items such as books, musical instruments, and hobbies.

(b) *Limitation on household goods and personal effects.* In determining the resources of an individual (and spouse, if any), household goods and personal effects are excluded if their total market value is \$1,500 or less. If the market value of household goods and personal effects is in excess of \$1,500; the excess will be counted against the resource limitation.

§ 416.1218 Exclusion of the automobile.

(a) *Automobile; defined.* As used in this section, the term "automobile" includes, in addition to passenger cars, other vehicles used to provide necessary transportation.

(b) *Limitation on automobile.* In determining the resources of an individual (and spouse, if any) an automobile is excluded from counting as a resource if its current retail market value is \$1,200 or less. If the retail market value of the automobile exceeds \$1,200, the amount to be counted against the resource limit is that portion of the retail market value which exceeds \$1,200. However, an automobile will be totally excluded if it is used for employment or for the individual's medical treatment of a specific or regular medical problem.

(c) *Number of automobiles.* Only one automobile may be excluded in determining the resources of an individual (and spouse, if any) under this section.

(d) *Retail market value.* The "retail market value" of an automobile is the

average price a vehicle of that particular year, make, model, and condition will sell for on the open market (to a private individual) in the particular geographic area involved.

§ 416.1220 Exclusion of property essential to self-support.

In determining the resources of an individual (and spouse, if any) there shall be excluded, subject to the criteria and limitations in §§ 416.1222 and 416.1224, property so essential to the self-support of the individual (and spouse, if any) as to warrant its exclusion. Such property shall include both the property used in a trade or business (as defined in § 404.1070 of Part 404) and property not used in a trade or business but which nevertheless produces income or is otherwise necessary to the self-support of the individual (and spouse, if any). In the case of property not used in a trade or business, however, it shall not include cash, stocks, bonds, or any other liquid resources (as defined in § 416.1201) even though such liquid resources may be producing income.

§ 416.1222 Exclusion of property of a trade or business essential to self-support.

(a) In determining the resources of an individual (and spouse, if any) there shall be excluded property used by the individual (and spouse, if any) in his trade or business (as defined in § 404.1070 of this chapter) to the extent that such property is essential to the self-support of such individual (and spouse, if any).

(b) Property of a trade or business is considered essential for self-support if its current market value does not exceed limits which take into account the nature of the business and the gross and net income such business may be expected to produce in the light of such property.

(c) For purposes of this section, "property of a trade or business" means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc.

§ 416.1224 Exclusion of nonbusiness property essential to self-support.

(a) In determining the resources of an individual (and spouse, if any) there shall be excluded nonliquid property (as defined in § 416.1201) which although not used in a trade or business is essential to the self-support of the individual (and spouse, if any). Nonbusiness property is considered essential for self-support if it is relied upon by the individual as a significant factor in producing income on which he can live, it is used to produce goods essential to the support of the individual, or it is used to provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption is considered essential for self-support if the items produced are a significant factor in the support and maintenance of the individual.

(c) Tools, equipment, uniforms, and similar items required by the individual's employer are considered essential for self-support.

(d) A motor vehicle (in addition to that otherwise excludable under this Subpart L) is considered essential for self-support if, because of climate, terrain, or similar factors, additional or specially modified vehicles are required to provide necessary transportation. The limitations on value of otherwise excluded vehicles in this Subpart L are applicable to vehicles in this category.

§ 416.1226 Exclusion of resources necessary to fulfill an approved plan for self-support.

In determining the resources of a blind or disabled individual, there shall be excluded such resources as an approved plan for achieving self-support specifies as being necessary for the fulfillment of such plan for so long as such plan remains in effect.

§ 416.1228 Exclusion of Alaskan natives' stock in regional or village corporations.

(a) In determining the resources of a native of Alaska (and spouse, if any) there will be excluded from resources, shares of stock held in a regional or village corporation during the period of 20 years in which such stock is inalienable, as provided by sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606, 1607). The 20-year period of inalienability terminates on January 1, 1992.

(b) As used in this section, "native of Alaska" has the same meaning as that contained in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

§ 416.1230 Exclusion of life insurance.

(a) *General.* In determining the resources of an individual (and spouse, if any), life insurance owned by the individual (and spouse, if any) will be considered to the extent of its cash surrender value. If, however, the total face value of all life insurance policies on the individual (or of all life insurance policies on the spouse) does not exceed \$1,500, no part of the value of such life insurance will be taken into account in determining the resources of the individual (and spouse, if any). In determining the face value of life insurance on the individual (and spouse, if any), term insurance and burial insurance will not be taken into account.

(b) *Definitions—(1) Life insurance.* Life insurance is a contract under which the insurer agrees to pay a specified amount upon the death of the insured.

(2) *Insurer.* The insurer is the company or association which contracts with the owner of the insurance.

(3) *Insured.* The insured is the person upon whose life insurance is effected.

(4) *Owner.* The owner is the person who has the right to change the policy. This is normally the person who pays the premiums.

(5) *Term insurance.* Term insurance is a form of life insurance having no cash surrender value and generally furnishing insurance protection for only a specified or limited period of time.

(6) *Face value.* Face value is the basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or under other special provisions.

(7) *Cash surrender value.* Cash surrender value is the amount which the insurer will pay (usually to the owner) upon cancellation of the policy before death of the insured or before maturity of the policy.

(8) *Burial insurance.* Burial insurance is insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses of the insured.

§ 416.1232 Replacement of damaged or lost excluded resources.

Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within 3 months if the resource is personal property and 6 months if the resource is real property. Any such cash not so used within such time periods is an includable resource to the extent retained beginning with the quarter following the quarter of receipt.

§ 416.1234 Exclusion of Indian lands.

In determining the resources of an individual (and spouse, if any) who is an enrolled member of an Indian tribe, there shall be excluded such restricted, allotted lands as such individual (and spouse, if any) may possess if such individual (and spouse, if any) cannot sell, transfer or otherwise dispose of such land without permission of other individuals, his tribe or an agency of the Federal Government.

§ 416.1240 Disposition of resources.

(a) Where the resources of an individual (and spouse, if any) are determined to exceed the limitations prescribed in § 416.1205, such individual (and spouse, if any) shall not be eligible for payment except under the conditions provided in this section. Payment will be made to an individual (and spouse, if any) if:

(1) Total includable resources (other than a home determined to be an includable resource) do not exceed \$3,000 in the case of an individual or \$4,500 in the case of an individual and spouse; and

(2) Total includable liquid resources (as defined in § 416.1201) do not exceed \$390 in the case of an individual and \$585 in the case of an individual and spouse; and

(3) The individual agrees in writing to:

(i) Dispose of the nonliquid resources (as defined in § 416.1201) in excess of the limitations prescribed in § 416.1205 within the time period specified in § 416.1242; and

(ii) Repay any overpayments (as defined in § 416.1244) with the proceeds of such disposition.

(b) Payment made for the period during which the resources are being disposed of will be conditioned upon the disposition of resources prescribed in paragraph (a)(3) of this section. Any payments so made are (at the time of disposition) considered overpayments to the extent they would not have been paid had the disposition occurred at the beginning of the period for which such payments were made.

§ 416.1242 Time limits for disposing of resources.

(a) In order for payment conditioned on the disposition of nonliquid resources to be made, the individual must agree in writing to dispose of real property within 6 months and other property within 3 months. The time period will begin on the date the written agreement to dispose of the resources is signed by the individual. However, in case of an individual who is disabled, the time period will begin with the date the individual is determined to be disabled.

(b) The 6 and 3 month time periods for disposition will be extended an additional 3 months where it is found that the individual had "good cause" for failing to dispose of the resources within the original time period.

(c) An individual will be found to have "good cause" for failing to dispose of a resource if, despite reasonable and diligent effort on his part, he was prevented by circumstances beyond his control from disposing of the resource.

§ 416.1244 Treatment of proceeds from disposition of resources.

(a) Upon disposition of the resources, the net proceeds to the individual from the sale are considered available to repay that portion of the payments that would not have been made had the disposition occurred at the beginning of the period for which payment was made.

(b) The net proceeds from disposition will normally be the sales price less any encumbrance on the resource and the expenses of sale such as transfer taxes, fees, advertising costs, etc. where, however, a resource has been sold (or otherwise transferred) by an individual to a friend or relative for less than its current market value, the net proceeds will be the current market value less costs of sale and encumbrance.

(c) After deducting any amount necessary to raise the individual's (and spouse's, if any) resources to \$1,500 or \$2,250 (as applicable), as of the beginning of the disposition period, the balance of the net proceeds will be used to recover the payments made to the individual (and spouse, if any). Any remaining proceeds are considered liquid resources.

(d) The overpayment to be recovered is equal to the balance of the net proceeds (as described in paragraph (c) of this section) or the total payments made to the individual (and spouse, if any)

for the period of disposition, whichever is less.

§ 416.1260 Special resource provision for recipients under a State plan.

(a) *General.* In the case of any individual or any individual (and spouse, if any) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, of the Act, the resources of such individual (and spouse, if any) shall be deemed not to exceed the amount specified in § 416.1205 during any period that the resources of such individual (and spouse, if any) do not exceed the maximum amount of resources specified in such State plan as in effect in October 1972.

(b) *State plan; defined.* As used in this section and §§ 416.1261-416.1268, "an approved State plan as in effect in October 1972" and "State plan for October 1972" means a State plan as approved under the provisions of 45 CFR Ch. II as in effect in October 1972.

§ 416.1261 Application of special resource provision.

In determining the resources of an individual (and spouse, if any) who meets the conditions specified in § 416.1260(a), either the State plan resource limit and exclusions (as specified in § 416.1260) or the resource limit (as specified in § 416.1205) and exclusions (as specified in § 416.1210), whichever is most advantageous to the individual (and spouse, if any) will be used.

§ 416.1264 Spouse ineligible under a State plan in December 1973.

In the case of an individual who meets the conditions specified in § 416.1260 but whose spouse does not meet such conditions, whichever of the following is most advantageous for the individual (and spouse, if any) will be applied:

(a) The resource limitation and exclusions for an individual as in effect under the approved State plan for October 1972, or

(b) The resource limitation (as specified in § 416.1205) and exclusions (as specified in § 416.1210) for an individual and eligible spouse or an individual living with an ineligible spouse.

§ 416.1266 Individual under special resource provision dies after December 1973.

Where only one person, either the eligible individual or the eligible spouse, meets the conditions specified in § 416.1260 and that person dies after December 1973, the State plan resource limitation and exclusions will not be applied to determine the amount of resources of the surviving individual. The resource limitation (as specified in § 416.1205) and exclusions (as specified in § 416.1210) will be applied for the now eligible individual beginning with the month such person is considered the eligible individual as defined in Subpart A of this part.

[FR Doc. 73-21035 Filed 10-2-73; 8:45 am]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR AGED, BLIND, AND DISABLED

Mandatory Minimum State Supplementation of Supplemental Security Income Benefits Program

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the regulations set forth in tentative form are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to the regulations reflect and implement section 212 of Public Law 93-66 enacted July 9, 1973, dealing with mandatory minimum supplementation of supplemental security income benefits to aged, blind, or disabled individuals under title XVI of the Social Security Act (as amended by P.L. 92-603).

Proposed §§ 416.2070-416.2082 of Subpart T would establish the conditions under which the Secretary of Health, Education, and Welfare would enter into an agreement with the State to implement the mandatory minimum State supplementation provisions contained in P.L. 93-66.

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

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102, 1601, 1616, sec. 212 of P.L. 93-66, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475; 87 Stat. 155; 42 U.S.C. 1302, 1381, 1382e.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: September 14, 1973.

ARTHUR E. HESS,
Acting Commissioner
of Social Security.

Approved: September 28, 1973.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

Chapter III of Title 20 of the Code of Federal Regulations is amended by adding §§ 416.2070-416.2082 to proposed Subpart T of Part 416 to read as follows:

Sec.
416.2070 Mandatory minimum State supplementation.
416.2071 Mandatory minimum supplementation reduced.

| | |
|----------|---|
| Sec. | |
| 416.2072 | Mandatory minimum supplementary payments end. |
| 416.2073 | Mandatory minimum State supplementary payments excluded under § 416.2051. |
| 416.2074 | Mandatory minimum State supplementation; agreement. |
| 416.2075 | Mandatory minimum State supplementation; administration. |
| 416.2076 | Title XVI provisions applicable; Federal administration. |
| 416.2077 | Mandatory minimum State supplementation; agreement deemed. |
| 416.2078 | State payments—Federal administration. |
| 416.2079 | State compliance not applicable. |
| 416.2082 | Monitoring of mandatory minimum supplementary payments. |

§ 416.2070 Mandatory minimum State supplementation.

(a) *Requirement for Federal participation in medical assistance costs under title XIX of the Act.* In order for a State as defined in section 212(a) of P.L. 93-66 to be eligible for payments pursuant to title XIX of the Act with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary under which such State will provide to aged, blind, and disabled individuals (as defined in section 212(a) of P.L. 93-66) residing in the State who were recipients of aid or assistance under such State's plan approved under titles I, X, XIV, or XVI of the Act, mandatory minimum supplementary payments beginning in January 1974 in an amount determined in accordance with paragraph (b) of this section in order to maintain their income levels of December 1973.

(b) *Determining the amount.* The amount of a mandatory State supplementary payment in the case of any eligible individual or couple for any month is equal to:

(1) The amount by which such individual or couple's December 1973 income (as defined in paragraph (c) of this section) exceeds the amount of such individual or couple's title XVI benefit plus other income which would have been used by such State in computing the assistance payable under the State's approved plan for such month or;

(2) Such greater amount as the State may specify.

(c) *December 1973 income.* "December 1973 income" means an amount equal to the aggregate of:

(1) *Money payments.* The amount of the aid or assistance in the form of money payments which an individual would have received (including any part of such amount which is attributable to meeting special needs or special circumstances) under a State plan approved under title I, X, XIV, or XVI of the Act in accordance with the terms and conditions of such plan relating to eligibility for and amount of such aid or assistance payable thereunder which were in effect for the month of June 1973, and

(2) *Income.* The amount of the income of such individual other than aid or assistance, received by such individual in December 1973, remaining after appli-

cation of all appropriate income exclusions and used in computation of the amount of aid or assistance, minus any such income which did not result, but which if properly reported, would have resulted in a reduction in the amount of such aid or assistance. Income, which because a State paid less than 100% of its standard of need, did not cause a reduction in the amount of aid or assistance is included.

(d) *Optional supplement payable.* A recipient meeting the requirements of paragraph (a) of this section who would otherwise qualify for a payment under a State's program of optional State supplementation (provided for by § 416.2003) which is greater than the amount required by paragraph (b) of this section, shall be paid such greater amount.

§ 416.2071 Mandatory minimum supplementation reduced.

If for any month after December 1973 there is a change with respect to any special need or special circumstance which, if such change had existed in December 1973, would have caused a reduction in the amount of such individual's aid or assistance payment, then, for such month and for each month thereafter, the amount of the mandatory minimum supplement payable to such individual may, at the option of the State, be reduced in accordance with the terms and conditions of the State's plan approved under title I, X, XIV, or XVI of the Act in effect for the month of June 1973.

§ 416.2072 Mandatory minimum supplementary payments end.

An individual eligible for mandatory minimum supplementary payments from a State beginning in January 1974 shall not be eligible for such payments:

(a) *Month after the month of death.* Beginning with the month after the month in which the individual dies, or

(b) *Not aged, blind, or disabled.* Beginning with the first month after the month in which such individual ceases to be an aged, blind, or disabled individual within the meaning of § 416.2052, except that no individual shall be entitled to receive such mandatory minimum supplementary payment for any month in which such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act by reason of the provisions of Section 1611(e)(1)(A), (2) or (3), 1611(f), or 1615(c) of such Act.

(c) *Month of change in residence.* During any full month such individual is not a resident of such State.

§ 416.2073 Mandatory minimum State supplementary payments excluded under § 416.2051.

State supplementary payments made pursuant to an agreement with the Secretary whereby such State shall provide mandatory minimum supplementary payments shall be excluded under § 416.2051, in determining income of individuals for purposes of title XVI of such Act.

§ 416.2074 Mandatory minimum State supplementation; agreement.

(a) *Agreement—mandatory only.* Any State having an agreement with the Secretary under § 416.2070(a) may enter into an administration agreement with the Secretary under which the Secretary will make the mandatory minimum supplementary payments on behalf of such State. An agreement under § 416.2070(a) and an administration agreement under this paragraph may be consolidated into one agreement.

(b) *Agreement—mandatory and optional payments.* Any State may enter an agreement with the Secretary under which the State will provide both mandatory and optional State supplementary payments and elect Federal administration of such State supplementary payment programs. If the Secretary agrees to administer such State's optional supplementary payments, the State must also have the Secretary administer its mandatory supplementary payments unless the State is able to provide sufficient justification for exemption from this requirement.

(c) *Administration—combination.* Any State may enter into an agreement with the Secretary under which the State will provide mandatory minimum supplementary payments and elect Federal administration of such payments while providing optional State supplementary payments which it shall administer itself.

(d) *State audit.* If a State elects Federal administration of its mandatory minimum supplementary payments, such State may audit the payments made by the Secretary as provided under § 416.2005(c).

§ 416.2075 Mandatory minimum State supplementation; administration.

(a) *State requirements.* Any administration agreement between the Secretary and a State under which the Secretary will make such State's mandatory minimum State supplementary payments shall provide that the State will:

(1) *Certify income and payment amount.* Certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance in the form of money payments under a plan of such State approved under title I, X, XIV, or XVI of the Act, together with the amount of such aid or assistance payable to each such individual and the amount of such individual's other income (as defined in § 416.2070(c)(2)), and

(2) *Additional data.* Provide the Secretary with such additional data at such times as the Secretary may reasonably require in order to properly, economically, and efficiently carry out such administration agreement. This shall include required information on changes in countable income as well as changes in special needs and circumstances that would result in a decrease in the mandatory income level being maintained by the State, unless the State has specified in the agreement that the minimum income level shall not be lowered by such changes.

(b) *Payments under section 1616.* Mandatory minimum State supplementary payments made by the Secretary pursuant to an administration agreement shall, for purposes of section 401 of the Social Security Amendments of 1972, be considered to be payments made under an agreement entered into under section 1616 of the Act (as enacted by section 301 of the Social Security Amendments of 1972). Such payments shall be subject to the fiscal protection afforded such States in § 416.2010 including the provision for charging credits and debits against the adjusted payment level under terms of § 416.2010(e).

§ 416.2076 Title XVI provisions applicable; Federal administration.

The provisions of title XVI of the Act, as enacted by section 301 of the Social Security Amendments of 1972, including the provisions of Part B of such title, relating to the terms and conditions under which the benefits authorized by such title are payable, shall, where not inconsistent with the purposes of this subpart, be applicable to the mandatory minimum State supplementary payments made by the Secretary on behalf of such State under the administration agreement between the Secretary and such State.

§ 416.2077 Mandatory minimum State supplementation; agreement deemed.

A State shall be deemed to have entered into an agreement with the Secretary under which such State shall provide mandatory minimum supplementary payments if such State has entered into an agreement with the Secretary under section 1616 of the Act under which:

(1) *Other eligible individuals.* Supplementary payments are made to individuals other than those aged, blind, and disabled individuals who were eligible to receive aid or assistance in the form of money payments for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI of the Act, under terms and conditions of such plan in effect for June 1973, and

(2) *Minimum requirements.* Supplementary payments which meet the mandatory minimum requirements of this subpart are payable to all aged, blind, or disabled individuals who were eligible to receive aid or assistance in the form of money payments for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI of the Act, under terms and conditions of such plan in effect for June 1973.

§ 416.2078 State payments—Federal administration.

(a) *Payments for supplementation costs.* Any State which has entered into an administration agreement with the Secretary, whereby the Secretary will make such State's mandatory minimum supplementary payments on behalf of such State, shall pay to the Secretary the funds necessary to carry out such agreement in advance as stipulated in § 416.2005(a).

(b) *Payments of administrative costs.* The agreement between the State and the Secretary shall specify that all administrative costs incurred by the Secretary will be paid by the Federal Government, including the cost to the State for furnishing information required by § 416.2075(a).

§ 416.2079 State compliance not applicable.

The requirement that a State must have in effect an agreement with the Secretary whereby such State shall provide individual aged, blind, and disabled recipients residing in the State mandatory minimum supplementary payments beginning in January 1974 shall not be applicable in the case of any State where:

(a) *State constitution.* The State constitution limits expenditures that may be paid as public assistance to, or on behalf of, any needy person to an amount that does not exceed the amount of State public assistance payments that are matched by Federal funds under titles I, IV, X, XIV, XVI, or XIX of the Social Security Act making it impossible for such State to enter into and commence carrying out (on January 1, 1974) such agreement with the Secretary, and

(b) *Attorney General decision.* The Attorney General (or other appropriate State official) has, prior to July 1, 1973, made a finding that the State constitution of such State contains limitations which prevent such State from making supplementary payments of the type described in section 1616 of the Act.

§ 416.2082 Monitoring of mandatory minimum supplementary payments.

(a) *Access to records.* Any State entering into an agreement with the Secretary whereby such State will provide mandatory minimum supplementary payments in accordance with § 416.2070 shall agree that the Secretary shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the State involving transactions related to this agreement.

(b) *Additional data.* Any State entering into an agreement in accordance with § 416.2070 shall provide the Secretary with such additional data at such times as the Secretary may reasonably require in order to properly, economically, and efficiently be assessed of such State's compliance with such State agreements.

[FR Doc.73-21034 Filed 10-2-73; 8:45 am]

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[CGD 73 215P]

[33 CFR Part 117]

PUYALLUP RIVER, WASHINGTON

Proposed Drawbridge Operation
Regulations

At the request of the Cascade Pole
Company, the Coast Guard is considering

revising the regulations for the Chicago, Milwaukee, St. Paul and Pacific Railroad Company bridge across the Puyallup River at mile 0.9 to require the draws to open if at least 24 hours notice is given. Present regulations allow the draws to remain in the closed to navigation position. This change is being considered because the Cascade Pole Company has obtained land parallel to the Puyallup River upstream of the bridge. They will be floating poles into and out of this property on a periodic basis. The regulations for the East 11th Street bridge at mile 0.8 would be unchanged.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Thirteenth Coast Guard District (oan), 618 Second Avenue, Seattle, Washington 98104. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Thirteenth Coast Guard District.

The Commander, Thirteenth Coast Guard District, will forward any comments received before November 6, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of Code of Federal Regulations, be amended by revising paragraph (f) (2) of § 117.785 to read as follows:

§ 117.785 Tacoma Harbor, Tacoma, Washington; bridges.

(f) * * *

(2) Puyallup Waterway and River, Washington.

(i) The Department of Highways bridge at East 11th Street need not be opened for the passage of vessels, and paragraphs (b) to (c) of this section shall not apply to this bridge. The bridge shall be returned to an operable condition within 6 months after notification by the Commandant to take such action.

(ii) Chicago, Milwaukee, St. Paul and Pacific Railroad bridge. The draw shall open on signal if at least 24 hours notice is given.

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

Dated: September 27, 1973.

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

[FR Doc.73-21004 Filed 10-2-73; 8:45 am]

(CGD 73-116P)

[46 CFR Part 160]

LIFE SAVING EQUIPMENT

Lifeboats for Merchant Vessels

The Coast Guard is considering amendments to § 160.035-5(a) (3) consisting in elimination of minimum cross-sectional area of the vent pipe on diesel fuel tanks in lifeboats.

Any interested person or persons may submit written data, views, comments, suggestions and arguments to U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street, SW., Washington, D.C. 20590. All communications received by November 2, 1973 will be considered before action is taken on the proposed regulation. Each person submitting comments should include his name and address, identify this notice and give reasons and supporting data for his recommendation. The proposed amendments may be changed in the light of comments received. All comments will be available for examination in Room 8234.

The present regulation for vent line size in lifeboats was predicated on the size and length of the fuel fill pipe used on small passenger vessels as required by Subchapter T regulations, namely: 46 CFR 182.20-35(b), 182.20-35(b) (1) and 182.20-35(b) (2), for large tanks that are normally pressure filled. Experience, industry ship practice, design of the fuel tank and vent lines have shown that this requirement is neither realistic nor necessary. These small tanks are filled by hand from cans, not by forced pressure. A 1/4-inch O.D. line used to vent the tank is considered ample.

In consideration of the foregoing, it is proposed to amend Part 160 of Title 46 Code of Federal Regulations revising § 160.035-5(a) (3) to read as follows:

§ 160.035-5 Construction of Steel Motor-Propelled Lifeboats With and Without Radio Cabin.

(a) * * * (3) Fuel tanks must be constructed of steel, fibrous glass reinforced plastic or other approved equivalent. Fuel tanks must be adequately supported and securely fastened inside the lifeboat to prevent any movement. Fuel tanks must have no openings in the bottom, sides or ends. Openings for fill, vent and feed pipes must be on the top

surface of the tanks. The vent size for tanks of 50 gallons or less must not be less than 1/4-inch O.D. tubing. Vents for larger tanks will be given special consideration. The access openings in the thwarts for the fill tank cap must have a flush cover or the top of the cap must be flush with the top of the thwart. Fuel feed pipes must be provided with a shut-off valve at the tank, where it is readily accessible and its location marked. Tanks must be tested by a static head above the tank top of ten feet of water without showing leakage or permanent deformation. A graduated measure stick or other means must be provided to determine the amount of the fuel in the tank.

(46 U.S.C. 369, 375, 390b, 404, 410, 481, 489, 526p; 49 USC 1655(b) (1); 49 CFR 1.4(b); 1.46(b)).

Dated: September 24, 1973.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.73-21005 Filed 10-2-73; 8:45 am]

Federal Aviation Administration

[14 CFR Part 73]

[Airspace Docket No. 73-SW-42]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a new restricted area between Alexandria and Lake Charles, La. The area would be used by the United States Air Force for airborne search and rescue training.

Interested persons may participate in the proposed rule making 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 by November 2, 1973 will be considered before action is taken on the proposed amendment. The proposal 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 proposed amendment would designate the following restricted area:

R-3806 ENGLAND AIR FORCE BASE, LA.

Boundaries: beginning at Lat. 31°03'54" N., Long. 92°51'33" W.; to Lat. 30°58'00" N., Long. 92°39'00" W.; to Lat. 30°38'00" N., Long. 92°49'00" W.; to Lat. 30°43'00" N., Long. 92°58'00" W.; to Lat. 30°50'30" N., Long. 93°01'00" W.; to point of beginning.

Designated altitudes, 1,000 feet AGL to and including 7,000 feet MSL, excluding the air space below 1,500 feet AGL within a 2-nautical-mile radius of the City of Elizabeth, La.

Time of designation, Daylight hours, Monday through Friday.

Controlling agency, Federal Aviation Administration, Houston ARTC Center.

Using agency, 23 TF Wg, England AFB, La.

The proposed restricted area would be used to practice search and rescue maneuvers employing four high speed aircraft at low altitude as escorts for a rescue helicopter. These maneuvers are hazardous to nonparticipating aircraft because they require the complete attention of the escort pilots. For example, during the run-in to the rescue area, the escort pilots must fly in a continuous left turn, climbing or descending throughout, while maintaining constant visual reference to the helicopter, the other escort aircraft and the ground.

The practice would be limited to VFR conditions approximately six hours daily. As the proposed restricted area would be designated for joint use, it would be available for public use anytime it is released by the using agency.

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

Issued in Washington, D.C., on September 24, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.73-21027 Filed 10-2-73; 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 CM-71]

ADVISORY COMMITTEE, FOREIGN SERVICE INSTITUTE

Notice of Meeting

The second meeting of the Advisory Committee of the Foreign Service Institute of the Department of State will be held on October 29 and 30, 1973. Both sessions of the meeting will begin at 9:30 a.m. and will be held in room 1200, Foreign Service Institute, Department of State, 1400 Key Boulevard, Arlington, Virginia.

The agenda for the meeting covers the following topics: "Training and Career Development in the Foreign Service;" "Foreign Language Requirements and Programs"; and "Training and the Foreign Service through the Rest of the 70's."

All sessions of the meeting are open to the public to the extent of available seats in the Foreign Service Institute Conference Room. Persons desiring to attend are therefore requested to notify Mr. Donald C. Bergus, Executive Secretary of the Committee, telephone number (AC) 703 557-5378 who will advise whether seating accommodations remain available.

Dated September 25, 1973.

DONALD C. BERGUS,
Executive Secretary.

[FR Doc.73-20996 Filed 10-2-73;8:45 am.]

[Public Notice 401]

CULTURALLY SIGNIFICANT OBJECTS

Temporary Exhibition Within United States

Pursuant to the authority vested in me by PL 89-259 of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and Delegation of Authority No. 113 of December 23, 1966 (32 FR 58, January 5, 1967), Public Notice No. 387, published in the FEDERAL REGISTER on April 16, 1973 (38 FR 9446), is amended by adding to the places of exhibition or display: Museum of Fine Arts, Boston, Massachusetts, on or about March 20 to June 1, 1974.

Notice of this amendment of the determination is ordered to be published in the FEDERAL REGISTER.

Dated: September 14, 1973.

[SEAL] JOHN RICHARDSON, Jr.,
Assistant Secretary for
Educational and Cultural Affairs.

[FR Doc.73-21032 Filed 10-2-73;8:45 am.]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Brown, R. J., 1723 Sturgus Avenue South, Seattle, Washington, convicted on June 4, 1954, in the Superior Court of the State of Washington.

Burris, Robert E., 895 W. Lombard Street, Baltimore, Maryland, convicted on February 9, 1951, in the United States District Court, Maryland, and on September 2, 1954, in the Criminal Court of Baltimore, Maryland.

Few, Lewis, 3802 Duane, Detroit, Michigan, convicted on November 10, 1953, in the Recorder's Court of the City of Detroit, Michigan.

Gomez, Jr., Peter, 7271 Gartner, Detroit, Michigan, convicted on December 27, 1950, in the Recorder's Court, Detroit, Michigan. Hughley, John L., 725 Cooper Short, Anniston, Alabama, convicted on March 4, 1933, in the Talledega County Circuit Court, Alabama.

Kennedy, Norman, 20207 Omira, Detroit, Michigan, convicted on May 29, 1920, and on May 9, 1923, in the Marion County Court, State of Indiana.

Knieriem, Jr., Harold, 1730 W. Rock Road, Perkassie, Pennsylvania, convicted on April 18, 1958, and on August 8, 1958, in the Bucks County Court of Quarter-Sessions, Bucks County, Pennsylvania.

Mac Laren, Lloyd, 11 Cayuga Road, Tewksbury, Massachusetts, convicted on August 18, 1961, in the Gloucester District Court, Gloucester, Massachusetts.

Macomber, Robert M., 207 Villaire Street, Essexville, Michigan, convicted on February 25, 1963, in the Criminal Court of Record for Polk County, Florida.

Newbrough, Jr., Joseph Samuel, 932 Louisiana Avenue, New Orleans, Louisiana, convicted on October 21, 1959, in the United States District Court for the Eastern District of Louisiana.

Peek, William C., 1721 South 31 Alternate, Columbus, Indiana, convicted on March 12, 1942, in the United States District Court for the Western District of Kentucky.

Ritchey, Gerald, 200 West 93rd Street, New York, New York, convicted on November 4, 1935, in the County of Blair, State of Pennsylvania.

Wessel, Clifford B., 14 Ridge Avenue, Harrison Park, Jeanette, Pennsylvania, convicted on September 19, 1961, in the Allegheny County Criminal Court of Oyer and Terminer, Pennsylvania.

Wetzel, George A. T., Route 3, Box 36, Mount Airy, Maryland, convicted on October 14, 1965, in the Magistrates Court (City Court), Frederick, Maryland, and on May 6, 1972, in the District Court of Maryland, District 10, Howard County.

Whitaker, Don G., 1015 Jefferson Road, Paris, Texas, convicted on January 26, 1970, in the District Court, Hunt County, Texas.

Wright, George Dascher, 110 Rossville Road, Waukon, Iowa, convicted on January 17, 1967, in the Black Hawk County District Court, Waterloo, Iowa.

Signed at Washington, D.C., this 25th day of September 1973.

[SEAL]

REX D. DAVIS,
Director, Bureau of
Alcohol, Tobacco and Firearms.

[FR Doc.73-21016 Filed 10-2-73;8:45 am]

Office of the Secretary

MANDELIC ACID FROM THE UNITED KINGDOM

Tentative Discontinuance of Antidumping Investigation

SEPTEMBER 27, 1973.

Information was received on January 9, 1973, that mandelic acid from the United Kingdom was being offered for sale at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 9, 1973, on page 6414.

I hereby announce a tentative discontinuance of the antidumping investigation concerning mandelic acid from the United Kingdom.

Statement of Reasons On Which This Notice Of Tentative Discontinuance Of Antidumping Investigation is Based:

The investigation revealed that the proper basis of comparison for fair value purposes is between the offered price and the adjusted home market price of identical merchandise.

The offered price was calculated on the basis of an offered c.i.f. duty-paid, packed, delivered price, with deductions for freight, insurance and U.S. duty, as appropriate. An offered price was used in the fair value comparison because there have been offers but no sales of the merchandise to the United States during the period of the investigation.

Home market price was calculated on the basis of a weighted-average of delivered prices with deductions for inland freight charges. An adjustment was made for packing costs.

Comparison between the offered price and adjusted weighted-average home market price revealed the offered price was lower than the adjusted home market price of identical merchandise.

However, formal assurances were received from the only known manufacturer of mandelic acid in the United Kingdom that it would make no future sales of mandelic acid at less than fair value within the meaning of the Act.

The facts recited above constitute evidence warranting the discontinuance of the investigation.

Interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office on or before October 15, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office on or before Nov. 2, 1973.

Unless persuasive evidence or argument to the contrary is presented pursuant to the preceding paragraphs, a final notice will be published discontinuing the investigation.

This notice of tentative discontinuance of antidumping investigation is published pursuant to § 153.15(b) of the Customs Regulations (19 CFR 153.15(b)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.
[FR Doc.73-21140 Filed 10-2-73;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense NATIONAL INDUSTRIAL RESERVE REVIEW COMMITTEE

Establishment, Organization and Functions

In accordance with the provisions of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the charter for the National Industrial Reserve Review Committee has been expanded in order to comply with the Public Law.

The charter for the National Industrial Reserve Review Committee is as follows:
Official designation. The National Industrial Reserve Review Committee.

Objective and scope. Establishment of this Committee was directed by the National Industrial Reserve Act of 1948 (P.L. 80-883). The objective of the Committee is to advise the Secretary of Defense as to the type and quantity of industrial plants and equipment that should be maintained in the National Industrial Reserve to supply the needs of the Armed Forces in time of National Emergency or in anticipation thereof.

Duties. The function of the Committee is to advise the Secretary of Defense as to the type and amount of industrial plants and equipment that should be

maintained in the National Industrial Reserve to meet the needs of the Armed Forces. The specific duties are as follows:

1. To recommend disposition of property no longer of sufficient value to warrant its retention.

2. To recommend maintenance standards for the Government property.

3. To recommend disposal of property that could and should be devoted to commercial use in the civilian economy.

4. To advise the Secretary of Defense with respect to such activities under this Act that he may request.

Membership. The Committee shall be composed of not more than fifteen persons to be appointed from civilian life who are by training and experience familiar with various fields of American industry. Members of the Committee shall be selected and appointed by the Assistant Secretary of Defense (Installations and Logistics) with the approval of the Secretary of Defense or his designated representative. The Deputy Assistant Secretary of Defense (Production Engineering and Materiel Acquisition), who is a full-time, salaried Federal employee, is designated to approve all meetings and agenda in advance, be in attendance at all meetings, and serve as the Chairman of the Committee, and is authorized and required to adjourn any meeting when he determines adjournment to be in the public interest.

Meetings. The Act specifies that the Committee will review the National Industrial Reserve not less than once each year. This review can be accomplished in approximately 10-15 work days spread over a two-month period.

Responsible official. The Committee will report to the Secretary of Defense.

Support. The Office of the Assistant Secretary of Defense (Installations and Logistics) is responsible for providing necessary administrative support to the Committee.

Resources. The estimated operating cost of the Committee is \$9,000 for one year and the estimated man years in support of the Committee is less than 1/10th of a man year.

Duration and Termination Date. This Committee shall terminate two years from the date the charter is filed or on completion of its mission, unless prior to that time its continuation is approved for another period of two years.

Date Filed, September 26, 1973.

MAURICE W. ROCHE,
Director, Correspondent & Directives Directorate, OASD
(Comptroller).

SEPTEMBER 28, 1973.

[FR Doc.73-21037 Filed 10-2-73;8:45 am]

DEPARTMENT OF JUSTICE

ACTION TO ENJOIN DISCHARGE OF POLLUTANTS

Notice of Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice

is hereby given that on September 6, 1973, a proposed consent decree in *United States v. Star Valley Swiss Cheese Company* was lodged with the United States District Court for the District of Wyoming. The proposed decree requires the Star Valley Swiss Cheese Company to have all its waste water discharges treated at the municipal sewage treatment plant being constructed by the Town of Thayne, Wyoming.

The Department of Justice will receive written comments relating to the proposed judgment until October 3, 1973. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States v. Star Valley Swiss Cheese Company*, D.J. Ref. 90-5-1-1-317.

The proposed consent decree may be examined at the office of the United States Attorney, District of Wyoming, Cheyenne, Wyoming; the Region VIII Office of the Environmental Protection Agency, Room 900, 1800 Lincoln Street, Denver, Colorado 80203; the Clerk of the District Court, District of Wyoming, Cheyenne, Wyoming; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section. In requesting a copy, please enclose a check in the amount of \$.50 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,
Assistant Attorney General,
Land and Natural Resources
Division.

[FR Doc.73-20995 Filed 10-2-73;8:45 am]

Drug Enforcement Administration

[Docket No. 73-6]

RIVER FOREST PHARMACY, INC.

Revocation of Certificate of Registration

On April 2, 1973, the Director of the Bureau of Narcotics and Dangerous Drugs (a predecessor agency of the Drug Enforcement Administration) issued an Order to Show Cause to River Forest Pharmacy, Inc., 7605 Lake Street, River Forest, Illinois 60305, as to why its Certificate of Registration (BNDD Registration No. AR3732662), issued on April 4, 1972, should not be revoked for the reason that "... Norman J. Tankel, President of River Forest Pharmacy, Inc., on January 3, 1973, entered a plea of guilty to violating the Controlled Substances Act, to wit, section 841(a)(1), Title 21, United States Code, at the United States District Court for the Northern District of Illinois, Eastern Division. Said violation being a felony provision of said act relative to controlled substances."

In addition, and in accordance with the provisions of section 304(d) of the

Controlled Substances Act (21 U.S.C. 824 (D)), and pursuant to the authority granted to him under § 0.100, as amended, Title 28, Code of Federal Regulations, the Director, coincident with the issuance of this Order to Show Cause, ordered the Immediate Suspension of the above BNDD Registration. This action was taken in view of the serious nature of the aforesaid criminal violation, and therefore, the Director determined that for the Respondent to retain its Certificate of Registration during the pendency of these proceedings would result in imminent danger to the public health and safety.

Thereafter, the respondent requested an expedited hearing in the matter, and on April 27, 1973, that hearing was held before Allen E. Gramza, Administrative Law Judge, in Chicago, Illinois. Following that hearing, Proposed Findings of Fact and Conclusions of Law were submitted to Judge Gramza by the Office of Chief Counsel, Drug Enforcement Administration.

On August 1, 1973, Judge Gramza filed the following recommended findings of fact and conclusions of law, and his recommended decision with the Drug Enforcement Administration:

ISSUES

The general issue is whether the suspension of the respondent's Bureau of Narcotics and Dangerous Drugs Certificate of Registration should not be finalized into an order of revocation. The specific issue is whether the facts and circumstances of this matter reveal that the respondent's actions require that the Certificate of Registration be revoked because of imminent danger to the public health or safety.

LAW

Section 824(a), Title 21, United States Code, permits the revocation of a BNDD Registration by the Attorney General¹ upon determining that the registrant:

has been convicted of a felony under this subchapter [the Controlled Substances Act] or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance.

Subsections (c) and (d) of said section provide:

(c) Before taking action pursuant to this section, or pursuant to a denial of registration under Section 823 of this Title, the Attorney General shall serve upon the applicant or registrant an Order to Show Cause why registration should not be denied, revoked, or suspended. The Order to Show Cause shall contain a statement of the basis

¹ Section 0.100, Title 28, Code of Federal Regulations, provides as follows:

Subject to the general supervision of the Attorney General, the exercise of the powers and performance of the functions vested in the Attorney General by sections 1 and 2 of Reorganization Plan No. 1 of 1968 and the Comprehensive Drug Abuse Prevention and Control Act of 1970 are assigned to, and shall be conducted, handled, or supervised by the Director of the Bureau of Narcotics and Dangerous Drugs.

thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the Order, but in no event less than thirty days after the date of receipt of the Order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of Title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(d) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

FACTS

On January 3, 1973, Norman J. Tankel, President of the respondent corporation, entered pleas of guilty to four (4) counts of " * * * knowingly, willfully and unlawfully distributing and possessing with intent to distribute Schedule III and V controlled substances, in violation of Title 21, Section 841(a)(1)—United States Code * * * " Two of these pleas of guilty related to controlled substances listed in Schedule III, specifically, secobarbital, therefore, since such violations are punishable by a term of imprisonment up to three (3) years for each count, they would be considered felony violations of the Controlled Substances Act.

SUMMARY OF THE EVIDENCE

The documentary evidence in this case is attached to this decision as Administrative Law Judge's exhibits number 1 through 4 and Government's exhibits number 1 through 4. These exhibits establish the issuance of the Order to Show Cause or suspending the respondent's Certificate, the respondent's written request for a hearing, the Notice of Hearing, copy of the indepth audit of the respondent's controlled substances made after the respondent's arrest for violating the Controlled Substances Act, and Government's Exhibits which were admitted into evidence establish the criminal proceedings and the result thereof in the United States District Court for the Northern District of Illinois, Eastern District, which show that the claimant was placed on three years probation after the plea of guilty on January 3, 1973. The evidence adduced by the government, in addition to the exhibits just mentioned, included the testimony of Alan Krause a compliance investigator of the Bureau of Narcotics and Dangerous Drugs.

