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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 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

SUBCHAPTER C—PROCUREMENT PRACTICES

PART 331—CONTRACT COVERAGE

Additional Exemption

The purpose of this publication by the Cost Accounting Standards Board is to adopt a modification to Part 331, Contract Coverage, of its rules and regulations. The modification will provide an exemption from Cost Accounting Standards Board requirements for subcontracts to be performed outside the United States by agencies of foreign governments or by foreign concerns in connection with the class of hydrofoil guided missile ship known as the "NATO PHM Ship." The modification was published in the FEDERAL REGISTER of November 27, 1973 (38 FR 32583), with a request that comments be submitted to the Board no later than December 27, 1973. Only one comment has been received by the Board in response to the December publication. This expressed agreement with the proposed exemption. The word "either" is added after the words "United States" to preclude any misunderstanding that the Board intends to exempt all subcontracts performed by an agency of a foreign government; the Board's intention is to exempt only such subcontracts made in connection with the procurement of an NATO PHM Ship.

In view of the foregoing, the following addition to Part 331 of the Board's regulations is being made effective January 29, 1974:

Section 331.30, Applicability, exemption, and waiver, is modified by adding subparagraph (7) to paragraph (b) to read as follows:

§ 331.30 Applicability, exemption, and waiver.

* * * * *

(b) * * *

(7) Any subcontract to be performed outside the United States either by an agency of a foreign government or by a foreign concern in connection with the class of hydrofoil guided missile ship known as the "NATO PHM Ship."

(84 Stat. 796, sec. 103; (50 U.S.C. App. 2168))

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.74-2395 Filed 1-28-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

Aluminum and Copper Price Increases

The purpose of this amendment is to clarify the intent of the Cost of Living Council with respect to § 150.208 of the Phase IV regulations concerning prices for certain basic copper and aluminum products.

Section 150.208 permits copper and aluminum manufacturers to set base prices for certain products at levels higher than otherwise permitted under the Phase IV regulations. As the Council explained in promulgating § 150.208 on December 10, 1973, the higher base price levels permitted under § 150.208 in the case of aluminum reflected cost increases between the last quarter of 1972 and as early as May 25, 1970, which aluminum producers were unable to pass through in the form of higher prices prior to Phase IV due to weak demand and lower world prices which previously prevailed. With respect to both aluminum and copper, § 150.208 was designed to return domestic prices closer to world price levels by means of upward adjustment in Phase IV base price levels.

In providing for higher base price levels under § 150.208, the Council provided the firms concerned with a pricing advantage that was not available to other manufacturers under Subparts E, F and G of the Phase IV price regulations. The special rules in § 150.208 were intended to provide substantial relief in response to the problems that the firms concerned were experiencing under the Phase IV regulations and that relief was not intended to be in addition to the lesser price increases which might otherwise have been justified under the Phase IV regulations. However, the Council has been informed that price increases above adjusted base price levels have been announced.

In view of the foregoing, the Council is amending § 150.208 to make clear its intent not to permit increases above base price levels pending a reassessment of prices and costs in this industry. A new paragraph (d) is added to § 150.208 which makes it clear that the Council will not now permit price increases above the increased base price levels authorized under § 150.208 to be placed in effect. In addition, the new paragraph (d) makes it clear that price increases above the adjusted base price levels which may have been permissible before § 150.208 was promulgated may not now be placed in effect and that any such price increases which have in fact been implemented must be rolled back and revenues derived from those price increases above levels permitted in § 150.208 must be remitted.

Tier I firms may continue to submit prenotification documents which will be held in abeyance pending the Council's further review of prices and costs in this industry. The Council expects to complete this review in early March.

Because the purpose of this amendment is to provide immediate guidance and information with respect to decisions of the Council, the Council finds that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective December 10, 1973.

Issued in Washington, D.C., on January 24, 1974.

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

Section 150.208 is amended by adding a new paragraph (d) to read as follows:

§ 150.208 Aluminum and copper base prices.

* * * * *

(d) *Limitation on Aluminum and Copper Price Increases.* Notwithstanding paragraphs (b) and (c) of this section or any other provision of this title, a firm which manufactures aluminum or copper may not charge a price for an item to which this section applies in excess of the base price as calculated in accordance with paragraph (b) or (c) of this section whether or not that firm previously qualified to increase a price pursuant to § 150.151 or Council action under § 150.154. Any firm which charges a price in excess of a base price calculated in accordance with paragraph (b) or (c) of this section shall immediately reduce that price to base price and shall remit all revenues derived from

charging prices under this section in excess of base prices. Remission of revenues shall be made in the form of refunds to customers who paid prices in excess of base prices or, if those customers are not identifiable, in the form of future sales of the same items at below-base prices to the extent necessary to remit to the same class of customer the revenues derived from charging prices under this section in excess of base prices. In addition, all prenotified proposed price increases above base price levels with respect to items to which this section applies are deferred.