Mr. Krause testified that he had conducted an audit after the respondent was arrested. That the audit consisted of inventorying the controlled substances in the respondent's pharmacy and examining the records kept by the respondent. Mr. Krause testified that he found many discrepancies and inadequate records; that the discrepancies included both

overages and shortages of various drugs which are classified as controlled substances. In addition he found other violations of the Department's regulations in failure to keep complete records of proper inventory of purchase and prescriptions and failure to report a burglary involving the theft of drugs until seven months after the burglary occurred. Mr. Krause also testified that he has been an investigator for the Bureau for one year and during that time had conducted about 40 audits. In his experience the discrepancies, including the overages and shortages of the drugs, was greater than any he had encountered. He further testified that there was a violation of regulations by the respondent in ordering drugs for another druggist. He testified that the respondent cooperated and assisted him during the audit.

The respondent, Norman Tankel, testified substantially as follows:

He is married and has sons ages 21 and 16 and a daughter 13; he is the owner of River Forest Pharmacy, Inc., he is 46 years of age; and he is a registered pharmacist. He was not aware that he had to report the burglary involving the theft of some dangerous drugs—that he believed when he reported it to the police, he was complying with the regulations. He had never been arrested before and has worked in drug stores all of his life. His father was a pharmacist and this has been his sole occupation and vocation. He also testified that 10 or 12 years ago he sold another drug store to a Mr. Schenck, and it was only a courtesy to Mr. Schenck to order drugs for him. He did not believe he was violating any regulation involving that incident. His drug store is his only source of income. In 1972 he earned about \$10,000. He employs one other pharmacist who comes in on Wednesdays. He himself works 60 to 70 hours a week and is assisted by his wife and two sons. He is present whenever the store is open, except on the day the other pharmacist is present. His entire life is devoted to the pharmacy and he belongs to no social clubs or organizations because he has no time. He admitted that he sold drugs to a Harold Ford, and it was this incident that involved the criminal proceedings against him. The individual he sold the drugs to had frequented the drug store and did a number of favors for him; he would go on errands and pick up and deliver drugs. He had known him for four to six months. He sold the drugs to Mr. Ford and made no extra profit—he sold them at the normal retail price. The drugs involved were a cough syrup containing Codeine. He never sold drugs like this to any one else without a prescription. Mr. Tankel testified that [he] was not familiar with the regulations which listed the cough syrup containing Codeine as a controlled drug. As a one-man organization he realized that the records he kept were inadequate. He attributed this to the long hours he had put in and the fact that he is normally a poor record-keeper. Some of the discrepancies in his inventory could have been due to prescriptions being phoned in and then a failure to follow through

and have it rewritten by the physician on his own prescription blank. He recalled that he had failed to do this a number of times because of forgetfulness and the press of business. He said it was not his practice to sell prescription drugs without a prescription; that the times this happened with Mr. Ford were the only times it ever happened. The drugs he purchased for Mr. Schenck were done as a personal favor. He had encouraged Mr. Schenck to go through pharmacy school, and on several occasions Schenck had been cut off from getting supplies because of financial difficulties. He only acted as a guarantor of Mr. Schenck's orders and he made no profit on it. His records are now in perfect shape. His failure to keep records in the past was also due to ignorance and not being familiar with the regulations.

EVALUATION OF THE EVIDENCE

The evidence adduced at this hearing falls somewhat short of demonstrating that the respondent's actions were heinous or "malum per se", they were certainly "malum prohibitum." There is no question but that this hearing establishes that the respondent was careless in his accounting for the drugs and his record-keeping. There is no evidence that he was a knowing or willing instrument in an illicit drug operation. In fact the evidence would tend to indicate that he was not aware that the codeine cough syrup serum was a dangerous drug. Having been in the pharmacy business all of his life, the respondent's explanation appears plausible, especially when one considers that the Control of Drugs Act of 1970 [sic] first listed this Codeine cough syrup as a controlled substance. He was a credible witness and seemed sincere. He is a family man and whereas he spent his entire life in the pharmacy business it is difficult to accept a proposition that he would willingly and knowingly jeopardize his sole means of livelihood in the manner in which he did. There is no evidence that he made any excess profits or had anything to gain by these actions.

The principal issue of concern to the administrative law judge is, of course, whether the respondent's Certificate of Registration should be revoked. While it is true that the regulations allow the Secretary [sic] to suspend or revoke such a registration upon an individual being convicted of a felony, such suspension or revocation is permissive. The question then presented here is whether the facts and circumstances which lead up to the conviction of a felony, which was incidentally based upon the respondent's plea of guilty, indicate that his continued possession of the Certificate of Registration would result in imminent danger to the public health or safety. The evidence presented by the Government in this case does not convince this administrative law judge that such is the case nor did the Federal District Judge, apparently, since he sentenced the respondent to nothing more than a period of probation. In taking into consideration all the facts and the circumstances,

the administrative law judge feels that a suspension of the BNDD Certificate for a certain period is sufficiently severe to serve as a deterrent to others and as an extremely costly lesson to the respondent as to the seriousness of his actions and to remind him of the vital necessity to keep proper records and an accounting of the controlled substances in his possession. In addition, the probationary period imposed by the Federal Court should further deter the respondent from any deviation from the laws and regulations governing his profession.

FINDINGS OF FACT

After reviewing all of the evidence of this record, the administrative law judge makes the following findings of fact:

1. On April 2, 1973, pursuant to the provisions of Section 304 of the Controlled Substances Act of 1970 (21 U.S.C. 824), the Bureau of Narcotics and Dangerous Drugs issued an Order to Show Cause relative to the respondent's BNDD Registration AR3732662, issued on April 4, 1972. This Certificate of Registration was for a retail pharmacy and authorized the dispensing of controlled substances in Schedules II, III, IV and V. (See Administrative Law Judge's Exhibit 1).

2. This Order to Show Cause, in addition to evidencing the Bureau's intent to revoke the respondent's Certificate of Registration, provided for the immediate suspension of this registration, in accordance with the provisions of Section 304(d) of the Controlled Substances Act of 1970 (21 U.S.C. 824(d)), simultaneously with the issuance thereof. (See Administrative Law Judge's Exhibit 1).

3. The Order to Show Cause was personally served upon the respondent, on April 11, 1973, by agents of the Bureau of Narcotics and Dangerous Drugs.

4. On April 19, 1973, Gerald M. Werksman, Esquire, filed a written appearance and a written request for a hearing in response to the Order to Show Cause, on behalf of the respondent. (See Administrative Law Judge's Exhibit 2).

5. As indicated in the Notice of Hearing and Request for Hearing, Counsel for the Government and respondent agreed to a hearing . . . in Chicago on April 27, in the offices of the Bureau of Narcotics and Dangerous Drugs, at 10 A.M. (See Administrative Law Judge's Exhibit 2; also, Transcript, p. 7).

6. On April 27, 1973, a Notice of Hearing was published in the FEDERAL REGISTER (39 F.R. 10477) setting forth the date, time and location of this expedited hearing. (See Appendix A).

7. On April 27, 1973, a hearing was held, with respect to the above entitled matter, before Allen E. Gramza, Administrative Law Judge, Bureau of Hearings and Appeals, Social Security Administration, the presiding officer duly appointed under the applicable provisions of the Administrative Procedure Act.

* The Order to Show Cause which initiated these proceedings contained a return date of May 11, 1973. In accordance with the usual procedures of the Bureau's Administrative Regulations, a hearing is set for a time after such date in Washington, D.C. As a result of a special request by Counsel for the respondent the foregoing time period was considerably shortened and, for the first time since the enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970, an Administrative hearing, pursuant to section 304 of the Act (section 824, Title 21, United States Code), was held outside of Washington, D.C.

8. At the time of the issuance of the Order to Show Cause, the respondent was registered with the Bureau of Narcotics and Dangerous Drugs as a retail pharmacy, authorized to dispense controlled substances listed in Schedules II, III, IV and V. (See Transcript, p. 5).

9. This Certificate of Registration (BNDD Registration AR3732662) was issued on April 4, 1972 and was to expire on April 30, 1973, to River Forest Pharmacy, Inc., 7605 Lake Street, River Forest, Illinois 60305. (See Transcript, pp. 4-5.)

10. At the time of the issuance of this Certificate of Registration (as well as to and through the date hereof), the respondent was doing business, under the laws of the State of Illinois, as a corporation, wherein Norman Tankel is President and Director, and His wife, Marcia Tankel, Secretary, Treasurer, and Director. (See Government's Exhibit 4, and Transcript, pp. 21-22.)

11. On September 14, 1972, the President of the respondent, Norman J. Tankel, was arrested pursuant to a Complaint issued by a Magistrate for the United States District Court for the Northern District of Illinois alleging certain violations of the Controlled Substances Act of 1970. (See Government's Exhibit 1.)

12. On November 15, 1972, the Grand Jury of the United States District Court, Northern District of Illinois, Eastern Division, charged that the said Norman Tankel " * * * knowingly and intentionally did distribute and possess with intent to distribute * * *" the following controlled substances in violation of section 841(a)(1), Title 21, United States Code:

(a) On or about May 5, 1972—codeine (phosphate)—Schedule V.

(b) On or about May 12, 1972—sodium secobarbital—Schedule III.

(c) On or about May 19, 1972—sodium secobarbital—Schedule III.

(d) On or about June 1, 1972—codeine (phosphate)—Schedule V.

(See Government's Exhibit 2.)

13. On January 3, 1973, Mr. Tankel entered a plea of guilty to each count of the foregoing criminal indictment. (See Government's Exhibit 3.)

14. Thereafter, the Court withheld imposition of sentence and placed Mr. Tankel on probation for a period of three (3) years. (See Government's Exhibit 3, and Transcript, pp. 9-10.)

15. The first witness called by the Government was Alan Krause, Compliance Investigator, Bureau of Narcotics and Dangerous Drugs. He testified to the following facts (See Transcript, p. 16):

(a) On September 28-29, 1972, he conducted an in-depth accountability investigation of the controlled premises, namely, River Forest Pharmacy, Inc., 7605 Lake Street, River Forest, Illinois, as a follow-up to the criminal arrest of Mr. Tankel by the Bureau of Narcotics and Dangerous Drugs. (See Transcript, p. 20.)

(b) One of the main purposes of a compliance investigation, by the Bureau of Narcotics and Dangerous Drugs, is to advise the registrant of any "violations of the Controlled Substances Act of 1970 and the Code of the Federal Regulations * * *" discovered as a result thereof. (See Transcript, pp. 24-5.)

(c) This audit revealed certain violations of the record-keeping, report-making, order form, and prescription requirements of the Controlled Substances Act and Implementing Administrative Regulations. (See Administrative Law Judge's Exhibit 4, and Transcript, pp. 25-26.)

RECOMMENDED DECISION

Based on the foregoing, the administrative law judge recommends to the director of the Bureau of Narcotics and Dangerous Drugs that the respondent's Certificate of Registration AR3732662 be suspended for a period of six months from the date that the Order to Show Cause became effective.

In his evaluation of the evidence, the Administrative Law Judge clearly used as his standard of review the requirement of knowledge and intent in determining the facts and reaching the conclusions of law in this case. Unlike other sections of the Controlled Substances Act (specifically sections 401 and 403), section 304 does not require the proof of knowledge or intent to establish a prima facie case for suspension or revocation. Therefore, it would not be necessary for the Government to allege and prove that the Respondent " * * * was a knowing or willing instrument in an illicit drug operation."

To be sure, the provisions of section 304 are discretionary in nature upon a finding by the Administrator that the registrant:

- (1) has materially falsified an Application for Registration, submitted pursuant to the Controlled Substances Act;
- (2) has been convicted of a felony violation of State or Federal law relative to controlled substances; or
- (3) has had his State license or registration suspended, revoked, or denied by the jurisdiction in which he conducts his registered activity.

Since there is no dispute concerning the fact of the conviction of Mr. Tankel for a felony violation of Federal law, relative to controlled substances, the only issue during this administrative proceeding was whether the Administrator should be requested to exercise " * * * his discretion to prevent what the statute enables the " * * * [Administrator] to do after the conviction of a registrant for a drug related felony." The Administrative Law Judge, in his opinion, phrased the central issue in this case as follows:

The question then presented here is whether the facts and circumstances which lead up to the conviction of a felony, which was incidentally based upon the respondent's plea of guilty, indicate that his continued possession of the Certificate of Registration would result in imminent danger to the public health or safety.

The provisions of section 304 provide that the foregoing standard only be used to determine whether an immediate suspension is required, during the pendency of these proceedings, upon the issuance of the Order to Show Cause, and is not the criterion for deciding the ultimate issue of suspension or revocation.

The use of this standard, in the case at bar, was clearly erroneous.

* See Government's Proposed Conclusions of Law, p. 35.

Moreover, the Administrator believes that it is significant to note that the Administrative Law Judge adopted, in substance, all of Government's proposed findings of fact. Specifically, with reference to the many and various violations (other than the aforementioned drug felony conviction) of the Controlled Substances Act and implementing Administrative Regulations, to which Mr. Tankel admitted during his examination by Counsel for the Government.

In short, due to the seriousness of the nature of Mr. Tankel's conviction for the unlawful distribution of controlled substances, the Respondent's inability to comply with certain recordkeeping, reportmaking, order form, and prescription requirements of the Controlled Substances Act and implementing Administrative Regulations, and the obvious misconstruction of the requirements of section 304 of the Controlled Substances Act, by the Administrative Law Judge; and after reviewing the transcript of testimony of the hearing, the exhibits introduced, the findings of fact, and conclusions of law proposed by Counsel for the Government (although directed to do so by the Administrative Law Judge, Counsel for the Respondent did not submit any proposed findings of fact, conclusions of law or memoranda of law in this matter), the Administrator hereby adopts the recommended decision of the Administrative Law Judge, provided the suspension of the subject Certificate of Registration be for a period of two years from the date that the Order to Show Cause became effective.

Therefore, in accordance with the provisions of § 316.66, Title 21, Code of Federal Regulations, and in view of the foregoing, it is the Administrator's opinion that the President of the Respondent corporation, Norman J. Tankel, was convicted of a felony violation of the Controlled Substances Act, to wit, the unlawful distribution of controlled substances; and has admitted to various other violations of the Controlled Substances Act and implementing Administrative Regulations in the operation of the respondent pharmacy.

Therefore, under the authority vested in the Attorney General by section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration, by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the Certificate of Registration of River Forest Pharmacy, Inc. (BNDD Registration No. AR3732662), be, and hereby is suspended, until April 2, 1975, effective October 3, 1973.

Dated September 28, 1973.

JOHN R. BARTELS, JR.,
Acting Administrator,
Drug Enforcement Administration.
[FR Doc. 73-21038 Filed 10-2-73; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ALASKA

Proposed Ineligibility of Native Villages

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs by § 2651.2(a)(2) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on Pages 14222 and 14223 of the May 30, 1973, issue of FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92-203, 92nd Congress, 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Native and for other purposes.

Accordingly, pursuant to the authority contained in said Act of December 18, 1971, and § 2651.2 of said regulations, notices is hereby given that the following is a proposed decision determining the ineligibility of certain Native villages in Alaska listed in section 11(b)(1) of said Act.

This is to certify that investigations have been made and available records and other evidence having a bearing on the character of the following Native villages and their eligibility have been examined but they do not appear to meet the eligibility requirement of the Act and § 2651.2(b) of the regulations:

| Name of listed Native Village: | Bureau of Land Management Serial No. |
|--------------------------------|---|
| Biorka | AA-6651. |
| Candle | F-14843. |
| Canyon Village | F-14845. |
| Chanllut (Chanllit) | F-14847. |
| Chukwuktoligamute | F-14850. |
| Makok | F-14890. |
| Medfra | F-14894. |
| Minchumina Lake | F-14886. |
| Pauloff Harbor (Sanak) | AA-6689. |
| Nabesna Village | F-14899. |
| Northeast Cape | F-14911. |
| Paradise | F-14917. |
| Savonoski | AA-6700. |
| Slana | AA-6718. |
| Squaw Harbor | AA-6702. |

This proposed decision will be published in one or more newspapers of general circulation in Alaska and a copy will be mailed to each affected village, all villages located in the Native region in which the affected village is located, all Native regional corporations within the State of Alaska, and the State of Alaska.

This proposed decision is subject to protest by any interested party on or before November 2, 1973. If no valid protest is received within the thirty-day period, this proposed decision shall become final and shall be published in the FEDERAL REGISTER. If final decision is in favor of a listed village, the Director, Juneau Area Office, Bureau of Indian Affairs, will issue a certificate as to the eligibility of the village in question for land benefits under

the Act, and certify the record and the decision to the Secretary. Copies of the final decisions and certificates of village eligibility will be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, and the State of Alaska.

Within thirty days from the date of publication of this proposed decision in the FEDERAL REGISTER, any interested party may protest a proposed decision as to the eligibility of a village. No protest shall be considered which is not accompanied by supporting evidence. The protest shall be mailed to the Director, Juneau Area Office, Bureau of Indian Affairs, P.O. Box 3-8000, Juneau, Alaska 99801. Upon receipt of a protest, the Director, Juneau Area Office, Bureau of Indian Affairs, will examine and evaluate the protest and supporting evidence required, together with his record of findings of fact and proposed decision and will render a decision on the eligibility of the Native village that is the subject of the protest. Such decision shall be rendered within thirty days from the receipt of the protest and supporting evidence by the Director, Juneau Area Office, Bureau of Indian Affairs. The decision of the Director, Juneau Area Office, Bureau of Indian Affairs, will be published in the FEDERAL REGISTER and in one or more newspaper of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based will be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of the regulations within thirty days of its publication in the FEDERAL REGISTER.

This is the third notice of proposed decisions and others will be made from time to time as soon as the eligibility of the other listed villages can be determined.

Dated September 24, 1973.

MORRIS THOMPSON,
Director.

[FR Doc.73-20992 Filed 10-2-73; 8:45 am]

ALASKA

Proposed Eligibility of Native Villages

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs by § 2651.2(a)(2) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on Pages 14222 and 14223 of the May 30, 1973, issue of FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92-203, 92d Congress, 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, pursuant to the authority contained in said Act of December 18, 1971, and § 2651.2 of said regulations, notice is hereby given that the following is a proposed decision determining the eligibility of certain Native villages in Alaska listed in sections 11(b)(1) and 16(a) of said Act.

This is to certify that investigations have been made and available records and other evidence having a bearing on the character of the following Native villages and their eligibility have been examined and they appear to meet the eligibility requirement of the Act and § 2651.2(b) of the regulations:

| Name of listed Native village: | Bureau of Land Management serial No. |
|--------------------------------|--------------------------------------|
| Afognak | AA-6645 |
| Alaina | F-14826 |
| Atkasook | F-14834 |
| Bill Moore's | F-14839 |
| Chitina | AA-6653 |
| Ekuak | AA-6662 |
| Gakona | AA-6666 |
| Georgetown | F-14860 |
| Hamilton | F-14864 |
| Iglugig | AA-6669 |
| Iiamna | AA-6670 |
| Ivanof Bay | AA-6671 |
| Kaguyak | AA-6672 |
| Kasaan | AA-6683 |
| Lime Village | F-14887 |
| Manley Hot Springs | F-14891 |
| Mary's Igloo | F-14893 |
| McGrath | F-14889 |
| Napaimute | F-14900 |
| Nooiksit | F-14909 |
| Ohogamiut | F-14915 |
| Point Lay | F-14922 |
| Salamatof | AA-6698 |
| Seldovia | AA-6701 |
| Takotna | F-14942 |
| Tazitna | AA-6704 |
| Telida | F-14945 |
| Ugashik | AA-6708 |
| Unga | AA-6710 |
| Uyak | AA-6711 |

This proposed decision will be published in one or more newspapers of general circulation in Alaska and a copy will be mailed to each affected village, all villages located in the Native region in which the affected village is located, all Native regional corporations within the State of Alaska, and the State of Alaska.

This proposed decision is subject to protest by any interested party within thirty days of the publication of this proposed decision in the FEDERAL REGISTER. If no valid protest is received on or before November 2, 1973, this proposed decision shall become final and shall be published in the FEDERAL REGISTER. If the final decision is in favor of a listed village, the Director, Juneau Area Office, Bureau of Indian Affairs, will issue a certificate as to the eligibility of the village in question for land benefits under the Act, and certify the record and the decision to the Secretary. Copies of the final decisions and certificates of village eligibility will be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, and the State of Alaska.

On or before November 2, 1973, any interested party may protest a proposed decision as to the eligibility of a village. No protest shall be considered which is not accompanied by supporting evidence. The protest shall be mailed to the Director, Juneau Area Office, Bureau of Indian Affairs, P.O. Box 3-8000, Juneau, Alaska 99801. Upon receipt of a protest, the Director, Juneau Area Office, Bureau of Indian Affairs, will examine and evaluate the protest and supporting evidence required, together with his record of findings of fact and proposed decision and will render a decision on the eligibility of the Native village that is the subject of the protest. Such decision shall be rendered within thirty days from the receipt of the protest and supporting evidence by the Director, Juneau Area Office, Bureau of Indian Affairs. The decision of the Director, Juneau Area Office, Bureau of Indian Affairs, will be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based will be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of the regulation within thirty days of its publication in the FEDERAL REGISTER.

This is the second notice of proposed decisions and others will be made from time to time as soon as the eligibility of the other listed villages can be determined.

Dated September 24, 1973.

MORRIS THOMPSON,
Director.

[FR Doc.73-20993 Filed 10-2-73; 8:45 am]

Bureau of Land Management CHIEF, DIVISION OF ADMINISTRATIVE SERVICES, AND CHIEF, BRANCH OF PROCUREMENT

Delegation of Authority Regarding Contracts and Leases

SEPTEMBER 25, 1973.

A. The Director of the Denver Service Center, Bureau of Land Management, pursuant to the authority contained in Bureau Manual 1510-03C, hereby redelegates procurement authority as follows to incumbents in the below listed positions of the Division of Administrative Services, Denver Service Center. This redelegation of authority is effective on October 3, 1973.

1. Chief, Division of Administrative Services and Chief, Branch of Procurement may enter into contracts and leases as follows:

- May enter into contracts after formal advertising regardless of amount.
- May enter into leases of space in real estate, provided that the conditions

set forth in FPMR 101-18.106 are met.

c. May enter into negotiated contracts without advertising pursuant to section 302(c) of the Federal Property and Administrative Services Act of 1949 as amended, with the following limitations:

(1) Negotiation under section 302(c)(1) is restricted to contracts not exceeding \$25,000.

(2) Negotiation under section 302(c)(11) must be preceded by a determination and findings by the Director, Bureau of Land Management if the proposed contract does not exceed \$25,000. If the contract exceeds \$25,000, a determination and findings by the Secretary is required.

(3) Negotiation under Section 302(c)(12) and (13) requires a determination and findings by the Secretary.

d. May procure necessary supplies and services from established sources of supply, regardless of amount.

This authority may be redelegated.

2. Chief, Construction section; Chief, Specialties and Supplies Section; and Chief, Services and Maintenance Section, Branch of Procurement may enter into contracts and leases not exceeding \$100,000 subject to the limitations set forth in 1.a. through 1.c. above. Procurements from established sources may be made in any amount.

This authority may not be redelegated.

3. Contract Specialists, Grade GS-11 or above, in the Construction Section, Specialties and Supplies section, and Services and Maintenance Section, Branch of Procurement may enter into contracts and leases as described in 1.a. through 1.c. above in amounts not to exceed \$10,000. Procurements from established sources may be made in any amount.

This authority may not be redelegated.

4. Procurement Agents, Branch of Procurement may enter into contracts under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 as amended up to \$2,500, and in any amount from established sources.

This authority may not be redelegated.

5. Chief, Awards and Support Section, Branch of Procurement may sign Government Printing Office orders.

This authority may be redelegated.

6. Chief, Branch of Property Management may enter into leases of space in real estate, provided that the conditions set forth in FPMR 101-18.106 are met, and may sign Government Bills of Lading.

This authority may not be redelegated.

7. Chief, Personal Property section and Property Management Specialists, Branch of Property Management may sign Government Bills of Lading.

This authority may not be redelegated.

8. Chief, Branch of Office Services and Chief, Forms and Stock Control Section, Branch of Office Services may sign

Government Bills of Lading and Government Printing Office orders.

This authority may not be redelegated.

9. Purchasing Agent, Branch of Office Services may enter into contracts under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 as amended up to \$2,500, and in any amount from established sources, and may sign Government Bills of Lading.

This authority may not be redelegated.

GARTH H. RUDD,

Director, Denver Service Center.

[FR Doc.73-21011 Filed 10-2-73;8:45 am]

NATIONAL ADVISORY BOARD ON WILD FREE-ROAMING HORSES AND BURROS

Notice of Meeting

Notice is hereby given that the National Advisory Board for Wild Free-Roaming Horses and Burros will hold its fourth meeting November 6, 7, and 8 at the Ramada Inn, Lake Havasu City, Arizona. The agenda for the meeting will include for the first day a field trip by the Board to review management problems associated with wild burros. The second day will include presentations by persons selected for their knowledge and expertise in studying and observing wild burros. The last one-half day will be committee discussions and recommendations on wild burro management.

The meeting will be open to the public. Seating will be available for about 30 observers. Time will be available for a limited number of brief statements by members of the public. Those persons wishing to make an oral statement must inform the Advisory Board Chairman in writing prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Dr. C. Wayne Cook.

Written statements should be submitted to Dr. Cook c/o the Director (330), Bureau of Land Management, Washington, D.C. 20240.

CURT BERKLUND,

Director.

[FR Doc.73-20994 Filed 10-2-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority TRADERS IN CHICAGO SOYBEAN FUTURES

Release of Names and Transactions

The Secretary of Agriculture in response to a letter from the Subcommittee on Small Business Problems of the House Permanent Select Committee on Small Business submitted to the committee information disclosing the names and addresses of all traders in soybean futures on the Chicago Board of Trade during the period May 14 to July 20, 1973, with respect to whom the Secretary has information, together with data con-

cerning futures transactions and positions of each such trader.

Such information was submitted in accordance with section 8 of the Commodity Exchange Act (7 U.S.C. 12-1) which requires the Secretary upon request of any committee of either House of Congress, acting within the scope of its jurisdiction, to furnish and make public the names and addresses of such traders, together with information concerning their futures transactions. The material submitted covered those traders in reporting status (holding a position of 200,000 bushels or more in any one soybean future).

The data will be made available for inspection and copying to anyone upon request at the Commodity Exchange Authority office in Washington, D.C., or its regional office in Chicago. In accordance with the Department of Agriculture fee schedule, copies of the material will be furnished at a charge of 10 cents for each copy of each page.

Issued September 28, 1973.

ALEX C. CALDWELL,
Administrator,

Commodity Exchange Authority.

[FR Doc.73-21054 Filed 10-2-73;8:45 am]

Forest Service

OKANOGAN NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Okanogan National Forest Multiple Use Advisory Committee will meet at 8:00 p.m. on October 11, 1973, in the second floor Conference Room of the Forest Supervisor's Office at 219 Second Avenue South, Okanogan, Washington.

This meeting is to discuss land use planning and was originally scheduled for July 31, 1973, but cancelled due to forest fire emergency.

The meeting will be open to the public. Members of the public are encouraged to speak up at any time to express their views on land use planning.

Written statements may be filed with the Committee until October 22, 1973. Send them to the Okanogan National Forest Supervisor, P.O. Box 950, Okanogan, Washington 98840.

GERHART H. NELSON,
Forest Supervisor.

SEPTEMBER 25, 1973.

[FR Doc.73-21007 Filed 10-2-73;8:45 am]

WALLOWA-WHITMAN NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Wallowa-Whitman National Multiple Use Advisory Committee will meet at 9 a.m., Friday, October 12, 1973, at the Union Ranger Station, Union, Oregon.

The purpose of this meeting will be a field trip on the Union Ranger District devoted to road transportation, planning and construction standards.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor John L. Rogers, P.O. Box 907, Baker, Oregon 97814. Telephone No. 523-6391. Written statements may be filed with the Committee before or after the meeting.

Persons wishing to participate in the field trip will have to provide themselves with transportation.

JOHN L. ROGERS,
Forest Supervisor.

SEPTEMBER 20, 1973.

[FR Doc.73-20980 Filed 10-2-73;8:45 am]

Office of the Secretary
MEAT IMPORT LIMITATIONS
Fourth Quarterly Estimate

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following fourth quarterly estimate is published.

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1973 is 1,400.0 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1973 is 1,046.8 million pounds.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, under the Act limitations for the calendar year 1973 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20), are required to be imposed but may be suspended. Such limitations were imposed by Proclamation 4183 of January 29, 1973, and were suspended during the balance of the calendar year 1973 unless because of changed circumstances further action under the Act becomes necessary.

Done at Washington, D.C., this 28th day of September, 1973.

CARROLL G. BRUNTHAVER,
Acting Secretary.

[FR Doc.73-21044 Filed 10-2-73;8:45 am]

Rural Electrification Administration
**COOPERATIVE POWER ASSOCIATION AND
UNITED POWER ASSOCIATION**

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has pre-

pared a Draft Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with loan applications from Cooperative Power Association, 6700 France Avenue, South Minneapolis, Minnesota 55435, and United Power Association of Elk River, Minnesota 55330. These loan applications request REA loan funds to finance the purchase and installation of two 450 MW steam generating units near Underwood, North Dakota, and associated 409 miles of ± 450 kV DC transmission lines, 83 miles of 345 kV AC and 12.5 miles of 230 kV AC transmission lines.

Additional information may be secured on request, submitted to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to the Assistant Administrator-Electric at the address given above. Comments must be received on or before Nov. 16, 1973 to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of September, 1973.

DAVID H. ASKEGAARD,
Acting Administrator, Rural
Electrification Administration.

[FR Doc.73-21055 Filed 10-2-73;8:45]

DEPARTMENT OF COMMERCE
Domestic and International Business
Administration

**COMPUTER SYSTEMS TECHNICAL
ADVISORY COMMITTEE**

Notice of Meeting

The Computer Systems Technical Advisory Committee of the U.S. Department of Commerce will meet October 26, 1973, at 9:30 a.m. in Room 1851 of the Main Commerce Building, 14th and

Constitution Avenue NW., Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Report on the work program.
4. Discussion of other necessary work assignments.
5. Executive Session:
Discussion of, and progress report on, the work program:
a. Foreign availability.
b. Performance characteristics.
c. Safeguards.
6. Adjournment.

The Computer Systems Technical Advisory Committee was established January 3, 1973, and consists of technical experts from a representative cross-section of the industry in the United States and officials representing various agencies of the U.S. Government. The industry members are appointed by the Assistant Secretary for Domestic and International Business to serve a two-year term.

The public will be permitted to attend the discussion of agenda items 1-4, and a limited number of seats—approximately 10—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (5), "Executive Session," the Assistant Secretary of Commerce for Administration, on July 17, 1973, determined, pursuant to section 10(d) of Pub. L. 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Control, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202-967-4293).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated September 27, 1973.

JOHN T. CONNOR, Jr.,
Acting Director,
Bureau of East-West Trade.

[FR Doc. 73-20945 Filed 10-2-73;8:45 am]

**COMPUTER SYSTEMS TECHNICAL
ADVISORY COMMITTEE**

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Performance Characteristics and Performance Measurements Subgroup of the Computer Systems Technical Advisory Committee will be held Wednesday, October 10, 1973, at 9:30 a.m. in Conference Room A, Main Commerce Building, 14th and Constitution Avenue, Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subgroup by Henry S. Forrest, Chairman.
2. Presentation of papers or comments by the public.
3. Review of work objectives and goals of the subgroup.
4. Discussion and modification of reports prepared by members of the subgroup.
5. Executive session: Continuation of discussion and modification of reports prepared by members of the subgroup.
6. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-4, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 5, "Executive session," the Assistant Secretary of Commerce for Administration, on July 17, 1973 determined, pursuant to sec. 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of secs. 10(a) (1) and (a) (3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b) (1).

Further information may be obtained from Henry S. Forest, Chairman of the subgroup, Control Data Corp., 5272 River Road, Bethesda, Md. 20016 (A/C 301-652-4207).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records In-

spection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated October 1, 1973.

JOHN T. CONNOR, JR.,
Acting Director, Bureau of East-
West Trade, U.S. Department
of Commerce.

[FR Doc.73-21155 Filed 10-2-73;8:45 am]

**National Oceanic and Atmospheric
Administration
MARINE FISHERIES ADVISORY
COMMITTEE**

Notice of Public Meeting

Pursuant to section 10(a) (2) of Public Law 92-463, notice is hereby given of the meeting of the Marine Fisheries Advisory Committee on Tuesday, Wednesday and Thursday, October 9, 10, and 11, 1973. The meeting will commence at 9:00 a.m. on October 9 and at 8:30 a.m. on October 10 and 11, at the Department of Commerce Building, 14th Street between E and Constitution Avenue, NW., Washington, D.C., in Room 6802.

The items of discussion at the meeting will include the following:

OCTOBER 9, 1973

9:00 a.m.—MARMAP—Workshop all Day.

OCTOBER 10, 1973

8:30 a.m.—Introductions and Announcements.

9:00 a.m.—Report on MARMAP Workshop.

9:30 a.m.—NMFS Financial Assistance Program.

10:30 a.m.—Marine Mammal Program Progress Report.

11:00 a.m.—Status Report on High Seas Fisheries Conservation Act.

11:30 a.m.—Department of Energy and Natural Resources Legislation and its Implications for Fisheries.

12:00 noon—Lunch.

1:30 p.m.—Role of Economic Analysis in NMFS.

2:00 p.m.—Foreign Investment in Domestic Fisheries.

2:30 p.m.—Marine Gamefish Program.

a. Accomplishments.

b. Skylab Experiment.

c. California Fisheries Problems.

3:30 p.m.—Responses to Requests by Committee.

a. Halibut Import Problem.

b. Observer Program in Bering Sea.

4:30 p.m.—Agenda Items Suggested by Committee Members.

OCTOBER 11, 1973

8:30 a.m.—Closed Session to Discuss International Fisheries Policy and Organization.

The meeting will be open to the public on October 9 and 10. The meeting will be closed to the public from 8:30 a.m. to 1:00 p.m. on October 11 to discuss International Fisheries Policy and Organization which is concerned with matters listed in 5 U.S.C. 552(b) and has been closed to the public as authorized by Section 10(d) of Public Law 92-463 by a

determination of the Assistant Secretary of Commerce for Administration dated September 18, 1973.

Dated: September 25, 1973.

ROBERT M. WHITE,
Administrator, National Oceanic
and Atmospheric Administration.

[FR Doc.73-20981 Filed 10-2-73;8:45 am]

**National Technical Information Service
GOVERNMENT-OWNED INVENTIONS
Notice of Availability for Licensing**

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at \$0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information
Service.

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

Assistant General Counsel for Patent Matters; NASA—Code GP-2, Washington, D.C. 20546.

Patent Application 361,907: A Device for Measuring Tensile Forces; filed 21 May 1973; PC \$3.00/MF \$1.45.

Patent Application 363,691: Controlled Separation Combustor; filed 24 May 1973; PC \$3.45/MF \$1.45.

Patent Application 367,293: A Laser Head for Simultaneous Optical Pumping of Several Dye Lasers; filed 6 June 1973; PC \$3.00/MF \$1.45.

Patent 3,719,891: Contruder Detection System; filed 6 March 1973; not available NTIS.

Patent 3,720,075: Ablative System; filed 13 March 1973; not available NTIS.

Patent 3,720,208: Underwater Space Suit Pressure Control Regulator; filed 3 March 1973; not available NTIS.

Patent 3,723,475: Radiant Source Tracker Independent of Nonconstant Irradiance; filed 27 March 1973; not available NTIS.

Patent 3,729,068: Cable Restraint; filed 24 April 1973; not available NTIS.

Patent 3,729,129: Numerical Computer Peripheral Interactive Device with Manual Controls; filed 24 April 1973; not available NTIS.

Patent 3,729,260: Interferometric Rotation Sensor; filed 24 April 1973; not available NTIS.

- Patent 3,729,736: Code Regenerative Clean-Up Loop Transponder for a Mu-Type Ranging System; filed 24 April 1973; not available NTIS.
- Patent 3,731,528: Apparatus and Method for Generating Large Mass Flow of High Temperature Air at Hypersonic; filed 8 May 1973; not available NTIS.
- Patent 3,731,531: Maxometers Peak Wind Speed Anemometers; filed 8 May 1973; not available NTIS.
- Patent 3,731,405: Apparatus for Statistical Time-Series Analysis of Electrical Signals; filed 8 May 1973; not available NTIS.
- Patent 3,732,567: Junction Range Finder; filed 8 May 1973; not available NTIS.
- Patent 3,735,206: Circuit Board Package with Wedge Shaped Covers; filed 22 May 1973; not available NTIS.
- Patent 3,735,591: Magneto Plasma Dynamic ARC Thruster; filed 29 May 1973; not available NTIS.
- Patent 3,737,118: Nutation Damper; filed 5 June 1973; not available NTIS.
- Patent 3,737,781: Signal-to-Noise Ratio Determination Circuit; filed 5 June 1973; not available NTIS.
- U.S. Atomic Energy Commission, Assistant General Counsel for Patents, Washington, D.C. 20545.
- Patent Application 336,579: Isotope-Shift Zeeman Effect Spectrometer; filed 28 February 1973; PC \$3.00/MP \$0.95.
- Patent 3,673,872: Cryogenic Sound Supported Inertial Reference; filed 1 February 1966; Patented 4 July 1972; not available NTIS.
- Patent 3,692,888: Casting Hydrides; filed 2 July 1969, Patented 19 September 1972; not available NTIS.
- Patent 3,697,317: Corrosion Inhibition of Copper-Zinc-Alloys; filed 19 May 1971, Patented 10 October 1972; not available NTIS.
- Patent 3,699,200: High Resistance Electrical Conductor Encapsulation; filed 19 March 1970, Patented 17 October 1972; not available NTIS.
- Patent 3,701,080: Miniature Coaxial Cable Connector; filed 2 June 1971, Patented 24 October 1972; not available NTIS.
- Patent 3,702,453: Temperature-Compensated Trimming Winding for Water-Cooled Magnet Coils; filed 19 July 1971, Patented 7 November 1972; not available NTIS.
- Patent 3,702,620: Actuator System; filed 10 August 1971, Patented 14 November 1972; not available NTIS.
- Patent 3,702,932: Melting Cryogen Cooling for Radiation Logging Probe; filed 15 April 1971, Patented 14 November 1972; not available NTIS.
- Patent 3,707,763: Bonding Tungsten With a Fugitive Alloy Binder; filed 1 July 1971, Patented 2 January 1973; not available NTIS.
- Patent 3,708,391: High Power Density Controlled Fusion Reactor; filed 20 September 1971, Patented 2 January 1973; not available NTIS.
- Patent 3,708,392: Isotope Enrichment Process for Lanthanide and Actinide Elements; filed 22 December, Patented 2 January 1973; not available NTIS.
- Patent 3,708,393: Radial Restraint Mechanism for Reactor Core; filed 1 December 1970, Patented 2 January 1973; not available NTIS.
- Patent 3,708,433: Stabilized Uranium or Uranium-Plutonium Nitride Fuel; filed 27 August 1970, Patented 2 January 1973; not available NTIS.
- Patent 3,708,451: Method for Composition for Preparing Graphite Products; filed 8 September 1971, Patented 2 January 1973; not available NTIS.
- Patent 3,708,508: Method for the Purification and Recovery of Tributyl Phosphate Used in Reprocessing Nuclear Fuel; filed 9 April 1971, Patented 2 January 1973; not available NTIS.
- Patent 3,708,568: Removal of Plutonium From Plutonium Hexafluoride-Uranium Hexafluoride Mixtures; filed 20 October 1970, Patented 2 January 1973; not available NTIS.
- Patent 3,710,557: Air Sampling Device; filed 17 March 1972, Patented 16 January 1973; not available NTIS.
- Patent 3,710,933: Multisensor Particle Sorter; filed 23 December 1971, Patented 16 January 1973; not available NTIS.
- Patent 3,711,591: Reductive Stripping Process for the Recovery of Uranium from Wet Process for the Acid; filed 8 July 1970, Patented 16 January 1973; not available NTIS.
- Patent 3,711,598: Increased Recovery in Dual Temperature Exchange Process; filed 11 May 1971, Patented 16 January 1973; not available NTIS.
- Patent 3,711,600: Process for Preparing Calcined Oxides; filed 22 December 1970, Patented 16 January 1973; not available NTIS.
- Patent 3,711,601: Enriching With Heavy Hydrogen Isotopes; filed 12 February 1971, Patented 16 January 1973; not available NTIS.
- Patent 3,711,705: Alarm Radiation Dosimeter With Improved Integrating Pulse Ionization Chamber and High Voltage Supply; filed 9 November 1971, Patented 16 January 1973; not available NTIS.
- Patent 3,712,374: Sequential Nuclear Explosion Fracturing of Geological Formations; filed 10 March 1971, Patented 23 January 1973; not available NTIS.
- Patent 3,712,983: Digital Radiation Dosimeter With Improved Integrating Pulse Ionization Chamber; filed 9 November 1971, Patented 23 January 1973; not available NTIS.
- Patent 3,713,860: Bone Substitute; filed 31 August 1970, Patented 30 January 1973; not available NTIS.
- Patent 3,713,898: Process for Preparing High Transition Temperature Superconductors in the Nb-Al-Ge System; filed 26 April 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,713,967: Energetic Neutral Particle Injection System for Controlled Fusion Reactor; filed 18 June 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,713,994: Electrochemical Air Pollution Monitoring Device and Method of Use Thereof; filed 16 March 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,714,014: Electrochemical Apparatus for Determination of Molten Salt Composition; filed 10 February 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,714,056: Method for Preparing Stable Urania Plutonia Sols; filed 10 June 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,714,060: Nuclear Reactor Fuel and Fuel Element and Preparation Thereof; filed 12 February 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,714,305: Fabrication of Bonded Particle Nuclear Fuel Sticks; filed 10 March 1971, Patented 30 January 1973; not available NTIS.
- Patent 3,714,322: Method for Preparing High Purity 233 Uranium; filed 10 June 1970, Patented 30 January 1973; not available NTIS.
- Patent 3,714,702: Method for Diffusion Bonding Refractory Metals and Alloys; filed 17 August 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,715,204: Separation of Plutonium and Uranium From Holder; filed 28 May 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,715,296: Electrochemical Carbon Activity Meter; filed 6 May 1970, Patented 6 February 1973; not available NTIS.
- Patent 3,715,316: Reactor Safety Spray Solution Base-borate; filed 28 January 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,715,317: Solvent Extraction Process for Producing Low Nitrate and Large-Crystal-Size PuO₂ Sols; filed 2 June 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,715,318: Fluidized Bed Production of Uranium Monocarbide and Uranium Monocarbide-Uranium Aluminide; filed 29 January 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,715,625: Plasma Generator; filed 12 January 1971, Patented 6 February 1973; not available NTIS.
- Patent 3,716,409: Cathodes for Secondary Electrochemical Power-Producing Cells; filed 8 September 1973, Patented 13 February 1973; not available NTIS.
- Patent 3,716,616: Process for Decontamination of Neutron-Irradiated Beryllium; filed 24 February 1971, Patented 13 February 1973; not available NTIS.
- Patent 3,717,582: Method for Reducing the Oxygen in Certain Actinide Oxides to Less Than Stoichiometric Levels; filed 21 April 1971, Patented 20 February 1973; not available NTIS.
- Patent 3,717,622: Truxene Polymer and Method for its Preparation; filed 10 June 1970, Patented 20 February 1973; not available NTIS.
- Patent 3,717,767: Detection System for Heavy and Super-Heavy Cosmic Ray Nuclei; filed 2 November 1971, Patented 20 February 1973; not available NTIS.
- Patent 3,718,677: Plutonium Dissolution and Plutonium Alkoxide Product; filed 29 December 1971, Patented 27 February 1973; not available NTIS.
- Patent 3,719,527: Thermal Battery; filed 31 January 1972, Patented 6 March 1973; not available NTIS.
- Patent 3,719,556: Nuclear Fuel Debris Retention Structure; filed 2 December 1971, Patented 6 March 1973; not available NTIS.
- Patent 3,719,703: Separation of Sulfonic Acids From Sulfuric Acid; filed 29 April 1969, Patented 6 March 1973; not available NTIS.
- Patent 3,719,825: Method of Monitoring a Neutron Flux with a Ceramic Neutron Flux Monitor; filed 24 May 1971, Patented 6 March 1973; not available NTIS.
- Patent 3,720,751: Hydriding Process; filed 15 June 1967, Patented 13 March 1973; not available NTIS.
- Patent 3,720,752: Massive Metal Hydride Structures and Methods for Their Preparation; filed 11 April 1967, Patented 13 March 1973; not available NTIS.
- Patent 3,721,970: Alkali Metal Leak Detector; filed 6 October 1971, Patented 20 March 1973; not available NTIS.
- Patent 3,723,244: Fibrous Fibrin Sheet and Method for Producing Same; filed 18 January 1971, Patented 27 March 1973; not available NTIS.
- Patent 3,723,246: Plasma Production Apparatus Having Droplet Production Means and Laser Pre-Pulse Means; filed 27 May 1971, Patented 27 March 1973; not available NTIS.
- Patent 3,723,338: Method for Reducing the Release of Mobile Contaminants from Granular Solids; filed 28 April 1971, Patented 27 March 1973; not available NTIS.
- Patent 3,723,727: In-Situ Neutron Activation; filed 30 June 1971, Patented 27 March 1973; not available NTIS.
- Patent 3,723,785: Deformable Beam Transport System with Extraction Port; filed 23 May 1972, Patented 27 March 1973; not available NTIS.
- U.S. Department of the Interior, Branch of Patents 18th and C Streets NW., Washington, D.C. 20240.

- Patent Application 342,920: Decomposition of Chalcopyrite; filed 19 March 1973; PC \$3.00/MF \$0.95.
- Patent Application 354,023: Removal of Mineral Matter Including Pyrite From Coal; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 357,737: Mobile Roof Supporting Shield; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 357,742: Method of Detecting Mine Rock Fractures by Gas Injection; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 359,400: Formation of Metal Filaments by Solid State Reactions; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 369,681: Rigid Testing Machine; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 371,019: Recovery of Lead; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 373,529: Recovery of Metals From Sulfide Materials; filed 25 June 1973; PC \$3.00/MF \$1.45.
- Patent Application 378,119: Reduction of Copper-Caused Surface Cracking of Steel During Hot Working; filed 11 July 1973; PC \$3.00/MF \$1.45.
- Patent 3,743,415: Photomechanical Method; filed 21 January 1972, Patented 3 July 1973; not available NTIS.
- Patent 3,743,695: Uranium Recovery; filed 17 September 1970; Patented 3 July 1973; not available NTIS.
- Patent 3,744,219: Multiple-Loop Chromatography System; filed 29 February 1972, Patented 10 July 1973; not available NTIS.
- Patent 3,745,202: Method of Preparing an Asymmetric Membrane From a Cellulose Derivative; filed 17 March 1971, Patented 10 July 1973; not available NTIS.
- U.S. Department of Health, Education, and Welfare, National Institutes of Health: Chief Patent Branch, Westwood Building, Bethesda, Maryland 20014.
- Patent Application 246,844: Anticoagulating Blood Suction Device; filed 21 June 1972; PC \$3.00/MF \$0.95.
- Patent Application 317,702: Human Parathyroid Hormone; filed 21 December 1972; PC \$3.00/MF \$1.45.
- Patent Application 338,611: Totally Implantable Artificial Replacement Heart; filed 6 March 1973; PC \$5.25/MF \$1.45.
- Patent Application 345,098: Isolation and Purification of Active Principle of Fruit of *Synsepalum Dulcificum* and Method of Treatment of Obesity; filed 24 April 1973; PC \$3.00/MF \$0.95.
- Patent Application 355,296: Method of Producing Andrex as a Treatment for Obesity; filed 27 March 1973; PC \$3.00/MF \$1.45.
- Patent Application 358,610: Unidirectional Slip Clutch; filed 9 May 1973; PC \$3.00/MF \$1.45.
- Patent Application 362,308: Stable Hemagglutination Technique for Measuring Antibodies Against *Toxoplasma Organism*; filed 21 May 1973; PC \$3.00/MF \$1.45.
- Patent 3,344,870: N₂ N₄ N₆ Tripricyllemelamine; filed 8 June 1966; Patented 3 December 1968; not available NTIS.
- Patent 3,732,631: Fluidic Heart Sound Synthesizing Techniques and Apparatus; filed 16 September 1971, Patented 15 May 1973; not available NTIS.
- Patent 3,733,398: Determining And Reversing Anticomplementary Activity in Complement Fixation Test for Austral IA Antigen; filed 17 July 1970, Patented 15 May 1973; not available NTIS.
- Patent 3,738,979: 02,2'-Cyclocytidine-3-Phosphate and Process for Producing Same; filed 23 October 1969, Patented 12 June 1973; not available NTIS.
- Department of the Army: Chief, Patents Division, Office of Judge Advocate, General Patent Division, Rm. 2C-455, Pentagon, Washington, D.C. 20310.
- Patent 3,258,007: Rotary Electrogoniometer for Measuring Degree of Rotation of the Forearm; filed 19 July 1963, Patented 28 June 1966, not available NTIS.
- Patent 3,306,110: Hydraulic Piston Soil Sampler; filed 20 March 1964, Patented 28 February 1967, not available NTIS.
- Patent 3,308,603: Tool for Crimping Seals on Containers; filed 6 December 1963, Patented 14 March 1967, not available NTIS.
- Patent 3,331,109: Safety Hatch for Hooks; filed 2 June 1966, Patented 18 July 1967, not available NTIS.
- Patent 3,399,401: Digital Computer and Graphic Input System; filed 29 June 1964, Patented 27 August 1968, not available NTIS.
- Patent 3,423,765: Prosthetic Device with Electronic Proportional Control Grasp; filed 11 August 1966, Patented 28 January 1969, not available NTIS.
- Patent 3,494,182: Soil Shearing Machine; filed 29 January 1968, Patented 10 February 1970, not available NTIS.
- Patent 3,534,465: Method of Making Thermionic Cathodes; filed 3 May 1968, Patented 20 October 1970, not available NTIS.
- Patent 3,534,471: Method of Making a Computer Memory Stack; filed 9 June 1967, Patented 20 October 1970, not available NTIS.
- Patent 3,534,506: Lens Polishing Apparatus; filed 17 May 1968, Patented 20 October 1970, not available NTIS.
- Patent 3,535,387: Oxidatively Stable Alkylbi-phenyls and Terphenyls as Non-Spreading Lubricants; filed 23 September 1968, Patented 20 October 1970, not available NTIS.
- Patent 3,539,396: Rechargeable Alkaline Zinc System; filed 5 November 1968, Patented 10 November 1970, not available NTIS.
- Patent 3,539,430: Method of Constructing a Radio-Frequency Feed-Through Assembly; filed 24 January 1968, Patented 10 November 1970, not available NTIS.
- Patent 3,539,837: Solid-State Horizontal Sweep Driving Circuit; filed 29 July 1968, Patented 10 November 1970, not available NTIS.
- Patent 3,541,195: Method for Molding Insulation Materials; filed 27 November 1968, Patented 17 November 1970, not available NTIS.
- Patent 3,541,566: Foldable Antenna Structure; filed 5 December 1967, Patented 17 November 1970, not available NTIS.
- Patent 3,548,285: High Efficiency Current Driver; filed 29 March 1968, Patented 15 December 1970, not available NTIS.
- Patent 3,548,419: Electrically Driven Prosthetic Elbow; filed 10 December 1968, Patented 22 December 1970, not available NTIS.
- Patent 3,549,236: Optical Frequency Discriminator with Dual Frequency Resonator; filed 30 September 1968, Patented 22 December 1970, not available NTIS.
- Patent 3,549,694: Alpha-Amino-P-Toluene-sulfonamide Citrate; filed 15 May 1968, Patented 22 December 1970, not available NTIS.
- Patent 3,550,213: High Strength Hot-Press Die; filed 31 December 1968, Patented 29 December 1970, not available NTIS.
- Patent 3,551,720: Seal for High Pressure Short-ARC Lamp; filed 28 January 1969, Patented 29 December 1970, not available NTIS.
- Patent 3,552,413: Feedback Divider for Fluid Amplifier; filed 12 June 1964, Patented 5 January 1971, not available NTIS.
- Patent 3,554,877: Method of Making Printed Circuit Assemblies; filed 7 February 1968, Patented 12 January 1971, not available NTIS.
- Patent 3,554,913: Friction Reduction by Copolymer of N-Alkyl Methacrylates and Methacrylic Acid in Solution; filed 15 August 1969, Patented 12 January 1971, not available NTIS.
- Patent 3,555,340: Button Short-ARC Gas Lamp; filed 7 January 1969, Patented 12 January 1971, not available NTIS.
- Patent 3,558,005: Aerial Chemical Dispenser; filed 6 November 1968, Patented 26 January 1971, not available NTIS.
- Patent 3,562,537: Electron-Optical De-Correlation of Wavefront Distortion due to Atmospheric Scintillation; filed 3 September 1969, Patented 9 February 1971, not available NTIS.
- Patent 3,562,837: Low Voltage DC Control of Voltage-Variable Capacitors; filed 7 July 1969, Patented 9 February 1971, not available NTIS.
- Patent 3,566,286: System for Determining the Gain Compression of an R.F. amplifier; filed 21 April 1969, Patented 23 February 1971, not available NTIS.
- Patent 3,566,693: Fluidic Altitude Sensor; filed 3 October 1969, Patented 2 March 1971, not available NTIS.
- Patent 3,566,898: Fluoric Vortex Proportional Amplifier; filed 20 December 1968, Patented 2 March 1971, not available NTIS.
- Patent 3,567,969: High Power Modulator; filed 6 August 1968, Patented 2 March 1971, not available NTIS.
- Patent 3,567,292: Sprocket Engagement Support Wheel for an Endless Track; filed 19 February 1969, Patented 2 March 1971, not available NTIS.
- Patent 3,569,735: Constant Amplitude Sawtooth Generator; filed 24 September 1968, Patented 9 March 1971, not available NTIS.
- Patent 3,569,795: Voltage-Variable, Ferroelectric Capacitor; filed 29 May 1969, Patented 9 March 1971, not available NTIS.
- Patent 3,570,558: Tying Mechanism; filed 30 August 1968, Patented 16 March 1971, not available NTIS.
- Patent 3,573,067: Process for Radiation Sterilizing a Packaged Precooked Meat and Gravy Product; filed 8 October 1968, Patented 30 March 1971, not available NTIS.
- Patent 3,573,314: Substituted-8-Quinolinois; filed 17 August 1967, Patented 30 March 1971, not available NTIS.
- Patent 3,573,333: Lubricant Additives for Oxidation Inhibition and Rust Inhibition; filed 19 August 1969, Patented 30 March 1971, not available NTIS.
- Patent 3,573,427: Electrically Conductive Asphaltic Concrete; filed 30 July 1969, Patented 6 April 1971, not available NTIS.
- Patent 3,576,828: Method of Insolubilizing Gelatin; filed 1 March 1968, Patented 20 April 1971, not available NTIS.
- Patent 3,577,093: Means for Obtaining Multiple Coherent-Laser Apertures; filed 13 September 1968, Patented 4 May 1971, not available NTIS.
- Patent 3,577,697: High-Pressure Gas-Filling Apparatus and Method; filed 1 July 1969, Patented 4 May 1971, not available NTIS.
- Patent 3,578,056: Run-Flat Combat Tire; filed 20 May 1969, Patented 11 May 1971, not available NTIS.
- Patent 3,578,415: Dry Hydrogen Generator; filed 13 October 1969, Patented 11 May 1971, not available NTIS.
- Patent 3,578,439: Amalgamation Process; filed 2 July 1968, Patented 11 May 1971, not available NTIS.
- Patent 3,584,536: Multiple Area Hydraulic Actuator; filed 13 January 1971, Patented 15 June 1971, not available NTIS.

Patent 3,585,389: Simple Solid-Electrolyte Gamma-Ray and Relativistic-Charged Particle Dostimeter, filed 1 December 1969, Patented 15 June 1971, not available NTIS.

Patent 3,585,503: Binary PSK Transmission using Two Closely Related Frequencies to Eliminate Phase Discontinuity, filed 31 October 1969, Patented 15 June 1971, not available NTIS.

Patent 3,585,548: Teletypewriter Selector Magnet, filed 27 February 1970, Patented 15 June 1971, not available NTIS.

Patent 3,585,553: Microminiature Leadless Inductance Element, filed 16 April 1970, Patented 15 June 1971, not available NTIS.

Patent 3,587,563: Heartbeat Monitor, filed 8 January 1969, Patented 28 June 1971, not available NTIS.

Patent 3,588,538: Electronic Switch, filed 26 January 1968, Patented 28 June 1971, not available NTIS.

Patent 3,589,359: Unidirectional Fiberglass Composite Drop-Foot Brace, filed 24 July 1968, Patented 29 June 1971, not available NTIS.

Patent 3,592,658: Process for Preparing Sterilized Comminuted Beef Products, filed 1 August 1968, Patented 13 July 1971, not available NTIS.

Patent 3,592,683: Flame Resistant Materials and Method of Making Same, filed 25 September 1969, Patented 13 July 1971, not available NTIS.

Patent 3,593,770: Position Locking Device for a Nut, filed 12 August 1969, Patented 20 July 1971, not available NTIS.

Patent 3,597,444: Method of Synthesizing Selenoureas from Thioureas, filed 2 April 1969, Patented 3 August 1971, not available NTIS.

Patent 3,598,395: Educational Testing Apparatus, filed 24 October 1968, Patented 10 August 1971, not available NTIS.

Patent 3,598,998: Single Crystal Infrared Image Converter, filed 24 September 1968, Patented 10 August 1971, not available NTIS.

Patent 3,599,117: Method of Apparatus for Tracking an Invisible Gas Laser Beam, filed 18 May 1970, Patented 10 August 1971, not available NTIS.

Patent 3,599,189: Display Memory, filed 14 October 1969, Patented 10 August 1971, not available NTIS.

Patent 3,599,207: Combined Frequency Modulated Radar and Radiometer, filed 16 October 1969, Patented 10 August 1971, not available NTIS.

Patent 3,634,097: Method of Extracting and Concentrating Flavor Precursors of Meats, filed 11 December 1969, Patented 11 January 1972, not available NTIS.

Patent 3,642,237: Spiral Reefed Ariable Drag Parachute, filed 14 May 1970, Patented 15 February 1972, not available NTIS.

Patent 3,642,500: Process for Stabilizing Structure of Ground Meat, filed 17 July 1969, Patented 15 February 1972, not available NTIS.

Patent 3,664,956: Grease Compositions, filed 26 September 1969, Patented 23 May 1972, not available NTIS.

[FR Doc. 73-20801 Filed 10-2-73; 8:45 am]

[Dept. Organization Order 30-2B;
Transmittal 173]

Office of the Secretary

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This order effective September 11, 1973, supersedes the material appearing at 37 FR 14423 of July 20, 1972, 37 FR 24202

of November 15, 1972, 38 FR 3208 of February 2, 1973, 38 FR 9450 of April 16, 1973, and 38 FR 25212 of September 12, 1973.

SECTION 1. Purpose. .01 This order prescribes the organization and assignment of functions within the National Bureau of Standards (NBS).

.02 This revision effects a reorganization of the NBS Institute for Computer Sciences and Technology, and incorporates the provisions of four previously existing amendments to the order.

Sec. 2. Organization. The organization structure and line of authority of the National Bureau of Standards shall be as depicted in the attached organization chart. Copy of the organization chart is attached to the original of this document on file in the Office of the Federal Register.

Sec. 3. Office of the Director. .01 The Director determines the policies of the Bureau and directs the development and execution of its programs.

.02 The Deputy Director assists the Director in the direction of the Bureau and performs the functions of the Director in the latter's absence.

Sec. 4. Staff units reporting to the Director. .01 The Office of Professional and Academic Liaison shall serve as the focal point for the Bureau's cooperation with academic institutions, manage the Research Associates programs, and provide advice and consultation to other Bureau managers concerning professional personnel under special programs at the Bureau.

.02 The Office of Legal Adviser shall, under the professional supervision of the Department's General Counsel and as provided in Department Organization Order 10-6, serve as the law office of and have responsibility for all legal services at the National Bureau of Standards.

.03 The Office of Engineering and Information Processing Standards shall implement Bureau and Departmental policy concerning voluntary standardization activities; serve as the focal point for the Bureau's participation in voluntary standards programs; serve as the liaison office with private, national, and international standards organizations; and provide staff guidance and advice to Bureau management on matters relating to voluntary standardization.

Sec. 5. Office of the Associate Director for Programs. The Office of the Associate Director for Programs shall perform the functions of policy development, program analysis, and program promotion; sponsor and coordinate the performance of issue and impact studies; relate Bureau programs to national needs; generate planning formats and develop information on NBS program plans and status for internal and external audiences; administer evaluation panels; and define alternatives for the allocation of resources and advise Bureau management on their implications.

Sec. 6. Office of Experimental Technology Incentives Program. The Office of Experimental Technology Incentives Program shall investigate the effective-

ness of various incentives and mechanisms to stimulate increased development and use of technology by industry. These investigations shall be designed to provide an experimental basis for the formulation of Government policy in this area.

Sec. 7. Office of the Associate Director for Administration. .01 The Associate Director for Administration shall be the principal assistant and adviser to the Director on management matters and is responsible for the conduct of administrative management functions, including the management of NBS buildings, plants, and non-scientific facilities. He shall carry out these responsibilities primarily through the organization units specified below, which are under his direction.

.02 The Accounting Division shall administer the official system of central fiscal records, payments and reports, and provide staff assistance on accounting and related matters.

.03 The Administrative Services Division shall be responsible for security, safety, emergency planning, and civil defense activities; provide mail, messenger, communications, duplicating, and related office services; manage use of auditorium and conference rooms; conduct records and forms management programs; operate an NBS records holding area; manage the NBS motor vehicle fleet; and provide janitorial service.

.04 The Budget Division shall provide advice and assistance to line management in the preparation, review, presentation, and management of the Bureau's budget encompassing its total financial resources.

.05 The Personnel Division shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development and employee relations activities; and assist operating officials on these and other aspects of personnel management.

.06 The Plant Division shall maintain the physical plant at Gaithersburg, Maryland, and perform staff work in planning and providing grounds, buildings, and improvements at other Bureau locations.

.07 The Supply Division shall procure and distribute material, equipment, and supplies purchased by the Bureau, keep records and promote effective utilization of property, act as the Bureau coordinating office for research, construction, supply and lease contracts of the Bureau, and administer telephone communications services and travel services.

.08 The Management and Organization Division shall provide consultative services to line management in organization, procedures, and management practices; develop administrative information systems; maintain the directives system; and perform reports management and committee management functions.

.09 The Instrument Shops Division shall design, construct, and repair precision scientific instruments and auxiliary equipment.

Sec. 8. Office of the Associate Director for Information Programs. .01 The Associate Director for Information Programs shall promote optimum dissemination and accessibility of scientific information generated within NBS and other agencies of the Federal Government; promote the development of the National Standard Reference Data System and a system of information analysis centers dealing with the broader aspects of the National Measurement System; provide appropriate services to ensure that the NBS staff has optimum accessibility to the scientific information of the world; and direct public information activities of the Bureau.

.02 The Office of Standard Reference Data shall administer the National Standard Reference Data System which provides critically evaluated data in the physical sciences on a national basis. This requires arrangement for the continuing systematic review of the national and international scientific literature in the physical sciences, the evaluation of the data it contains, the stimulation of research needed to fill important gaps in the data, and the compilation and dissemination of evaluated data through a variety of publication and reference services tailored to user needs in science and industry.

.03 The Office of Information Activities shall serve as the point of Bureau communication with the public and trade press, coordinate liaison with the press, radio, and television, prepare releases directed to general, trade, and semi-technical audiences, provide graphic arts and scientific illustration services to the technical staff of the Bureau, provide services for scientific photography (both still and motion), prepare feature articles and motion picture scripts, and manage tours, conferences, and exhibits.

.04 The Library Division shall furnish diversified information services to the staff of the Bureau, including conventional library services, bibliographic, reference, and translation services; and serve as a reference and distribution center for Congressional legislative materials and issuances of other agencies.

.05 The Office of International Relations shall serve as the focal point for Bureau activities in the area of international scientific exchanges.

.06 The Office of Technical Publications shall provide the executive secretariat for the Washington Editorial Review Board, process NBS technical papers for publication, maintain the NBS Manual for Scientific and Technical Communications, and manage computer assisted printing activities, cataloging and referencing of NBS reports, and the announcement and distribution of technical publications.

Sec. 9. Institute for Computer Sciences and Technology. .01 The Institute for Computer Sciences and Technology shall conduct research and provide technical services designed to aid Government agencies in improving cost effectiveness in the conduct of their programs through the selection, acquisition, and effective

utilization of automatic data processing equipment (Public Law 89-306); and serve as the principal focus within the executive branch for the development of Federal standards for automatic data processing equipment, techniques, and computer languages.

.02 The Director shall direct the development, execution, and evaluation of the programs of the Institute.

.03 The functions of the organizational units of the Institute are as follows:

a. The Computer Services Division shall provide computing and data conversion services to NBS and other agencies on a reimbursable basis and provide supporting problem analysis and computer programming as required.

b. The Information Technology Division shall conduct analyses of the technical, economic, and policy aspects of automatic data processing and provide relevant assistance to government agencies; serve as a specialized information center for computer sciences and technology; conduct technology assessments and forecasts; and carry out technical liaison with State and local governments.

c. The Systems and Software Division shall conduct selected research and development in system architecture and management, performance measurement and evaluation, computer security and access control, and software sciences and data management, in order to support ADP standardization and policy formulation and to improve the technology and methodology supporting the development, acquisition, and utilization of computer systems.

d. The Computer Systems Engineering Division shall evaluate and assess computer and related technologies in support of their effective application in computer systems and networks; develop and test new tools and techniques for measuring the performance of computer systems components and networks; perform selected research and development and provide technical support of ADP standardization in computer hardware, storage media, data communications, and computer networks.

Sec. 10. Institute for Basic Standards.

.01 The Institute for Basic Standards shall provide the central basis within the United States of a complete and consistent system of physical measurement; coordinate that system with measurement systems of other nations; and furnish essential services leading to accurate and uniform physical measurements throughout the Nation's scientific community, industry, and commerce.

.02 The Office of the Director.

a. The Director shall direct the development, execution, and evaluation of the programs of the Institute.

b. The Deputy Director shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

c. The Deputy Director, Institute for Basic Standards/Boulder shall assist in the direction of the Institute's programs

at Boulder and report to the Associate Director for Administration through the Director, IBS, in supervising the administrative divisions at Boulder.

d. The administrative divisions reporting to the Deputy Director, Institute for Basic Standards/Boulder include:

Supply Services Division.
Instrument Shops Division.
Plant Division.

These divisions and units within his office shall provide staff support for the technical program and administrative services for the NBS organization at Boulder, Colorado. The administrative units and divisions shall also serve, as needed, National Oceanic and Atmospheric Administration and Office of Telecommunications units at Boulder, Colorado, and associated field stations.

.03 The Office of Measurement Services shall coordinate the Bureau's measurement services program, including development and dissemination of uniform policies on Bureau calibration practices.

.04 The Center for Radiation Research shall constitute a prime resource within the Bureau for the application of radiation, not only to Bureau mission problems, but also to those of other agencies and other institutions. The resulting multipurpose and collaborative functions reinforce the capability of the Center for response to Bureau mission problems.

a. The Director shall report to the Director, Institute for Basic Standards, and shall direct the development, execution, and evaluation of the programs of the Center. The Deputy Director shall assist in the direction of the Center and perform the functions of the Director in the absence of the latter.

b. The organizational units of the Center for Radiation Research are as follows:

Nuclear Sciences Division.
Applied Radiation Division.

These Divisions shall engage in research, measurements, and application of radiation to the solution of Bureau and other institutional problems, primarily through collaboration.

.05 The other organization units of the Institute for Basic Standards are as follows:

LOCATED AT BUREAU HQRs.

Applied Mathematics Division.
Electricity Division.
Mechanics Division.
Heat Division.
Optical Physics Division.

LOCATED AT BOULDER, COLORADO

Quantum Electronics Division.
Electromagnetics Division.
Time and Frequency Division.
Laboratory Astrophysics Division.
Cryogenics Division.

a. Each Division except the Applied Mathematics Division shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

1. Develop and maintain the national standards for physical measurement, develop appropriate multiples and sub-multiples of prototype standards, and develop transfer standards and standard instruments;

2. Determine important fundamental physical constants which may serve as reference standards, and analyze the self-consistencies of their measured values;

3. Conduct experimental and theoretical studies of fundamental physical phenomena of interest to scientists and engineers with the general objective of improving or creating new measurement methods and standards to meet existing or anticipated needs;

4. Conduct general research and development on basic measurement techniques and instrumentation, including research on the interaction of basic measuring processes on the properties of matter and physical and chemical processes;

5. Calibrate instruments in terms of the national standards, and provide other measurement services to promote accuracy and uniformity of physical measurements;

6. Correlate with other nations the national standards and definitions of the units of measurement; and

7. Provide advisory services to Government, science, and industry on basic measurement problems.

b. The *Applied Mathematics Division* shall conduct research in various fields of mathematics important to physical and engineering sciences, automatic data processing, and operations research, with emphasis on statistical, numerical and combinatorial analysis and systems dynamics; provide consultative services to the Bureau and other Federal agencies; and develop and advise on the use of mathematical tools, in checking mathematical tables, handbooks, manuals, mathematical models, and computational methods.

Sec. 11. *Institute for Materials Research.* .01 The *Institute for Materials Research* shall conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and Government; provide advisory and research services to other Government agencies; and develop, produce, and distribute standard reference materials.

.02 The *Director* shall direct the development, execution and evaluation of the programs of the Institute. The Deputy Director shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

.03 The *Office of Standard Reference Materials* shall evaluate the requirements of science and industry for carefully characterized reference materials which provide a basis for calibration of instruments and equipment, comparison of measurements and materials, and aid in the control of production processes in industry; and stimulate the Bureau's

efforts to develop methods for production of needed reference materials and direct their production and distribution.

.04 The other organization units of the Institute of Materials Research are as follows:

Analytical Chemistry Division.
Polymers Division.
Metallurgy Division.
Inorganic Materials Division.
Reactor Radiation Division.
Physical Chemistry Division.

Each Division shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

a. Conduct research on the chemical and physical constants, constitution, structure, and properties of matter and materials;

b. Devise and improve methods for the preparation, purification, analysis, and characterization of materials;

c. Investigate fundamental chemical and physical phenomena related to materials of importance to science and industry, such as fatigue and fracture, crystal growth and imperfections, stress, corrosion, etc.;

d. Develop techniques for measurement of the properties of materials under carefully controlled conditions including extremes of high and low temperature and pressure and exposure to different types of radiation and environmental conditions;

e. Assist in the development of standard methods of measurement and equipment for evaluating the properties of materials;

f. Conduct research and development methodology leading to the production of standard reference materials, and produce these materials;

g. Provide advisory services to Government, industry, universities, and the scientific and technological community on problems related to materials;

h. Assist industry and national standards organizations in the development and establishment of standards; and

i. Cooperate with and assist national and international organizations engaged in the development of international standards.

Sec. 12. *Institute for Applied Technology.* .01 The *Institute for Applied Technology* shall provide technical services to promote the use of available technology and to facilitate technological innovation in industry and Government; cooperate with public and private organizations leading to the development of technological standards (including mandatory safe standards), codes and methods of test; and provide technical advice and services to Government agencies upon request. The Institute shall also monitor NBS engineering standards activities and provide liaison between NBS and national and international engineering standards bodies.

.02 The *Director* shall direct the development, execution, and evaluation of the programs of the Institute. The Deputy Director shall assist in the direction of the Institute and perform the func-

tions of the Director in the latter's absence.

.03 The *Engineering and Product Standards Division* shall provide guidance to the engineering and product standards programs conducted in the Institute for Applied Technology, serve as the NBS point of contact on matters pertaining to the metric system of measurement, provide a library and reference service on engineering and product standards, and conduct the Department of Commerce Voluntary Product Standards Program.

.04 The *Office of Weights and Measures* shall provide technical assistance (1) to the States with regard to model laws and technical regulations, and (2) to the States, business, and industry in the areas of testing, specifications, and tolerances for weighing and measuring devices; and shall conduct studies in the design, construction, and use of standards of weight and measure and of associated instruments; and conduct the training of State and local weights and measures officials. The Office includes the Master Railway Track Scale Depot, Clearing, Illinois.

.05 The *Office of Invention and Innovation* shall analyze the effect of Federal laws and policies (e.g., tax, anti-trust, and regulatory policies) on the national climate for invention and innovation; undertake studies in related areas with other agencies; and assist and encourage inventors through inventors' services and programs, including cooperative activities with the States.

.06 The *Product Evaluation Technology Division* shall develop the technology, standards, and test methods for evaluating products including their systems, components, and materials.

.07 The *Electronic Technology Division* shall develop criteria for the evaluation of products and services in the general field of electronic instrumentation; cooperate with appropriate public and private organizations in identifying needs for improved technology in this field; and cooperate in the development of standards, codes and specifications. Further, it shall apply the technology of electronic instrumentation to the development of methods of practical measurement of physical quantities and properties of materials.

.08 The *Technical Analysis Division* shall conduct benefit-cost analyses and other basic studies required in planning and carrying out programs of the Institute. This includes the development of simulations of industrial systems and of Government interactions with industry, and the conduct of studies of alternative Institute programs. On request, the Division shall provide similar analytic services for other programs of the Department of Commerce, in particular, those of the science-based bureaus, and, as appropriate, for other agencies of the executive branch.

.09 The *Measurement Engineering Division* shall serve the Bureau in an engineering consulting capacity in measurement technology; and provide techni-

cal advice and apparatus development supported by appropriate research, especially in electronics, and in the combination of electronics with mechanical, thermal, and optical techniques.

10 The *Fire Technology Division* shall (a) conduct data gathering, research, education and demonstration programs on fire, its causes, prevention, and control, and on the flammability of products, fabrics, and materials; (b) develop test methods and standards in flammability; and (c) coordinate all other fire research and safety activities of the National Bureau of Standards.

11 The *Center for Building Technology* shall consult with industry, government agencies, professional associations, labor organizations, consumers, and such organizations as the National Conference of States on Building Codes and Standards in developing test methods for evaluating the performance of buildings, including their materials and components, the support and stability characteristics of their elements and systems, the effects of new design strategies, their fire safety and environmental characteristics, and their service and communication systems; shall formulate performance criteria for building design and urban systems; and shall perform research (including research on safety factors) in the systems approach to building design and construction, in improving construction and management efficiency, in building material characteristics, in structural behavior, and in building environmental systems.

a. The *Director* shall report to the *Director, Institute for Applied Technology* and shall direct the development, execution and evaluation of the programs of the Center. The *Deputy Director* shall assist in the direction of the Center and perform the functions of the *Director* in the latter's absence.

b. The *organizational units* of the Center for Building Technology shall be:

Office of Housing Technology.
Office of Federal Building Technology.
Office of Building Standards and Codes Services.
Building Environmental Division.
Structures, Materials and Life Safety Division.
Technical Evaluation and Application Division.

Effective date September 11, 1973.

HENRY B. TURNER,
*Assistant Secretary
for Administration.*

[FR Doc.73-21042 Filed 10-2-73;8:45 am]

[Depart. Organization Order 25-4B;
Transmittal 170]

OFFICE OF MINORITY BUSINESS ENTERPRISE

Organization and Functions

This order effective August 30, 1973, supersedes the material appearing at 37 FR 26745 of December 15, 1972, and 38 FR 8611 of April 4, 1973.

Sec. 1. *Purpose.* .01 This order prescribes the organization and assignment of functions within the Office of Minority Business Enterprise ("OMBE").

.02 This revision eliminates the Public Information Division, the Private Programs Division, the Government Programs Division, and the Contracts and Grants Compliance Division, and establishes regional offices to support and evaluate most OMBE contractors.

Sec. 2. *Organization structure.* The principal organization structure and line of authority shall be as depicted in the attached organization chart, Exhibit 1. Copy of the organization chart is attached to the original of this document on file in the Office of the Federal Register.

Sec. 3. *Office of the Director.* .01 The *Director* shall formulate policies and programs for, and direct and manage all activities of, OMBE.

.02 The *Deputy Director* shall be the principal assistant to the *Director* and perform the functions of the *Director* in the latter's absence.

.03 The *Program Research and Development Staff* shall develop, for the *Director's* approval, and monitor pilot or demonstration projects conducted by other public or by private agencies or organizations which are designed to overcome the special problems of minority business enterprise or otherwise further the purpose of the minority business enterprise program. This Staff shall also review and make recommendations to the *Director* on all pilot and demonstration projects proposed by other elements of OMBE.

.04 The *Public and Congressional Affairs Staff* shall be the focal point of public affairs activities involving OMBE programs. It shall assist other parts of OMBE in technical matters involving publications, speeches, displays or other presentations for public audiences, including minority audiences; operate and maintain a library relating to minority business enterprise; and prepare, for the *Director*, reports of the Secretary of Commerce's activities under Executive Order 11625. It shall serve as the focal point within OMBE for handling Congressional relations, and keep the *Director* advised on such matters; and be primarily responsible for the handling of congressional inquiries or requests for information or assistance from Members of Congress or their staffs.

.05 The *Legal Staff* shall provide legal services for all components of OMBE and coordinate OMBE's legislative program, subject to the overall authority of the Office of the General Counsel as provided in Department Organization Order 10-6.

Sec. 4. *Field Operations and Administration Division.* The *Field Operations and Administration Division* shall develop standards and procedures for all field activities, and evaluate compliance with these standards and procedures. In addition, it shall be responsible for all administrative management matters and

shall constitute the principal staff arm of the *Director* in the planning, development and evaluation of the national minority enterprise effort. Specifically, it shall:

.01 Develop and promulgate standards and procedures for evaluation and recommendation of new contract proposals, and support and evaluation of existing contractors, by the Regional Offices; develop and promulgate other procedures to improve the economy and effectiveness of Regional Office operations; evaluate and enforce compliance with these standards and procedures through periodic management audits of Regional Office operations, and other means as necessary and appropriate; and maintain the headquarters master file on all OMBE contracts and grants;

.02 Develop comprehensive plans and specific program goals for OMBE's programs and, as appropriate, assist in the development of plans and goals for other government or government-assisted programs contributing to the minority business enterprise effort;

.03 Maintain a performance evaluation system, and evaluate the data produced by that system to assure that program plans and goals are being achieved, and to evaluate the impact of the OMBE program and other government programs contributing to the minority business enterprise effort;

.04 Operate a central OMBE facility for the development, collection, summarization and dissemination of information that will be helpful to persons and organizations, especially minority businessmen, in undertaking or promoting the establishment and successful operation of minority business enterprise; and

.05 Develop and maintain OMBE's internal administrative management system, and provide budget, management analysis, and local administrative services for OMBE; distribute and control OMBE correspondence and maintain control of correspondence files; and facilitate the provision of personnel, procurement, accounting, payroll, and administrative support services by Departmental Offices under the Assistant Secretary for Administration.

Sec. 5. *National Programs Division.* The *National Programs Division* shall develop plans and programs to direct the resources of large organizations toward the establishment, preservation and strengthening of minority business enterprise. Such large organizations shall include, but not be limited to Federal departments and agencies, State and local governments, large private corporations, business, professional and trade associations, foundations, and universities. This Division shall also develop and monitor contracts and other agreements in support of the minority enterprise program which affect the program in more than one OMBE region. Specifically, the Division shall perform the following functions.

.01 Identify and develop working relationships with other Federal departments and agencies, and, as appropriate, convene or recommend that the Director or the Secretary of Commerce convene meetings of the responsible officials of such departments and agencies.

.02 Develop comprehensive plans and specific program goals for the Federal minority enterprise program, with participation of the Field Operations and Administration Division and other Federal departments and agencies as appropriate; and evaluate the impact of Federal efforts in achieving the objectives of that program.

.03 Identify other Federal or other government programs and capabilities that may be of assistance to minority business enterprise and assist in developing and maintaining appropriate means to advise present or potential minority entrepreneurs of such programs and capabilities.

.04 Identify and develop working relationships and agreements with large private organizations which affect or may contribute to the establishment, preservation and strengthening of minority business enterprise, and assist the Regional Offices in developing specific projects thereunder.

.05 Convene, or recommend that the Director convene, business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating selected governmental and private activities in furtherance of the objectives of the minority business enterprise program.

.06 Develop and recommend OMBE-wide policies on education, training and technical assistance, including policies for Federal training and technical assistance activities in direct support of the minority business enterprise program, and assist Regional Offices in developing specific projects thereunder. Establish and maintain arrangements for reviewing all existing and proposed education, training and technical assistance activities of other Federal departments and agencies to secure their application to the minority enterprise program, as appropriate.

.07 Develop a program of financial assistance to selected private organizations so that they may render technical and management assistance to minority business enterprise, and, assist Regional Offices to develop specific projects thereunder in accordance with OMBE policy and for the Director's approval.

.08 Participate in developing and monitoring pilot or demonstration projects conducted by public and private agencies or organizations which are designed to overcome with special problems of minority business enterprise or otherwise further the purposes of the minority business enterprise program.

.09 Assist the Director in discharging his responsibilities involving the Advisory Council for Minority Enterprise, the

Interagency Committee for Minority Business Enterprise, and other such committees, including provision of administrative support as required. (The management of OMBE committees to comply with requirements imposed by higher authority is a responsibility of the Legal Staff.)

.10 Maintain an Indian Desk responsible for coordinating, monitoring, and evaluating all OMBE programs and activities related to American Indians.

Sec. 6. *Field structure.* The principal field structure of OMBE shall consist of regional offices ("OMBE Regional Offices"), located in New York, Washington, D.C., Atlanta, Chicago, Dallas, and San Francisco. Each Regional Office shall direct the support and evaluation of most OMBE contracts and grants, and the mobilization of public and private resources in support of the minority enterprise program, over a prescribed multi-State region, as depicted in Exhibit 2 to this order. Copy of the organization map is attached to the original of this document on file in the Office of the Federal Register. The Regional Offices shall not be responsible for the support and evaluation of:

(a) Those contracts and grants affecting the program in more than one region, which shall be the responsibility of the National Programs Division; and

(b) Experiment and Demonstration projects, which shall be the responsibility of the Program Research and Development Staff.

.01 The *Regional Director* shall be responsible for effectively implementing the OMBE program in an OMBE region. He shall report directly to the OMBE Director on all activities and developments in the region, represent OMBE in meetings and conferences, and make speeches and statements through the media to promote the OMBE program. He shall be responsible for the management practices and procedures of the Regional Office, the support and evaluation of all OMBE contracts and grants in the region, authorization of advance payments to contractors, and recommending on renewal or nonrenewal of existing contracts, and funding of new contract proposals.

.02 The *Deputy Regional Director* shall assist the Regional Director in these duties and responsibilities and, serve as Acting Director in the Regional Director's absence.

.03 The *Technical Support Staff* composed of specialists, shall provide specific assistance to the OMBE contractors and their clients in each region. This specialized assistance shall consist of:

(a) Development of procurement contract opportunities for minority firms with government agencies and the private sector;

(b) Development of business education opportunities;

(c) Development of increased sources of funding for minority firms;

(d) Evaluation and assistance in improving the financial condition of minority firms; and

(e) Evaluation and assistance in overcoming the obstacles to minority firms in the construction contracting industry.

.04 The *Project Support and Evaluation Staff* shall be headed by a Senior Project Officer and composed of several project officers. The number of project officers shall depend on the number of OMBE contractors in a Region. This staff shall be responsible for support and evaluation of all OMBE contracts and grants in a Region, except:

(a) Contracts and grants having a national or multi-regional scope of work, which shall be the responsibility of the National Programs Division; and

(b) Experiment and Demonstration Projects which shall be the responsibility of the Program Research and Development Staff.

Effective date August 30, 1973.

HENRY B. TURNER,
Assistant Secretary
for Administration.

[FR Doc.73-21041 Filed 10-2-73; 8:45 am]

[Department Organization Order 25-4B;
Amendment 1; Transmittal 173]

OFFICE OF MINORITY BUSINESS ENTERPRISE

Organization and Functions; Correction

This order effective September 14, 1973, supersedes the material appearing at 37 FR 26745 of December 15, 1972, and 38 FR 8611 of April 4, 1973.

Department Organization Order 25-4B issued August 30, 1973, is amended as follows:

In the masthead on the first page of the order, the Effective Date is corrected to read *October 1, 1973*.

Effective date September 14, 1973.

HENRY B. TURNER,
Assistant Secretary
for Administration.