[FR Doc.74-2305 Filed 1-24-74;1:53 pm]

Title 7—Agriculture

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

[Grapefruit Reg. 94, Termination]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

This regulation terminates Grapefruit Regulation 94, a volume regulation which limited shipments of grapefruit during the period January 21–27, 1974. The regulation was issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 912.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, a regulation limiting the handling of Indian River grapefruit to 150,000 standard packed boxes during the period January 21 through January 27, 1974 was issued on January 16, 1974.

(2) Information has come to the attention of the Department that the truckers who transport Indian River grapefruit to market plan to strike and have indicated that they will not accept Indian River grapefruit for transportation to market after January 28, 1974. Opportunity should be afforded handlers of Indian River grapefruit to ship grapefruit to the fullest extent possible while truck transportation is available. Termination of the aforesaid regulation would assist in such movement of Florida Indian River grapefruit. Termination of the regulation is hereby ordered as hereinafter set forth. Such action is favored by the Indian River Grapefruit Committee.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this termination action until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this action is based became available and the time when this action must become effective is insufficient and this action relieves restrictions on the handling of grapefruit grown in the Indian River District of Florida.

It is, therefore, ordered, That Grapefruit Regulation 94 (39 FR 2269) is hereby terminated.

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

Dated: January 23, 1974.

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

[FR Doc.74-2287 Filed 1-28-74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket Nos. AO-355-A14 and AO-105-A37]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Central Illinois and Quad Cities-Dubuque marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Moline, Illinois, on September 5, 1973, pursuant to notice thereof issued on August 22, 1973 (38 FR 22965).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on December 18, 1973, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under issue No. 2, two new paragraphs are inserted preceding the last paragraph.

2. Under issue No. 3, the number "70" is changed to "75" in the first paragraph, and beginning with "(b) Pricing of diverted milk," the number "70" is changed to "75" in the 11th, 13th, 23rd, and 25th paragraphs. Also under issue 3(b), a new sentence is inserted in paragraph 13.

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

With respect to Order No. 63:

1. Pooling standards for distributing plants.

2. Location adjustments.

3. Diversion of producer milk.

With respect to Order No. 50:

4. Basis for determining under which order a plant should be regulated.

5. Whether an emergency exists to warrant the omission of a recommended decision with respect to issue number 4.

FINDINGS AND CONCLUSIONS

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

1. *Pooling standards for distributing plants.* The pooling standards for distributing plants under the Quad Cities-Dubuque order should be relaxed during the months of February through August. Specifically, the percent of Grade A fluid milk products received at a distributing plant that must be disposed of as Class I packaged fluid milk products, for the plant to pool, should be reduced from 45 to 40 during these months. Also, the 15 percent in-area route disposition requirement should be reduced to 10 February through August for any distributing plant that met the 15 percent in-area route disposition requirement during each of the preceding months of September through January.

The proponent cooperative association testified that its primary purpose in proposing this amendment was to facilitate maintaining year-round pool status for regulated distributing plants. Proponent contended that this would stabilize distribution of proceeds from Class I sales in the market among producers and thereby provide greater certainty of market conditions in planning marketing objectives. No opposition to, or modification of, the proposal was offered.

At the present time, a major plant on the market is regulated in some months of the year under the Quad Cities-Dubuque order and in other months under the North Central Iowa order (No. 78). In 1970, this plant was regulated under Order 78 during the months of May through July; in 1971, during May through August; in 1972, during March through July; and in 1973, in June and July. During the other months of these years, it has been regulated under Order 63.

During the months when this plant fails to qualify as a pool plant under Order 63, it has no difficulty in meeting the less stringent pooling standards of the North Central Iowa order. (Under Order 78, an individual-handler pool order, a distributing plant can qualify as a pool plant if it has in-area route disposition of 1,000 pounds or more per day.) Even when it fails to qualify under Order 63, however, it has more Class I

disposition in the Order 63 marketing area than it does in the North Central Iowa marketing area or any other Federal order marking area.