[FR Doc.73-21040 Filed 10-2-73; 8:45 am]

Social and Economic Statistics Administration

NUMBER OF EMPLOYEES, PAYROLLS, GEOGRAPHIC LOCATION, CURRENT STATUS AND KIND OF BUSINESS FOR THE ESTABLISHMENTS OF MULTI- ESTABLISHMENT COMPANIES

Notice of Consideration for Surveys

Notice is hereby given that the Bureau of the Census is considering a proposal under the provisions of Title 13, United States Code, sections 181, 224, and 225, to conduct a 1973 Company Organization Survey. It is designed to collect information on the number of employees, payrolls, geographic location, current status and kind of business for the establishments of multi-establishment companies. The information will provide a base for the general purpose Standard Establishment List. The data will have significant application to the needs

of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

The survey, if conducted, shall begin not earlier than November 2, 1973.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey submitted to the Director in writing within 30 days after the date of this publication will receive consideration.

Dated September 27, 1973.

EDWARD D. FAILOR,
Administrator,
Social and Economic
Statistics Administration.

[FR Doc.73-21036 Filed 10-2-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Notice of Meeting

The Director, Center for Disease Control, announces the meeting dates and other required information for the following National Advisory body scheduled to assemble during the month of October 1973.

| Committee name | Date, time, place | Type of meeting and/or contact person |
|--|---|--|
| Immunization Practices Advisory Committee. | October 9-10, 8:30 a.m., Room 207, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333. | Open-Contact, Dr. H. Bruce Dull, Room 224, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333, Code 404-633-3296. |

Purpose: The committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

Agenda: The committee will consider the status of selected immunizable diseases and continue its annual review of recommendations on the use of vaccines in public health practice.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated September 24, 1973.

WILLIAM C. WATSON, JR.,
Acting Director,
Center for Disease Control.

[FR Doc.73-20985 Filed 10-2-73;8:45 am]

National Institutes of Health BREAST CANCER VIRUS WORKING GROUP Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the

Breast Cancer Virus Working Group, October 17-18, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 9:00 a.m.-12:00 noon, October 17, 1973, to discuss future plans of the Breast Cancer Virus Working Group, and closed to the public from 2:00 p.m.-5:00 p.m. and 7:30 p.m.-10:00 p.m., and closed to the public from 9:00 a.m.-12:00 noon, October 18, 1973, to review approximately seven contracts in the field of breast cancer research, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Ernest J. Plata, Executive Secretary, Landow Building, Room C315, National Institutes of Health, Bethesda, Maryland 20014 (301/496-6178) will provide substantive program information.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20987 Filed 10-2-73;8:45 am]

CANCER RESEARCH CENTER REVIEW COMMITTEE'S EXECUTIVE COMMITTEE Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Research Center Review Committee's Executive Committee, October 11, 1973, 5:00 p.m., Holiday Inn, Bethesda, Maryland, Montgomery Room. This meeting will be open to the public from 5:00 p.m. to 6:00 p.m., to discuss guidelines for the review and evaluation of Cancer Center applications, and to advise the Director, NCI, through the parent Committee, on policy concerning the support of Cancer Centers. Attendance by the public will be limited to space available. The meeting will be closed to the public from 6:00 p.m. until adjournment, October 11, 1973, to discuss and review grants assigned to the Cancer Research Center Review Committee in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of P.L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Robert L. Manning, Executive Secretary, Westwood Building, Room 820, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7721) will provide substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.312, National Institutes of Health.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20990 Filed 10-2-73;8:45 am]

CANCER RESEARCH CENTER REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Research Center Review Committee, October 12-13, 1973, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 8:30 a.m. to 9:30 a.m., October 12, 1973, to discuss procedures to be followed in review of applications, assignment of applications to the Cancer Research Center Review Committee and to the Cancer Special Program Advisory Committee, and a report of the Executive Committee. Attendance by the public will be limited to space available. The meeting will be closed to the public from 9:30 a.m. until adjournment, October 12, and all day October 13, 1973, for the discussion and review of approximately 23 grants in the field of cancer research, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code, and section 10(d) of P.L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Robert L. Manning, Ph.D., Executive Secretary, Westwood Building, Room 820, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7721) will provide substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.312, National Institutes of Health.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20989 Filed 10-2-73;8:45 am]

CANCER SPECIAL PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, October 26-27, 1973, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 8:30 a.m. to 9:30 a.m., October 26, 1973, to discuss procedures to be followed in review of applications, assignment of applications to the Cancer Special Program Advisory Committee and to the Cancer Research Center Review Committee. Attendance

by the public will be limited to space available. The meeting will be closed to the public from 9:30 a.m., October 26, 1973, until adjournment and all day October 27, 1973, for the discussion and review of approximately 14 grants in the field of cancer research, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code, and section 10(d) of P.L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

K. C. Potter, D.D.S., Executive Secretary, Westwood Building, Room 848, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7565) will provide substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.312, National Institutes of Health.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20986 Filed 10-2-73;8:45 am]

MAMMALIAN MUTANT CELL LINES COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Mammalian Mutant Cell Lines Committee, National Institute of General Medical Sciences, October 24, 1973, 9 a.m., Regency Hyatt House, Atlanta, Georgia, Executive Conference Suite. This meeting will be open to the public from 9:00 a.m. to 2:00 p.m., October 24, 1973, for opening remarks and general discussion on the storage and distribution of biochemical mutant and chromosomally abnormal cell lines, and closed to the public from 2:00 p.m. to 4:00 p.m., October 24, 1973, to review, discuss, and evaluate a contract in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and contracts and 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

Mr. Paul Deming, Information Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014, Telephone: 301, 496-5676, will furnish a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Fred H. Bergmann, Executive Secretary, Westwood Building, Room 918, Bethesda, Maryland 20014, Telephone: 301, 496-7087.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 13.335, General Medical Sciences-Research Grants)

[FR Doc.73-20991 Filed 10-2-73;8:45 am]

TOBACCO WORKING GROUP

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Tobacco Working Group, National Cancer Institute, October 17, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., October 17, 1973, to review current results from the first series of experimental cigarettes, and closed to the public from 10:00 a.m. to 5:00 p.m., October 17, 1973, to review unsolicited proposals for contracts in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Gio B. Gori, Chairman, Building 31, Room 11A03, National Institutes of Health, Bethesda, Maryland 20014, (301/496-6616) will provide substantive program information.

Dated: September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20988 Filed 10-2-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Notice of Hearing

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the National Environmental Policy Act of 1969 (NEPA), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that in accordance with Board Memoranda and Orders dated September 6, 1973 and September 28, 1973, a hearing will be held concerning the H. B. Robinson Unit No. 2 (the facility) of the Carolina Power and Light Company (the licensee). The hearing will be held at a time and place to be set in the future by the Atomic Safety and Licensing Board (Board).

The licensee is the holder of Operating License No. DPR-23 (the operating license), issued by the Atomic Energy Commission on July 31, 1970. The operating license authorizes the licensee to possess, use, and operate a pressurized water nuclear reactor at steady-state power levels up to a maximum of 2200 megawatts (thermal) at the licensee's site in Darlington County, South Carolina, in accordance with technical specifications appended thereto. The facility is subject to the provisions of Section B of Appendix D to 10 CFR Part 50, which

sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970-September 9, 1971.

The Board, designated by the Chairman of the Atomic Safety and Licensing Board Panel, will consist of John F. Wolf, Esq., Chairman; Dr. A. Dixon Callihan and Dr. Richard F. Cole.

A "Notice of Opportunity for Hearing Pursuant to 10 CFR Part 50, Appendix D, Section B" was published in the FEDERAL REGISTER on July 18, 1973 (38 FR 19148). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, "Rules of Practice." A petition for leave to intervene was thereafter filed by John D. Whisenhunt, Esq. His petition to intervene has been approved and he will be admitted as a party to the proceeding.

A prehearing conference or conferences will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's "Rules of Practice." The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by the Board.

For further details pertinent to the matters under consideration, see (1) the licensee's Environmental Report dated November 5, 1971, and (2) the Commission's draft environmental statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D, dated April 1973, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550.

The Commission's final detailed statement on environmental considerations will also be available at the above locations upon issuance. A copy of this item may be obtained when available by request to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Licensing.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be determined by it. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, on or before November 2, 1973. A

person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, must be filed by the parties to this proceeding (other than the Regulatory Staff) on or before October 23, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545. ATTENTION: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's "Rules of Practice", an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

The Atomic Safety and Licensing Board, designated to rule on petitions for leave to intervene.

Dated at Washington, D.C., this 28th day of September 1973.

JAMES R. YORK,
Chairman.

[FR Doc. 73-21031 Filed 10-2-73; 8:45 am]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Availability of AEC Final Environmental Statement for the Haddam Neck Plant

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Final Environmental Statement prepared by the Commission's Directorate of Licensing, related to the conversion of the provisional operating license to a full-term operating license for the Haddam Neck Plant by Connecticut Yankee Atomic Power Company, located in Haddam, Middlesex County, Connecticut, 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 Russell Library, 119 Broad Street, Middletown, Connecticut 06457. The Final Environmental Statement is also being made available at the Mid-state Regional Planning Agency, P.O.

Box 139, Middletown, Connecticut 06458, and at the Office of State Planning, Department of Finance and Control, 340 Capitol Avenue, Hartford, Connecticut 06115.

The notice of availability of the Draft Environmental Statement for the Haddam Neck Plant and request for comments from interested persons was published in the FEDERAL REGISTER on March 27, 1973, 38 FR 8013. The comments received from Federal, State and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 27th day of September, 1973.

For the Atomic Energy Commission.

B. J. YOUNGLOOD,
Chief Environmental Projects
Branch 3 Directorate of
Licensing.

[FR Doc. 73-20954 Filed 10-2-73; 8:45 am]

[Docket No. 50-346]

TOLEDO EDISON COMPANY, ET AL.

Reconstitution of Atomic Safety and Licensing Appeal Board

In the matter of Davis-Besse Nuclear Power Station, Unit 1.

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

Allan S. Rosenthal, Chairman.
Dr. John H. Buck, Member.
Dr. Lawrence R. Quarles, Member.

Dated September 26, 1973.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 73-20955 Filed 10-2-73; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25280; Order 73-9-93]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Granting Motion Cargo Charters

Issued under delegated authority September 26, 1973.

By Order 73-9-31, dated September 10, 1973, the Board ordered all interested persons to show cause by October 1, 1973 why it should not disapprove Agreement CAB 23773, R-3 insofar as it relates to IATA resolutions 045e and 045c. In the same order the Board approved the resolutions through October 31, 1973, to allow the Board adequate time to consider any comments that might be filed in response to the order.

On September 21, 1973, Lufthansa German Airlines (Lufthansa) filed a motion

requesting the Board to extend the time for filing comments to October 15, 1973. In support of its motion Lufthansa alleges, *inter alia*, that the amount of time allowed for filing comments is insufficient to enable Lufthansa's management to reach an informed position and file comments with the Board because of communication delays between the United States and Germany; and there is no apparent need to dispose of this matter with such dispatch since the agreement has been approved by the Board in its present form for many years.

Upon consideration of this matter we find that it would be in the public interest to grant the requested extension of time for filing comments. However, in order to allow the Board adequate time to consider any comments that may be filed, we believe that we should extend the approval of the resolutions until November 15, 1973. We therefore find that until November 15, 1973 these resolutions will not be adverse to the public interest nor in violation of the Act, and should be approved until that date.

Accordingly, it is ordered:

1. That Agreement CAB 23773, R-3 (insofar as it relates to resolutions 045a and 045c) be and it hereby is approved, provided that the Board's approval shall be limited to the period ending November 15, 1973, insofar as such resolutions relate to air transportation, as defined in the Act;

2. That interested parties are hereby directed to show cause why these IATA resolutions should not be disapproved to the extent that they relate to air transportation, as defined in the Act, after November 15, 1973;

3. That such comments shall be filed in this Docket on or before October 15, 1973; and

4. That this order shall be served on all holders of foreign air carrier permits or certificates of public convenience and necessity, and upon the Departments of Justice, State, and Transportation.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file their petitions within seven days after the date of service of this order.

This order shall be effective immediately and the filing of a petition for review shall not preclude such effectiveness.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 73-21048 Filed 10-2-73; 8:45 am]

COMMISSION ON CIVIL RIGHTS

ARIZONA 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 Arizona State Advisory Committee to this Commission will convene at 9 a.m., on October 20,

¹ Twelve (12) copies of such comments shall be filed.

1973, at the Gold Room of the Royal Inn of Phoenix, Arizona, located at 1106 North Central Avenue, Phoenix, Arizona 85004.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216 Ross Building, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting shall be to begin making plans for the rechartering of the Arizona State Advisory Committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 26, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.73-20947 Filed 10-2-73; 8:45 am]

CALIFORNIA 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 California State Advisory Committee to this Commission will convene at 8 p.m. on October 19, 1973, in the Executive Room of the Holiday Inn of America, 245 South Airport Boulevard, South San Francisco, California 94101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purposes of this meeting shall be (1) to review draft outline of a report on the California SAC's recent Asian American factfinding meeting and (2) discuss proposed activities of the California SAC.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 26, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.73-20948 Filed 10-2-73; 8:45 am]

CALIFORNIA 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 Service Rights, that a planning meeting of the California State Advisory Committee to this Commission will convene at 2 p.m. on October 12, 1973, at 669 Clay Street, San Francisco, California 94111.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of

the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purposes of this meeting shall be to (1) plan and discuss followup activities of the California SAC's Subcommittee on Asian American problems and (2) prepare agenda for meeting of the full California SAC on October 19.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 26, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.73-20949 Filed 10-2-73; 8:45 am]

MARYLAND 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 Maryland State Advisory Committee will convene at 8 p.m. on October 4, 1973, in Room G-20 of the Social Security Administration Building, 6401 Security Boulevard, Woodlawn, Maryland 21235.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20425.

The purposes of this meeting shall be to (1) discuss the role and functions of the State Advisory Committees; (2) assess the present status of the Maryland State Advisory Committee and each of its Subcommittees, and (3) begin planning new projects to be undertaken by this Committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 25, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.73-20950 Filed 10-2-73; 8:45 am]

VERMONT STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont State Advisory Committee to this Commission will convene at 7:30 p.m. on October 4, 1973, at the Tavern Motor Inn, Montpelier, Vermont 05602.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss the Vermont State Advisory Committee's report entitled "Closing the

Ethnic Gap," and plan for the early release of this report by the Committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 27, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.73-20951 Filed 10-2-73; 8:45 am]

COMMISSION ON HIGHWAY BEAUTIFICATION

ON-PREMISE SIGNS

Notice of Symposium

SEPTEMBER 27, 1973.

Notice is hereby given that the Commission on Highway Beautification will sponsor a symposium concerning on-premise signs on October 9-10, 1973. The meeting will be held in Room 600-A of the Joseph Henry Building at the National Academy of Sciences, 2100 Pennsylvania Avenue, NW., Washington, D.C. The meeting will commence at 9:30 a.m.

LEO A. BYRNES,
Staff Director and Counsel.

[FR Doc.73-21039 Filed 10-2-73; 8:45 am]

COMMITTEE FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1973

Addition to Procurement List 1973

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following service is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

SERVICE

INDUSTRIAL CLASS 7699

Furniture Rehabilitation, Spokane, Washington plus 30 mile radius from city limits (GI), price list available from GSA, FSS, Region 10.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-20974 Filed 10-2-73; 8:45 am]

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to sec. 2(a) (2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following service to Procurement List 1973, March 12, 1973 (38 FR 6742).

SERVICE

INDUSTRIAL CLASS 7399

Final Assembly of Ration, Isolated Site (3 persons).

Comments and views regarding these proposed additions may be filed with the Committee not later than November 2, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc. 73-20975 Filed 10-2-73; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FEDERAL INTERAGENCY MEDIA COMMITTEE

Notice of Re-Election of Chairman

SEPTEMBER 25, 1973.

Dr. Robert L. Hilliard, Chief of the FCC Educational Broadcasting Branch, has been re-elected Federal Interagency Media Committee (FIMC) Chairman.

Founded eight years ago, the FIMC consists of 25 federal agencies with media responsibilities which exchange ideas and develop cooperative projects in order to make more efficient use of funds, personnel and resources in providing better service to the public.

Elected to the FIMC Executive Board were John R. Brugger (Public Health Service), Ann Erdman (HEW), Norman T. Hatch (DOD), Eileen T. McClay (FTC), John H. McLean (National Audiovisual Center-GSA), Edward F. Roeder (State) and Sid L. Schwartz (AEC). Les Greenberg (NAC-GSA) was named secretary.

Dr. Hilliard, before coming to the FCC, was a faculty member at the University of North Carolina and a consultant on Educational communications. He is author of a number of books on various aspects of communications.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc. 73-21047 Filed 10-2-73; 8:45 am]

[Dockets Nos. 19468, 19471; FCC 73R-338]

WIOO, INC., AND CUMBERLAND BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of WIOO, Inc., Carlisle, Pennsylvania, Docket No. 19468, File No. BPH-6572; Alexander Contract and Sylvia Contract, d/b/a Cumberland Broadcasting Company, Carlisle, Pennsylvania, Docket No. 19471, File No. BPH-7404; for construction permits.

1. This proceeding involves the mutually exclusive applications of WIOO, Inc. (WIOO) and Cumberland Broadcasting Company (Cumberland) for authorization to construct a new FM broadcast station in Carlisle, Pennsylvania.

The applications were designated for hearing by Commission Order, 34 FCC 2d 919, 37 FR 6519, published March 30, 1972. Now before the Review Board is a petition to enlarge issues, filed June 14, 1973, by Cumberland.¹ Cumberland requests the addition of the following issues against WIOO:

1. To determine the facts and circumstances of the efforts, endeavors and attempts by WIOO, Inc. and/or its principals or representatives to interfere improperly with the processes of this Commission and/or the prosecution by Cumberland Broadcasting Company of its application.

2. To determine in light of the evidence adduced pursuant to issue 1 above, whether there has occurred a violation of 18 U.S.C. section 1505 (1970) and if so the effect thereon on the basic and/or comparative qualifications of WIOO, Inc.

3. To determine in light of the evidence adduced pursuant to Issue 1 above, whether there has occurred an abuse of the Commission's processes and, if so, the effect thereof on the basic and/or comparative qualifications of WIOO, Inc.

2. Cumberland alleges in general that WIOO's two principals, Harold and Norman Swidler, have engaged in activities designed to obstruct or undermine the Cumberland application, and that these activities amount to an abuse of the Commission's processes and a violation of the federal obstruction of justice statute, 18 U.S.C. Section 1505.² In particular, Cumberland first alleges that Thomas Boylan, the joint owner of the land which Cumberland proposes as its transmitter site, testified at the hearing that he was contacted by Harold Swidler in the fall of 1972 concerning the property; that Swidler told him that he (Swidler) was "disturbed about the fact that the Contracts [Cumberland's principals] had the property, * * * and he was anxious that they not have it"; and that Swidler "indicated that he wanted the property." According to Cumberland, Boylan further testified that he later met with Swidler four or five times and that Swidler indicated to him that he would make sure that the Contracts not have the property and that Boylan

¹Also before the Board are: (a) Comments, filed July 11, 1973, by the Broadcast Bureau; (b) opposition, filed July 23, 1973, by WIOO; and (c) reply, filed August 2, 1973, by Cumberland.

²Section 1505 provides:

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate or impede any witness in any proceeding pending before any department or agency of the United States . . . or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States . . .

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"wouldn't lose anything by their not having it." Cumberland next alleges that Robert Suloman, a real estate appraiser employed by the Contracts, testified at the hearing that he was approached by the Swidlers regarding an appraisal he had done for the Contracts on their property on West High Street in Carlisle;³ that Harold Swidler "implied [to Suloman] that [his] appraisal was highly inaccurate," and then asked him to make an appraisal of the same property for a fee on behalf of WIOO at a figure more in line with the appraisals the Swidlers had already made on the property. Cumberland next alleges that Harold Swidler visited Henry Marshall, a Cumberland financial backer, and showed Marshall exhibits of Alexander Contract's financial obligations. Thereafter, according to Cumberland, files containing various pleadings relating to its application were left at Marshall's office on two occasions.⁴ Finally, Cumberland alleges that counsel for WIOO stated on the record that if Cumberland could produce a mortgage commitment for \$50,000 on the West High Street property, WIOO would not require further evidence on the matter; that Cumberland announced that it was taking steps to secure such a commitment; and that Harold Swidler contacted David Coover, the Executive Vice President of the bank where Cumberland was attempting to secure the mortgage commitment, on two occasions. According to Cumberland,⁵ Swidler at first attempted to obtain an appraisal on certain property in Carlisle which Coover knew was owned by the Contracts; on a subsequent occasion, Swidler indicated the differences between the Contracts' appraisals and those made by WIOO, and stated that, if the Contracts obtained a broadcast licence, they would have to sell the property quickly which could depress the sales price.

3. The Broadcast Bureau supports addition of issues inquiring into WIOO's alleged attempts to purchase Cumberland's transmitter site and engage Cumberland's real estate appraiser, but only insofar as they relate to WIOO's character qualifications and not to an inquiry into 18 U.S.C. Section 1505. The Bureau opposes inquiry into Cumberland's activities with respect to Henry Marshall, on the ground that the allegations are predicated upon speculation, and also with respect to David Coover, on the ground that there is no explanation why Coover did not supply an affidavit regarding his conversations with Swidler.

³The appraisal was made by the Contracts as a result of an issue added by the Board regarding the marketability and value of this property. See our Memorandum Opinion and Order, 37 FCC 2d 342, 25 RR 2d 312, released September 20, 1972.

⁴To support these particular allegations, Cumberland attaches an affidavit executed by Marshall.

⁵Cumberland attaches an affidavit from its counsel, John H. Midlen, Jr., regarding the contracts between Coover and Swidler.

4. WIOO argues, in opposition, that it merely conducted a "vigorous, thorough and reasonable investigation of the application and representations of Cumberland"; that the test by which its conduct must be measured is whether the investigative techniques employed were reasonably related to the objectives of the proceeding; and that all of the techniques employed by the Swidlers in their investigation of the Cumberland application were within the scope of a reasonable and permissible investigation of adversaries, citing *Chronicle Broadcasting Co.* 19 FCC 2d 240, 16 RR 2d 1014 (1969); and *National Broadcasting Company, Inc.*, 21 FCC 2d 195, 18 RR 2d 74 (1970). With respect to Cumberland's specific allegations, WIOO argues that Boylan did not testify that Swidler made a "definite offer" to purchase the Cumberland transmitter site; that Swidler never discussed paying a "premium price"; and, therefore, that there is no basis for adding the requested issue, citing *DuPage County Broadcasting, Inc.*, 9 FCC 2d 210, 10 RR 2d 830 (1967). WIOO further asserts that it would have been ethically proper for Suloman to have accepted the Swidlers' offer to reappraise the Contracts' West High Street property; that the Swidlers' contacts with Henry Marshall were warranted and reasonable since Marshall had agreed to lend Cumberland a substantial portion of his total assets at a low interest rate without security; and that Harold Swidler made no attempt to intimidate or harass David Coover regarding Cumberland's application for mortgage financing. Finally, WIOO argues that the Review Board, in this very case, has refused to inquire into violations of federal statutes since such a determination more appropriately rests with the federal courts, citing our prior Memorandum Opinion and Order, 37 FCC 2d 740, 25 RR 2d 567 (1970).

5. Cumberland, in reply, disputes WIOO's interpretation of the American Institute of Real Appraisers' Code of Ethics. According to petitioner, Suloman was being solicited to advocate the Swidler's interests while rendering his professional services, and this constitutes a violation of Canon 3 of the Code.⁷ Cumberland further argues that all of WIOO's activities constitute an obstruction of justice; that none of these activities were investigatory; and that the effect of these activities on WIOO's qualifications must be explored in hearing.

⁷ In this connection, WIOO attaches an affidavit from Charles F. Seymour, the 1973 President of the American Institute of Real Estate Appraisers. According to Seymour, he personally assisted in redrafting the Code of Professional Ethics for appraisers and, in his view, Suloman could have made the appraisal for the Swidlers subject to the approval of the Contracts without violating the code of ethics.

⁸ Canon 3 of the Code provides: "When performing a real estate appraisal assignment, a Member of the Institute must render his professional services without advocacy of his client's interests or the accommodation of his own interests."

6. The Review Board believes that serious public interest questions have been raised regarding WIOO's character qualifications which warrant full exploration in hearing.⁹ Initially, we agree with WIOO that it had a right to conduct a thorough and vigorous investigation of Cumberland's application and representations. However, the purpose of the investigation and the investigative techniques employed had to be "reasonably related to the objectives of the proceeding itself." *Chronicle Broadcasting Co., supra*, 19 FCC 2d at 245, 16 RR 2d at 1019. The purpose of a comparative broadcast hearing is to enable the Commission to select the applicant best qualified to provide service to the public. Any attempt by a competing applicant to subvert or obstruct the prosecution of another application deprives the Commission of a real and meaningful choice between competing applicants, severely abuses the Commission's comparative hearing process and, consequently, cannot be condoned. In our opinion, the serious nature of the charges set forth in Cumberland's pleadings raise questions regarding the Swidlers' motives, i.e., whether the Swidlers were conducting a *bona fide* investigation and exploration of Cumberland's application or rather attempting to obstruct and/or undermine the application. In this connection, Harold Swidler testified at the hearing that he had spent "day and night" for approximately a year and a half following Mr. Contract and investigating Cumberland's application "to make sure that the Commission has the right knowledge about Mr. Contract." Swidler also testified that the time spent on the investigation caused him to take "time away from" his AM station in Carlisle. This testimony merely underscores the need for a hearing on the questions raised in Cumberland's pleadings. Specifically, we believe that the Swidlers' contacts with Thomas Boylan¹⁰ and Robert Suloman¹¹

⁹ However, an issue inquiring into alleged violations of the federal obstruction of justice statute is not warranted. As we held in our prior Memorandum Opinion and Order in this proceeding (37 FCC 2d 740, 25 RR 2d 567), any inquiry into this statute rests with the federal courts and not with this Commission. See *Chronicle Broadcasting Co., supra*.

¹⁰ In both *Chronicle Broadcasting Co., supra*, and *National Broadcasting Company, supra*, cited by WIOO, the Board stated that reasonable and proper scrutiny of parties by their opponents was permissible. However, we also stated that there were limits to a permissible investigation and that when substantial abuses of the investigative process were alleged and properly supported, appropriate issues would be added.

¹¹ Compare *DuPage County Broadcasting, Inc., supra*, where the Board stated that it would not add an issue to determine whether a competing applicant attempted to jeopardize petitioner's proposed transmitter site since the owner of the proposed site equivocated, in a second affidavit, from the position taken in the original affidavit. Here, Boylan did not equivocate, but was consistent in his testimony that Swidler indicated that he did not want the Contracts to have the property and that Boylan would not lose any money if the Contracts did not get the property. This raises a question as to whether Swidler was attempting to buy Cumberland's site.

man¹² warrant full exploration in hearing. Although we find some merit to the Bureau's objections to inquiry into the Swidlers' contacts with Henry Marshall and David Coover, we believe that, in view of the other allegations and Harold Swidler's testimony, the inquiry should encompass the entire investigation and should not be limited solely to the allegations relating to Boylan and Suloman. As we stated in *Chronicle Broadcasting Co., supra*: " * * * the totality of the circumstances surrounding the investigation enter into a determination of whether the search is proper and permissible or has been distorted to undesirable ends." 19 FCC 2d at 244, 16 RR 2d at 1020. In this regard, WIOO's contacts with Marshall and Coover may be part of an overall pattern which should be explored at the hearing in order to fully resolve this matter. In view of all the foregoing, appropriate issues will be added against WIOO.¹³

7. Accordingly, it is ordered, That the petition to enlarge issues, filed June 14, 1973, by Cumberland Broadcasting Company IS GRANTED to the extent indicated below, and IS DENIED in all other respects:

8. It is further ordered, That the issues herein ARE ENLARGED by the addition of the following issues:

(1) To determine the facts and circumstances relating to and surrounding the investigation of Cumberland Broadcasting Company by WIOO, Inc.;

(2) To determine the effect of the evidence adduced under issue (1) above upon the basic and/or comparative qualifications of WIOO, Inc. to be a Commission licensee.

9. It is further ordered, That the burden of proceeding with the introduction of the evidence shall be on Cumberland Broadcasting Company and the burden of proof shall be on WIOO, Inc.

Adopted: September 26, 1973.

Released: September 28, 1973.

FEDERAL COMMUNICATIONS
COMMISSION,¹⁴

[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-21046 Filed 10-2-73;8:45 am]

¹² We do not deem controlling the question whether Boylan could have conducted a separate appraisal of the Contracts' West High Street property on behalf of the Swidlers without violating the Code of Ethics of the American Institute of Real Estate Appraisers. We are concerned here with the Swidlers' motives and conduct, and the ethical considerations of their actions do not, in our view, resolve this issue.

¹³ Although Cumberland requests that the burden of proceeding and burden of proof be placed on WIOO, consistent with Commission practice the burden of proceeding will be placed on Cumberland and the burden of proof on WIOO. See *Chronicle Broadcasting Co., supra*.

¹⁴ Board Member Berkemeyer absent.

FEDERAL POWER COMMISSION

[Docket No. RP74-14]

CASCADE NATURAL GAS CORP.**Notice of Proposed Change in Rate**

SEPTEMBER 26, 1973.

Take notice that on September 4, 1973, Cascade Natural Gas Corp. filed with the Commission Second Revised Sheet No. 2 to its FPC Gas Rate Schedule No. 1, and a letter agreement dated August 8, 1973, between Cascade and Mountain Fuel Supply Co.

The purpose of the filing is to permit Cascade to pass on to Mountain Fuel, dollar for dollar, approximately \$16.638 annually of increased purchased gas costs which Cascade has incurred by virtue of the minimum price provision of Commission Opinion No. 658. The purchases involved are made by Cascade from Continental Oil Company under Continental's FPC Gas Rate Schedule Nos. 322 and 325. Cascade requests that the proposed rate increase be made effective on August 13, 1973. Cascade requests waiver of the Commission's regulations to permit the increase to become effective as proposed.

Any person desiring to be heard or to protest Cascade's filing in this docket should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., 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, or 1.10). All such petitions or protests should be filed on or before October 18, 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.73-20963 Filed 10-2-73; 8:45 am]

[Docket No. RP73-115]

CONSOLIDATED GAS SUPPLY CORP.**Notice of Filing of Revised Tariff Sheet**

SEPTEMBER 25, 1973.

Take notice that on September 7, 1973, Consolidated Gas Supply Corp. (Consolidated) submitted for filing a revised tariff sheet¹ to its FPC Gas Tariff, First Revised Volume No. 1. The tendered tariff sheet is a revision of the sheet rejected by Commission order of August 8, 1973, in Docket No. RP73-115 because it contained a fixed cost recovery adjustment in contravention of the Regulations Under the Natural Gas Act. Consolidated requests that its tendered sheet be made effective October 8, 1973.

¹ The tariff sheet is designated as Substitute First Revised Sheet No. 51-C.

The tendered tariff sheet differs from the sheet originally filed on June 14, 1973 (and rejected August 8), in that the provision for recovery of fixed costs has been eliminated.

Consolidated also requests that Original Sheet No. 51-D, filed on June 14, 1973, be withdrawn because the provisions set forth thereon have been incorporated in the Substitute First Revised Sheet No. 51-C.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20964 Filed 10-2-73; 8:45 am]

[Docket No. E-7984]

**CONSUMERS POWER CO. AND
DETROIT EDISON CO.****Notice of Postponement of Prehearing
Conference**

SEPTEMBER 25, 1973.

On August 28, 1973, an order was issued instituting an investigation and fixing a prehearing conference in the above-designated matter for September 26, 1973. The date fixed for the prehearing conference conflicts with a hearing scheduled in Docket No. E-7906, The Detroit Edison Co. (notice issued April 26, 1973).

Upon consideration, notice is hereby given that the date for the prehearing conference in the above matter is postponed to September 28, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission at 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20959 Filed 10-2-73; 8:45 am]

[Docket Nos. CP73-258 et al.]

EL PASO EASTERN CO., ET AL.**Order Consolidating Proceedings, Granting
Interventions, Scheduling Formal Hear-
ing, and Establishing Procedures**

SEPTEMBER 25, 1973.

Applications have been filed in twelve separate dockets pursuant to sections 3

and 7 of the Natural Gas Act (Act) requesting orders authorizing the importation of liquefied natural gas (LNG), and certificates of public convenience and necessity authorizing the construction and operation of pipeline facilities and the sale for resale of the LNG in interstate commerce. Applications pursuant to section 3 of the Act, for the importation of LNG, were filed by El Paso Eastern Co. (El Paso Eastern) in Docket No. CP73-258 on April 4, 1973; by Transco Energy Co. (Transco Energy) in Docket No. CP73-267 on April 6, 1973; by Southern Energy Co. (Southern Energy) in Docket No. CP73-271 on April 6, 1973; and by Consolidated System LNG Co. (Consolidated) in Docket No. CP73-284 on April 19, 1973. Applications pursuant to section 7 of the Act, requesting certificates of public convenience and necessity for the construction and operation of pipeline facilities and/or the delivery and sale for resale of natural gas in interstate commerce, were filed by El Paso Eastern in Docket No. CP73-259, and El Paso Natural Gas Co. (El Paso Natural) in Docket No. CP73-260, respectively, on April 4, 1973; by Transco Energy in Docket No. CP73-269, Transco Terminal Co. (Transco Terminal) in Docket No. CP 73-268, and Transcontinental Gas Pipe Line Corp. (Transco Pipe Line) in Docket No. CP73-270, respectively, on April 6, 1973; by Southern Energy in Docket No. CP73-272, and Southern Natural Gas Co. (Southern Natural) in Docket No. CP73-273, respectively, on April 6, 1973; and by Consolidated in Docket No. CP73-283 on April 19, 1973.¹ Notices of all of the above-mentioned applications were issued on April 27, 1973, and published in the FEDERAL REGISTER on May 3, 1973 (38 FR 11001, et al.).

All four importers would purchase the LNG from El Paso Algeria Corp. (El Paso Algeria) on the fifteenth meridian, west longitude, aboard LNG tankers en route to the United States. El Paso Algeria would purchase the gas, which is to be produced in Algeria, from Societe Nationale Sonatrach (Sonatrach) F.O.B. ship's rail, Arzew, Algeria.

El Paso Eastern, in Docket No. CP73-258, seeks authorization to import approximately 154 trillion Btu annually of LNG (equivalent of approximately 375,000 Mcf of vaporous gas daily) which it has contracted to purchase from El Paso Algeria for 25 years after the initial buildup period. The estimated delivered cost of the LNG will be approximately 1.03 per million Btu. The LNG is to be delivered to the facilities to be constructed, owned, and operated by Transco

¹ On June 29, 1973 El Paso Eastern filed in all of the above-entitled dockets a Motion For Expedition And Related Procedural Relief requesting that the Commission expeditiously establish procedural dates and grant related relief. Responses in support of El Paso Eastern's motion were filed jointly by Transco Energy, Transco Terminal, and Transco Pipe Line on July 16, 1973 and jointly by Southern Natural, South Energy, and Consolidated on July 17, 1973.

Terminal in Gloucester County, New Jersey. In Docket No. CP73-259, El Paso Eastern requests authorization to deliver natural gas to Transco Pipe Line on an exchange and transportation basis, and to sell gas to El Paso Natural. According to the application, the LNG which El Paso Eastern proposes to import in Docket No. CP73-258 would be delivered to Transco Pipe Line for El Paso Eastern's account. Transco Pipe Line, in turn, would deliver an equivalent quantity of gas for El Paso Eastern to El Paso Natural at a point in Refugio County, Texas. El Paso Eastern would pay Transco Pipe Line 9.23 cents per million Btu for the delivery of the gas. El Paso Eastern estimates that the initial price to be charged El Paso Natural for the gas would be \$1.41 per Mcf.

El Paso Natural, in Docket No. CP73-260, seeks Section 7 certificate authorization to connect its Southern Division System with the system of Transco Pipe Line at the delivery point in Refugio County, Texas, where it would receive the gas to be purchased from El Paso Eastern. El Paso Natural states that it will utilize the additional supply in maintaining existing levels of firm service to existing customers on its Southern Division System. El Paso Natural anticipates initial deliveries in mid 1977, with full deliveries starting in the latter part of 1978.

El Paso Natural specifically proposes to construct approximately 418.5 miles of 24-inch O.D. pipeline from the Transco Pipe Line delivery point in Refugio County to a point of connection near El Paso Natural's facilities in Reeves County, Texas. Additionally, El Paso Natural proposes to install a total of 50,716 compressor horsepower at five new compressor stations situated on the proposed new pipeline, and metering and other appurtenant facilities. The total estimated cost of the facilities is \$87,999,014.

Transco Energy, in Docket No. CP73-267, requests authorization to import approximately 154 trillion Btu annually of LNG (equivalent of approximately 373,260 Mcf of vaporous gas daily) which it has contracted to buy from El Paso Algeria for a 25-year period to begin in 1978. The estimated delivered cost of the LNG, which will also be delivered to the Transco Terminal facilities in New Jersey, is approximately 1.03 per million Btu.

In Docket No. CP73-269, Transco Energy requests certificate authorization for the sale for resale of the LNG for which it is seeking import authorization in Docket No. CP73-267. Transco Energy proposes to sell all of its volumes of vaporized LNG to Transco Pipe Line on a cost of service basis at an estimated price of \$1.3823 per Mcf for the first two years of operation. Transco Terminal would unload, store and vaporize the LNG and deliver it to Transco Pipe Line for Transco Energy.

In conjunction with the applications by Transco Energy, Transco Terminal in Docket No. CP73-268 seeks authorization to construct and operate LNG facilities in Gloucester County, New Jersey,

to provide unloading, storage, and vaporization service for the LNG, which is the subject of the import applications in Docket Nos. CP73-258 and CP73-267. The facility is to have a daily output capacity of 746,520 Mcf of vaporous natural gas, and will cost an estimated \$206,734,000.

Transco Pipe Line in Docket No. CP73-270 seeks Section 7 authorization to construct and operate approximately 22.74 miles of 36-inch pipeline loop on its Marcus Hook-Woodbury line in Pennsylvania and New Jersey, together with a meter station to be located at the tail-gate of Transco Terminal's proposed LNG terminal facility in Gloucester County, New Jersey, and a meter station to be located at Compressor Station No. 20 in Refugio County, Texas. Transco Pipe Line states that these new facilities will enable it to handle approximately 746,520 Mcf daily of the vaporized LNG. Transco Pipe Line states further that it will purchase from Transco Energy approximately 373,260 Mcf of gas daily to be utilized as system gas supply to serve presently authorized firm market requirements. Transco Pipe Line also seeks authorization to receive for the account of El Paso Eastern approximately 373,260 Mcf of vaporous gas daily, with an equivalent quantity to be re-delivered under the exchange and transportation arrangement described above.

Southern Energy, in Docket No. CP73-271, requests authorization under Section 3 to import approximately 41 trillion Btu annually of LNG (equivalent of approximately 100,000 Mcf of vaporous gas daily) from El Paso Algeria, for a 25-year period. The LNG, with an estimated delivered cost of \$1.09 per million Btu, would be delivered to facilities owned and operated by Southern Energy on Elba Island, Chatham County, Georgia.

Southern Energy, in Docket No. CP73-272 seeks Section 7 certificate authorization to construct and operate facilities on Elba Island, Georgia, in addition to those authorized in Docket No. CP71-264,² for the storage and regasification of LNG and the sale of such regasified LNG to Southern Natural. The proposed facilities consist of one storage tank of 400,000 barrels capacity, two additional LNG transfer pumps, one LNG vaporizer, and other minor associated equipment to be constructed at an estimated cost of \$8,969,000. Southern Energy alleges that these facilities will allow it to receive, store, regasify, and deliver to Southern Natural the LNG which is the subject of the import application in Docket No. CP73-271.

In conjunction with the applications of Southern Energy, Southern Natural, in Docket No. CP73-273 seeks authorization to increase the diameter of the 105 mile loop pipeline to 24 inches in lieu of the 20-inch pipeline certificated in Docket

² Opinion Nos. 622 and 622-A, issued June 28, 1972 and October 5, 1972, respectively, in Columbia LNG Corp., et al., Docket Nos. CP71-68, et al.

No. CP71-276.³ Southern states that the estimated increased cost of constructing the 24-inch line instead of the previously authorized 20-inch line will be \$3,417,390. Southern Energy contemplates that construction will begin in 1975 and will be completed within 12 months.

Finally, Consolidated, in Docket No. CP73-283, requests authorization pursuant to section 7 to construct and operate a 6,800 horsepower compressor station (Leesburg Station) near the south terminus of the Loudoun-to-Leidy pipeline proposed in Docket No. CP71-290, in which Applicant plans to transport 500,000 Mcf daily of vaporous gas. The estimated cost of the facilities is \$5,541,000. In addition, Consolidated seeks authorization for the sale for resale of up to 61 trillion Btu of LNG annually or the equivalent of 150,000 Mcf daily of vaporous gas to Consolidated Gas Supply Corp. (Supply). Consolidated proposes to deliver these volumes from the Cove Point, Maryland, importation point to Loudoun, Virginia, and from there to Supply's Leidy Storage Field in Clinton County, Pennsylvania, via the pipeline proposed in Docket No. CP71-290. The estimated cost to be charged Supply by Consolidated on a cost of service basis is \$1.4188 per Mcf for 1979.

To obtain the heretofore mentioned 150,000 Mcf daily of vaporous gas, Consolidated seeks Section 3 authorization in Docket No. CP73-284 to import 61 trillion Btu of LNG yearly, which it has contracted to purchase from El Paso Algeria for 25 years. Consolidated states that the LNG will be delivered to authorized facilities jointly under construction by Consolidated and Columbia LNG Corp. at Cove Point, Maryland.

The Commission notes that there exists an interrelationship between the twelve above-entitled docket numbers, and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. The Commission, therefore, shall consolidate Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273, CP73-283, CP73-284 for hearing and disposition of all issues.

Timely petitions to intervene were filed by the following parties in the following dockets:

- South Jersey Gas Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
- Southwest Gas Corp. Docket Nos. CP73-258, CP73-259, CP73-260.
- Southern California Gas Co. Docket Nos. All twelve.
- The California Gas Producers Assoc. Docket Nos. CP73-258, CP73-259, CP73-260.
- San Diego Gas & Electric Co. Docket Nos. CP73-258, CP73-259, CP73-260.
- Salt River Project Agricultural Improvement and Power District. Docket Nos. CP73-258, CP73-259, CP73-260.
- Long Island Lighting Co. Docket Nos. CP73-258, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.