The shift in regulation of the plant in question is not because of any change in the plant's Class I business in the market or any other market. Proponent witness stated that the reason the plant has shifted regulation is that it fails to meet the minimum Class I disposition percentages under Order 63 during flush production months when milk receipts at the plant increase while the volume of Class I disposition from the plant is essentially constant. Consequently, the percentage of its total receipts of milk disposed of as Class I declines during seasonally high production months.

The pooling standards for distributing plants under the Quad Cities-Dubuque order should appropriately reflect the seasonal nature of production. Most of the distributing plants in this market are in close proximity to the milk production area and, thus, tend to obtain milk supplies directly from producers. In this circumstance, total plant receipts normally will increase with the seasonal rise in production. In June 1973, average daily deliveries per farm increased 31 percent from the prior seasonally lowest production month, November 1972. Since total population in the market is relatively stable, Class I sales in the market are also relatively constant.

Even though a plant's Class I association with the market may be relatively constant throughout the year, the percentage of its Class I sales to its total receipts almost always will be lower during the flush months of the year as plant receipts increase. It is appropriate, therefore, to reduce during the spring and summer months the percentage of plant receipts required to be disposed of as Class I.

February through August are months of lower Class I utilization compared to other months of the year. During such 7-month period in 1971 Class I utilization averaged 49 percent; in 1972, 38 percent; and in 1973, 47 percent of producer receipts. Class I utilization decreased below 45 percent in May and June 1971, March through July 1972, and May, June and July 1973. Such monthly Class I utilization percentages were lower than the present minimum (45 percent) Class I disposition requirement. If the minimum requirement for pooling were not reduced, some distributing plants that are substantially engaged in distributing Class I fluid milk products in the marketing area could be excluded from pooling.

The minimum total Class I disposition percentage requirement for a distributing plant should be maintained, however, at a level that will insure that plants essentially engaged in processing milk for manufacturing use do not qualify for pooling. If such a plant were to pool, it would have the benefit of the marketwide uniform price to attract milk supplies in competition with other distributing plants in the market that may require such milk for Class I use, thus adding to their procurement problems. This potential situation should not occur under the proposed 40 percent minimum Class I disposition requirement for pooling during the months of February through August.

As a corollary change, the in-area route disposition requirement (presently 15 percent of total receipts) should be reduced to 10 percent during the months of February through August for a plant that was pooled during each of the prior months of September through January. This reduction will further insure continued pooling status during February through August for any plant that was associated with the Quad Cities-Dubuque market in the prior September–January period of seasonally low production.

2. *Location adjustments.* The location adjustment provisions of the Quad Cities-Dubuque order (Order 63) should be modified with respect to their application to minimum prices at plants located within the Central Illinois (Order 50) Federal milk marketing area. The Quad Cities-Dubuque order Class I price at any plant located in the Central Illinois marketing area should be adjusted to equal the Central Illinois order Class I price level applicable at the location of such plant. Conforming changes should be made in the location adjustments applicable to the uniform price to producers.

Presently, the Quad Cities-Dubuque order provides no location adjustments at Illinois locations south of U.S. Highway No. 80, an area that includes the entire Central Illinois marketing area with the exception of the northernmost parts of Bureau, La Salle, and Grundy counties. The Order 63 Class I prices applicable within Zones I and II of the Central Illinois marketing area, therefore, are 6 cents and 1 cent, respectively, below the corresponding prices of Order 50. In parts of Bureau, La Salle and Grundy counties, where minus location adjustments apply, the Order 50 price exceeds the Order 63 price by more than 10 cents per hundredweight.

A producer cooperative proposed that plus location adjustments be incorporated into the order equal to the difference between the Order 50 Class I price and the Order 63 Class I price at any location in the Central Illinois marketing area in excess of 70 miles of Rock Island, Illinois, and at other locations in excess of 70 miles of Rock Island or West Liberty, Iowa, and south of U.S. Highway No. 80. The proposal was endorsed by two other cooperatives in the market, but was opposed by a major handler under the Central Illinois order.

At the present time, the latter's plant at Pekin, Illinois, has nearly equal sales in both the Central Illinois and the Quad Cities-Dubuque orders. In this circumstance, with a relatively small change in sales volumes, regulation of the plant could shift from one order to the other.

The Quad Cities-Dubuque Class I price at Pekin, Illinois, currently is 6 cents under the Central Illinois order Class I price at that location. Hence, a small shift in sales could have a significant effect on the minimum Class I prices required to be paid by this handler.

Shifts in regulation of plants between Federal milk orders in Illinois and Iowa have not been uncommon in recent years as handlers have centralized processing facilities and expanded their sales areas. A shift in regulation often results in abrupt changes in minimum prices to dairy farmers who supply the plant when the applicable Class I prices differ at such plant location among the orders. It also may disrupt competitive Class I price relationships among handlers even when they may be similarly located.

A producer spokesman testified that the shift in regulation of the Pekin plant would result in an economic loss to producers supplying the plant and could create problems for the handler in acquiring milk supplies. He stated that, if the cooperative were not able to continue supplying the Pekin plant, the handler in all likelihood would have to attract supplies from Minnesota and Wisconsin, an area, along with Iowa, that is a regular source of supply for the Central Illinois market. Production of milk in Illinois, he noted, has been diminishing over the past several years.

Location adjustments basically reflect the cost associated with distance in moving milk from outlying supply plants to the central market for fluid processing and disposition. In some instances, however, the economic value of the milk to the producer at a particular location will be affected not only by transportation cost to move the milk to a regulated plant under one order, but also by the price he can obtain by shipping to an alternative market. Unless the latter is taken into account, the milk so located may not be available to the former market.

The milk supply area for the Quad Cities-Dubuque market consists of the territory in Iowa and Illinois in the immediate vicinity of the marketing area and territory to the north of the marketing area in northeastern Iowa. On the basis of December 1972 data, approximately 78 percent of the milk supply for the market is produced on farms in the six eastern Iowa counties of Delaware, Dubuque, Jackson, Clinton, Scott, and Muscatine; and the three northwestern Illinois counties of Jo Daviess, Carroll, and Whiteside. These nine counties also supplied about 42 percent of the producer deliveries to the Central Illinois order for December 1972. This overlapping of supply areas between Quad Cities plants and Central Illinois plants is extensive primarily because the aforementioned plant at Pekin obtains a substantial portion of its milk supplies from the eastern Iowa counties.

Under the Central Illinois order, the minimum Class I price reflects the cost of attracting and maintaining supplies for such market location in competition with other neighboring markets and the cost of obtaining milk from alternative sources as needed. The present price level

at Pekin takes into account the level of the Class I prices of the Quad Cities and Chicago markets to the north (which draw from a principal production area in the country) and the higher prices needed to attract the necessary supplies for markets east and south of Central Illinois, such as Indiana, Southern Illinois and St. Louis. These markets are in position to compete strongly for the dwindling supplies available in Illinois. Minimum prices in all such markets are established under common price standards as set forth in the Agricultural Marketing Agreement Act.

Should a Central Illinois plant located at Pekin become regulated under Order 63, however, the Class I price at such plant, under the present terms of the order, would be 6 cents below the Class I price for other plants at the same location regulated under the Central Illinois order. It would not be reasonable to price milk to a Quad Cities regulated plant at Pekin or at any other location in the Central Illinois marketing area at a minimum Class I price lower than the Class I price applicable to a Central Illinois regulated plant at the same location. Appropriately, the price level under the Central Illinois order should be maintained for milk delivered to a plant so located in order to assure that milk will continue to be delivered there in competition with other plants located in that market and plants in the neighboring markets to the east and south. Otherwise, the Quad Cities plant at such location would be on a different minimum price basis than immediate competitors in attempting to hold a milk supply. Orderly marketing is promoted by having similar minimum prices for all plants similarly located.

A handler spokesman testified in opposition to the imposition of a plus location adjustment under the Quad Cities order at the Pekin location on the ground that such an action would put his company's plant at a competitive disadvantage with its competitors for Class I sales in Quad Cities. However, the continued application of the Central Illinois order Class I price level to the handler's Pekin plant, even though he were regulated under the Quad Cities order, would not change such handler's current competitive position with respect to sales in the Quad Cities market or in any other market.

Such handler has increased his sales substantially in the Quad Cities marketing area while paying such Class I price under the Central Illinois order and the producer milk he receives has no less value delivered to the plant simply because of the area in which the handler makes his sales. In any case, the handler's resale area is not relevant in the determination of the appropriate price to producers for milk they deliver to the Pekin location. The central consideration must focus on the value of milk delivered by producers to the particular location. In other words, the fact that a handler may sell a portion of his Class I milk in a lower priced market has little bearing on the problem of insuring a supply of milk to his plant to cover all his Class I sales. It is not unusual for handlers to sell in lower-priced markets, as well as in higher-priced markets; that is the handler's business decision, but the fact that he does so does not mean that he can afford to pay producers less than their milk is worth considering the cost they incur in delivering to him at the plant location of his choice.