³ Ibid.

Scottrach. Docket Nos. All twelve.
 Pacific Gas and Electric Co. Docket Nos. CP73-258, CP73-259, CP73-260.
 Algonquin Gas Transmission Co. Docket Nos. All twelve.
 Philadelphia Electric Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 Consolidated System LNG Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273.
 Public Service Electric and Gas Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 Distrigas Corp. Docket Nos. All twelve.
 Columbia LNG Corp. Docket Nos. All twelve.
 El Paso Algeria Corp. Docket Nos. All twelve.
 El Paso Natural Gas Co. Docket Nos. All twelve.
 Southern Energy Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 Tucson Gas & Electric. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 Piedmont Natural Gas Co., Inc. Docket Nos. CP73-258, CP73-259, CP73-267, CP73-268, CP73-269, CP73-270.
 Philadelphia Gas Works. Docket Nos. All twelve.
 Natural Gas Pipeline Co. of America. Docket Nos. All twelve.
 Tennessee Gas Pipeline Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273.
 Petrochemical Energy Group. Docket Nos. All twelve.
 El Paso Eastern Co. Docket Nos. CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-283, CP73-284.
 United Gas Pipe Line Co. Docket No. CP73-260.
 Atlanta Gas Light Co. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273.
 Columbia Gas Transmission Corp. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270.
 Alabama Gas Corp. Docket Nos. CP73-271, CP73-272, CP73-273.
 South Carolina Electric & Gas Co. Docket Nos. CP73-271, CP73-272, CP73-273.
 Florida Gas Transmission Co. Docket Nos. CP73-271, CP73-272, CP73-273.
 New York State Electric & Gas Corp. Docket Nos. CP73-283, CP73-284.
 Rochester Gas and Electric Corp. Docket Nos. CP73-283, CP73-284.

Untimely petitions to intervene were filed by the following parties in the following dockets:

Washington Gas Light Co. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270.
 Shell Oil Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 North Carolina Utilities Commission. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270.
 San Diego Gas & Electric Co. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273, CP73-283, CP73-284.
 Elizabethtown Gas Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270.
 Escogas LNG, Inc. Docket Nos. CP73-258, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273, CP73-283, CP73-284.
 The Brooklyn Union Gas Co. Docket Nos. CP73-267, CP73-268, CP73-269, CP73-270.

Southern Union Gas Co. Docket Nos. CP73-258, CP73-259, CP73-260, CP73-283, CP73-284.

Public Service Electric and Gas Co. Docket Nos. CP73-271, CP73-272, CP73-273, CP73-283, CP73-284.

Timely notices of intervention were filed in all of the above-entitled dockets by the Public Service Commission for the State of New York, and in Docket Nos. CP73-258, CP73-259, and CP73-260 by The People of the State of California and the Public Utilities Commission of the State of California.

An answer opposing Petrochemical Energy Group's (PEG) intervention was filed in all of the involved dockets by Transco Energy, and in Docket Nos. CP73-271, CP73-272, and CP73-273 jointly by Southern Energy and Southern Natural. PEG's petition stated that members of the group are either direct or indirect customers of the Applicants in the dockets involved, and that they are concerned with assuring that an adequate supply of natural gas at a reasonable price is available to them. The answer of Transco Energy and that of Southern Energy and Southern Natural both allege that PEG's petition does not meet the requirements for intervention as set forth in Section 1.8 of the Commission's rules of practice and procedure. PEG filed a response to the answers on June 20, 1973.

Having reviewed the petitions to intervene, we are convinced that the petitioners, including those who filed late and PEG, have all shown sufficient interest in their respective dockets to warrant intervention. Accordingly, we shall grant intervention to all those who have so filed.

These applications require an examination of importation under section 3 of the Act to determine whether the importations are in the public interest. In addition, the construction and operation of facilities, and the sale for resale of gas in interstate commerce must be examined to determine whether such activities are required by the public convenience and necessity. These determinations involve past jurisdictional questions and questions concerning the factors which go to make up public interest and public convenience and necessity. We believe that the significant questions presented by these applications, as well as the requests of some petitioners, require a formal public hearing at which time all issues bearing upon the public interest can be fully developed on the evidentiary record. Among the issues which we deem relevant for consideration are reliability of service of the foreign supply, the dependence of certain distributors on foreign LNG to meet residential and commercial markets, environmental impact of any proposed facilities, the proper method of pricing of the LNG supply, shipping costs, overall economic feasibility of the project, end-use allocation of the proposed LNG supply, availability of alternative fuels for the markets to be served by the project, engineering feasibility of the

project, overall project safety, and any such other issues as may be pertinent and appropriate.

El Paso Eastern's motion for expedition, urging the need for promptness in processing these applications, states that each of the Applicants is now prepared to file all direct testimony and exhibits in support of the respective applications. El Paso Eastern suggests that unnecessary delay can best be avoided by requiring all direct testimony and exhibits to be filed promptly. We consider El Paso Eastern's request for expedition to be reasonable, and shall accordingly schedule dates for the filing of testimony and commencement of formal hearing in the ordering paragraphs below. We note however, that certain data requests from the Commission Staff are still outstanding. Applicants will therefore be directed to file, as part of their direct case, appropriate responses to all such outstanding requests, particularly those pertaining to Transco LNG's terminal facilities in Gloucester County, New Jersey. Furthermore, in keeping with recent Commission policy, we shall, in Ordering paragraph (C) below, direct El Paso Natural, Transco Pipe Line, Southern Natural, and Consolidated to submit detailed market data sufficient to reflect end-use allocation of gas on their systems or those of parent pipeline companies, both with and without the proposed supplemental LNG. In order to provide Staff with sufficient time to evaluate such data prior to formal hearings, such end-use information is to be submitted on or before October 15, 1973.

El Paso Eastern's motion further requests that we authorize the Administrative Law Judge to phase the hearing with respect to environmental issues. We have in the recent past emphatically rejected the idea of such phased hearing as being inappropriate and undesirable, and we adhere to that belief here. As we have stated previously,⁶ correct environmental large-scale facilities, is of particular importance to us. The Greene County decision⁷ and Commission Order No. 415-C require that the Staff Environmental procedures, especially in cases involving Statement, together with any comments received thereon, be presented at any hearing in a proposal. In keeping with this requirement, while still assuring that the Staff is afforded adequate time to prepare a thorough and meaningful environmental statement, we shall direct that, should hearing of all issues other than environmental be completed prior to the finalization of Staff's statement or the receipt of all environmental comments, the record shall remain open for

⁶ See, e.g., Order Granting In Part And Denying In Part Application For Rehearing, etc., issued August 7, 1973, in Escogas LNG, Incorporated, et al., Docket Nos. CP73-47, et al.

⁷ Ibid.
⁸ Greene County Planning Board, et al., v. F.P.C., 455 F.2d 412 (2nd Cir., 1972), cert. denied 409 U.S. 849 (1972).

purposes of receiving such environmental testimony in evidence and further trial of the issues involved therein. No decision by the Presiding Administrative Law Judge assigned to the case shall be issued prior to the completion of such testimony and subsequent closing of the record.

The Commission finds: (1) It is necessary and appropriate that the proceedings in Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273, CP73-283, and CP73-284 be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the aforementioned parties who have formally petitioned to intervene in the above consolidated dockets to so intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined.

(3) It is necessary in the public interest that the consolidated proceedings involving the above-named Applicants be set for hearing.

The Commission orders: (A) Docket Nos. CP73-258, CP73-259, CP73-260, CP73-267, CP73-268, CP73-269, CP73-270, CP73-271, CP73-272, CP73-273, CP73-283, and CP73-284 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners, who have petitioned to intervene in the proceedings consolidated by Ordering Paragraph (A) herein, are permitted to intervene in such consolidated proceedings subject to the Rules and Regulations of the Commissions: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Applicants shall submit detailed end-use market data, as specified at page 8 above, on or before October 15, 1973.

(D) The direct case of the Applicants and all intervenors in support thereof shall be filed and served on all parties on or before October 23, 1973. As part of their direct case, the Applicants shall submit appropriate responses to all outstanding data requests, including those pertaining to the Transco LNG terminal facilities in New Jersey. The Presiding Administrative Law Judge shall fix dates for the filing of answering testimony after completion of cross-examination on direct testimony.

(E) A formal hearing shall be convened in these proceedings in a hearing room of the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C., on November 13, 1973, at 10 a.m. (E.s.t.). Such hearing shall consider testimony on the issues listed above and any other issues which may be relevant to the proceedings, and shall remain open

until the submission of the Commission Staff's final environmental statement and any comments received on the draft statement. Furthermore, no initial decision shall be issued prior to the submission of such environmental testimony. The Chief Administrative Law Judge will designate an appropriate officer of the Commission to preside at the formal hearing of these matters, pursuant to the Commission's Rules of Practice and Procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.
[FR Doc.73-20958 Filed 10-2-73;8:45 am]

[Docket No. C172-845]

EMERALD PETROLEUM CORP.

Notice Cancelling Hearing

SEPTEMBER 25, 1973.

On September 13, 1973, an order was issued fixing a hearing in the above-designated matter. On September 18, 1973, Emerald Petroleum Corp. filed a notice of withdrawal.

Notice is hereby given that the hearing scheduled for October 10, 1973, has been canceled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20960 Filed 10-2-73;8:45 am]

[Docket Nos. CP71-222 and CP71-223]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Hearing

SEPTEMBER 25, 1973.

On September 12, 1973, Great Lakes Gas Transmission Co. filed a request for a further extension of the procedural dates fixed by notice issued August 20, 1973. The request states that the intervenors concur in the request.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Great Lakes, Case-In-Chief, October 22, 1973.

Hearing, November 7, 1973 (10 a.m., E.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20961 Filed 10-2-73;8:45 am]

[Docket No. E-9386]

IOWA PUBLIC SERVICE CO.

Notice of Application

SEPTEMBER 25, 1973.

Take notice that on September 7, 1973, Iowa Public Service Co. (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, Supplement No. 4 dated August 15, 1973 to the Interconnection Agreement dated February 12, 1959 with the United States Department of Interior, Bureau of Reclamation. Effective upon acceptance for

filing, Supplement No. 4 allows the Bureau to purchase energy from Applicant at 115 percent of cost.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions 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.73-20965 Filed 10-2-73;8:45 am]

[Docket No. CP74-3]

LOWELL GAS CO.

Order Providing for Hearing and Establishing Procedures

SEPTEMBER 24, 1973.

On June 3, 1973, Lowell Gas Co. (Lowell) filed in Docket No. CP74-3 an application pursuant to Section 3 of the Natural Gas Act for authorization to import 91,000 MMBtu of liquefied natural gas (LNG) on a firm basis and up to 500,000 MMBtu of LNG on an "if available" basis from Gaz Metropolitan, Incorporated, (Montreal) of Montreal, Canada, all as more fully set forth in the application in this proceeding.

In its application, Lowell states that the LNG will be stored, as received, in its cryogenic storage facilities located in Tewksbury, Massachusetts, and later vaporized as required for use as a peaking supply to meet its distribution system requirements, and for sale to other Massachusetts distributors. The cost to Lowell equates to approximately \$1.58 per Mcf equivalent and with an estimated transportation cost of 79 cents per Mcf results in a total delivered cost of \$2.37 per Mcf equivalent.

No parties have filed petitions to intervene or protests in this matter. We also note that the State Department and the Department of Defense have raised no objection to the proposal.

Lowell states that the proposed importation is necessary because it has been unable to obtain additional LNG or other alternative fuels from its usual sources. Although Lowell claims the LNG will be used in its own distribution system, Lowell provides LNG service to other Massachusetts distributors, some of whom are served by Algonquin Gas Transmission Company which forecasts curtailment this coming winter. Lowell's supplier, Tennessee Gas Pipeline Co., is not in curtailment.

We believe that a formal hearing is required to determine the public interest issues involved in Lowell's instant request. That record should contain, inter alia, facts bearing on the need of Lowell and the New England area in general for those LNG volumes. Additionally, the record should contain evidence on the services proposed to be rendered by Lowell to meet those needs.

The Commission finds: Good cause exists to establish a formal hearing to determine the public interest issues involved in Lowell's instant request for importation authorization as set forth above and to set the procedures for expediting that hearing, all as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in the Natural Gas Act, particularly sections 3, 4, 5, 7, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be convened on October 2, 1973 (ET) at the offices of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issues as set forth above that are involved in Lowell's request to import LNG from Canada.

(B) On or before September 28, 1973, Lowell shall file its evidence in support of its application with the Commission and serve copies thereof upon Commission staff and all other parties to this proceeding.

(C) The Presiding Administrative Law Judge shall render his initial decision in this proceeding on or before October 10, 1973. Any exception that may be taken thereto shall be filed by October 15, 1973 and no brief opposing exceptions is permitted to be filed.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose [see Delegation of Authority, 18 CFR § 3.5 (d)], shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20966 Filed 10-2-73;8:45 am]

[Docket No. E-8383]

MISSISSIPPI POWER & LIGHT CO.

Notice of Application

SEPTEMBER 25, 1973.

Take notice that on August 30, 1973, Mississippi Power & Light Co. (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, an agreement dated July 15, 1973 with the Tennessee Valley Authority, by which terms Applicant will sell during the period from July 15, 1973 through September 29, 1973, various amounts of capacity, ranging up to 400 mw, out of its reserves with provisions for immediate recall, such energy to be repaid in kind by the Authority beginning November 4, 1973 for a period of 21 weeks there-

after. Applicant's best estimate of anticipated revenue from capacity charges is \$1,360,000.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions 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.73-20967 Filed 10-2-73;8:45 am]

[Docket No. CP73-317]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Petition To Amend

SEPTEMBER 25, 1973.

Take notice that on September 14, 1973, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-317 a petition to amend the order of the Commission issued in said docket on August 29, 1973, pursuant to section 7(c) of the Natural Gas Act by extending the authorization to provide for the rescheduling of deliveries of gas to Northern Illinois Gas Co. (NI-Gas), due to expire October 1, 1973, until December 1, 1973, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued August 29, 1973, Petitioner is authorized to reschedule deliveries of gas to NI-Gas, such gas being released by Iowa-Illinois Gas and Electric Co. (Iowa-Illinois), for the purpose of injection into NI-Gas' underground storage reservoirs to meet the requirements of NI-Gas' firm customers during the 1973-74 winter heating season. Petitioner had agreed to deliver up to 3,000,000 Mcf of natural gas during the period ending October 1, 1973, to NI-Gas, such gas to be released by Iowa-Illinois. Petitioner will deliver to Iowa-Illinois during the period April 1974 to October 1976 equivalent gas volumes to be provided by release of gas by NI-Gas.

Petitioner now requests authorization to extend this rescheduling arrangement, stating that as of September 10, 1973, only 1,723,000 Mcf of natural gas had been released by Iowa-Illinois and delivered by Petitioner to NI-Gas, which has requested Petitioner and Iowa-Illinois to extend the arrangement. Petitioner states that this extension is needed

as NI-Gas continues to need additional volumes of natural gas for injection into storage in order to maintain security of service to firm year round customers. Petitioner further states that both NI-Gas and Iowa-Illinois have represented to Petitioner that the conditions existing on their systems remain the same as those set forth in the original application and that they are continuing in their efforts to develop a long-term agreement providing for a mutual beneficial rescheduling of deliveries from and satisfactory to Petitioner. Petitioner, therefore, requests an extension of the authority granted in the instant docket so that the deliveries to NI-Gas under this rescheduling may continue without interruption extending until December 1, 1973.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 16, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20968 Filed 10-2-73;8:45 am]

[Docket Nos. CI73-837; CI73-871]

PRODUCER'S GAS CO.

Notice Cancelling Hearing

SEPTEMBER 25, 1973.

On August 31, 1973, orders were issued fixing hearings in the above-designated matters. On September 20, 1973, Producer's Gas Co. filed a notice of withdrawal of the applications in the above matter.

Notice is hereby given that the hearings scheduled for September 26, 1973, and September 27, 1973, respectively, in the above matters are cancelled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20962 Filed 10-2-73;8:45 am]

[Docket No. RP74-18]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 26, 1973.

Take notice that Southern Natural Gas Co., on August 31, 1973, tendered for filing proposed First Revised Sheet No. 346A to its FPC Gas Tariff, Original

Volume No. 3. The proposed changes would increase revenues from off-system field sales and service by \$9,208 based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1973.

Southern states the present filing is being made pursuant to § 154.109a(c) (1) to reflect the upward adjustment in other Southwest Area rates on October 1, 1973, for gas sold under contracts dated prior to October 1, 1968.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., 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 October 18, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20969 Filed 10-2-73;8:45 am]

[Docket No. RP74-15]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 26, 1973.

Take notice that Southern Natural Gas Co., on September 3, 1973, tendered for filing proposed First Revised Sheet No. 150A to its FPC Gas Tariff, Original Volume No. 3. The proposed changes would decrease revenues from off-system field sales by \$165 based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1973.

Southern states the present filing is being made to reflect (1) a decrease in the price of gas sold by Southern in Southern Louisiana in the offshore area due to the determination that such gas is not subject to Louisiana production taxes, as set forth by supplemental decrees issued by the United States Supreme Court in *U.S. v. Louisiana*, 404 U.S. 388 (1971), motion granted for additional supplemental decree, — U.S. —, 34 L. Ed. 2d 170 (1972), and (2) an increase in the Southern Louisiana area rate pursuant to § 154.105(A) (c) (3) for gas sold under contracts dated prior to October 1, 1968. Southern requests that the effective date of this rate change be October 1, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., 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 October 18, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20970 Filed 10-2-73;8:45 am]

[Docket No. RP71-130, et al.]

TEXAS EASTERN TRANSMISSION CORP. AND SOMERSET GAS SERVICE

Notice of Filing of Petition for Emergency Relief

SEPTEMBER 27, 1973.

Take notice that on September 26, 1973, Somerset Gas Service (Somerset) filed a petition for emergency relief from the curtailment plan filed and made effective by Texas Eastern Transmission Corp. (Texas Eastern) in order to permit Somerset to receive its contract maximum daily quantity of 6.5 million cubic feet per day.

In support of its petition, Somerset asserts that the method of computing its allotment of gas on a monthly basis results in an insufficient quantity of gas for it to serve its high priority consumers. It further alleges that the plan may thus require Somerset to curtail priority 1 consumers, while other customers on Texas Eastern's system will be serving priority 3 consumers. Therefore, Somerset alleges that Texas Eastern's curtailment plan is "clearly discriminatory".

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., 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) on or before October 9, 1973. The notices and petitions for intervention previously filed in this proceeding will not operate to make those parties interveners or protestants with respect to the instant filing. 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 in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20966 Filed 10-2-73;8:45 am]

[Docket No. E-8382]

UNION ELECTRIC CO.

Notice of Application

SEPTEMBER 25, 1973.

Take notice that on August 31, 1973, Union Electric Co. (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, revised Service Schedules B and D to the Interconnection Agreement dated November 1, 1969 and designated Rate Schedule FPC No. 76 between the Tennessee Valley Authority and Applicant, Central Illinois Public Service Company and Illinois Power Company. Article 4 of revised Service Schedule B changes the term "Excess Energy" to "Nonreplacement Energy", while Article 5 thereof revises the settlement for Nonreplacement Energy to either (1) such price as conditions warrant, as agreed upon, but never less than 110 percent of the supplying party's cost therefor, or of supply cost plus 1 mill/KWH, whichever is greater, or (2) the return of such energy, at the supplier's option.

Revised Schedule D makes minor changes in the provision for the return-in-kind of Maintenance Energy, and upon the supplier's election to receive monetary compensation therefor, increases the reservation charge from \$0.30 per week per kilowatt to such price as conditions warrant as agreed upon, but not less than \$0.40 per week per kilowatt. The revisions also provide for reservation charge reduction upon curtailment of delivery of Maintenance Energy. Appendix D became effective July 15, 1973, and Appendix B will take effect October 1, 1973.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions 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.73-20971 Filed 10-2-73;8:45 am]

[Docket No. E-8374]

WEST PENN POWER CO.

Notice of Application

SEPTEMBER 25, 1973.

Take notice that on August 24, 1973, West Penn Power Co. (Applicant) tendered for filing pursuant to section 205 of

the Federal Power Act and part 35 of the regulations issued thereunder, Amendment No. 2 dated as of September 1, 1973 to an Interchange Agreement dated February 1, 1968 with Duquesne Light Co., designated West Penn Rate Schedule FPC No. 24 and Duquesne Rate Schedule FPC No. 9. Effective September 1, 1973, Amendment No. 2 modifies Schedule A to establish a minimum charge for emergency service which is not banked (repaid by return of equivalent energy) of the greater of (a) 110 percent of the out-of-pocket cost of providing such emergency energy, including transmission loss allowance, or (b) 17.5 mills/KWH.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions 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.73-20972 Filed 10-2-73; 8:45 am]

[Docket No. E-8052]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Filing of Executed Service Agreements September 24, 1973.

Take notice that South Carolina Electric Gas Company (South Carolina) on September 17, 1973, filed an executed service agreement for wholesale electric service with Broad River Electric Cooperative, Inc.

South Carolina requests that the executed agreement be substituted for the unexecuted service agreements submitted by South Carolina on April 17, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, North Capitol Street NE., 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 October 3, 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.73-21169 Filed 10-2-73; 8:45 am]

FEDERAL RESERVE SYSTEM FIDELITY AMERICAN BANKSHARES

Acquisition of Bank

Fidelity American Bankshares, Lynchburg, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Planters Bank and Trust Company, Chatham, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 16, 1973.

Board of Governors of the Federal Reserve System, September 25, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-20984 Filed 10-2-73; 8:45 am]

FIRST SECURITY NATIONAL CORPORATION

Acquisition of Bank

First Security National Corporation, Beaumont, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank in Grand Prairie, Grand Prairie, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Security National Corporation is also engaged in the following nonbank activities: Mortgage banking for both commercial and residential properties through a home office in Beaumont and a branch office in Houston, Texas. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 15, 1973.

Board of Governors of the Federal Reserve System, September 25, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-20983 Filed 10-2-73; 8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-75)]

NASA LUNAR PLANNING COMMITTEE

Notice of Date and Place of Meeting

The NASA Lunar Planning Committee will meet at the Headquarters of the National Aeronautics and Space Administration on October 15 and 16, 1973. The meeting will be held in Room 6004 of Federal Office Building 6, located at 400 Maryland Avenue SW., Washington, D.C. 20546. The meeting is open to members of the public during the open portion, from 9:00 a.m. to 5 p.m. on October 15 and from 8:30 a.m. to 1:30 p.m. on October 16, to within the 40-seat capacity of the room. A session closed to the public will be held from 1:30 p.m. to 3:30 p.m. on October 16 to discuss US/USSR Cooperative Programs. In discussing these items, the qualifications, reputation, and ability of individuals and groups will be reviewed. That discussion, if conducted in public session, may well invade the privacy of those concerned.

The NASA Lunar Planning Committee serves in a consultative capacity to the National Aeronautics and Space Administration to review the NASA lunar programs and objectives. The Committee has 15 members including the Chairman, Dr. Noel W. Hinners. For further information regarding the meeting, please contact Dr. Richard Allenby, area code 202-755-1948. The agenda for the meeting is as follows:

AGENDA

LUNAR PLANNING COMMITTEE

Nasa Headquarters
Washington, D.C.

15 AND 16 OCTOBER 1973

15 OCTOBER 1973

Item (1). 9:00 a.m.-11:00 a.m.

Introduction . . . Dr. Hinners, Capt. O'Bryant. ACTION: The purpose, mode of operation, interfaces, and member responsibilities of the Committee will be discussed. The Lunar Programs Office organization and FY-1974 budget will be reviewed. A tentative schedule and agenda items for future meetings will be established.

Item (2). 11:00 a.m.-11:45 a.m.

Report of the Geophysical Data Working Group . . . Dr. Toksoz. ACTION: A review and discussion of the functions and recommendations of the Working Group.

Item (3). 11:45 a.m.-12:30 p.m.

Report of the Lunar Sample Analysis Planning Team . . . Dr. Doe. ACTION: A review and discussion of the functions and procedures of the LSAPT.

12:30 P.M. LUNCH

Item (4). 1:30 p.m.-3:00 p.m.

Lunar Science Institute . . . Drs. Head, Hinners. ACTION: The status and goals of the LSI will be reviewed. The LPC will be asked to discuss preliminary plans to aid the Program Office in its next review of the LSI.

Item (5). 3:00 p.m.-4:00 p.m.

Broadened Exposure to Lunar Samples . . . Dr. Hinners. ACTION: The LPC will be asked

to critique a draft plan to create the accessibility and educational use of the lunar sample collection.

Item (6). 4:00 p.m.-5:00 p.m.

Fifth Lunar Science Conference . . . Dr. Haskins. **ACTION:** Preliminary plans for the Conference will be discussed. The advice of the LPC will be sought regarding increasing the effectiveness of and broadening the scope of the Conference.

16 OCTOBER 1973

Item (1). 8:30 a.m.-10:00 a.m.

Lunar Laser Ranging Retroreflector * * * Col. Strickland, Dr. Bender. **ACTION:** The laser ranging program will be reviewed as regards facilities and recent results. The LPC will be asked to discuss the potential of the Program to provide data useful in the solution of lunar and terrestrial geophysical problems.

Item (2). 10:00 a.m.-12:00 p.m.

Lunar Polar Orbit Mission * * * Drs. Hinners, Schubert, Adler. **ACTION:** The status of the proposed mission will be reviewed, as will latest results from the Apollo orbital X-ray and magnetometer experiments. The expected value of the mission to these experiments will be addressed. The LPC will be asked at a future meeting to prioritize these and other potential experiments.

Item (3). 12:00 p.m.-1:30 p.m.

Data Analysis and Synthesis Program * * * Mr. Roberson. **ACTION:** The status of the proposal evaluation will be summarized. The LPC will be asked to define critical lunar problems, point out potential gaps in the Program, identify promising new endeavors and critique established study areas.

Item (4). 1:30 p.m.-3:30 p.m.

Executive Session, US/USSR Cooperative Programs * * * Capt. O'Bryant, et al. **ACTION:** The status of the lunar cooperative programs will be reviewed. The LPC will be asked to recommend on attendees and agenda items for the joint US/USSR Lunar Conference. Discussion will be elicited regarding the sample and scientist exchange. In discussing these issues, the qualifications, reputation, and ability of individuals and groups will be reviewed. The discussions will therefore include personnel matters which, if conducted in a public session, may well invade the privacy of the individuals concerned.
3:30 p.m. ADJOURN.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

SEPTEMBER 21, 1973.

[FR Doc.73-21020 Filed 10-2-73; 8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

PUBLIC MEDIA PROGRAM

Guidelines; Fiscal 1974

Following are guidelines for grants made under the Public Media Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline for applications under the Public

Media Program for Fiscal 1974 is 15 October 1973. Interested persons should contact the Public Media Program National Endowment for the Arts, Washington, D.C. 20506, (202) 382-8178, for further information and application forms. Only the Public Media office may distribute application forms.

Signed at Washington, D.C. on 26 September 1973.

FANNIE TAYLOR,
Director, Program Information.

PUBLIC MEDIA PROGRAM

Introduction. In Fiscal Year 1974 (July 1, 1973-June 30, 1974), the Public Media Program will provide support in three main areas:

Programming in the Arts. Support for production, research and development designed to improve the quality of arts programming on film, television, and radio by professional individuals and organizations.

Regional Development. Support for regional film centers to build new audiences through regional showcases, to provide research and film study at a reasonable cost, and to provide information to encourage the development of broad-based film education.

Media Studies. Support of film and video study in schools and colleges through curriculum development and accredited workshops and seminars for teachers currently working in film and video.

The Endowment will continue support of The American Film Institute for its work in preserving and developing the nation's artistic and cultural resources in film. The Institute is concentrating essentially in the following areas of endeavor: archives, education, advanced filmmaker training, filmmaker grants and research and publication.

The Public Media Program also works with the Corporation for Public Broadcasting by jointly funding specific projects which foster the arts on public television.

GENERAL INFORMATION

Deadlines. There will be one deadline in Fiscal Year 1974. Applications must be post-marked no later than October 15, 1973. Applicants should not anticipate announcement of awards and rejections before March 1, 1974. Projects should not be scheduled to begin before March 15, 1974.

Eligibility. By statute, the National Endowment for the Arts is limited to the support of organizations which meet the following criteria:

(1) Only those organizations which meet the applicable requirements of Title VI of the Civil Rights Act of 1964 for the duration of any project supported in whole or in part by the National Endowment for the Arts.

(2) Only those organizations in which no part of net earnings inure to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. Copy of Internal Revenue Service Determination letter for tax-exempt status must be submitted with each application.

(3) Only those organizations which compensate all professional performers, related or supporting professional personnel, laborers, and mechanics at the equivalent of the prevailing minimum compensation level or on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations for the duration of any project supported in whole or in part by the National Endowment for the Arts.

Methods of Funding—Program Funds Method. Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Project Grant Application/NEA-3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated sources of matching must be identified.

Treasury Fund Method. When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-federal sources of funding for the Arts. Designed to encourage and stimulate continued private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

Treasury Fund grants are project grants applied for and approved in the same manner and for the same purposes as regular grants.

Under the Treasury Fund method, when a donation is received, it frees an equal amount from the Treasury Fund, and the doubled amount is then made available to the grantee to match. Thus for every \$1.00 given by private sources under this program, another \$1.00 is released from the Treasury. The grantee then matches this \$2.00 with an additional \$2.00 since almost all Endowment grants are for only half the total budget of an approved project. Please see the enclosed brochure for further information.

Bicentennial Projects. The Endowment recognizes that the arts will play an important role in the next few years in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application.

CATEGORIES OF FUNDING

Programming in the Arts. Matching grants up to \$50,000 for production, research and development designed to improve the quality of arts programming on film, television and radio. Some of the grants made specifically in regard to programming on Public Television will be jointly funded by the Corporation for Public Broadcasting and the National Endowment for the Arts.

The American Film Institute has a program for independent filmmakers projects. Inquiries should be addressed to: The American Film Institute, 501 Doheny Drive, Beverly Hills, California 90210.

Grant Amounts. Grants will generally be less than \$50,000. Grants for radio projects will rarely exceed \$10,000. Applicants are advised to apply for what they need and can match rather than the maximum amount. Grants to individuals of exceptional talent will be made occasionally on a non-matching

basis. These grants will generally not exceed \$10,000.

Eligibility. Nonprofit, tax-exempt organizations that plan to utilize the services of a project director who has completed at least one film or program that has been broadcast or placed in educational or commercial distribution. (In the case of research and development, the project director should be a recognized expert in the field.)

Project Examples. (1) Film or television program designed to showcase the work of individual artists, or performing or visual arts groups; or to present specific art works or art movements.

(2) Experimental workshop at a Public Television station designed to explore new techniques and formats for presenting the performing or visual arts on television.

(3) Research and development such as a special study or seminar designed to encourage the presentation of outstanding short and feature films on television.

(4) Production of radio program(s) of and about drama, poetry, music, etc. designed for national distribution.

Programming in the Arts: Information to be Supplied by Applicant—Project Description. All essential elements of the project must be included in a concise project description in the space provided on the first page of the application. If additional space is needed, no more than two additional 8½" x 11" pages may be attached.

Additional Information. Applicants are requested to submit with their application the following information:

(1) When and where project will be carried out.

(2) Information about training and experience of project director.

(3) Where application is made for a film project, a loan print of at least one finished film produced under the supervision of the project director should be submitted with the application forms. While the Endowment will make every effort to handle carefully all films, it cannot accept responsibility for any damage or loss.

(4) In case of films or programs about artist(s), a statement from the artist(s) of willingness to participate.

(5) Any arrangements made for distribution: What context? (For example, published report, television, radio, theatres, etc.)

Budget. (1) Estimate should include total cost of project.

(2) May not include amounts for past deficits, entertainment, construction of facilities, and/or contingencies.

(3) Indirect cost amounts, regardless of how established, will be subject to negotiation.

Regional Development. Matching grants up to \$25,000 to regional film centers to provide:

(1) High quality film programs to the public at the lowest possible cost;

(2) A resource for research and film study;

(3) Information to individuals, schools and institutions with film-related problems.

Grant Amounts. Grants will generally be for less than \$25,000. Applicants are advised to apply for what they need and can match rather than the maximum amount.

Eligibility. The general purpose is to encourage centers that will stimulate interest in the cinema, involving as many people as possible. For this reason, support will be restricted to those facilities which maintain the following policies:

(1) Showings open to the public at a reasonable cost.

(2) Access where practical to all materials in the study center to any person who needs access to films or articles of information in the collection without restriction to age level, education or affiliation.

Project Examples. (1) Partial support for a curator to program films for public exhibition and/or daytime screenings for school children.

(2) Partial support for a media extension agent to provide information services to the region, possibly traveling throughout the region, but maintaining headquarters at the resource center.

(3) Partial support for a film information officer in residence to work with visitors to the center and handle telephone inquiries.

Factors for Review. In general, assistance to regional film centers in Fiscal Year 1974 will be determined by a review of the following factors:

(1) Program in operation for a minimum of one year.

(2) A sponsoring institution, which provides facilities and overhead.

(3) A nearby concentration of film audience, such as a large campus population, which can guarantee substantial audience support for nighttime showcase showings.

(4) Easy access, including some form of nearby public transportation.

(5) Demonstrated willingness to work with all film-related elements in the community, as well as other film centers in other regions.

(6) Willingness to maintain and respect the integrity of film use agreements.

(7) Accessible location within a geographic region.

Regional Development: Information to be Supplied by Applicant—Project Description. In addition to description of all elements of the project, a concise narrative response to "Factors for Review" listed above should be provided on the first page of the application. If additional space is needed, no more than two additional 8½" x 11" pages may be attached.

Additional Information. Applicants are requested to submit with their application the following information:

(1) When and where project will be carried out.

(2) History of operation and programs.

(3) Where applicable, number of schools served by the center.

(4) Biographical material about the project director.

Budget. (1) Estimate should include total cost of project.

(2) May not include amounts for past deficits, entertainment, construction of facilities, and/or contingencies.

(3) Indirect costs amounts, regardless of how established, will be subject to negotiation.

Note. The Museum Program, under its Museum Purchase Plan, will entertain applications from museums for the purchase of film prints by living independent American filmmakers. Deadline for applications for Fiscal Year 1974 is February 4, 1974. Inquiries should be addressed to Museum Program, National Endowment for the Arts, Washington, D.C. 20506.

Media Studies. Matching grants up to \$25,000 to educational or other similar institutions to:

(1) Develop information for film and video courses in schools and colleges.

(2) Sponsor accredited workshops and seminars designed for teachers currently working in film and video.

Grant Amounts. Grants will generally be less than the maximum amount.

Applicants are advised to apply for what they need and can match rather than the maximum amount.

Eligibility. Universities or film-related nonprofit, tax-exempt organizations with demonstrated skill in the administration of film or video programs. The project director should be a recognized authority in the field.

Project Examples. (1) Curriculum: Development of teaching materials such as textbooks; translation of important foreign works on cinema; model course outlines that would recommend both films and textbooks to be used in illustrating the work of a certain period, "school," director or a specific theme.

(2) Summer workshop accredited by a college or university designed to provide study for film or video teachers.

Media Studies: Information To Be Supplied by Applicant—Project Description. All essential elements of the project must be included in a concise project summary in the space provided on the first page of the application. If additional space is needed, no more than two additional 8½" x 11" pages may be attached.

Additional Information. Applicants are requested to submit with their applications the following information:

(1) When and where project will be carried out.

(2) Brief history of the institution's operations and programs in the field.

(3) Grade level that would benefit from the project (elementary, secondary, or university).

(4) Biographical material about the project director.

Budget. (1) Estimate should include total cost of project.

(2) May not include amounts for past deficits, entertainment, construction of facilities, and/or contingencies.

(3) Indirect costs amounts, regardless of how established, will be subject to negotiation.

For Summer Workshops and Seminars. Applicants requesting funds for summer workshops and seminars should provide the following additional information:

(1) Length of workshop or seminar.

(2) Number and type of participants—students, teachers, librarians, scholars, etc.

(3) Number of scholarships offered, specifically whether full or partial.

(4) Accreditation—through what institution and how much?

(5) Curriculum of the workshop or seminar.

(6) What, if any, evaluation procedures have been planned?

(7) What, if any, contacts have been made for coordination with other groups, both in the area and nationally, engaged in similar projects?

(8) List of faculty, speakers and guests.

APPLICATION PROCEDURES

If, after careful review of the guidelines, you feel that your project falls within the scope of the Public Media Program, please request the appropriate application forms (either individual or project grant) by writing the Public Media Program, National Endowment for the Arts, Washington, D.C. 20506.

The completed application and all additional information requested for the area under which you wish to apply should be returned in triplicate to: Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

Failure to supply all information requested will result in unavoidable delays that may adversely affect consideration of your proposal.

Applications must be postmarked no later than October 15, 1973. The National Endowment for the Arts regrets that because of review procedures, applications postmarked after the deadline date cannot be considered.

After an application is received, it will be reviewed as follows:

(1) The Endowment Public Media staff, the Public Media Advisory Panel, and the National Council on the Arts successively review the application.

(2) The applicant is then notified concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above in Item 1 have made their recommendations and the Chairman of the Endowment has reached a final decision.

Announcements of grants is not anticipated before March 1, 1974.

All inquiries in regard to the Public Media Program and application procedures for Public Media grants should be directed to:

Public Media Program
National Endowment for the Arts
Washington, D.C. 20506

PILOT PROGRAMS

In addition to the established areas of support, the Public Media Program has set up several new programs on a special pilot basis. Evaluation of these pilots in Fiscal Year 1974 will determine if they are to be included in the program guidelines for fiscal 1975. These pilot programs will not be open to inquiries or applications in this fiscal year.

Short Film Showcasing. With the cooperation of theatre owners and distributors, the Endowment hopes to encourage the exhibition of a limited number of outstanding short films by American filmmakers in theatres throughout the country. The Endowment will contribute print costs, including blowups from 16mm to 35mm, and a fellowship to the filmmakers who are included in the program.

Post-Graduate Fellowships. The Endowment, through a pilot program with six universities, will give selected students the opportunity to gain production experience necessary to their professional careers. The pilot program will be a three-way partnership between a host university, a local public broadcast station and a filmmaker.

Filmmakers in Residence at Public Television Stations. Jointly with the Corporation for Public Broadcasting, the Endowment will provide support for filmmakers in residence at four selected public television stations. The project is designed to provide an opportunity for an experienced filmmaker and a public television station to work together creatively in the production of programming for broadcast.

Filmmakers in Residence at Cable Television Stations. The pilot will be aimed at utilizing the skills of young filmmakers with an interest in local programming in collaboration with the facilities and personnel of established cable television stations.

[FR Doc.73-21123 Filed 10-2-73;8:45 am]

POSTAL SERVICE

ACTING JUDICIAL OFFICER

Notice of Designation

The following order was issued by the Judicial Officer on September 25, 1973.

(39 U.S.C. 204, 401(2); 39 CFR 224.1(c) (6) (1) (E), 38 FR 20408)

ROGER P. CRAIG,
Deputy General Counsel.

ACTING JUDICIAL OFFICER

1. Except as provided in paragraph 2 below or as otherwise specifically ordered, the Chief Administrative Law Judge is designated as the Judicial Officer during the absence of the Judicial Officer.

2. Except as otherwise specifically ordered, the Administrative Law Judge next senior in service in the Office of Administrative Law Judges is designated as Acting Judicial Officer (a) during the absence of the Judicial Officer with respect to any proceeding assigned to the Chief Administrative Law Judge for hearing and initial decision and (b) during the concurrent absences of the Judicial Officer and the Chief Administrative Law Judge.

3. The Acting Judicial Officer is hereby empowered to exercise the full authority of the Judicial Officer while he is so serving as provided by the laws and regulations pertaining to the Postal Service.

This order is effective on October 1, 1973.

ADAM G. WENCHEL,
Judicial Officer.

[FR Doc.73-20944 Filed 10-2-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

AETNA LIFE AND CASUALTY CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 26, 1973.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

| | File No. |
|---|----------|
| Aetna Life and Casualty Company..... | 7-4458 |
| Amerada Hess Corporation..... | 7-4459 |
| American Hospital Supply Corporation..... | 7-4460 |
| Baxter Laboratories, Inc..... | 7-4462 |
| Becton, Dickinson and Company..... | 7-4463 |
| Braniff Airways, Inc..... | 7-4464 |
| The Chase Manhattan Corporation..... | 7-4465 |
| Chessie System, Inc..... | 7-4466 |
| City Investing Company..... | 7-4467 |
| Continental Telephone Corporation..... | 7-4468 |
| Control Data Corporation..... | 7-4469 |
| Esmark, Incorporated..... | 7-4470 |
| First National City Corporation..... | 7-4471 |
| Georgia-Pacific Corporation..... | 7-4472 |
| Holiday Inns Incorporated..... | 7-4473 |
| Howard Johnson Company..... | 7-4474 |
| Hughes Tool Company..... | 7-4475 |
| Imperial Corporation of America..... | 7-4476 |
| Johns-Manville Corporation..... | 7-4477 |
| The Louisiana Land & Exploration Company..... | 7-4478 |
| Merrill Lynch, Pierce, Fenner & Smith, Inc..... | 7-4479 |
| Northwest Airlines, Incorporated..... | 7-4480 |
| Philadelphia Electric Company..... | 7-4481 |
| Polaroid Corporation..... | 7-4482 |
| Public Service Electric and Gas Company..... | 7-4483 |
| Pennzoil Company..... | 7-4484 |
| Seaboard Coast Line Industries, Inc..... | 7-4485 |
| Shell Oil Company..... | 7-4486 |
| Singer Company..... | 7-4487 |
| Southern California Edison Company..... | 7-4489 |
| Southern Natural Resources, Inc..... | 7-4490 |
| Teledyne, Incorporated..... | 7-4491 |
| Telex Corporation (The)..... | 7-4492 |

| | |
|---|--------|
| Texas Eastern Transmission Corporation..... | 7-4493 |
| Textron, Incorporated..... | 7-4494 |
| Travelers Corporation..... | 7-4495 |
| UAL Incorporated..... | 7-4496 |
| Union Oil Company of California..... | 7-4497 |
| United States Gypsum Company..... | 7-4498 |
| Virginia Electric and Power Company..... | 7-4499 |
| Winnebago Industries, Inc..... | 7-4500 |

Upon receipt of a request, on or before October 12, 1973, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-21001 Filed 10-2-73;8:45 am]

[American Telephone & Telegraph Company
File No. 7-4461]

AMERICAN TELEPHONE & TELEGRAPH CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 26, 1973.