In its exceptions to the recommended decision, opponent handler suggests that merger of the Quad Cities-Dubuque and Central Illinois markets should be considered in resolving the price alignment problem described above. However, it is most probable that, even if the two orders were merged, there would need to be separate pricing zones within the marketing area, as is now provided under each of the orders. In the Central Illinois order, for example, the marketing area is divided into two distinct zones, with separate Class I and blend prices applicable to each. In such instance, a handler in a higher priced zone may be competing with other handlers in a lower priced zone. Nevertheless, all of his milk is priced at the point of delivery regardless of his resale distribution area.

Whether the territory comprising the Quad Cities-Dubuque and Central Illinois marketing areas is regulated by one order or separate orders has no bearing on the cost of transporting milk to handlers' plant locations from lower priced alternatives production areas to the north. Nor would it have any bearing on the prices that prevail in more distant, alternative, higher priced markets to the south. Prices in such competing supply areas and prices in such competing market outlets largely dictate the price level that is needed to obtain a milk supply at any given plant location in the territory encompassed by the Quad Cities-Dubuque and Central Illinois marketing areas.

There is no basis for restricting such location adjustments to location in excess of 70 miles of Rock Island, Illinois, or West Liberty, Iowa, as specified in proponent's proposal, or for extending such location adjustments to locations outside the Central Illinois marketing area. A portion of the Central Illinois marketing area is within 70 miles of Rock Island and the higher Central Illinois price should be made applicable in such territory as well as at any plant located in the remaining portion of the Central Illinois marketing area. The record evidence does not deal with possible revision of location adjustments for Quad Cities order plants at locations other than inside the Central Illinois marketing area.

3. *Diversion of producer milk.* The months during which a handler may divert producer milk without limit to a nonpool plant should be extended to include July and August. Also, producer milk diverted to a nonpool plant 75 miles or more from a diverting pool plant should be priced at the location of the plant to which diverted.

Diverted producer milk is now priced at the location of the plant from which diverted and unlimited diversions may be made in the months of February through June. During other months, a producer's milk may not be diverted on more days of the month than the number of days his milk was delivered to a pool plant.

(a) *Diversion limits.* Producer proponent testified that during the months of July and August Class I sales are reduced because schools are closed and many people are on vacation. Thus, the same diversion privileges should be provided during these months as for other months of seasonally low Class I utilization percentage. There was no opposition to this proposal.

The diversion privilege is intended primarily to promote efficient disposition of milk not needed at pool distributing plants for fluid purposes. When milk is not needed at pool distributing plants, it is more efficient to divert it to manufacturing plants located near farms of producers rather than receive it at bottling plants and subsequently move it to outlying manufacturing plants.

During the months of February through June, those months when diversions are presently without limit, the Class I utilization percentage in the Quad Cities-Dubuque market reaches its seasonal low. In 1972, the proportion of total producer milk receipts used in Class I during these months averaged 36.3 percent. During these same months in 1973, average Class I utilization was 46.0 percent.

The months of July and August are also months of comparatively low Class I utilization. In 1972, average Class I utilization during these months was 41.8 percent. In 1973, it was 48.4 percent. By contrast, during the months of September 1972 through January 1973, average monthly Class I utilization was 63.5 percent.

To accommodate the efficient disposition of surplus milk during the months of July and August, the diversion limitations during these months have been suspended during each of the past five years. In the most recent suspension order, issued July 12, 1973 (38 FR 19012), official notice of which is taken, it was found that "without the suspension much of the reserve milk on the market would have to be moved from farms to pool plants and then reshipped to manufacturing plants in order to remain pooled instead of being moved directly from farms to manufacturing plants. The additional labor and hauling costs involved with such milk movements would adversely affect the economic handling of milk in excess of fluid requirements." When diversion limits are not applicable in July and August, it enables moving the more distant supplies of milk associated with the market to nonpool manufacturing plants during these months and results in savings of transportation costs that otherwise would be incurred.

In view of the recurring nature of this problem and the demonstrated need to suspend the diversion limitations on a

regular basis, the order should be amended to provide for unlimited diversion of producer milk during the months of February through August.

(b) *Pricing of diverted milk.* A cooperative spokesman testified that, with adoption of their proposal to provide plus location adjustments in the Central Illinois marketing area, a problem would be created on applying such adjustments to diverted milk. If such milk were priced at the plant from which diverted, as is now provided under the Quad Cities-Dubuque order, the blend price to producers would be computed at a plus 6-cent adjustment when diverted from a plant located in Zone I of the Central Illinois marketing area and a plus 1-cent adjustment if diverted from a plant located in Zone II of such marketing area.

Proponent pointed out that milk supplied by the cooperative to a major handler at Pekin, Illinois (Zone I) is moved mainly from farms that are close to manufacturing plants in eastern Iowa and northwestern Illinois where either no location adjustment or minus location adjustments apply under the Quad Cities order. When the milk is not needed at the Pekin plant, it is diverted to such nearby manufacturing plants.

If such diverted milk were priced at the plant from which diverted, the producer would receive the plus 6-cent location adjustment to the uniform price applicable to milk delivered to Pekin even though he had not incurred the extra transportation cost to Pekin. Consequently, proponent proposed that, when milk is diverted from a plant regulated under the Quad Cities-Dubuque order but located in the Central Illinois marketing area, such milk should be priced at the location of the plant to which diverted.

With respect to pool plants not located in the Central Illinois marketing area proponent proposed that milk diverted from such plants continue to be priced at the location of the pool plant from which diverted. In support proponent stated that in most other cases its producers do not realize any reduction in hauling cost when their milk is diverted to a nonpool plant since such plant will be about the same distance from the farm as the pool plant from which the milk is diverted. Proponent witness claimed that a change in the point of pricing would result in a price incentive for many producers to change their present market outlet for diverted milk since the nonpool plant to which their milk is diverted often is in a different price zone from the pool plant from which diverted.

Under the Quad Cities order a minus 10-cent location adjustment applies to Class I and uniform prices at plants within that portion of the marketing area comprised of Dubuque and Jackson Counties, Iowa, and the city of East Dubuque, Illinois, about 80 miles from Rock Island, Illinois. Also, outside the marketing area and north of U.S. Highway No. 80, the Class I and uniform prices at any plant 70 miles or more from the nearer of Rock Island, Illinois, or West Liberty, Iowa, are reduced 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such plant distance exceeds 80 miles from such basing point.

Four of the 11 plants pooled under the order in July 1973 are located in Dubuque and Jackson Counties where the minus 10-cent location adjustment applies. The other 7 plants are located within 70 miles of the basing points of Rock Island or West Liberty, in which zone no location adjustment is applicable.

During the period January through July 1973 reserve supplies of milk pooled under the Quad Cities order were moved to 28 different nonpool plants. Thirteen such plants are located in territory where no location adjustment is applicable under the order. Another 13 are located where minus location adjustments apply and 2 are located in the Des Moines, Iowa, marketing area where a plus 7-cent location adjustment applies.

Nearly all such nonpool plants are located well within the principal production area for the market, which largely consists of the territory encompassed by the marketing area plus those counties situated close thereto. Based on December 1972 production, 60 percent of the market's milk supply actually is produced within the confines of the marketing area and an additional 30 percent is produced in those counties bordering on the marketing area.

The majority of the market's milk supply is produced in territory where minus plant location adjustments are applicable. Production within the marketing area counties of Dubuque and Jackson (minus 10 cents) accounts for 50 percent of the total milk supply on the market. An additional 25 percent of the market's supply is produced in Delaware and Clayton Counties, Iowa, which border on Dubuque County.

Several of the nonpool manufacturing plants to which the market's reserve supplies of milk are moved are located within or near the abovementioned four counties. Such plants, however, are located at varying distances from the nearer of the basing points employed for location adjustment purposes. Consequently, varying adjustments to the uniform price would apply to milk diverted to such plants if diverted milk were priced at the plant to which diverted as compared to pricing the same milk at the location of the plant from which diverted.

Reserve milk produced in the abovementioned four counties that customarily is associated with pool plants in Dubuque, Iowa, has been and can be expected again to be diverted to any of the seven nonpool plants located within 75 miles of Dubuque. Two such plants, at Maquoketa and Preston, are located about 40 miles south of Dubuque in the southern part of Jackson County. A minus 10-cent location adjustment applies at such plant locations.

Two other nonpool plants are located about 50 miles southwest of Dubuque at Hopkinton and Ryan in the southern portion of Delaware County. These plants are within 70 miles of the West Liberty, Iowa, basing point and, accordingly, no location adjustment would apply at such plants.

Northwest of Dubuque the nearest nonpool manufacturing plants are at Elkadar, Arlington, and Luana, all within a range of 60 to 75 miles from Dubuque. (Proponent cooperative pointed out in its exception that its nonpool plant at Luana is approximately 73 miles from its Dubuque pool supply plant rather than within 70 miles as stated in the recommended decision). The plants at Elkadar and Arlington are about 105 miles from the nearest specified basing point and a minus 14.5-cent location adjustment is applicable. The location adjustment at the Luana plant is minus 19 cents.