In the matter of application of the Cincinnati Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which, security is listed and registered on one or more other national securities exchange:

Upon receipt of a request, on or before October 12, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified.

If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20997 Filed 10-2-73;8:45 am]

[812-3502]

**EQUITY GROWTH FUND OF AMERICA,
INC. ET AL.**

Notice of Application

SEPTEMBER 26, 1973.

Notice is hereby given that Channing Company, Inc. ("Applicant"), 280 Park Avenue, New York, New York 10017, a broker-dealer registered under the Securities Exchange Act of 1934, and the principal distributor for the shares of Equity Growth Fund of America, Inc., Equity Progress Fund, Inc., and Fund of America, Inc. ("Funds"), diversified, open-end management investment companies registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder sales of shares of the Funds pursuant to reinvestment privileges offered by the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current public offering price described in the prospectus. The prospectus of each Fund states that a sales commission is included in the offering price of the shares of such Fund.

Applicant requests an exemption from Section 22(d) of the Act and Rule 22d-1 thereunder to enable Applicant and the Funds to sell shares of the Funds at their respective net asset values per share, i.e., without any sales charges, to persons who wish to exercise reinvestment privileges offered by the Funds.

Each Fund proposes to offer to investors who have redeemed shares of the Fund the privilege of being able to reinvest in such Fund any amount up to the amount of the proceeds of redemption at the net asset value in effect at the time of such reinvestment, without any sales charge, if the privilege is exercised within 15 days of the day the request for redemption was received by the Fund, and if the privilege has not previously been exercised with respect to any of the Funds.

Applicant states that the proposed privilege will not afford an opportunity

for speculative short term trading in shares of the Funds. Applicant further contends that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked or of which they may have been unsure at the time they redeemed.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 23, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20999 Filed 10-2-73;8:45 am]

[File Nos. 2-40894 (22-6752)]

FLINTKOTE CO.

Notice of Application and Opportunity for Hearing

SEPTEMBER 26, 1973.

Notice is hereby given that The Flintkote Company ("Flintkote") has filed an application pursuant to section 310(b) (1) (ii) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Bankers Trust Company (the "Bank") under in-

dentures dated as of October 1, 1960 (the "1960 Indenture") and July 15, 1971 (the "1971 Indenture"), both of which were qualified under the Act, the trusteeship of Bankers Trust under an Indenture dated January 1, 1973 which was not qualified under the Act and a trusteeship of Bankers Trust under an Indenture to be entered into upon execution of a lease agreement (the "New Indenture") which will not be qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust from acting as Trustee under the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both indentures.

Flintkote alleges that:

(1) As of August 27, 1973 it had outstanding \$619,000 principal amount of 4½ percent Debentures due 1980 under the 1960 Indenture.

(2) As of August 27, 1973 it had outstanding \$40,000,000 principal amount of its 8¼ percent Sinking Fund Debentures due July 15, 1996 under the 1971 Indenture.

(3) It has entered into a lease agreement with the Jefferson County, Kentucky pursuant to which Flintkote leases from the County certain pollution control machinery and equipment constructed at certain of Flintkote's facilities located in Jefferson County, Kentucky. The County entered into a trust indenture with Bankers Trust Company pursuant to which \$15,250,000 principal amount of 5½ percent pollution control Revenue Bonds, Series 1973, were issued on January 30, 1973. The principal of, and interest and premium, if any, on the bonds are payable solely from rents, revenues and receipts paid by Flintkote to the County under the lease agreement. In addition, Flintkote entered into a guaranty agreement with Bankers Trust Company, as trustee, pursuant to which

Flintkote guarantees the full and prompt payment of said principal of, and interest and premium, if any, on the bonds. By virtue of section 304(a) (4) (B) of the Act, the Indenture is not required to be qualified under the Act.

(4) It proposes to enter into a lease agreement with Clark County, Nevada (the "County") pursuant to which Flintkote will lease from the County certain pollution control machinery and equipment to be constructed at certain of Flintkote's facilities located in the County. Upon execution of the lease agreement, the County proposes to enter into a trust indenture (the "New Indenture") with Bankers Trust Company, pursuant to which the County will issue not in excess of \$6,000,000 principal amount of its Pollution Control Facilities Revenue Bonds, 1973 Series. The principal of, and interest and premium, if any, on the Bonds will be payable by the County solely from the rents, revenues and receipts paid by Flintkote to the County under the lease agreement. In addition, upon execution of the lease agreement and the New Indenture, Flintkote proposes to enter into a guaranty agreement with Bankers Trust Company, as trustee, pursuant to which Flintkote will guarantee the full and prompt payment of said principal of, and interest and premium, if any, on the Bonds. By virtue of section 304(a) (4) (B) of the Act, the New Indenture is not required to be qualified under the Act.

(5) The obligations under the 1960 Indenture, the 1971 Indenture, the lease and the guaranty agreement relating to the Jefferson County Bonds, and the proposed lease agreement and the guaranty agreement relating to the Clark County Bonds are wholly unsecured and each such obligation ranks equally with the others. Flintkote is not in default under the 1960 Indenture, the 1971 Indenture or the lease or guaranty agreement relating to the Jefferson County Bonds.

(6) The provisions of the 1960 Indenture, the 1971 Indenture, the Jefferson County Indenture and related proceedings, the New Indenture, the lease agreement and guaranty agreement with Clark County are not so likely to involve Bankers Trust Company in a material conflict of interest to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under any of said Indentures.

Flintkote has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than Oc-

tober 16, 1973 request in writing that a the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-21000 Filed 10-2-73;8:45 am]

[File No. 7-4488]

SONY CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 26, 1973.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the American Depositary Receipts for 50 yen Common Stock of the following company which security is listed and registered on one or more other national securities exchanges:

Sony Corp.

Upon receipt of a request, on or before October 12, 1973, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20998 Filed 10-2-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 354]

ASSIGNMENT OF HEARINGS

SEPTEMBER 28, 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 October 3, 1973.

MC 113855 Sub 287, International Transport, Inc., continued to December 4, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117304 Sub 29, Don Paffle, d.b.a. Paffle Truck Lines, Extension—Buildings and Component Parts, now assigned October 3, 1973, at Seattle, Wash., is cancelled and application dismissed.

MC 111645 Sub 159, Home Transportation Company, Inc., application dismissed.

MC 138340, Westfield Enterprises, Inc., d.b.a. Maryland Container Transport, now assigned November 5, 1973, at Washington, D.C., is cancelled and application dismissed.

MC 83539 Sub 314, C & H Transportation Co., Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21067 Filed 10-2-73;8:45 am]

[Rev. S.O. 1002; Car Distribution Direction 93; Amdt. 4]

ATLANTA AND WEST POINT RAIL ROAD CO. ET AL.

Car Distribution Direction

To: Atlanta and West Point Rail Road Company; Carolina, Clinchfield and Ohio Railway; Georgia Rail Road & Banking Company; Louisville and Nashville Railroad Company; Seaboard Coast Line Railroad Company; The Western Railway of Alabama.

Upon further consideration of Car Distribution Direction No. 93 and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 93 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) Expiration date. This direction shall expire at 11:59 p.m., October 31,

1973, unless otherwise modified, changed, or suspended.*

It is further ordered. That this amendment shall become effective at 11:59 p.m., September 30, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 25, 1973.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[SEAL]

[FR Doc.73-21059 Filed 10-2-73;8:45 am]

[No. MC-133599 (Sub-No. 3)]

**BIG VALLEY SUPPLY & ENTERPRISES,
LTD., EXTENSION—THIRD SHIPPER**

Grant of Shipping Authority

Order. At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 17th day of September 1973.

It appearing, that by order entered March 19, 1973, in the above-entitled proceeding, the Commission, Review Board Number 1, granted applicant contract carrier authority to transport specified commodities, as set forth below, in foreign commerce, between ports of entry on the International Boundary line between the United States and Canada at or near Champlain, N.Y., Sweetgrass, Mont., Blaine, Wash., Detroit, Mich., Noyes, Minn., and Pembina, N. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Flextrac Nodwell, Ltd., of Calgary, Alberta, Canada;

It further appearing, that by petition filed May 7, 1973, applicant seeks to modify the findings of the Review Board by broadening the grant of authority to include operation in foreign commerce only from the port of entry on the International Boundary line between the United States (Alaska) and Canada (Yukon Territory) southeast of Tetlin Junction, Alaska on Alaska Highway 2, on the one hand, and, on the other, points in Alaska; and that protestant did not file a reply;

It further appearing, that while points in Alaska were by application sought to be served, the port of entry on the Alaska Yukon Territory border was not, and the Review Board determined that since the evidence of record does not indicate that applicant would serve Alaska through any of the sought ports of entry, its grant of authority would exclude Alaska;

It further appearing, that the evidence of record establishes a need for the proposed service to points in Alaska and warrants modification of the grant of authority as sought by applicant;

It further appearing, that because it is possible that those parties who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted to serve points in Alaska, as set forth in the appendix hereto, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced by the grant of authority to serve points in Alaska; and good cause appearing therefor:

It is ordered. That the findings of Review Board Number 1 in its order of March 19, 1973, in the above-entitled proceeding be, and they are hereby, modified to reflect the grant of authority set forth below.

It is further ordered. That in all other respects the said petition be, and it is hereby, denied.

It is further ordered. That notice of the authority granted by Review Board Number 1 in its order of March 19, 1973, as modified herein, be published in the FEDERAL REGISTER and that issuance of a permit be withheld for a period of 30 days from the date of such publication for the purpose set forth above.

It is further ordered. That, unless compliance is made by applicant with the requirements of sections 215, 218, and 221(c) of the Interstate Commerce Act, and unless there is receipt from applicant of an affidavit setting forth its appropriate Canadian authority or that no Canadian authority is necessary, within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Division 1, Acting as an Appellate Division.

[SEAL] ROBERT L. OSWALD,
Secretary.

SERVICE AUTHORIZED

Operation by applicant, in foreign commerce only, as a contract carrier by motor vehicle, over irregular routes (1) of all-terrain vehicles, amphibious vehicles, off-highway vehicles, and trailers equipped with tracks, (except boats, snowmobiles, and motor cycles), and (2) of parts and accessories of the commodities described in (1) above, (a) between ports of entry on the International boundary line between the United States and Canada at or near Champlain, N.Y., Sweetgrass, Mont., Blaine, Wash., Detroit, Mich., Noyes, Minn., and Pembina, N. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (b) be-

tween the port of entry on the International Boundary line between the United States (Alaska) and Canada (Yukon Territory) southeast of Tetlin Junction, Alaska on Alaska Highway 2, on the one hand, and, on the other, points in Alaska, under a continuing contract or contracts with Flextrac Nodwell, Ltd., of Calgary, Alberta, Canada.

[FR Doc.73-21062 Filed 10-2-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 28, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before October 18, 1973.

FSA No. 42752—*Joint water-rail container rates—Seatrains International, S.A.* Filed by Seatrain International, S.A., (No. WEE-3), for itself and interested rail carriers. Rates on general commodities, between rail carriers' terminals in New Orleans, Louisiana, Beaumont, and Houston, Texas, on the one hand, and ports in Portugal and Spain, on the other.

Grounds for relief—Water competition.

Tariffs—Seatrains International, S.A., tariffs Nos. W.R.-3 and W.R.-4, ICC Nos 11 and 12, respectively. Rates are published to become effective on October 29, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21068 Filed 10-2-73;8:45 am]

[Notice No. 77]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 28, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

Special notice: The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a

result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 119657 (Sub-No. 16) (Republication), filed July 24, 1973, published in the FEDERAL REGISTER issue of August 7, 1973, and republished this issue. Applicant: GEORGE TRANSIT LINE, INC., 760-764 Northeast 47th Place Des Moines, Iowa 50313. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. A decision and order of the Commission, Review Board Number 1, dated September 12, 1973 and served September 21, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, (1) of *agricultural chemicals*, except in bulk, from the plant and warehouse facilities of Amchem Products, Inc., at Clinton, Iowa to points in Illinois, Minnesota, and Wisconsin, restricted to the transportation of shipments originating at the named origin, and (2) of *paper and polyethylene bags*, (a) from Des Moines, Iowa, to Omaha, Nebr., and points in Illinois, Minnesota, North Dakota, Wisconsin, and that portion of South Dakota east of the Missouri River, and (b) from Jacksonville, Ark., to points in Kansas, Missouri, and Oklahoma, will be consistent with the public interest and the National Transportation Policy; that applicant is fit, willing, and able to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136513 (Sub-No. 4) (Republication), filed December 20, 1972, published in the FEDERAL REGISTER issue of February 8, 1973, and republished this issue. Applicant: TALMADGE C. GRAY, P.O. Box 233, Milford, Utah 84751. A Supplemental Order of the Commission, Operating Rights Board, dated August 24, 1973, and served September 17, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *shredded scrap metal*, (1) from Vernon, Calif., to points in Arizona, Nevada and Utah, and (2) between points in Arizona, Nevada and Utah, re-

stricted in (2) above to the transportation of traffic having an immediately prior movement by rail, under, in both (1) and (2), a continuing contract or contracts with Vulcan Materials Company, of Birmingham, Ala., will be consistent with the public interest and the National Transportation Policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136642 (Sub-No. 1) (Republication), filed September 1, 1972, published in the FEDERAL REGISTER issue of October 12, 1972, and republished this issue. Applicant: BEAUMONT TRANSPORT, INC., 2660 Roland Therrien, Longueuil, Province of Quebec, Canada. An Order of the Commission, Operating Rights Board, dated September 4, 1973, and served September 24, 1973, finds that the present and future public convenience and necessity require operation by applicant, in foreign commerce only, as a *common carrier* by motor vehicle, over irregular routes of *lumber* between the ports of entry on the international boundary line between the United States and Canada located at or near Champlain, N.Y., Highgate Springs, Norton Mill, and Derby Line, Vt., and Jackman, Maine, on the one hand and on the other, points in New York, Vermont, Maine, Massachusetts, Connecticut, New Hampshire, Rhode Island, Delaware, New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, Kentucky, and Tennessee, restricted to the transportation of traffic originating at or destined to points in the above-named radial point territory; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudice by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 228 (Sub-No. 5) (Notice of filing petition to modify a restriction), filed September 17, 1973. Petitioner: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, N.J. 07400. Petitioner's representative: Michael J. Marzano, 17 Academy Street, Newark, N.J. 07102. Petitioner presently holds a motor *common carrier* certificate in No. MC 228 (Sub-No. 5), issued October 23, 1957, authorizing as pertinent, transportation, over regular routes, of *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between junction New Jersey Highway 3 and the Lincoln Tunnel Interchange of the New Jersey Turnpike, in Secaucus, N.J., and junction U.S. Highway 46 and New Jersey Highway 17, in Hasbrouck Heights, N.J., serving all intermediate points: From junction New Jersey Highway 3 and the Lincoln Tunnel interchange of the New Jersey Turnpike to the New Jersey Turnpike, thence over the New Jersey Turnpike to the George Washington Bridge Interchange of the New Jersey Turnpike, in Ridgefield Park, N.J., thence over the George Washington Bridge Interchange of the New Jersey Turnpike to junction U.S. Highway 46, thence over U.S. Highway 46 to junction New Jersey Highway 17 and return over the same route. Restriction: No passenger shall be picked up in New York City for discharge in New Jersey south of the point on New Jersey Highway 17 where it is intersected by the Borough of Paramus—Township of Rochelle Park boundary line, and no passenger shall be picked up in New Jersey on said highways south of the said described boundary line for discharge in New York City. By the instant petition, petitioner seeks to modify its restriction to read: "No passenger shall be picked up in New York City discharge in New Jersey south of the point on New Jersey Highway 17 where it is intersected by the Borough of Paramus—Township of Rochelle Park boundary line, and no passenger shall be picked up in New Jersey on said highways south of the said described boundary line for discharge in New York City, except that passengers may be picked up in New York City for discharge at the Park-Ride lot at the Vince Lombardi Service Center on the New Jersey Turnpike in Ridgefield, N.J., and passengers may be picked up at said Park-Ride lot for discharge in New York City." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 113313 (Sub-No. 2) (Notice of filing of petition for modification, clarification, and amendment of certificate), filed September 19, 1973. Petitioner: UNION TRUCKING CO., INC., 315 North 14th Street, Kenilworth, N.J. 07033. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey

City, N.J. 07306. Petitioner presently holds a motor common carrier certificate in No. MC 113313 (Sub-No. 2), issued April 6, 1965, authorizing transportation, in interstate or foreign commerce, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Hudson, Bergen, Essex, Passaic, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. and points in Nassau, Suffolk, Westchester, Rockland, and Orange Counties, N.Y. By the instant petition, petitioner requests that an order be entered (1) to amend its certificate to read: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Hudson, Bergen, Essex, Passaic, Middlesex, and Union Counties, N.J. on the one hand, and, on the other, New York, N.Y. commercial zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203 (b) (8) of the Interstate Commerce Act, (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y. and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., and points in Nassau, Suffolk, Westchester, Rockland, and Orange Counties, N.Y., or (2) the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y. commercial zone as defined by the Commission. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116935 (Sub-No. 11) (Notice of filing of petition to modify a certificate), filed September 14, 1973. Petitioner: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 222 Middlesex Street, Harrison, N.J. 07029. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner presently holds a motor common carrier certificate in No. MC 116935 (Sub-No. 11), issued May 9, 1973, authorizing transportation, over irregular routes, of *new furniture*, in containers, from the facilities of Commercial Furniture Distributors, Inc. at Kearny and Harrison, N.J., to points in the New York, N.Y. commercial zone as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, points in Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, N.Y. and points in New Jersey, restricted to shipments having a prior

movement by rail or motor carrier. By the instant petition, petitioner seeks to delete Kearny and Harrison, N.J. as points of origin and add Elizabeth, N.J. as an origin point. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 135568 (Notice of filing of petition for modification of certificate), filed September 13, 1973. Petitioner: CHRISTIE RIGGING & TRUCKING CO., a corporation, 375 Ledyard Street, Hartford, Conn. 06114. Petitioner's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Petitioner presently holds a motor common carrier certificate in No. MC-135568, issued August 28, 1973, authorizing transportation, by motor vehicle, over irregular routes, of *machinery*, between New Haven, Conn., and points in Connecticut within 40 miles of New Haven, on the one hand, and, on the other, New York, N.Y., Boston, Mass., and Providence, R.I. By the instant petition, petitioner seeks to modify its commodity description to read: "*Commodities*, the transportation of which because of size or weight, requires the use of special equipment or special handling and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies moving in connection therewith (restricted to commodities which are transported on trailers)". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 136757 (Notice of filing of petition to add commodities), filed September 19, 1973. Petitioner: INTERSTATE ROAD RUNNER, INCORPORATED, 74-16 Grand Avenue, Maspeth, N.Y. 11378. Petitioner's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Petitioner presently holds a motor contract carrier permit in No. MC 136757 issued March 7, 1973, authorizing transportation, in interstate or foreign commerce, over irregular routes, of (1) *steel tubing, electrical fittings, electrical conduits, microphone stands, pipe and fittings*; and (2) *material, equipment and supplies* used in the manufacture, distribution and sale of the commodities in (1) above (except commodities in bulk), between Maspeth, N.Y., Metuchen, N.J., and Chicago, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the facilities of Berger Industries, Inc., at or near Maspeth, N.Y., Metuchen, N.J., and Chicago, Ill., under a continuing contract or contracts with Berger Industries, Inc. of Maspeth, N.Y. By the instant petition, petitioner seeks to add the commodities of lamp and

lighting fixture parts and accessories, and furniture and furniture accessories to those described in (1) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11993. Authority sought for purchase by BROWN REFRIGERATED EXPRESS, INC., P.O. Box 602, Fort Scott, Kans. 66701, of control of such rights of BRISCOE TRUCKING COMPANY, J. BARRY EPPERSON, RECEIVER, Suite 900, 324 South Main Street, Tulsa, Okla. 74103, and for acquisition by MELVIN F. BROWN, and MARGARET L. BROWN, both of Fort Scott, Kans. 66701, of control of such rights through the purchase. Applicants' attorneys: Daniel B. Johnson, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004, and Lawrence T. Chambers, Jr., 1200 Atlas Life Building, Tulsa, Okla. 74103. Operating rights sought to be transferred: (1) *Bedsprings, bedstead rails, cots and cot frames, unupholstered daybeds, bed frames, springs and spring assemblies, and metal sleeper fixtures*, and (2) *materials* used in the manufacture of the commodities in (1) above, as a common carrier over irregular routes, from Carthage, Mo., to points in Colorado and Arizona. Vendee has application for permanent authority pending under No. MC-134142 (Sub-No. 2). Application has been filed for temporary authority under section 210a(b).

No. MC-F-11994. Authority sought for purchase by SORENSEN TRANSPORTATION COMPANY, INC., Old Amith Road, Bethany, Conn. 06525, of a portion of the operating rights of THE GRAY LINE, INC., 25 Webber Street, Roxbury, Mass. 02119, and for acquisition by ARTHUR W. SORENSEN, SR., ARTHUR W. SORENSEN, JR., and ROBERT SORENSEN, all of Bethany, Conn. 06525, of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117, and Charles W. Singer, 2440 Commercial Boulevard, Ft. Lauderdale, Fla. 33308. *Magazines*, as a common carrier over irregular routes, between Boston, Mass., and Old Saybrook, Conn., on the one hand, and, on the other, points in Rhode Island, Massachusetts, and New Hampshire, from Boston, Mass., to points in

Maine, and New Hampshire; *news-papers, newspaper inserts and supplements*, between Boston, Mass., on the one hand, and, on the other, points in Rhode Island, Connecticut, Massachusetts, and New Hampshire, between Boston, Mass., on the one hand, and, on the other, points in Maine, and New Hampshire; *printed matter*, from Lowell, Mass., to points in Rhode Island, Maine, New Hampshire, and Vermont, from Boston, Mass., to points in Rhode Island, Maine, New Hampshire, and Vermont, with restriction; *magazines and newspapers and newspaper inserts and supplements*, when transported in the same vehicle and at the same time with magazines, from New York, N.Y., and Jersey City, and South Kearny, N.J., to Norwich and Putnam, Conn., and West-erly and Woonsocket, R.I., between New York and Long Island City, N.Y., Jersey City and South Kearny, N.J., on the one hand, and, on the other, points in New London and Middlesex Counties, Conn.; (1) *magazines and inserts, supplements, and parts of magazines*, and (2) *news-papers, and inserts, supplements, and parts of newspapers*, when transported in the same vehicle and at the same time as the commodities in (1) above, between Albany, N.Y., and Pittsfield, Mass.; *parts of magazines*, between Boston, Mass., and Old Saybrook, Conn., on the one hand, and, on the other, points in Rhode Island, Connecticut, Massachusetts, New Hampshire, from Boston, Mass., to points in Maine, New Hampshire, from New York, N.Y., and Jersey City and South Kearny, N.J., to Norwich and Putnam, Conn., and West-erly and Woonsocket, R.I., between New York and Long Island City, N.Y., Jersey City and South Kearny, N.J., on the one hand, and, on the other, points in New London and Middlesex Counties, Conn.; *parts of news-papers, and newspaper inserts and supplements*, between Boston, Mass., on the one hand, and, on the other, points in Rhode Island, Connecticut, Massachusetts, between Boston, Mass., on the one hand, and, on the other, Dixfield and Veazie, Maine, and points in Maine, and New Hamp-shire, from New York, N.Y., and Jer-sey City and South Kearny, N.J., to Norwich and Putnam, Conn., and West-erly and Woonsocket, R.I., between New York and Long Island City, N.Y., Jersey City and South Kearny, N.J., on the one hand, and, on the other, points in New London and Middlesex Counties; *magazines and parts of magazines*, from Springfield, Mass., to points in Rhode Island, Maine, Vermont, New Hampshire, and certain specified points in Connect-icut, and Massachusetts, with restric-tion; *books*, when moving in the same vehicle and at the same time as news-papers, newspaper inserts and supple-ments, magazines and inserts, supple-ments and parts of magazines (other-wise authorized), from Boston, Mass., to points in that part of Connecticut east of Alternate U.S. Highway 5, with restric-tion; *groceries, meat, fish, and pro-duce*, from Boston, Mass., to Providence

and Pawtucket, R.I.; *sugar*, from Charlestown, Mass., to Portland, Maine *steel*, between Cambridge, Mass., on the one hand, and, on the other, Providence, R.I., and Dover, N.H.; *lubricating oil and empty oil drums*, between Boston, Mass., on the one hand, and, on the other, Providence, R.I., and Keene, N.H.; *wool and mohair*, between Boston, Mass., on one hand, and, on the other, Sanford, Maine, and Bristol, R.I.; *alcoholic beverages*, between Boston, Mass., on the one hand, and, on the other, Brooklyn, N.Y., and Hartford, Conn. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, New York, Pennsylvania, Rhode Island, New Jersey, Delaware, Maryland, South Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11995. Authority sought for purchase by H. P. WELCH CO., 400 Somerville Avenue, Somerville, Mass. 02143, and MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, La Salle, Province of Quebec 660, Canada, of a portion of the operating rights of THE NATIONAL TRANSPORTATION COMPANY, doing business as NATIONAL TRANSPORT 101, Eastern and Moonachie Avenues, Carlstadt, N.J. 07072, and for acquisition by MAISLIN INDUSTRIES LTD., also of La Salle, Province of Quebec 660, Canada, of control of such rights through the purchase. Applicants' attorneys: William D. Traub, 10 East 40th Street, New York, N.Y. 10016, and J. Thomas Schneider, 1819 H Street NW., Wash-ington, D.C. 20006. Operating rights sought to be transferred: *General com-modities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common car-rier* over regular routes, between Spring-field, Mass., and Schenectady, N.Y., serving various intermediate and off-route points. Vendees are authorized to operate as *common carriers* in New York, New Jersey, New Hampshire, Maine, Massachusetts, Pennsylvania, Connect-icut, and Rhode Island. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11996. Authority sought for merger by PERKINS TRUCKING CO., INC., 48-18 Northern Boulevard, Long Island City, N.Y. 11101, of the operating rights and property of PERKINS MOTOR EXPRESS, INC., 589 Orange Avenue, West Haven, Conn. 06506, and for acquisition by ROBERT W. PERKINS, also of Long Island City, N.Y. 11101, of control of such rights and prop-erty through the transaction. Ap-plicants' attorney: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Operating rights sought to be trans-ferred: *General commodities*, with ex-ceptions, as a *common carrier* over regu-lar routes, between New York, N.Y., and West Haven, Conn., serving various intermediate and off-route points; *general commodities*, with exceptions, over irregular routes, between the Town

of West Haven, Conn., on the one hand, and, on the other, points in Connecticut, between New York, N.Y., on the one hand, and, on the other, points in Passaic, Bergen, Hudson, Essex, and Un-ion Counties, N.J. PERKINS TRUCK-ING CO., INC., is authorized to operate as a *common carrier* in Connecticut, New Jersey, and New York. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to Order effective Octo-ber 29, 1959, in No. MC-F-7063, transferee acquired control of transferor.

No. MC-F-11997. Authority sought for purchase by LOVELACE TRUCK SERV-ICE, INC., 2225 Wabash Avenue, Terre Haute, Ind. 47807, of a portion of the operating rights and property of HOLMES FREIGHT LINES, INC., 7878 I Street, Omaha, Nebr. 68127, and for acquisition by M. F. NIEMEYER, Rural Route No. 3, West Terre Haute, Ind. 47885, of control of such rights and property through the purchase. Appli-cant's attorneys: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106, and Ferdinand Born, 601 Chamber of Commerce Build-ing, Indianapolis, Ind. 46204. Operating rights sought to be transferred: *General commodities*, with usual exceptions, as a *common carrier* over regular routes, between Kansas City, Kans., and East St. Louis, Ill., serving intermediate and off-route points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as de-fined by the Commission, and points in the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission, without restriction; and the off-route points of Belleville and Alton, Ill., restricted to truckload lots only. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Missouri, Iowa, Kentucky, Michigan, Wisconsin, Ohio and Minnesota. Appli-cation has not been filed for temporary authority under section 210a(b).

NOTE.—The rights sought to be acquired by Lovelace Truck Service, Inc., are a portion of those sought to be acquired by Holmes Freight Lines, Inc., from Byers Transporta-tion Company, Inc., in docket No. MC-F-11835.

No. MC-F-11998. Authority sought for control by CONVOY COMPANY, P.O. Box 10185, Portland, Oreg. 97210, of TURNER AUTO TRANSPORT, INC., P.O. Box 5176, Kansas City, Kans. 66115, and for acquisition by THOMAS P. YOU-ELL, 2155 North Northlake Way, Seattle, Wash. 98103, of control of TURNER AUTO TRANSPORT, INC., through the acquisition by CONVOY COMPANY. Ap-plicants' attorneys: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111, and Sherman L. Gibson, 1700 Traders Bank Building, Kansas City, Mo. 64106. Operating rights sought to be controlled: *New automobiles*, in secondary movements, in truckaway service, as a *common carrier* over irregu-lar routes, between Kansas City, Mo., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Nebraska,

[Notice No. 365]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 3, 1973.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer rules, 49 C.F.R. 1132:

No. MC-FC-74754. By application filed September 26, 1973; EDWIN L. ELLOR & SON, INC., 29 Mountain Boulevard, Warren, N.J. 07060, seeks temporary authority to lease the operating rights of LOUIS A. THIEVON & SONS, INC., 279 Union St., Stirling, N.J. 07980, under section 210a(b). The transfer to EDWIN L. ELLOR & SON, INC., of the operating rights of LOUIS A. THIEVON & SONS, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21064 Filed 10-2-73;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 28, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 54219 (Amendment), filed September 11, 1973. Applicant: FRANK'S TRUCKING, 2575 Williams Street, San Leandro, Calif. 94577. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except the following: (1) Used household goods and personal effects not packed in accordance with the created property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) Automobiles, trucks, and buses, *viz.*; new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automo-

bile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, *viz.*; bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stage or swine; (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Commodities of unusual or extraordinary value; (10) Metal cans; (11) Can tops, bottoms or ends, except when moving in mixed shipments with commodities authorized to be transported under this authority. Between all points and places in the San Francisco Territory, as described hereafter, and all points within ten miles of any point therein; Between all points on and within ten miles of the points on the following routes: (a) Interstate Highway 680, between Mission San Jose and Martinez inclusive; (b) Interstate Highway 80, between San Francisco and Vallejo, inclusive; (c) State Highway 4, between Pinole and Stockton, inclusive; (d) State Highway 24, between Oakland and Antioch, inclusive; (e) U.S. Highway 50, between Oakland and Stockton, inclusive; (f) Interstate Highway 80 between Oakland and Sacramento, inclusive. In performing the service herein authority, applicant may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along

Oklahoma, and Texas, with restriction; used automobiles, in secondary movements, in truckaway service, between Kansas City, Mo., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Nebraska, Oklahoma, and Texas. CONVOY COMPANY is authorized to operate as a *common carrier* in Oregon, Washington, Idaho, Montana, California, Nevada, Utah, Wyoming, Colorado, North Dakota, Arizona, New Mexico, South Dakota, Nebraska, Texas, Oklahoma, Minnesota, Iowa, Wisconsin, Illinois, Ohio, Indiana, Michigan, Pennsylvania, New York, Alaska, and Kansas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12001. Authority sought for purchase by INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville SW., Grand Rapids, Mich. 49502, of a portion of the operating rights and property of GREAT LAKES EXPRESS CO., 1150 North Niagra Street, Saginaw, Mich. 48602, and for acquisition by FUQUA INDUSTRIES, INC., 3800 First National Bank Tower, Atlanta, Ga. 30303, of control of such rights and property through the purchase. Applicants' attorney: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Operating rights sought to be transferred: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Tennessee, Alabama, Ohio, Georgia, and Kentucky, with certain restrictions, serving various intermediate and off-route points, over two alternate routes for operating convenience only, as more specifically described in Docket No. MC-43654 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. Vendee is authorized to operate as a *common carrier* in Ohio, Indiana, Pennsylvania, Minnesota, Wisconsin, Iowa, Missouri, Illinois, Michigan, Kentucky, West Virginia, Maryland, New York, New Jersey, Massachusetts, Colorado, Nebraska, Wyoming, Kansas, Delaware, Connecticut, North Dakota, South Dakota, Arkansas, Oklahoma, Texas, Tennessee, Louisiana, Maine, New Hampshire, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE.—The rights sought to be acquired by Interstate Motor Freight System, are a portion of those acquired by Great Lakes Express Co., from Dixie Ohio Express, Inc., in docket No. MC-F-11484.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21070 Filed 10-2-73;8:45 am]

Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; north-easterly along Tully Road to White Road; northwesterly along White Road to Mc-Kee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered high-way via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way, easterly along Dwight Way to the Berkeley-Oakland Boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Water-front at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. C-14859, filed June 15, 1973. Applicant: LEELANAU MOTOR FREIGHT, INCORPORATED, 900 Woodmere, Traverse City, Mich. 49684. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, from Lake Leelanau, Michigan via M-204 to junction M-22, thence over M-22 to Sugar Loaf Mountain, Michigan and return; also, from Traverse City, Michigan via M-37 to Old Mission, Michigan and return.

HEARING: October 25, 1973, at the Michigan Public Service Commission, Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich., at 9:30 a.m. Requests for procedural information should be addressed to the Michigan Public Service Commission,

Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-9175, filed July 26, 1973. Applicant: NEW ENGLAND AIR TRANSFER CO. OF NEW YORK, INC., 221-15 Northern Boulevard, Bayside, N.Y. 11361. Applicant's representative: Norman T. Safian, 1517 Franklin Avenue, Mineola, N.Y. 11501. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, restricted to packages, as limited by the ICC to bus companies: Between bus terminals in New York City and the counties of Nassau, Suffolk, and Westchester on the one hand, and, on the other, all points in New York City and the counties of Nassau, Suffolk, and Westchester.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the New York State Department of Transportation, Office of Regulatory Affairs, Building No. 5, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21069 Filed 10-2-73; 8:45 am]

[Revised Service Order No. 994; Revised I.C.C. Order No. 79; Amdt. 6]

ST. JOHNSBURY & LAMOILLE COUNTY RAILROAD

Retrouting or Diversion of Traffic

Upon further consideration of Revised I.C.C. Order No. 79 and good cause appearing therefor:

It is ordered, That:

Revised I.C.C. Order No. 79 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 30, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 25, 1973.

INTERSTATE COMMERCE
COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-21065 Filed 10-2-73; 8:45 am]

[Ex Parte 241, Rule 19, Exemption 51]

WATERLOO RAILROAD CO.

Exemption Under Provision of the Mandatory Car Service Rules

It appearing, That because of an impending work stoppage, there is an unprecedented demand for plain flatcars for loading of agricultural implements or tractors originating on the Waterloo Railroad Company at Waterloo, Iowa; and that the carrier is unable to furnish sufficient plain flatcars of suitable ownership to meet this temporary demand.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Waterloo Railroad Company be, and it is hereby, authorized to accept from shippers at Waterloo, Iowa, plain flatcars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 388, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FM" loaded with agricultural implements or tractors regardless of the provisions of Car Service Rules 1 and 2.

Effective September 25, 1973.

Expires October 1, 1973.

Issued at Washington, D.C., September 25, 1973.

INTERSTATE COMMERCE
COMMISSION
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-21066 Filed 10-2-73; 8:45 am]

[No. 35894]

UTAH INTRASTATE FREIGHT RATES AND CHARGES—1973

Investigation of Lawfulness

Order. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 27th day of September 1973.

By joint petition filed August 31, 1973, under the provisions of section 3, 13(3), 13(4), and 15a of the Interstate Commerce Act, the Carbon County Railway Company, Salt Lake Garfield and Western Railway Company, Southern Pacific Transportation Company, The Denver and Rio Grande Western Railroad Company, Tooele Valley Railway Company, Union Pacific Railroad Company, Utah Railway Company, and Western Pacific Railroad Company, common carriers by railroad operating within the State of Utah, seek increases in their intrastate rates and charge applicable from and to points within the State of Utah corresponding to the increases in interstate rates and charges which have been authorized on an interim basis pursuant to order of August 2, 1973, in pending Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, Nationwide*, and which may be authorized on a permanent basis in that same investigation; and

It appearing, that petitioners are not seeking increases on certain categories of rates and charges, which are also exempted from the Ex Parte No. 295 increases, as follows:

Rates and charges on coal published in D&RGW Tariff 7510-A, ICC-1154

Transit charge on coal published in D&RGW Tariff 7449-P, ICC 1202

Annual volume rates applying on dolomite, limonite, and limestone from Keigley to Geneva, Utah, published in Item 521, D&RGW Tariff 4975-I, ICC 1180

Time-volume rates on iron ore published in Union Pacific Tariff 320, ICC-5654

It further appearing, that the current general level of intrastate freight rates and charges maintained by petitioners from and to points within the State of Utah reflects the increases authorized by this Commission through Ex Parte No. 281-B on interstate commerce, application of the latter increase to Utah intrastate rates having been authorized in Docket No. 35571, *Utah Intrastate Freight Rates and Charges, 1972*, effective May 14, 1973, and the tariffs published pursuant to that order having become effective on August 13, 1973;

It further appearing, that petitioners contend that the disparity which exists between the intrastate and interstate rate levels to and from points in Utah is not justified by transportation conditions, since conditions incident to the transportation of intrastate commerce are not more favorable than those incident to interstate traffic; that the present Utah intrastate rate level fails to produce its fair share of earnings required for petitioners to provide adequate and efficient service by railroad; that such intrastate rates are, thereby, discriminatory and constitute an undue burden on interstate commerce in violation of the act, which unlawfulness would be removed by permitting the sought increases to the interstate level of rates, the latter constituting a just and reasonable basis;

It further appearing, that petitioners allege that the difference between the present Utah intrastate freight rates and charges and the interstate rates applicable to and from points in Utah causes undue and unreasonable advantage, preference and prejudice as between persons and localities;

It further appearing, that insofar as petitioners seek to increase their intrastate rates by the same amount of in-

creases finally authorized in interstate rates in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, Nationwide, supra*, which matter is still under investigation, the instant petition is premature, pursuant to *Intrastate Freight Rates and Charges (Pulpwood & Woodchips)*, 344 I.C.C. 108 (1973), wherein a petition to investigate and establish certain intrastate rates and charges on the same basis as a proposed increased level of interstate rates under investigation and suspension was found to be premature and was denied;

And it further appearing, that, accordingly, there have been brought in issue by the said petition matters sufficient to require an investigation into lawfulness of intrastate rates and charges made or imposed by the State of Utah, solely to the extent that they do not reflect the effective interim increase authorized in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, Nationwide, supra*;

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is hereby, granted, and that an investigation be, and it is hereby, instituted under sections 13 and 15a of the Interstate Commerce Act solely to determine whether the said rates and charges of carriers by railroad, or any of them, operating in the State of Utah cause or will cause, by reason of the failure of such rates and charges to include the 3 percent interim increase authorized by the Commission and which has become effective on interstate commerce in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, supra*, any undue or unreasonable advantage, preference or prejudice as between persons or locations in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any unjust discrimination against or undue burden on interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum rates and charges shall be prescribed to remove the unlawful advantage, preference, discrimination, or undue burden, if any, that may be found to exist; and that the said

petition be, and it is here, denied in all other respects.