If pricing of diverted milk at the nonpool plant to which diverted were adopted in all instances in this market, there would be a price incentive to shift much of the market's diverted reserve supplies from nonpool plants located nearest to producer farms to more distant nonpool plants located in higher-priced areas. For example, the nonpool plants located nearest to the farms of many producers in the southern half of Clayton County (next to Dubuque County) are at Arlington and Elkadar (minus 14.5 cents). When the milk produced in this area is not needed at pool plants in Dubuque there would be a price incentive to divert it to plants located south of Clayton County in higher-priced zones, such as at Ryan and Hopkinton in Delaware County, at which no location adjustment applies.

To better facilitate the handling of reserve milk, provision should be made to permit diversion of milk a limited distance to a plant in a lower-price location than the pool plant from which diverted without applying an adjustment to the uniform price to the producers whose milk is diverted.

In the abovementioned example of producers in Clayton County whose milk is most likely to be associated with pool plants at Dubuque (minus 10 cents), there are two nonpool manufacturing plants near such producers' farms in the minus 14.5-cent price zone. However, there is a nonpool plant at Independence, 80 miles west of Dubuque, at which a minus 10-cent location adjustment would be applicable (the same as at Dubuque). This plant is located about the same distance from farms in Clayton County as is the pool plant at Dubuque.

In this circumstance, such producers would be able to move their milk to the nonpool plant at Independence with no adjustment to their hauling cost or uniform price while there are nonpool plants, equally as close to producer farms, at Arlington and Elkadar, at which a minus 14.5-cent location adjustment is applicable. Also, as previously indicated, there is a nonpool plant at Luana on the northern edge of Clayton County where a minus 19-cent location adjustment is applicable. Such plant also is as near or nearer to most of the farms in the southern half of Clayton County as the plant at Independence.

Such producers in Clayton County are not apt to realize any lower hauling rate on milk diverted to the nonpool plants at Arlington, Elkadar, and Luana than when it is received at a pool plant in Dubuque. Most hauling routes on such milk would not extend beyond a range of 20–50 miles from any of these plants. It seems evident that most of the costs for such hauling routes are accounted for in fixed overhead, picking the milk up at farms, and unloading the milk at the plant. The costs that could be attributed to the difference in distance driven by the hauler when the milk is diverted to such nonpool plants compared to delivering it to the pool plant would be a relatively minor factor in the total cost and thus would not be very significant in the hauling rate charged such producers.

The hauling cost situation faced by producers in other parts of the milkshed can be expected to be similar in cases where hauling routes extend relatively short distances from pool plants. Milk produced in Dubuque County and normally delivered to pool plants located in the county must be moved fully as far from producers' farms when diverted since there are no manufacturing plants located within the county. The nearest nonpool manufacturing plants are those referred to above in the adjacent counties of Jackson, Delaware and Clayton.

The opportunity for realizing some savings in hauling cost on diverted milk tends to increase with the distance that the pool plant is located from producers' farms. For example, the milk supply for the plant at Pekin, Illinois, is picked up at farms in Iowa and northern Illinois and is reloaded in the production area from the farm bulk tank trucks into larger over-the-road tank trucks that move the milk an additional distance of about 100 miles to Pekin. On days that the milk associated with the Pekin plant is not needed there it is diverted to nonpool manufacturing plants in the production area. The added cost of transporting the milk some 100 miles in the larger over-the-road tank trucks to Pekin is not incurred with respect to the diverted milk.

Like handling is practiced with respect to milk produced in the more distant areas of the production area for the main consumption centers of the Quad Cities market. When such milk is not needed at pool plants it is diverted to manufacturing plants located close to the producer farms.

There is potential for milk produced in a distant lower priced area such as Minnesota to be associated with a pool plant located within the market. Such milk could be diverted to a plant in such area on a continuous basis during the period that diversion limits are not applicable.

It is concluded, therefore, that only that milk diverted to a nonpool plant located more than 75 miles from the pool plant should be priced at the location of the nonpool plant since hauling costs identified with the additional distance to the pool plant compared to the nonpool plant are not incurred. On the other hand, in the case of milk on short hauling routes, disposal of the market's reserve supplies will be facilitated by pricing such diverted milk at the location of the plant from which diverted, since there is little, if any, reduction in hauling rates to the producer and such pricing will make it feasible to divert milk to nearby plants in any direction from the farm rather than just toward the market center.