It is further ordered, That all carriers by railroad operating within the State of Utah, subject to the jurisdiction of this Commission be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Interstate Commerce Commission, in writing on or before November 12, 1973. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon each of the said petitioners; that the State of Utah be notified of the proceeding by sending copies of this order and of said petition by certified mail to the Governor of Utah and to the Public Service Commission of Utah, Provo, Utah; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

And it is further ordered, That this proceeding be, assigned for hearing as may hereafter be designated.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[PR Doc.73-21063 Filed 10-2-73; 8:45 am]

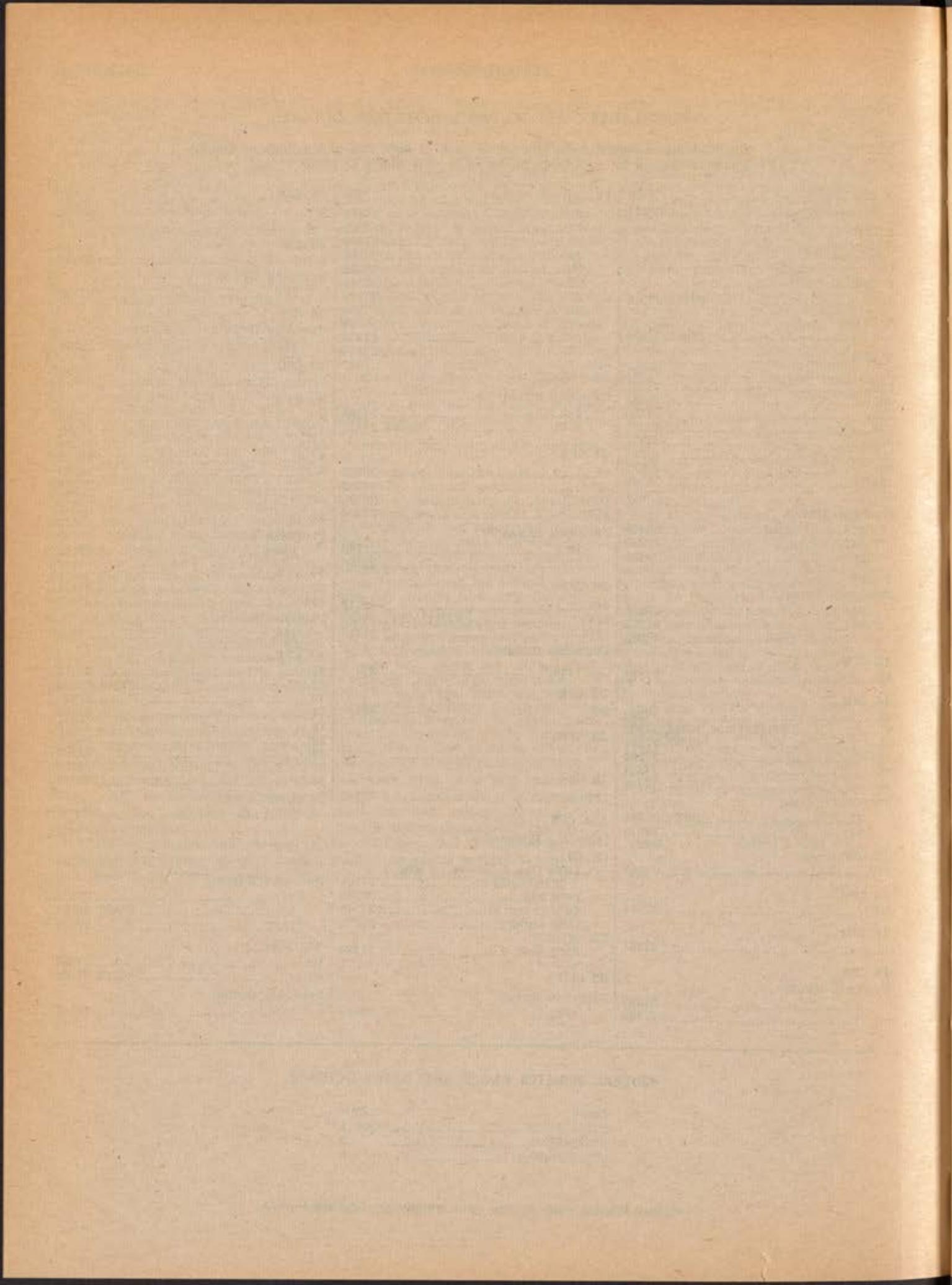
CUMULATIVE LISTS OF PARTS AFFECTED—OCTOBER

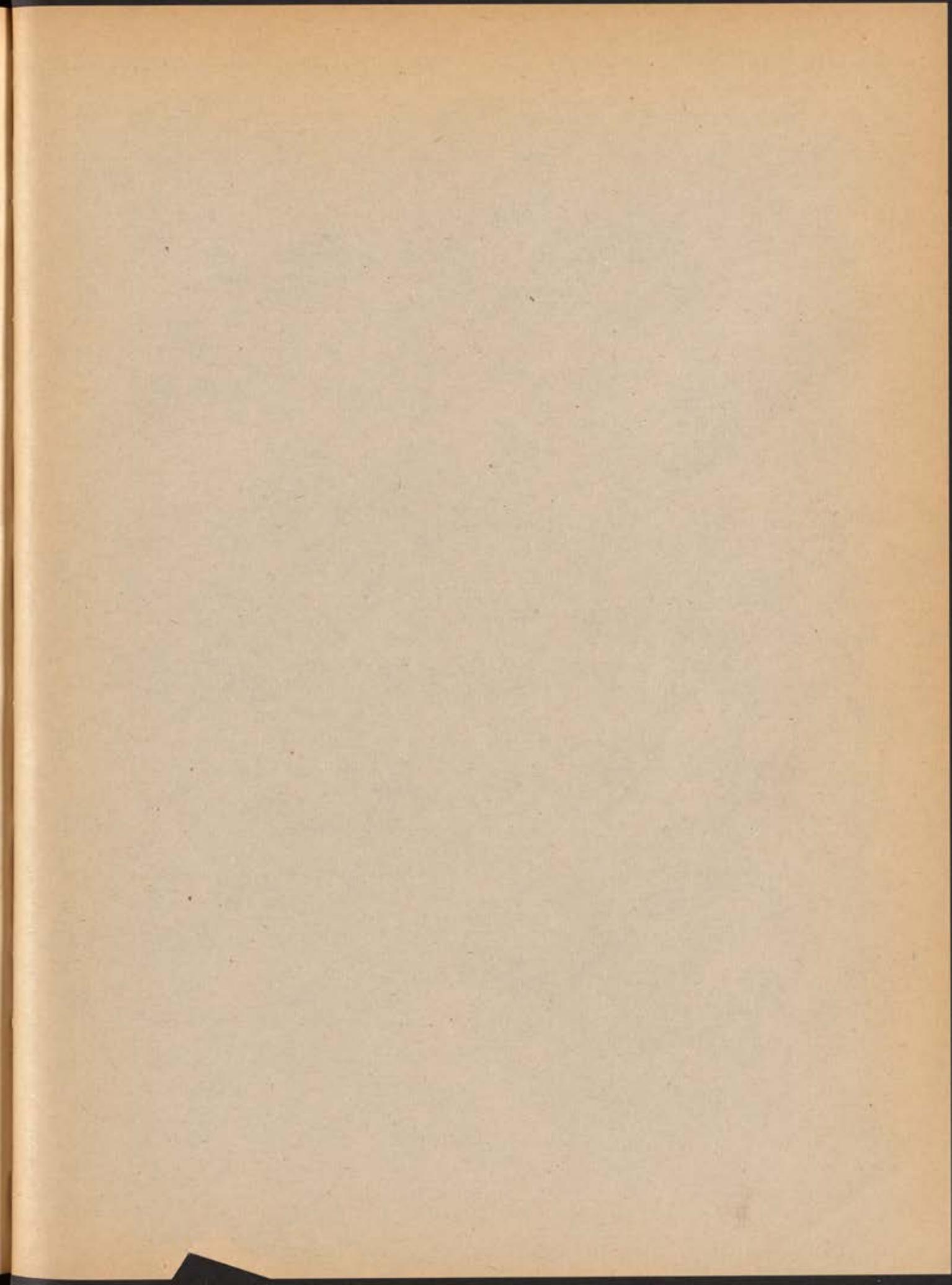
The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

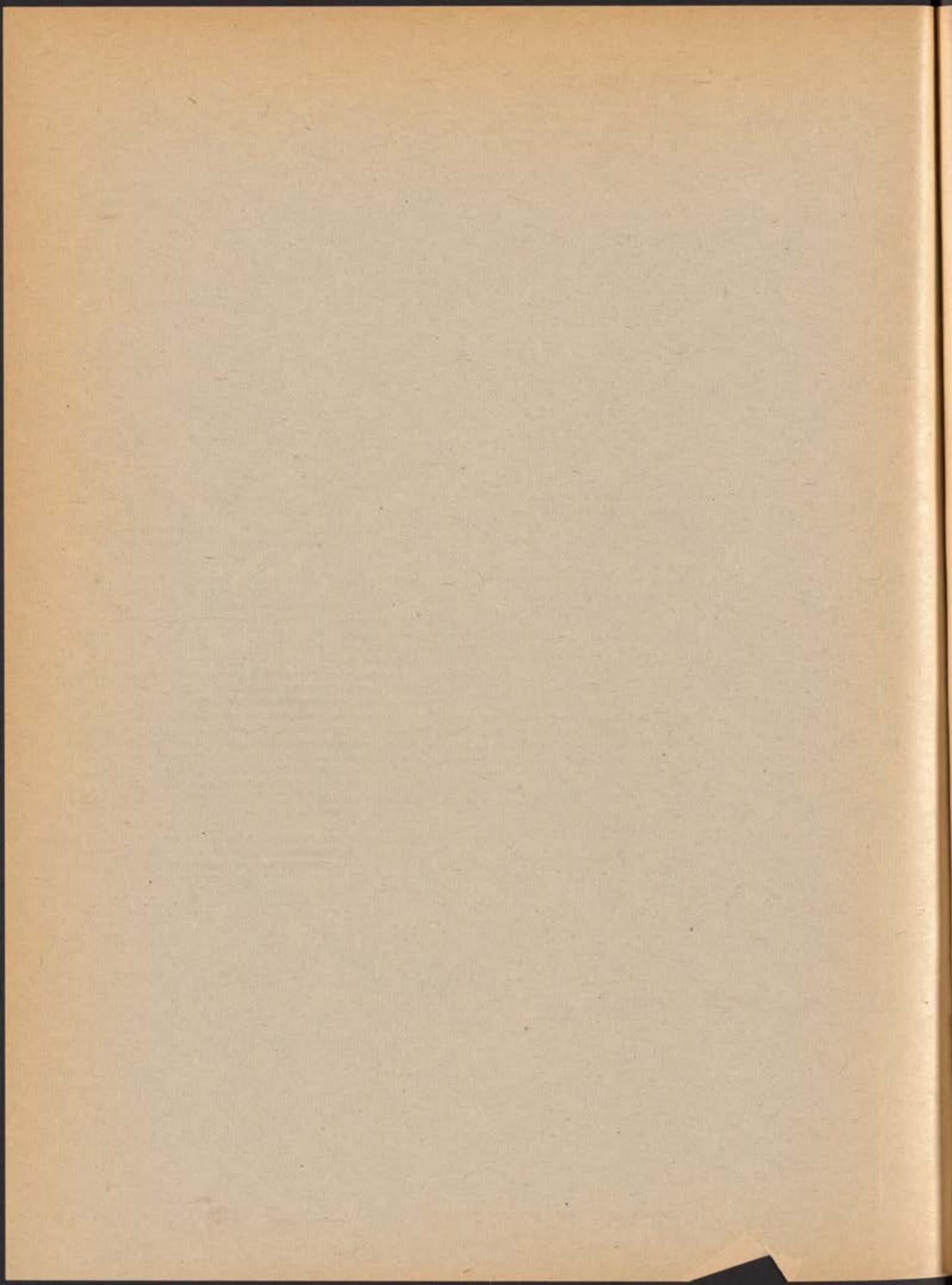
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WEDNESDAY, OCTOBER 3, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 191

PART II



POSTAL RATE COMMISSION

Proposed Increases in Postal Rates and Fees

POSTAL RATE COMMISSION

[Docket No. R74-1]

POSTAL RATES AND FEES

Notice of Proposed Increases

SEPTEMBER 27, 1973.

Take notice that of September 25, 1973, the United States Postal Service (Postal Service or Service) filed in Docket No. R74-1 a Request for recommended decision on changes in rates of postage and fees for postal services, pursuant to section 3622 of the Postal Reorganization Act (the Act).

The Service states that its Request is filed in accordance with the requirements of the Commission's rules of practice (39 CFR Part 3001, as amended). It further states that without changes in rates of postage and fees for postal services, and without further appropriations by Congress, there would be a revenue deficiency in Fiscal Year 1975 of approximately \$1,898.2 million. Accordingly, this Commission is requested to submit a recommended decision to the Governors of the Postal Service corresponding to the Service's proposed rates of postage and fees for postal services. The Service's rate proposal is designed to generate from mail users additional revenues of approximately \$1,864.8 million during Fiscal Year 1975.

The Service's total net income deficiency (total revenue requirement) for Fiscal Year 1975 is estimated to be \$2,079.5 million. And, the Service ex-

pects the balance of this deficiency, in the amount of \$214.7 million, to be provided by an additional "revenue foregone" appropriation, by the Congress, pursuant to 39 U.S.C. section 2401(c).

The Postal Service requests changes in rates of postage and fees for the following classes of mail: first-class mail and airmail; priority mail; second-class mail—in-county and transient rates; second-class mail—publications of authorized non-profit organizations—outside county; second-class mail—publications for classroom use—outside county; second-class mail—regular rate publications—outside county; controlled-circulation mail; third-class mail; fourth-class mail (parcel post); fourth-class mail (catalog rate); fourth-class mail (special rate and library rate). The specific changes in rates and fees proposed are contained in the attached schedules. (See Attachments A and B.)

If any person desires to be heard with reference to said Request and to become a party to a proceeding or to participate as a party in any hearing on the Request, that person should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before October 17, 1973, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR § 3001.20). The Commission also calls attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests

a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in a hearing. Alternatively, persons seeking limited participation, but who do not wish to become parties may file a written request for leave to be heard as a "limited participator," pursuant to section 19a of the Commission's rules (39 CFR § 3001.19a).

The Request of the Postal Service for recommended decision on changes in rates of postage and fees for postal service is on file with the Commission and available for public inspection.

JOSEPH A. FISHER,
Secretary.

ATTACHMENT A

PRESENT AND PROPOSED RATES OF POSTAGE AND FEES FOR POSTAL SERVICES

Table

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|-------|--|
| A-I | First-class mail and airmail. |
| A-II | Priority mail. |
| B-I | Second-class mail—In-county and transient rates. |
| B-II | Second-class mail—Publications of authorized nonprofit organizations—outside county. |
| B-III | Second-class mail—Publications for classroom use—outside county. |
| | Second-class mail—Regular rate publications—outside county. |
| C | Controlled-circulation mail. |
| D | Third-class mail. |
| E-I | Fourth-class mail (parcel post). |
| E-II | Fourth-class mail (catalog rate). |
| E-III | Fourth-class mail (special rate and library rate). |

TABLE A-1

First-Class Mail and Airmail

| Mail Class | Postage Rate Unit | Current Rates (Cents) | Proposed Fall Rates (Cents) |
|---|-----------------------------|--------------------------------|--------------------------------|
| (1) | (2) | (3) | (4) |
| <i>First class:</i> | | | |
| Letters | Ounce | 8 ¹ / ₂ | 10 ¹ / ₂ |
| Cards | Each | 6 | 8 |
| <i>Airmail:</i> | | | |
| Letters | Ounce | 11 ² / ₂ | 13 ² / ₂ |
| Cards | Each | 9 | 11 |
| First-class and airmail business reply fees | Each up to 2 oz. over 2 oz. | 2 5 | 5 8 |

1/ Rate applicable to up to 12 ounces. Heavier pieces are subject to priority mail rates.

2/ Rate applicable to up to 9 ounces. Heavier pieces are subject to priority mail rates.

NOTICES

TABLE A-II

Priority Mail

| Mail Class | Postage Rate Unit (Pounds) | Current Rates ^{1/} (Dollars) | | | | | | Proposed Full Rates ^{1/} (Dollars) | | | | | |
|------------|----------------------------|---------------------------------------|------|------|------|------|------|---|------|------|------|------|------|
| | | Zones | | | | | | Zones | | | | | |
| (1) | (2) | Local, 1,2&3 | 4 | 5 | 6 | 7 | 8 | Local, 1,2&3 | 4 | 5 | 6 | 7 | 8 |
| Priority 1 | | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.25 | 1.25 | 1.25 | 1.30 | 1.30 | 1.30 |
| 1 1/2 | | 1.20 | 1.22 | 1.25 | 1.30 | 1.40 | 1.50 | 1.50 | 1.54 | 1.60 | 1.68 | 1.75 | 1.82 |
| 2 | | 1.40 | 1.43 | 1.51 | 1.60 | 1.68 | 1.77 | 1.75 | 1.83 | 1.95 | 2.06 | 2.20 | 2.34 |
| 2 1/2 | | 1.60 | 1.65 | 1.76 | 1.90 | 2.02 | 2.16 | 1.93 | 2.03 | 2.17 | 2.31 | 2.48 | 2.65 |
| 3 | | 1.80 | 1.86 | 2.01 | 2.20 | 2.36 | 2.54 | 2.11 | 2.23 | 2.39 | 2.56 | 2.76 | 2.96 |
| 3 1/2 | | 2.00 | 2.08 | 2.26 | 2.49 | 2.69 | 2.93 | 2.29 | 2.43 | 2.61 | 2.81 | 3.04 | 3.27 |
| 4 | | 2.20 | 2.30 | 2.52 | 2.79 | 3.03 | 3.31 | 2.47 | 2.63 | 2.83 | 3.06 | 3.32 | 3.58 |
| 4 1/2 | | 2.40 | 2.51 | 2.77 | 3.09 | 3.37 | 3.70 | 2.65 | 2.83 | 3.05 | 3.31 | 3.60 | 3.89 |

TABLE A-II (Continued)

Priority Mail

| Mail Class | Postage Rate Unit (Pounds) | Current Rates ^{1/} (Dollars) | | | | | | Proposed Full Rates ^{1/} (Dollars) | | | | | |
|------------|----------------------------|---------------------------------------|------|------|------|------|------|---|------|------|------|------|------|
| | | Zones | | | | | | Zones | | | | | |
| (1) | (2) | Local, 1,2&3 | 4 | 5 | 6 | 7 | 8 | Local, 1,2&3 | 4 | 5 | 6 | 7 | 8 |
| 5 | | 2.60 | 2.73 | 3.02 | 3.39 | 3.71 | 4.08 | 2.83 | 3.03 | 3.27 | 3.56 | 3.88 | 4.20 |
| | each additional pound | 0.48 | 0.50 | 0.56 | 0.64 | 0.72 | 0.80 | 0.36 | 0.40 | 0.44 | 0.50 | 0.56 | 0.62 |

^{1/} Exception: Parcels weighing less than 10 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 10-pound parcel for the zone to which addressed.

TABLE B-II
Second-Class Mail

(Publications of Authorized Nonprofit Organizations -
Outside County)

| Mail Class | Postage Rate Unit | Current Rates (Cents) ^{1/} | Proposed Full Rates (Cents) ^{4/} |
|------------------------------------|-------------------|-------------------------------------|---|
| (1) | (2) | (3) | (4) |
| Nonadvertising portion | Pound | 5.0 | 5.5 |
| Advertising portion: ^{2/} | | | |
| Zones 1 and 2 | Pound | 7.8 | 8.3 |
| Zone 3 | " | 8.5 | 9.0 |
| Zone 4 | " | 9.7 | 10.2 |
| Zone 5 | " | 11.5 | 12.0 |
| Zone 6 | " | 13.4 | 13.9 |
| Zone 7 | " | 15.5 | 16.0 |
| Zone 8 | " | 17.7 | 18.2 |
| Minimum | Minimum per piece | 0.2 | - |
| Per piece charge | Piece | 1.5 | 2.2 |

^{1/} Full rates approved in R71-1.

^{2/} Not applicable to publications containing 10 percent or less advertising content.

TABLE B-I
Second-Class Mail

(In-County and Transient Rates)

| Mail Class | Postage Rate Unit | Current Rates ^{1/} (Cents) | Proposed Full Rates (Cents) ^{4/} |
|----------------------|---------------------|-------------------------------------|---|
| (1) | (2) | (3) | (4) |
| In-county: | | | |
| Pound-rate matter | Pound | 1.5 | 2.1 |
| | Minimum per piece | 0.2 | - |
| | Per piece charge | 1.0 | 1.5 |
| Per-copy rate matter | Per copy | 2.1 or 3.1 | 3.1 or 4.1 |
| Transient rate | First 2 oz. | 6 | 8 |
| | Each additional oz. | 2 | 2 |

^{1/} Full rates approved in R71-1.

TABLE B-IV

Second-Class Mail

(Regular-Rate Publications
Outside County)

| Mail Class (1) | Postage Rate Unit (2) | Current Rates 1/ (Cents) (3) | Proposed Full Rates (Cents) (4) |
|--|--------------------------------|---------------------------------------|--|
| Nonadvertising portion | Pound | 7.2 | 7.7 |
| Advertising portion: | | | |
| Zones 1 and 2 (science of agriculture) | " | 7.8 | 8.3 |
| Zone 1 and 2 | " | 9.1 | 9.6 |
| Zone 3 | " | 9.8 | 10.3 |
| Zone 4 | " | 11.0 | 11.5 |
| Zone 5 | " | 12.8 | 13.3 |
| Zone 6 | " | 14.7 | 15.2 |
| Zone 7 | " | 16.8 | 17.3 |
| Zone 8 | " | 19.0 | 19.5 |
| Minimum per piece | Piece | 1.3 | - |
| Minimum per piece ^{2/} | " | 0.8 | - |
| Per piece charge | " | 1.6 | 3.4 |
| Per piece charge ^{2/} | " | 0.93/ | 2.2 |

1/ Full rates approved in R71-1.

2/ Fewer than 5,000 copies mailed outside county of publication.

3/ Applicable when minimum per piece is less than 1.3 cents.

TABLE B-III

Second-Class Mail

(Publications for Classroom Use-
Outside County)

| Mail Class (1) | Postage Rate Unit (2) | Current Rates 1/ (Cents) (3) | Proposed Full Rates (Cents) (4) |
|---------------------------|--------------------------------|---------------------------------------|--|
| Nonadvertising portion | Pound | 5.0 | 5.1 |
| Advertising portion: | | | |
| Zones 1 and 2 | Pound | 7.8 | 8.2 |
| Zone 3 | " | 8.5 | 8.9 |
| Zone 4 | " | 9.7 | 10.1 |
| Zone 5 | " | 11.5 | 11.9 |
| Zone 6 | " | 13.4 | 13.8 |
| Zone 7 | " | 15.5 | 15.9 |
| Zone 8 | " | 17.7 | 18.1 |
| Minimum per piece | Minimum per piece | 0.8 | - |
| Per piece charge | Per piece charge | 1.4 | 1.2 |

1/ Full rates approved in R71-1.

TABLE C
Controlled-Circulation Mail

| Mail Class (1) | Postage Rate Unit (2) | Current Rates ¹ / Rates (Cents) (3) | Proposed Full Rates (Cents) (4) |
|---------------------------|--------------------------------|--|--|
| Controlled circulation | Pound | 15 | 18 |
| | Minimum per piece | 5.0 | 6.3 |

¹/ Full rates approved in R71-1.

TABLE D (Continued)

Third-Class Mail

| Mail Class | Postage Rate Unit | Current Rates/ (Cents) | Proposed Full Rates (Cents) |
|---|----------------------|---------------------------|--------------------------------|
| (1) Nonprofit bulk rate Circulars, etc | (2) | (3) | (4) |
| | Pound | 13 | 15 |
| | Minimum per piece | 2.1 | 2.5 |
| Books, catalogs, etc. | Pound | 11 | 13 |
| | Minimum per piece | 2.1 | 2.5 |

1/ Full rates approved in R 71-1.

2/ The lower minimum rate is applicable to the first 250,000 pieces mailed each year.

TABLE D

Third-Class Mail

| Mail Class | Postage Rate Unit | Current Rates/ (Cents) | Proposed Full Rates (Cents) |
|--|---------------------------|---------------------------|--------------------------------|
| (1) | (2) | (3) | (4) |
| Single piece | First 2 ozs. | 8 | 10 |
| | Each additional oz. | 4 | |
| | Each additional 2 ozs. | | 8 |
| Keys and identification devices | First 2 ozs. | 14 | 15 |
| Regular bulk rate Circulars, etc. | Pound | 26 | 32 |
| | Minimum per piece | 4.8/5.0 | 6.1/6.3 |
| | | 2/ | 2/ |
| Books, cata- logs, etc. | Pound | 22 | 28 |
| | Minimum per piece | 4.8/5.0 | 6.1/6.3 |
| | | 2/ | 2/ |

TABLE E-II

Fourth-Class Mail
(Catalog Rate)
Current Rates
(cents)
(1, 2 & 3)

| BULK MAILINGS* | | | INDIVIDUAL MAILINGS | | | | | | | | |
|----------------|------------|-----------------|---------------------|-------|---------|----|----|----|-----|-----|-----|
| Zones | Piece rate | Bulk pound rate | Weight (pounds) | ZONES | | | | | | | |
| | | | | Local | 1 and 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Local | 21 | 2.1 | 1.5 | 28 | 34 | 34 | 36 | 38 | 40 | 42 | 46 |
| 1 and 2 | 25 | 3.4 | 2 | 29 | 35 | 36 | 38 | 41 | 43 | 47 | 51 |
| 3 | 25 | 4.0 | 2.5 | 30 | 37 | 38 | 41 | 43 | 47 | 51 | 56 |
| 4 | 25 | 5.0 | 3 | 31 | 38 | 40 | 43 | 47 | 51 | 56 | 62 |
| 5 | 25 | 6.1 | 3.5 | 32 | 40 | 42 | 46 | 50 | 55 | 60 | 67 |
| 6 | 25 | 7.5 | 4 | 33 | 42 | 44 | 48 | 53 | 58 | 65 | 73 |
| 7 | 25 | 9.1 | 4.5 | 34 | 44 | 46 | 51 | 56 | 62 | 69 | 78 |
| 8 | 26 | 10.8 | 5 | 35 | 45 | 48 | 53 | 59 | 66 | 74 | 83 |
| | | | 6 | 37 | 48 | 52 | 58 | 65 | 73 | 83 | 94 |
| | | | 7 | 39 | 52 | 56 | 63 | 71 | 81 | 92 | 105 |
| | | | 8 | 41 | 56 | 60 | 68 | 77 | 88 | 101 | 116 |
| | | | 9 | 43 | 59 | 64 | 73 | 83 | 96 | 110 | 127 |
| | | | 10 | 45 | 62 | 68 | 78 | 89 | 103 | 119 | 137 |

*Separately addressed identical pieces in quantities of not less than 500 mailed at one time. The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

TABLE E-1

Fourth-Class Mail
(Parcel Post)
(1)

| Postage Rate Unit (1) | Current Rates (dollars) (2) | | | | | | | |
|--|-----------------------------|--------|--------|--------|--------|--------|--------|--------|
| | Zones | | | | | | | |
| Weight -- 1 pound and not exceeding (pounds) | Local | 1 & 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | | | | | | | |
| 2 | 10 | 10.20 | 10.70 | 11.71 | 12.80 | 14.00 | 15.00 | 15.95 |
| 3 | 14 | 14.20 | 14.70 | 15.71 | 16.80 | 18.00 | 19.00 | 19.95 |
| 4 | 18 | 18.20 | 18.70 | 19.71 | 20.80 | 22.00 | 23.00 | 23.95 |
| 5 | 22 | 22.20 | 22.70 | 23.71 | 24.80 | 26.00 | 27.00 | 27.95 |
| 6 | 26 | 26.20 | 26.70 | 27.71 | 28.80 | 30.00 | 31.00 | 31.95 |
| 7 | 30 | 30.20 | 30.70 | 31.71 | 32.80 | 34.00 | 35.00 | 35.95 |
| 8 | 34 | 34.20 | 34.70 | 35.71 | 36.80 | 38.00 | 39.00 | 39.95 |
| 9 | 38 | 38.20 | 38.70 | 39.71 | 40.80 | 42.00 | 43.00 | 43.95 |
| 10 | 42 | 42.20 | 42.70 | 43.71 | 44.80 | 46.00 | 47.00 | 47.95 |
| 11 | 46 | 46.20 | 46.70 | 47.71 | 48.80 | 50.00 | 51.00 | 51.95 |
| 12 | 50 | 50.20 | 50.70 | 51.71 | 52.80 | 54.00 | 55.00 | 55.95 |
| 13 | 54 | 54.20 | 54.70 | 55.71 | 56.80 | 58.00 | 59.00 | 59.95 |
| 14 | 58 | 58.20 | 58.70 | 59.71 | 60.80 | 62.00 | 63.00 | 63.95 |
| 15 | 62 | 62.20 | 62.70 | 63.71 | 64.80 | 66.00 | 67.00 | 67.95 |
| 16 | 66 | 66.20 | 66.70 | 67.71 | 68.80 | 70.00 | 71.00 | 71.95 |
| 17 | 70 | 70.20 | 70.70 | 71.71 | 72.80 | 74.00 | 75.00 | 75.95 |
| 18 | 74 | 74.20 | 74.70 | 75.71 | 76.80 | 78.00 | 79.00 | 79.95 |
| 19 | 78 | 78.20 | 78.70 | 79.71 | 80.80 | 82.00 | 83.00 | 83.95 |
| 20 | 82 | 82.20 | 82.70 | 83.71 | 84.80 | 86.00 | 87.00 | 87.95 |
| 21 | 86 | 86.20 | 86.70 | 87.71 | 88.80 | 90.00 | 91.00 | 91.95 |
| 22 | 90 | 90.20 | 90.70 | 91.71 | 92.80 | 94.00 | 95.00 | 95.95 |
| 23 | 94 | 94.20 | 94.70 | 95.71 | 96.80 | 98.00 | 99.00 | 99.95 |
| 24 | 98 | 98.20 | 98.70 | 99.71 | 100.80 | 102.00 | 103.00 | 103.95 |
| 25 | 102 | 102.20 | 102.70 | 103.71 | 104.80 | 106.00 | 107.00 | 107.95 |
| 26 | 106 | 106.20 | 106.70 | 107.71 | 108.80 | 110.00 | 111.00 | 111.95 |
| 27 | 110 | 110.20 | 110.70 | 111.71 | 112.80 | 114.00 | 115.00 | 115.95 |
| 28 | 114 | 114.20 | 114.70 | 115.71 | 116.80 | 118.00 | 119.00 | 119.95 |
| 29 | 118 | 118.20 | 118.70 | 119.71 | 120.80 | 122.00 | 123.00 | 123.95 |
| 30 | 122 | 122.20 | 122.70 | 123.71 | 124.80 | 126.00 | 127.00 | 127.95 |
| 31 | 126 | 126.20 | 126.70 | 127.71 | 128.80 | 130.00 | 131.00 | 131.95 |
| 32 | 130 | 130.20 | 130.70 | 131.71 | 132.80 | 134.00 | 135.00 | 135.95 |
| 33 | 134 | 134.20 | 134.70 | 135.71 | 136.80 | 138.00 | 139.00 | 139.95 |
| 34 | 138 | 138.20 | 138.70 | 139.71 | 140.80 | 142.00 | 143.00 | 143.95 |
| 35 | 142 | 142.20 | 142.70 | 143.71 | 144.80 | 146.00 | 147.00 | 147.95 |
| 36 | 146 | 146.20 | 146.70 | 147.71 | 148.80 | 150.00 | 151.00 | 151.95 |
| 37 | 150 | 150.20 | 150.70 | 151.71 | 152.80 | 154.00 | 155.00 | 155.95 |
| 38 | 154 | 154.20 | 154.70 | 155.71 | 156.80 | 158.00 | 159.00 | 159.95 |
| 39 | 158 | 158.20 | 158.70 | 159.71 | 160.80 | 162.00 | 163.00 | 163.95 |
| 40 | 162 | 162.20 | 162.70 | 163.71 | 164.80 | 166.00 | 167.00 | 167.95 |
| 41 | 166 | 166.20 | 166.70 | 167.71 | 168.80 | 170.00 | 171.00 | 171.95 |
| 42 | 170 | 170.20 | 170.70 | 171.71 | 172.80 | 174.00 | 175.00 | 175.95 |
| 43 | 174 | 174.20 | 174.70 | 175.71 | 176.80 | 178.00 | 179.00 | 179.95 |
| 44 | 178 | 178.20 | 178.70 | 179.71 | 180.80 | 182.00 | 183.00 | 183.95 |
| 45 | 182 | 182.20 | 182.70 | 183.71 | 184.80 | 186.00 | 187.00 | 187.95 |
| 46 | 186 | 186.20 | 186.70 | 187.71 | 188.80 | 190.00 | 191.00 | 191.95 |
| 47 | 190 | 190.20 | 190.70 | 191.71 | 192.80 | 194.00 | 195.00 | 195.95 |
| 48 | 194 | 194.20 | 194.70 | 195.71 | 196.80 | 198.00 | 199.00 | 199.95 |
| 49 | 198 | 198.20 | 198.70 | 199.71 | 200.80 | 202.00 | 203.00 | 203.95 |
| 50 | 202 | 202.20 | 202.70 | 203.71 | 204.80 | 206.00 | 207.00 | 207.95 |
| 51 | 206 | 206.20 | 206.70 | 207.71 | 208.80 | 210.00 | 211.00 | 211.95 |
| 52 | 210 | 210.20 | 210.70 | 211.71 | 212.80 | 214.00 | 215.00 | 215.95 |
| 53 | 214 | 214.20 | 214.70 | 215.71 | 216.80 | 218.00 | 219.00 | 219.95 |
| 54 | 218 | 218.20 | 218.70 | 219.71 | 220.80 | 222.00 | 223.00 | 223.95 |
| 55 | 222 | 222.20 | 222.70 | 223.71 | 224.80 | 226.00 | 227.00 | 227.95 |
| 56 | 226 | 226.20 | 226.70 | 227.71 | 228.80 | 230.00 | 231.00 | 231.95 |
| 57 | 230 | 230.20 | 230.70 | 231.71 | 232.80 | 234.00 | 235.00 | 235.95 |
| 58 | 234 | 234.20 | 234.70 | 235.71 | 236.80 | 238.00 | 239.00 | 239.95 |
| 59 | 238 | 238.20 | 238.70 | 239.71 | 240.80 | 242.00 | 243.00 | 243.95 |
| 60 | 242 | 242.20 | 242.70 | 243.71 | 244.80 | 246.00 | 247.00 | 247.95 |
| 61 | 246 | 246.20 | 246.70 | 247.71 | 248.80 | 250.00 | 251.00 | 251.95 |
| 62 | 250 | 250.20 | 250.70 | 251.71 | 252.80 | 254.00 | 255.00 | 255.95 |
| 63 | 254 | 254.20 | 254.70 | 255.71 | 256.80 | 258.00 | 259.00 | 259.95 |
| 64 | 258 | 258.20 | 258.70 | 259.71 | 260.80 | 262.00 | 263.00 | 263.95 |
| 65 | 262 | 262.20 | 262.70 | 263.71 | 264.80 | 266.00 | 267.00 | 267.95 |
| 66 | 266 | 266.20 | 266.70 | 267.71 | 268.80 | 270.00 | 271.00 | 271.95 |
| 67 | 270 | 270.20 | 270.70 | 271.71 | 272.80 | 274.00 | 275.00 | 275.95 |
| 68 | 274 | 274.20 | 274.70 | 275.71 | 276.80 | 278.00 | 279.00 | 279.95 |
| 69 | 278 | 278.20 | 278.70 | 279.71 | 280.80 | 282.00 | 283.00 | 283.95 |
| 70 | 282 | 282.20 | 282.70 | 283.71 | 284.80 | 286.00 | 287.00 | 287.95 |
| 71 | 286 | 286.20 | 286.70 | 287.71 | 288.80 | 290.00 | 291.00 | 291.95 |
| 72 | 290 | 290.20 | 290.70 | 291.71 | 292.80 | 294.00 | 295.00 | 295.95 |
| 73 | 294 | 294.20 | 294.70 | 295.71 | 296.80 | 298.00 | 299.00 | 299.95 |
| 74 | 298 | 298.20 | 298.70 | 299.71 | 300.80 | 302.00 | 303.00 | 303.95 |
| 75 | 302 | 302.20 | 302.70 | 303.71 | 304.80 | 306.00 | 307.00 | 307.95 |
| 76 | 306 | 306.20 | 306.70 | 307.71 | 308.80 | 310.00 | 311.00 | 311.95 |
| 77 | 310 | 310.20 | 310.70 | 311.71 | 312.80 | 314.00 | 315.00 | 315.95 |
| 78 | 314 | 314.20 | 314.70 | 315.71 | 316.80 | 318.00 | 319.00 | 319.95 |
| 79 | 318 | 318.20 | 318.70 | 319.71 | 320.80 | 322.00 | 323.00 | 323.95 |
| 80 | 322 | 322.20 | 322.70 | 323.71 | 324.80 | 326.00 | 327.00 | 327.95 |
| 81 | 326 | 326.20 | 326.70 | 327.71 | 328.80 | 330.00 | 331.00 | 331.95 |
| 82 | 330 | 330.20 | 330.70 | 331.71 | 332.80 | 334.00 | 335.00 | 335.95 |
| 83 | 334 | 334.20 | 334.70 | 335.71 | 336.80 | 338.00 | 339.00 | 339.95 |
| 84 | 338 | 338.20 | 338.70 | 339.71 | 340.80 | 342.00 | 343.00 | 343.95 |
| 85 | 342 | 342.20 | 342.70 | 343.71 | 344.80 | 346.00 | 347.00 | 347.95 |
| 86 | 346 | 346.20 | 346.70 | 347.71 | 348.80 | 350.00 | 351.00 | 351.95 |
| 87 | 350 | 350.20 | 350.70 | 351.71 | 352.80 | 354.00 | 355.00 | 355.95 |
| 88 | 354 | 354.20 | 354.70 | 355.71 | 356.80 | 358.00 | 359.00 | 359.95 |
| 89 | 358 | 358.20 | 358.70 | 359.71 | 360.80 | 362.00 | 363.00 | 363.95 |
| 90 | 362 | 362.20 | 362.70 | 363.71 | 364.80 | 366.00 | 367.00 | 367.95 |
| 91 | 366 | 366.20 | 366.70 | 367.71 | 368.80 | 370.00 | 371.00 | 371.95 |
| 92 | 370 | 370.20 | 370.70 | 371.71 | 372.80 | 374.00 | 375.00 | 375.95 |
| 93 | 374 | 374.20 | 374.70 | 375.71 | 376.80 | 378.00 | 379.00 | 379.95 |
| 94 | 378 | 378.20 | 378.70 | 379.71 | 380.80 | 382.00 | 383.00 | 383.95 |
| 95 | 382 | 382.20 | 382.70 | 383.71 | 384.80 | 386.00 | 387.00 | 387.95 |
| 96 | 386 | 386.20 | 386.70 | 387.71 | 388.80 | 390.00 | 391.00 | 391.95 |
| 97 | 390 | 390.20 | 390.70 | 391.71 | 392.80 | 394.00 | 395.00 | 395.95 |
| 98 | 394 | 394.20 | 394.70 | 395.71 | 396.80 | 398.00 | 399.00 | 399.95 |
| 99 | 398 | 398.20 | 398.70 | 399.71 | 400.80 | 402.00 | 403.00 | 403.95 |
| 100 | 402 | 402.20 | 402.70 | 403.71 | 404.80 | 406.00 | 407.00 | 407.95 |

1. Parcel weighing less than 15 pounds, and measuring over 24 inches but not exceeding 48 inches in length and 36 inches in girth combined, are chargeable with a minimum rate equal to that for a 10 pound parcel for the zone to which addressed. See 135.3 for size and weight restrictions.

| Postage Rate Unit (2) | Current Rates (dollars) (3) | | | | | | | |
|--|-----------------------------|-------|------|------|------|------|------|------|
| | Zones | | | | | | | |
| Weight -- 1 pound and not exceeding (pounds) | Local | 1 & 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | | | | | | | |
| 37 | 1.55 | 2.10 | 2.30 | 3.25 | 4.55 | 5.95 | 7.20 | 8.50 |
| 38 | 1.65 | 2.20 | 2.40 | 3.35 | 4.65 | 6.05 | 7.30 | 8.60 |
| 39 | 1.75 | 2.30 | 2.50 | 3.45 | 4.75 | 6.15 | 7.40 | 8.70 |
| 40 | 1.85 | 2.40 | 2.60 | 3.55 | 4.85 | 6.25 | 7.50 | 8.80 |
| 41 | 1.95 | 2.50 | 2.70 | 3.65 | 4.95 | 6.35 | 7.60 | 8.90 |
| 42 | 2.05 | 2.60 | 2.80 | 3.75 | 5.05 | 6.45 | 7.70 | 9.00 |
| 43 | 2.15 | 2.70 | 2.90 | 3.85 | 5.15 | 6.55 | 7.80 | 9.10 |
| 44 | 2.25 | 2.80 | 3.00 | 3.95 | 5.25 | 6.65 | 7.90 | 9.20 |
| 45 | 2.35 | 2.90 | 3.10 | 4.05 | 5.35 | 6.75 | 8.00 | 9.30 |
| 46 | 2.45 | 3.00 | 3.20 | 4.15 | 5.45 | 6.85 | 8.10 | 9.40 |
| 47 | 2 | | | | | | | |

TABLE E-III
Fourth-Class Mail
(Special Rate and Library Rate)

| Mail Class | Postage Rate Unit | Current Rate ^{1/} (Cents) | Proposed Full Rates (Cents) |
|--------------|-----------------------|------------------------------------|-----------------------------|
| (1) | (2) | (3) | (4) |
| Special rate | First pound | 21 | 30 |
| | Each additional pound | 10 | 10 |
| Library rate | First pound | 10 | 14 |
| | Each additional pound | 5 | 6 |

^{1/} Full rates approved in R 71-1.

TABLE E-II
Fourth Class Mail
(Catalog Rates)
Proposed full rates
(1, 2 & 4)
Individual Mailings

| Weight (pounds) | Zones | | | | | | | | |
|-----------------|-------|----|----|----|-----|-----|-----|-----|-----|
| | Local | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1.5 | 34 | 41 | 42 | 44 | 44 | 46 | 48 | 51 | 55 |
| 2 | 35 | 43 | 44 | 47 | 49 | 52 | 52 | 56 | 61 |
| 2.5 | 36 | 45 | 46 | 50 | 53 | 56 | 61 | 61 | 67 |
| 3 | 38 | 47 | 49 | 52 | 56 | 61 | 66 | 73 | 73 |
| 3.5 | 39 | 49 | 51 | 55 | 60 | 65 | 71 | 79 | 79 |
| 4 | 40 | 51 | 53 | 58 | 63 | 69 | 77 | 86 | 86 |
| 4.5 | 41 | 52 | 55 | 61 | 66 | 73 | 82 | 92 | 92 |
| 5 | 42 | 54 | 57 | 63 | 70 | 77 | 87 | 98 | 98 |
| 6 | 45 | 58 | 62 | 69 | 77 | 86 | 97 | 110 | 110 |
| 7 | 47 | 62 | 66 | 74 | 83 | 94 | 107 | 122 | 122 |
| 8 | 50 | 66 | 71 | 80 | 90 | 103 | 117 | 134 | 134 |
| 9 | 52 | 70 | 75 | 85 | 97 | 111 | 123 | 147 | 147 |
| 10 | 54 | 73 | 79 | 91 | 104 | 119 | 138 | 159 | 159 |

Bulk Mailings*

| Zones | Piece rate (cents) | Bulk pound rate (cents) |
|-------|--------------------|-------------------------|
| Local | 24 | 2.4 |
| 1 & 2 | 28 | 3.8 |
| 3 | 28 | 4.4 |
| 4 | 28 | 5.5 |
| 5 | 28 | 6.8 |
| 6 | 28 | 8.4 |
| 7 | 28 | 10.2 |
| 8 | 29 | 12.2 |

* Separately addressed identical pieces in quantities of not less than 300 called at one time. The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

NOTICES

ATTACHMENT B

PHASING SCHEDULES PURSUANT TO 39 U.S.C. § 3626

The phasing schedules set out below concern phasing, pursuant to 39 U.S.C. § 3626.

These schedules have been determined as follows. For permanent rates established and phased by the Governor's decision on June 28, 1972, the second step of phasing is now in effect. Alternative assumptions are used: The rates shown in Table A for each subclass are based on the assumption that the permanent rates established in response to this request will be made effective before July 6, 1974. On this assumption the new increases for each subclass entitled to phasing, proposed in the Postal Service's request for recommended decision on full rates, have been divided into four and nine parts respectively for the five- and ten-year phasing groups, and one appropriate part has been added to each step of the phased rates specified in the Governors' decision of June 28 beginning with the second step for each subclass. The rates shown in Table B are based on the assumption that the permanent rates established in response to this request will be made effective on or after July 6, 1974. On this assumption the new increases for each subclass entitled to phasing, proposed in the Postal Service's request, have been divided respectively into three and eight parts and one appropriate part has been added to each step of the phased rates specified in the Governors' decision of June 28, 1972 beginning with the third step for each subclass.

Second-Class In-County
Phasing Schedules-Proposed Rates
(in cents)

| Rate Category | Steps ^{1/} | | | | | | | | | | |
|------------------------------------|---------------------|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| | 1 ^{2/} | Tempo- rary | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Pound-rate matter | | | | | | | | | | | |
| Per pound | 1.5 | 1.6 | 1.6 | 1.6 | 1.7 | 1.8 | 1.8 | 1.9 | 2.0 | 2.0 | 2.1 |
| Minimum per piece | 0.2 | - | - | - | - | - | - | - | - | - | - |
| Per piece | 0.1 | 0.3 | 0.3 | 0.4 | 0.6 | 0.7 | 0.9 | 1.0 | 1.2 | 1.3 | 1.5 |
| Per-copy-rate matter | | | | | | | | | | | |
| Issued more frequently than weekly | 1.1 | 1.3 | 1.3 | 1.5 | 1.7 | 2.0 | 2.3 | 2.5 | 2.7 | 2.9 | 3.1 |
| Issued less frequently than weekly | | | | | | | | | | | |
| Copies weighing 2 ounces or less | 1.1 | 1.3 | 1.3 | 1.5 | 1.7 | 2.0 | 2.3 | 2.5 | 2.7 | 2.9 | 3.1 |
| Copies weighing more than 2 ounces | 2.1 | 2.3 | 2.3 | 2.5 | 2.7 | 3.0 | 3.3 | 3.5 | 3.7 | 3.9 | 4.1 |

Table A

^{1/} This schedule assumes the permanent rates will be effective before July 6, 1974.

^{2/} First step effective July 6, 1972. See Table B for current second step.

Second-Class In-County
Phasing Schedules-Proposed Rates
(in cents)

| Rate Category | Steps ^{1/} | | | | | | | | | | |
|------------------------------------|---------------------|-----------------|-----|-----|-----|-----|-----|-----|-----|-----|--|
| | 1 ^{2/} | 2 ^{3/} | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | |
| Pound-rate matter | | | | | | | | | | | |
| Per pound | 1.5 | 1.5 | 1.6 | 1.7 | 1.7 | 1.8 | 1.9 | 2.0 | 2.0 | 2.1 | |
| Minimum per piece | 0.2 | 0.2 | - | - | - | - | - | - | - | - | |
| Per piece | 0.1 | 0.2 | 0.4 | 0.5 | 0.7 | 0.9 | 1.0 | 1.2 | 1.3 | 1.5 | |
| Per-copy-rate matter | | | | | | | | | | | |
| Issued more frequently than weekly | 1.1 | 1.2 | 1.4 | 1.7 | 2.0 | 2.2 | 2.5 | 2.7 | 2.9 | 3.1 | |
| Issued less frequently than weekly | | | | | | | | | | | |
| Copies weighing 2 ounces or less | 1.1 | 1.2 | 1.4 | 1.7 | 2.0 | 2.2 | 2.5 | 2.7 | 2.9 | 3.1 | |
| Copies weighing more than 2 ounces | 2.1 | 2.2 | 2.4 | 2.7 | 3.0 | 3.2 | 3.5 | 3.7 | 3.9 | 4.1 | |

Table B

^{1/} This schedule assumes the permanent rates will be effective after July 5, 1974.

^{2/} First step effective July 6, 1972.

^{3/} Second step effective July 6, 1973, payable as of September 9, 1973.

NOTICES

Second-Class Nonprofit
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | <u>1</u> ^{2/} | Tempo- rary | <u>Steps</u> ^{1/} | | | | | | | | | |
|---|------------------------|----------------|----------------------------|----------|----------|----------|----------|----------|----------|----------|-----------|------|
| | | | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | |
| Per pound: Nonadvertising portion | Pound | 2.4 | 2.8 | 2.8 | 3.1 | 3.5 | 3.8 | 4.1 | 4.4 | 4.8 | 5.1 | 5.5 |
| Advertising portion | | | | | | | | | | | | |
| Zone: | | | | | | | | | | | | |
| 1 & 2 | " | 4.4 | 4.9 | 4.9 | 5.2 | 5.7 | 6.1 | 6.6 | 7.0 | 7.4 | 7.8 | 8.3 |
| 3 | " | 5.2 | 5.6 | 5.6 | 6.0 | 6.4 | 6.9 | 7.3 | 7.7 | 8.2 | 8.5 | 9.0 |
| 4 | " | 6.7 | 7.2 | 7.2 | 7.5 | 7.9 | 8.3 | 8.7 | 9.0 | 9.4 | 9.8 | 10.2 |
| 5 | " | 8.4 | 8.8 | 8.8 | 9.2 | 9.6 | 10.0 | 10.4 | 10.8 | 11.2 | 11.6 | 12.0 |
| 6 | " | 9.1 | 9.7 | 9.7 | 10.1 | 10.7 | 11.2 | 11.8 | 12.3 | 12.8 | 13.3 | 13.9 |
| 7 | " | 9.3 | 10.1 | 10.1 | 10.8 | 11.6 | 12.3 | 13.0 | 13.7 | 14.5 | 15.2 | 16.0 |
| 8 | " | 9.5 | 10.5 | 10.5 | 11.4 | 12.4 | 13.4 | 14.4 | 15.3 | 16.3 | 17.2 | 18.2 |
| Minimum Per-piece charge | Min/pc. Piece | 0.2 | - | - | - | - | - | - | - | - | - | - |
| | | 0.2 | 0.4 | 0.4 | 0.7 | 0.8 | 1.1 | 1.3 | 1.6 | 1.7 | 2.0 | 2.2 |

Table A

^{1/} This schedule assumes permanent rates will be effective before July 6, 1974.

^{2/} First step effective July 6, 1972. See Table B for current second step.

Second-Class Nonprofit
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | <u>1</u> ^{2/} | <u>2</u> ^{3/} | <u>Steps</u> ^{1/} | | | | | | | | | |
|---|------------------------|------------------------|----------------------------|----------|----------|----------|----------|----------|----------|-----------|------|--|
| | | | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | | |
| Per pound: Nonadvertising portion | Pound | 2.4 | 2.7 | 3.1 | 3.4 | 3.8 | 4.1 | 4.4 | 4.8 | 5.1 | 5.5 | |
| Advertising portion | | | | | | | | | | | | |
| Zone: | | | | | | | | | | | | |
| 1 & 2 | " | 4.4 | 4.8 | 5.2 | 5.6 | 6.1 | 6.6 | 7.0 | 7.4 | 7.8 | 8.3 | |
| 3 | " | 5.2 | 5.5 | 6.0 | 6.4 | 6.9 | 7.3 | 7.7 | 8.3 | 8.5 | 9.0 | |
| 4 | " | 6.7 | 7.1 | 7.5 | 7.8 | 8.3 | 8.7 | 9.0 | 9.4 | 9.8 | 10.2 | |
| 5 | " | 8.4 | 8.7 | 9.2 | 9.5 | 10.0 | 10.5 | 10.8 | 11.2 | 11.6 | 12.0 | |
| 6 | " | 9.1 | 9.6 | 10.1 | 10.6 | 11.2 | 11.8 | 12.3 | 12.8 | 13.3 | 13.9 | |
| 7 | " | 9.3 | 10.0 | 10.8 | 11.5 | 12.3 | 13.0 | 13.7 | 14.5 | 15.2 | 16.0 | |
| 8 | " | 9.5 | 10.4 | 11.4 | 12.3 | 13.4 | 14.4 | 15.3 | 16.3 | 17.2 | 18.2 | |
| Minimum Per-piece charge | Min/pc. Piece | 0.2 | 0.2 | - | - | - | - | - | - | - | - | |
| | | 0.2 | 0.3 | 0.6 | 0.8 | 1.1 | 1.3 | 1.5 | 1.7 | 2.0 | 2.2 | |

Table B

^{1/} This schedule assumes permanent rates will be effective after July 5, 1974.

^{2/} First step effective July 6, 1972.

^{3/} Second step effective July 6, 1973, payable as of September 9, 1973.

Second-Class Classroom Publications
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | Steps ^{1/} | | | | | | | | | | | |
|---------------------------|-----------------------|----------------|----------|----------|----------|----------|----------|----------|----------|----------|-----------|------|
| | <u>1^{2/}</u> | Tempo- rary | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | |
| Per pounds: | | | | | | | | | | | | |
| Nonadvertising portion | Pound | 2.3 | 2.4 | 2.4 | 2.5 | 2.6 | 2.7 | 2.7 | 2.8 | 2.9 | 3.0 | 3.1 |
| Advertising portion | | | | | | | | | | | | |
| Zones: | | | | | | | | | | | | |
| 1 & 2 | " | 3.6 | 3.6 | 3.6 | 3.5 | 3.5 | 3.5 | 3.3 | 3.3 | 3.3 | 3.3 | 3.2 |
| 3 | " | 4.3 | 4.3 | 4.3 | 4.2 | 4.2 | 4.2 | 4.0 | 4.0 | 4.0 | 3.9 | 3.9 |
| 4 | " | 5.7 | 5.7 | 5.7 | 5.6 | 5.5 | 5.5 | 5.3 | 5.3 | 5.2 | 5.3 | 5.1 |
| 5 | " | 7.1 | 7.1 | 7.1 | 7.1 | 7.1 | 7.1 | 7.0 | 6.9 | 6.9 | 6.9 | 6.9 |
| 6 | " | 8.7 | 8.7 | 8.7 | 8.7 | 8.8 | 8.8 | 8.7 | 8.7 | 8.8 | 8.8 | 8.8 |
| 7 | " | 9.4 | 9.6 | 9.6 | 9.7 | 9.9 | 10.1 | 10.2 | 10.4 | 10.5 | 10.7 | 10.9 |
| 8 | " | 11.0 | 11.2 | 11.2 | 11.4 | 11.7 | 12.0 | 12.1 | 12.4 | 12.6 | 12.9 | 13.1 |
| Minimum | | | | | | | | | | | | |
| Per-piece | Min/pc. | 0.8 | - | - | - | - | - | - | - | - | - | - |
| Per-piece charge | Piece | 0.1 | 0.3 | 0.3 | 0.4 | 0.5 | 0.6 | 0.7 | 0.9 | 0.9 | 1.1 | 1.2 |

^{1/} This schedule assumes permanent rates will be effective before July 6, 1974.

^{2/} First step effective July 6, 1972. See Table B for current second step.

Table A

Second-Class Classroom Publications
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | <u>1^{2/}</u> | <u>2^{3/}</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | |
|---------------------------|-----------------------|-----------------------|----------|----------|----------|----------|----------|----------|----------|-----------|------|
| | Per pound: | | | | | | | | | | |
| Nonadvertising portion | Pound | 2.3 | 2.6 | 2.7 | 2.7 | 2.8 | 2.9 | 2.9 | 3.0 | 3.0 | 3.1 |
| Advertising portion | | | | | | | | | | | |
| Zones: | | | | | | | | | | | |
| 1 & 2 | " | 3.6 | 4.1 | 3.9 | 3.9 | 3.8 | 3.6 | 3.5 | 3.5 | 3.4 | 3.2 |
| 3 | " | 4.3 | 4.8 | 4.6 | 4.6 | 4.5 | 4.3 | 4.2 | 4.2 | 4.0 | 3.9 |
| 4 | " | 5.7 | 6.2 | 6.0 | 5.9 | 5.8 | 5.6 | 5.5 | 5.4 | 5.3 | 5.1 |
| 5 | " | 7.1 | 7.6 | 7.5 | 7.5 | 7.4 | 7.3 | 7.1 | 7.1 | 7.0 | 6.9 |
| 6 | " | 8.7 | 9.2 | 9.1 | 9.1 | 9.1 | 9.0 | 8.9 | 8.9 | 8.9 | 8.8 |
| 7 | " | 9.4 | 10.1 | 10.1 | 10.3 | 10.4 | 10.5 | 10.6 | 10.7 | 10.8 | 10.9 |
| 8 | " | 11.0 | 11.7 | 11.9 | 12.1 | 12.3 | 12.4 | 12.6 | 12.8 | 13.0 | 13.1 |
| Minimum | | | | | | | | | | | |
| Per-piece | Min/pc. | 0.8 | 0.8 | - | - | - | - | - | - | - | - |
| Per-piece charge | Piece | 0.1 | 0.3 | 0.4 | 0.5 | 0.6 | 0.7 | 0.9 | 1.0 | 1.1 | 1.2 |

^{1/} This schedule assumes permanent rates will be effective after July 5, 1974.

^{2/} First step effective July 6, 1972.

^{3/} Second step effective July 6, 1973, payable as of September 9, 1973.

Table B

NOTICES

Second-Class Regular Rate
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | | Steps ^{1/} | | | | | | | | | | | | |
|-------------------------|-------|---------------------|----------------|------|------|------|------|-----|-----|-----|-----|-----|---|---|
| | | 1 ^{2/} | Tempo- rary | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | |
| Per pound: | | | | | | | | | | | | | | |
| Nonadvertising | Pound | 4.2 | 5.0 | 5.0 | 6.0 | 6.8 | 7.7 | - | - | - | - | - | - | - |
| Advertising | | | | | | | | | | | | | | |
| Zone: | | | | | | | | | | | | | | |
| 1 & 2 | " | 6.0 | 6.9 | 6.9 | 7.8 | 8.8 | 9.6 | - | - | - | - | - | - | - |
| 1 & 2 ^{3/} | " | 4.6 | 5.0 | 5.0 | 5.4 | 5.8 | 6.2 | 6.7 | 7.0 | 7.5 | 7.8 | 8.3 | - | - |
| 3 | " | 7.1 | 7.9 | 7.9 | 8.7 | 9.5 | 10.3 | - | - | - | - | - | - | - |
| 4 | " | 9.2 | 9.8 | 9.8 | 10.4 | 11.0 | 11.5 | - | - | - | - | - | - | - |
| 5 | " | 11.4 | 11.9 | 11.9 | 12.4 | 12.9 | 13.3 | - | - | - | - | - | - | - |
| 6 | " | 13.8 | 14.1 | 14.1 | 14.6 | 14.9 | 15.2 | - | - | - | - | - | - | - |
| 7 | " | 15.0 | 15.5 | 15.5 | 16.2 | 16.7 | 17.3 | - | - | - | - | - | - | - |
| 8 | " | 17.4 | 17.9 | 17.9 | 18.5 | 19.0 | 19.5 | - | - | - | - | - | - | - |
| Minimum ^{4/} | | | | | | | | | | | | | | |
| Per-piece ^{4/} | Piece | 1.3 | - | - | - | - | - | - | - | - | - | - | - | - |
| Minimum | | | | | | | | | | | | | | |
| Per-piece ^{5/} | " | 0.8 | - | - | - | - | - | - | - | - | - | - | - | - |
| Per-piece ^{3/} | " | 0.3 | 1.1 | 1.1 | 1.9 | 2.7 | 3.4 | - | - | - | - | - | - | - |
| Per-piece ^{5/} | " | 0.1 | 0.3 | 0.3 | 0.6 | 0.8 | 1.1 | 1.2 | 1.5 | 1.7 | 2.0 | 2.2 | - | - |

Table A

- 1/ This schedule assumes the permanent rates will be effective before July 6, 1974.
 2/ First step rates effective July 6, 1972. See Table B for current second step.
 3/ Applicable to science-of-agriculture publications.
 4/ Publications mailing 5,000 or more copies per issue outside county of publication.
 5/ Publications mailing fewer than 5,000 copies per issue outside county publication.

Second-Class Regular Rate
Phasing Schedules-Proposed Rates
(in cents)

| Postage Rate Unit | | Steps ^{1/} | | | | | | | | | | | | |
|-------------------------|-------|---------------------|-----------------|------|------|------|-----|-----|-----|-----|-----|---|---|---|
| | | 1 ^{2/} | 2 ^{3/} | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | | |
| Per pound: | | | | | | | | | | | | | | |
| Nonadvertising | Pound | 4.2 | 5.0 | 5.9 | 6.7 | 7.7 | - | - | - | - | - | - | - | - |
| Advertising | | | | | | | | | | | | | | |
| Zone: | | | | | | | | | | | | | | |
| 1 & 2 | " | 6.0 | 6.8 | 7.7 | 8.6 | 9.6 | - | - | - | - | - | - | - | - |
| 1 & 2 | " | 4.6 | 4.9 | 5.4 | 5.7 | 6.2 | 6.7 | 7.0 | 7.5 | 9.8 | 8.3 | - | - | - |
| 3 | " | 7.1 | 7.8 | 8.6 | 9.4 | 10.3 | - | - | - | - | - | - | - | - |
| 4 | " | 9.2 | 9.7 | 10.3 | 10.9 | 11.5 | - | - | - | - | - | - | - | - |
| 5 | " | 11.4 | 11.8 | 12.3 | 12.8 | 13.3 | - | - | - | - | - | - | - | - |
| 6 | " | 13.8 | 14.0 | 14.5 | 14.8 | 15.2 | - | - | - | - | - | - | - | - |
| 7 | " | 15.0 | 15.4 | 16.1 | 16.6 | 17.3 | - | - | - | - | - | - | - | - |
| 8 | " | 17.4 | 17.8 | 18.4 | 18.9 | 19.5 | - | - | - | - | - | - | - | - |
| Minimum | | | | | | | | | | | | | | |
| Per-piece ^{5/} | Piece | 1.3 | 1.3 | - | - | - | - | - | - | - | - | - | - | - |
| Minimum | | | | | | | | | | | | | | |
| Per-piece ^{6/} | " | 0.8 | 0.8 | - | - | - | - | - | - | - | - | - | - | - |
| Per-piece ^{5/} | " | 0.3 | 0.6 | 1.6 | 2.4 | 3.4 | - | - | - | - | - | - | - | - |
| Per-piece ^{6/} | " | 0.1 | 0.2 | 0.5 | 0.7 | 1.0 | 1.2 | 1.4 | 1.7 | 1.0 | 2.2 | - | - | - |

Table B

- 1/ This schedule assumes that permanent rates will be effective after July 5, 1974.
 2/ First step rates effective July 6, 1972.
 3/ Second step rates effective July 6, 1973, payable as of September 9, 1973.
 4/ Applicable to science of agriculture publications.
 5/ Publications mailing 5,000 or more copies per issue outside county of publication.
 6/ Publications mailing fewer than 5,000 copies per issue outside county of publication.

Table A

Controlled Circulation
Phasing Schedule - Proposed Rates
(in cents)

| | Steps ^{1/} | | | | | |
|-------------------|---------------------|-----------|-----|-----|-----|-----|
| | 2/ | Temporary | 2 | 3 | 4 | 5 |
| Per pound | 15 | 16 | 16 | 17 | 17 | 18 |
| Minimum per piece | 4.0 | 4.6 | 4.6 | 5.2 | 5.8 | 6.3 |

1/ Schedule assumes permanent rates will be effective before July 6, 1974.

2/ First step effective July 6, 1972. See Table B for current second step.

Table B

| | Steps ^{1/} | | | | |
|-------------------|---------------------|-----|-----|-----|-----|
| | 2/ | 3/ | 2 | 4 | 5 |
| Per pound | 15 | 15 | 16 | 17 | 18 |
| Minimum per piece | 4.0 | 4.3 | 4.9 | 5.7 | 6.3 |

1/ Schedule assumes permanent rates will be effective after July 6, 1972.

2/ First step effective July 6, 1972.

3/ Second step effective July 6, 1973, payable as of September 9, 1973.

NOTICES

Third-Class Mail
Phasing Schedule-Proposed Rates
(in cents)

| | 1 ^{2/} | Tempo- rary | Steps ^{1/} | | | | | | | | | | |
|---------------------------------|-----------------|----------------|---------------------|-----|-----|-----|-----|-----|-----|-----|-----|---|---|
| | | | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | |
| Single piece ^{3/} | | | | | | | | | | | | | |
| First 2 ounces | 8 | 10 | 10 | 10 | 10 | 10 | - | - | - | - | - | - | - |
| Odd ozs. (over 1st 2 oz) | 2 | 3 | 3 | 5 | 6 | - | - | - | - | - | - | - | - |
| Even ozs. (over 1st 2 oz) | 2 | 2 | 2 | 2 | 2 | - | - | - | - | - | - | - | - |
| Each additional 2 oz. | | | | | | 8 | | | | | | | |
| Regular bulk: | | | | | | | | | | | | | |
| Per pound: | | | | | | | | | | | | | |
| Ordinary | 23 | 26 | 26 | 28 | 30 | 32 | - | - | - | - | - | - | - |
| Books, etc. | 17 | 20 | 20 | 23 | 26 | 28 | - | - | - | - | - | - | - |
| Minimum per piece ^{4/} | 4.0 | 4.5 | 4.5 | 5.1 | 5.6 | 6.1 | | | | | | | |
| Minimum per piece ^{5/} | 4.2 | 4.7 | 4.7 | 5.3 | 5.8 | 6.3 | | | | | | | |
| Nonprofit bulk: | | | | | | | | | | | | | |
| Per pound: | | | | | | | | | | | | | |
| Ordinary | 11 | 11 | 11 | 12 | 13 | 13 | 13 | 13 | 15 | 15 | 15 | | |
| Books, etc. | 8 | 9 | 9 | 9 | 10 | 11 | 11 | 11 | 12 | 13 | 13 | | |
| Minimum per piece | 1.7 | 1.7 | 1.7 | 1.9 | 2.1 | 2.1 | 2.3 | 2.3 | 2.3 | 2.5 | 2.5 | | |

Table A

- 1/ Schedule assumes permanent rates will be in effect before July 6, 1974.
 2/ First step effective July 6, 1972. See Table B for second step of current phasing schedule.
 3/ Temporary rate, assuming failure of appropriations: 8 cents each 2 ounces; 10-cent minimum.
 4/ First 250,000 pieces sent annually by the mailer.
 5/ Pieces in excess of the first 250,000 sent annually by the mailer.

Third-Class Mail
Phasing Schedule-Proposed Rates
(in cents)

| | 1 ^{2/} | 2 ^{3/} | Steps ^{1/} | | | | | | | | | | |
|---------------------------------|-----------------|-----------------|---------------------|-----|-----|-----|-----|-----|-----|-----|---|---|---|
| | | | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | | |
| Single piece ^{4/} | | | | | | | | | | | | | |
| First 2 ounces | 8 | 8 | 10 | 10 | 10 | - | - | - | - | - | - | - | - |
| Odd ozs. (over 1st 2 oz) | 2 | 2 | 4 | 6 | - | - | - | - | - | - | - | - | - |
| Even ozs. (over 1st 2 oz) | 2 | 2 | 2 | 2 | - | - | - | - | - | - | - | - | - |
| Each additional 2 oz) | | | | | 8 | | | | | | | | |
| Regular bulk: | | | | | | | | | | | | | |
| Per pound: | | | | | | | | | | | | | |
| Ordinary | 23 | 24 | 26 | 29 | 32 | - | - | - | - | - | - | - | - |
| Books, etc. | 17 | 18 | 22 | 25 | 28 | - | - | - | - | - | - | - | - |
| Minimum per piece ^{5/} | 4.0 | 4.2 | 4.8 | 5.5 | 6.1 | - | - | - | - | - | - | - | - |
| Minimum per piece ^{6/} | 4.2 | 4.4 | 5.0 | 5.7 | 6.3 | - | - | - | - | - | - | - | - |
| Nonprofit bulk: | | | | | | | | | | | | | |
| Per pound: | | | | | | | | | | | | | |
| Ordinary | 11 | 11 | 12 | 13 | 13 | 13 | 13 | 15 | 15 | 15 | | | |
| Books, etc. | 8 | 9 | 9 | 10 | 11 | 11 | 11 | 12 | 13 | 13 | | | |
| Minimum per piece | 1.7 | 1.7 | 1.9 | 1.9 | 2.1 | 2.1 | 2.3 | 2.3 | 2.5 | 2.5 | | | |

Table B

- 1/ Schedule assumes permanent rates will be in effect after July 5, 1974.
 2/ First step effective July 6, 1972.
 3/ Second step effective July 6, 1973, payable as of September 9, 1973.
 4/ Temporary rate assuming failure of appropriations: 8 cents each 2 ounces; 10-cent minimum.
 5/ First 250,000 pieces sent annually by the mailer.
 6/ Pieces in excess of the first 250,000 sent annually by the mailer.

Special Rate and Library Rate Fourth Class
Phasing Schedules-Proposed Rates
(In cents)

| | <u>1^{2/}</u> | Tempo- rary | <u>Steps^{1/}</u> | | | | | | | | | |
|-----------------------|-----------------------|----------------|---------------------------|----------|----------|----------|----------|----------|----------|----------|-----------|---|
| | | | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | |
| Special rate: | | | | | | | | | | | | |
| First pound | 14 | 18 | 18 | 22 | 26 | 30 | - | - | - | - | - | - |
| Each additional pound | 7 | 8 | 8 | 8 | 9 | 10 | - | - | - | - | - | - |
| Library rate: | | | | | | | | | | | | |
| First pound | 6 | 6 | 6 | 8 | 8 | 10 | 10 | 12 | 12 | 14 | 14 | |
| Each additional pound | 2 | 3 | 3 | 3 | 3 | 4 | 5 | 5 | 5 | 6 | 6 | |

^{1/} Schedule assumes permanent rates will be in effect before July 6, 1974.

^{2/} First step effective July 6, 1972. See Table B for current second step.

Table A

Table B

Special Rate and Library Rate Fourth Class
Phasing Schedules-Proposed Rates
(in cents)

| | <u>1^{2/}</u> | <u>2^{3/}</u> | <u>Steps^{1/}</u> | | | | | | | | |
|-----------------------|-----------------------|-----------------------|---------------------------|----------|----------|----------|----------|----------|----------|-----------|---|
| | | | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | |
| Special Rate: | | | | | | | | | | | |
| First pound | 14 | 16 | 20 | 25 | 30 | - | - | - | - | - | - |
| Each additional pound | 7 | 8 | 8 | 9 | 10 | - | - | - | - | - | - |
| Library Rate: | | | | | | | | | | | |
| First pound | 6 | 6 | 8 | 8 | 10 | 10 | 12 | 12 | 14 | 14 | |
| Each additional pound | 2 | 3 | 3 | 3 | 4 | 5 | 5 | 5 | 6 | 6 | |

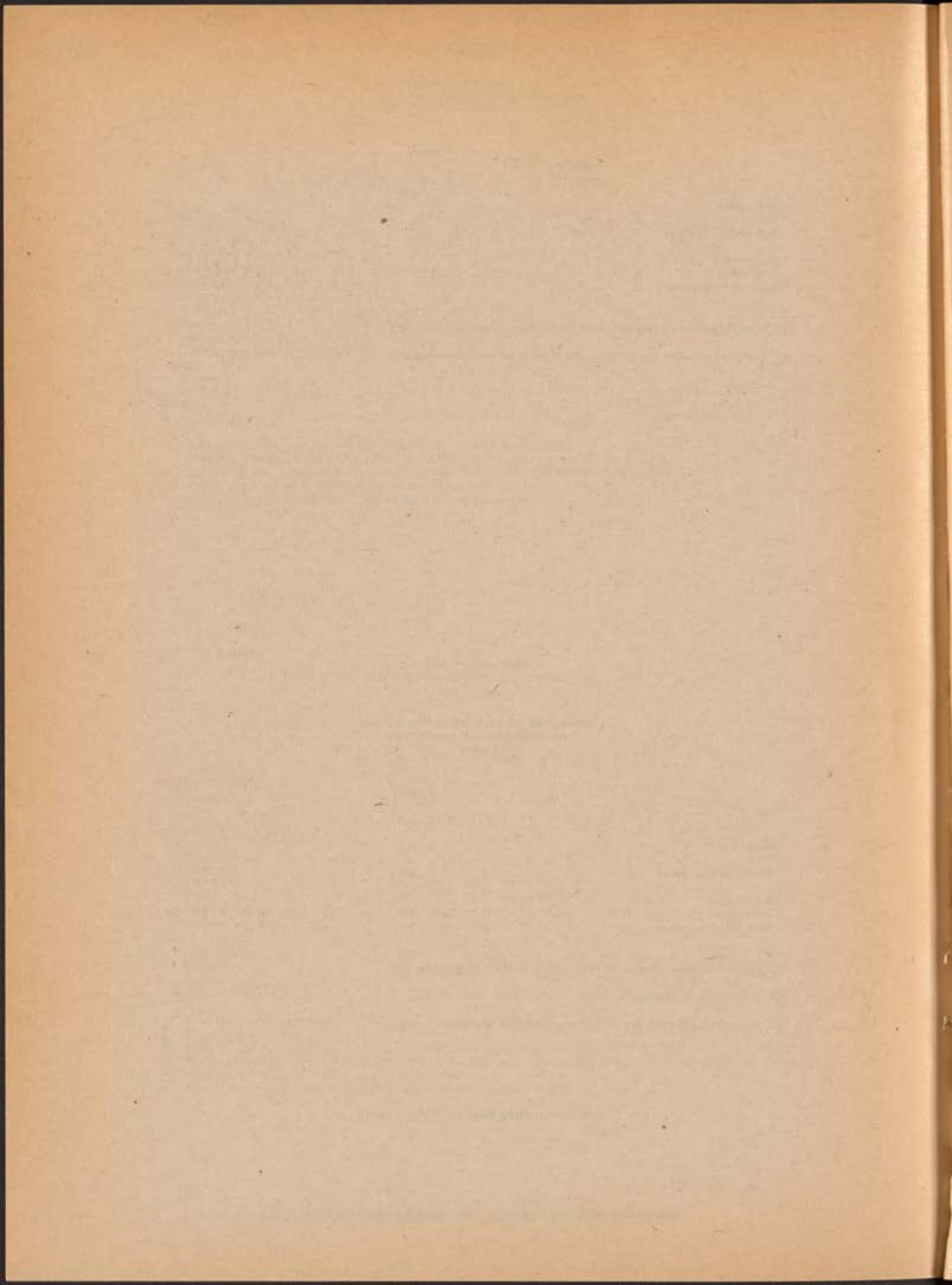
^{1/} Schedule assumes permanent rates will be in effect after July 5, 1972

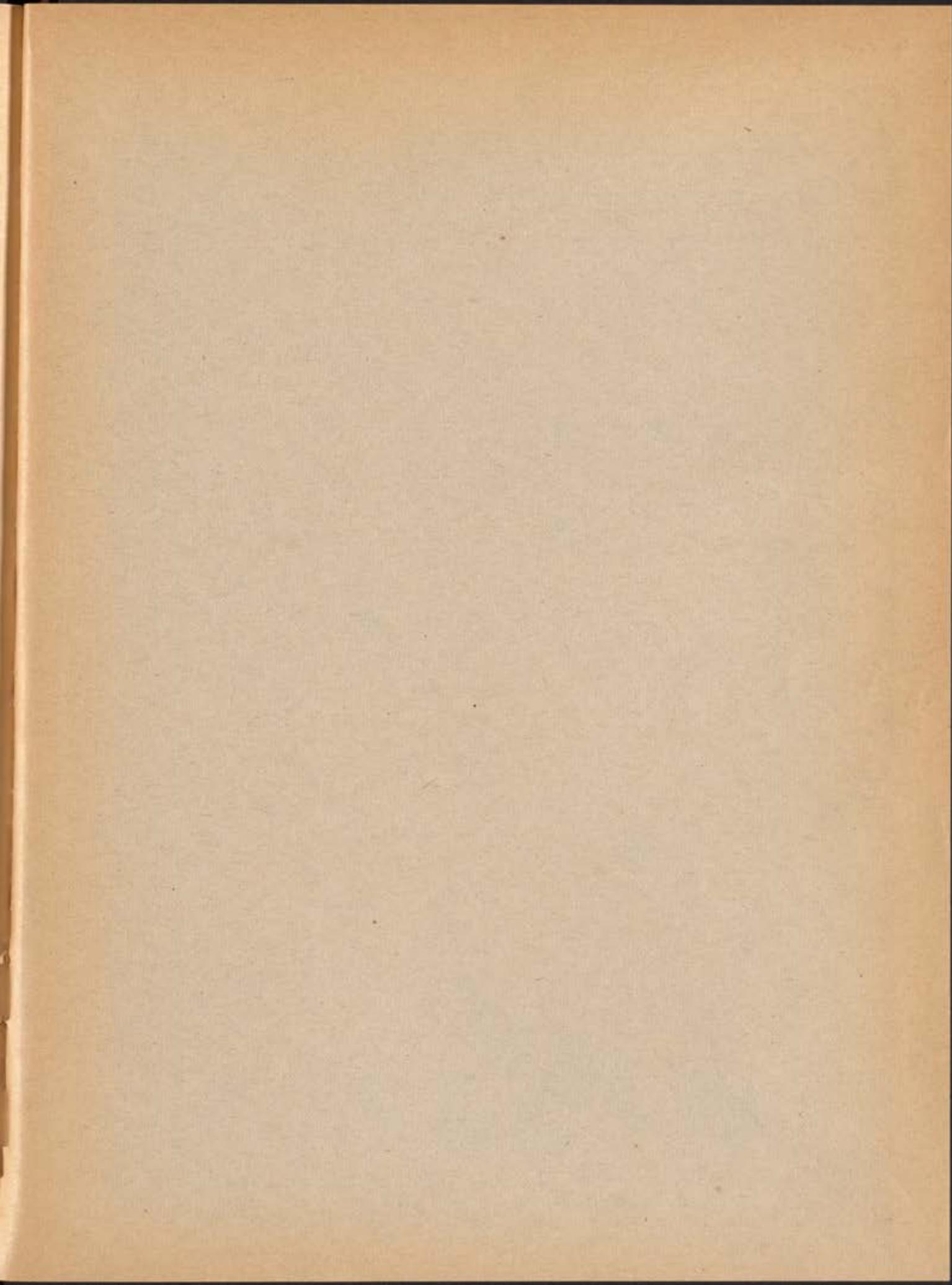
^{2/} First step effective July 6, 1972.

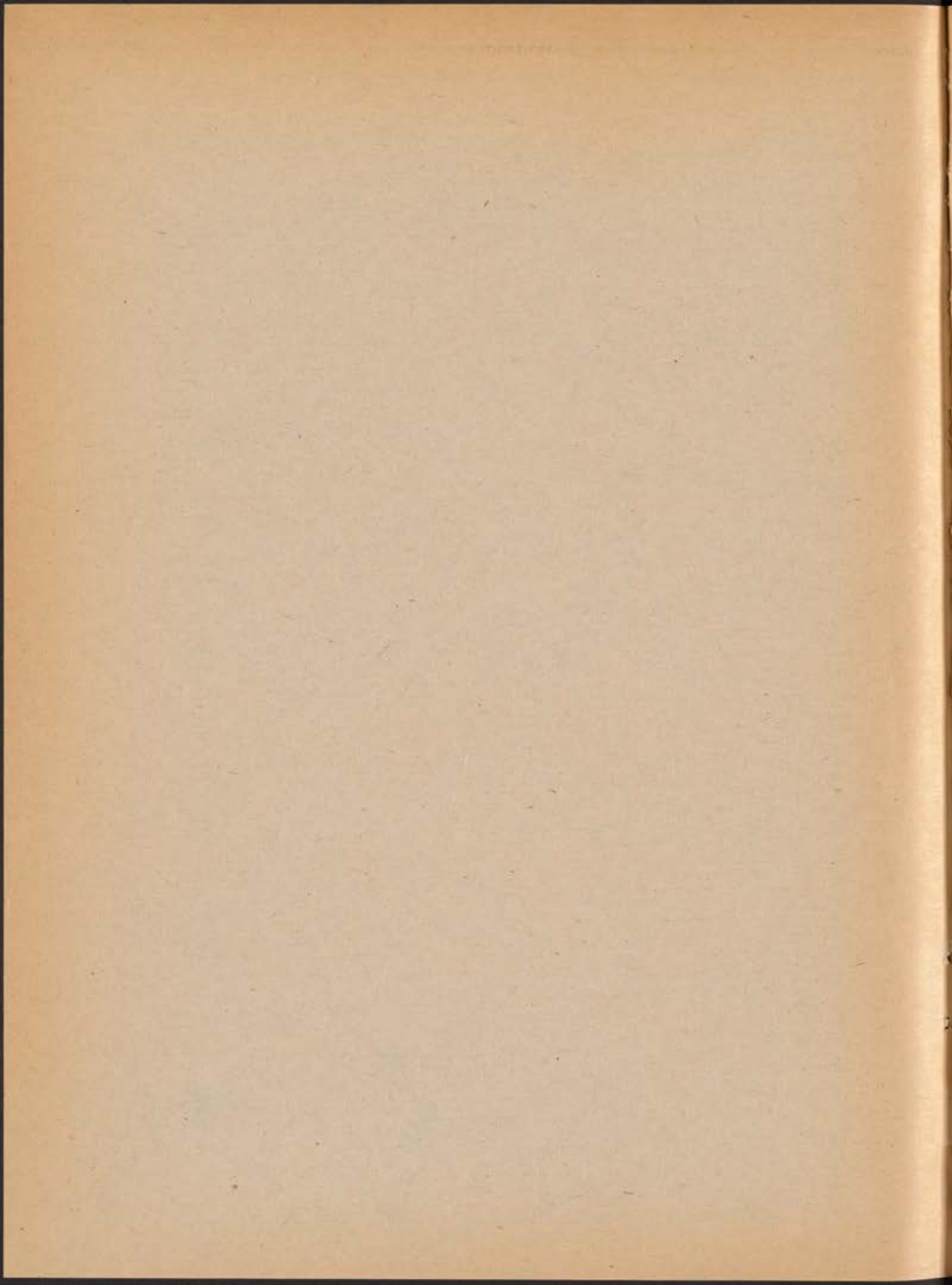
^{3/} Second step effective July 6, 1973, payable as of September 9, 1973.

Table B

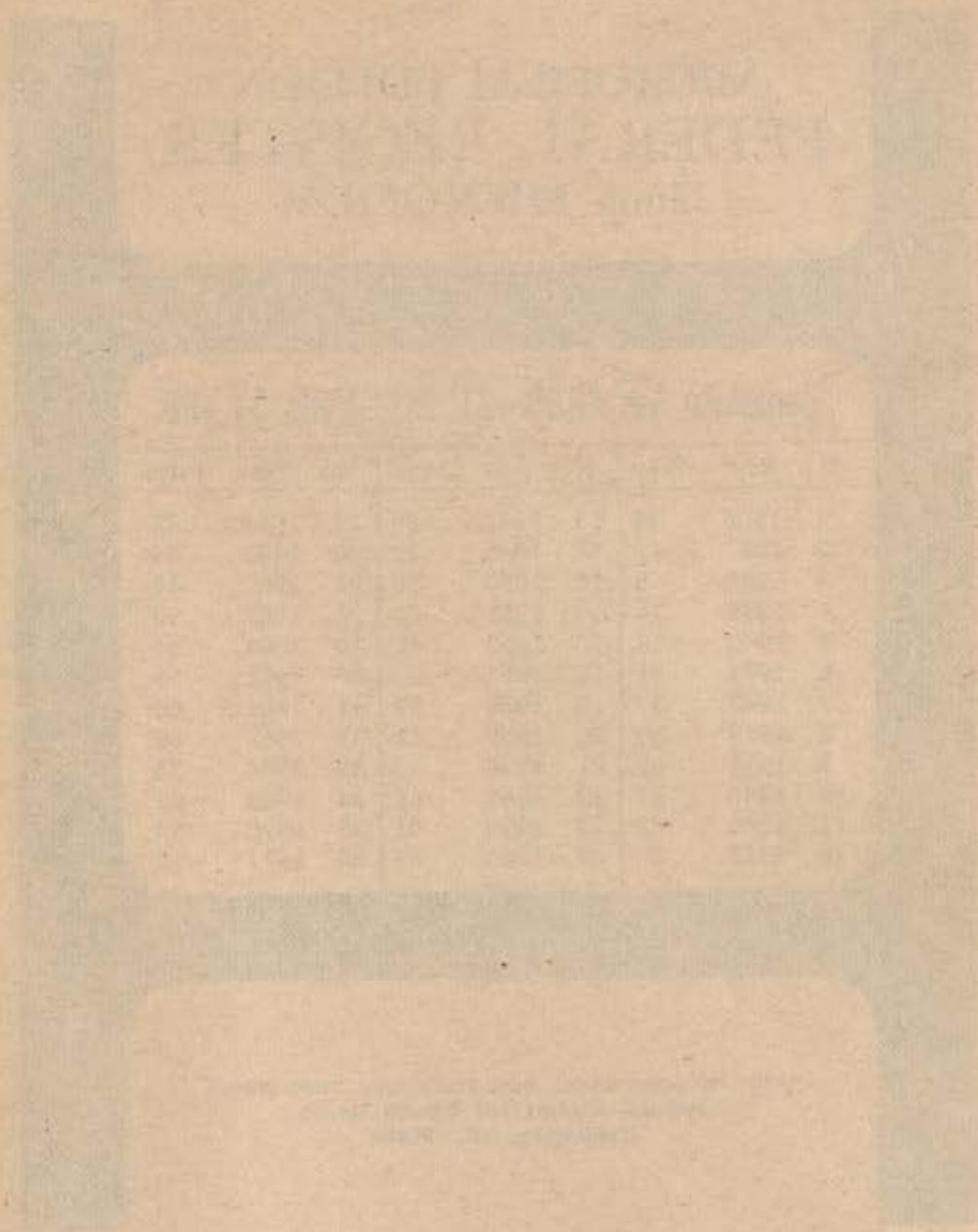
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| 3 | 1938 | 8 | 15 | 1950 | 28 | 27 | 1962 | 46 |
| 4 | 1939 | 14 | 16 | 1951 | 44 | 28 | 1963 | 50 |
| 5 | 1940 | 14 | 17 | 1952 | 41 | 29 | 1964 | 54 |
| 6 | 1941 | 21 | 18 | 1953 | 30 | 30 | 1965 | 58 |
| 7 | 1942 | 37 | 19 | 1954 | 37 | 31 | 1966 | 60 |
| 8 | 1943 | 53 | 20 | 1955 | 41 | 32 | 1967 | 69 |
| 9 | 1944 | 42 | 21 | 1956 | 42 | 33 | 1968 | 55 |
| 10 | 1945 | 47 | 22 | 1957 | 41 | 34 | 1969 | 62 |
| 11 | 1946 | 47 | 23 | 1958 | 41 | 35 | 1970 | 59 |
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