In addition, the order should not provide for pricing diverted milk at a higher level than is applicable at the plant from which diverted since it would tend to defeat the intent of the diversion privilege and outlets are available in lower-priced zones. If milk were first received at a pool plant before transferring it to a nonpool plant for manufacturing use, all such milk would be priced at the pool plant. The transferred producer milk would be classified in Class II use, on which class no location adjustment is applicable. The diversion privilege is intended only to facilitate more economic handling of such milk by according it continued pooling status when moved directly from the farm to a nonpool plant, but should not be a means of increasing returns on it for the producers involved at the expense of other producers.

In light of the foregoing considerations, it is concluded that milk diverted to a nonpool plant should be priced at the location of the plant to which diverted only in circumstances where the nonpool plant is located 75 or more miles from the pool plant with the proviso that the uniform price applicable to diverted milk shall not be higher than the uniform price applicable at the plant from which diverted.

In amending the order to accommodate the changes adopted above, the "producer" and "producer milk" sections were rewritten. Although the format of these two sections has been altered slightly, there are no substantive changes to these sections other than as described above.

4. *Plants subject to other Federal orders.* No change should be made in the present provisions of the Central Illinois order concerning where a distributing plant should be regulated when it meets the pooling standards of two or more orders. The Central Illinois order now excludes from regulation a plant that has greater Class I route disposition in another marketing area, unless the plant has been regulated under the Central Illinois order in the prior month and the other order does not require regulation of the plant.

A cooperative in the market proposed that such determination be based on total Class I disposition of fluid milk products (except filled milk), a concept that would include bulk and packaged transfers to other plants in the marketing area as well as route disposition.

Proponent supplies milk to a major handler in the Central Illinois market. The handler's plant at Pekin, Illinois, earlier mentioned, has been regulated under Order 50 for a number of years. Recently, however, sales from this plant have extended over a much wider area than in the past because of the closings of plants of the company at Rock Island, Illinois, and Des Moines, Iowa, and the shifting to the Pekin plant of the sales of these plants made in the Quad Cities-Dubuque marketing area. Also, until June 1973, a plant of the company at Woodstock, Illinois (under Chicago Regional order) had served some sales accounts in the Quad Cities-Dubuque market that are now served from its Pekin plant. As a result, since June 1973 the route disposition from the plant in the Quad Cities-Dubuque marketing area (Order 63) at times has exceeded such disposition in the Central Illinois marketing area (Order 50).

Proponent spokesman testified that removal of this plant from the Central Illinois pool, particularly at this time of year (when supplies are seasonally short), would substantially reduce the blend price to producers, and thereby make it more difficult for other handlers in the market to attract a milk supply. In addition, as explained earlier, the Class I price on milk supplied to the plant would be reduced significantly should the plant become regulated under the Quad Cities-Dubuque market at this time.

Proponent did not substantiate the need for any basic revision of the provision relating to a plant that meets the minimum pooling standards under more than one order. Although, as noted by proponent, adoption of a total Class I disposition concept would put Order 50 on the same standard as Order 63, such action would have the opposite effect with respect to certain other neighboring markets that, like Order 50, use only route disposition as the basis for determining the order under which a plant should be regulated. Thus, adoption of the proposal could create a potential problem in pooling a plant as between Central Illinois and these other markets while attempting to provide uniformity with respect to the Quad Cities order.

On October 24, 1973, a suspension order was issued that, in effect, allows the plant to remain pooled under the Central Illinois order at least through the end of the year. Official notice of such suspension order is taken. (An earlier, similar suspension kept the plant regulated under Order 50 for the months of August through October.) This action precludes for the immediate future any possibility of disruption to orderly marketing as contemplated in proponent's testimony. A longer-term solution to this problem, through adoption of location adjustments under the Quad Cities-Dubuque order at Central Illinois locations, is provided for as discussed above under Issue 3.

It is concluded, therefore, that adoption of this proposal is not supported on the basis of this hearing record.

5. *Request for emergency action.* At the hearings, proponents urged that a recommended decision be omitted with respect to Issue 4 and that a decision be rendered and made effective no later than November 1, 1973. The suspension action taken on October 24, 1973, on this issue removed, however, the need for omission of a recommended decision. The request for omission of a recommended decision therefore is denied.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

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

GENERAL FINDINGS

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

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

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

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

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Quad Cities-Dubuque marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

November 1973 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Quad Cities-Dubuque marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on January 24, 1974.

CLAYTON YEUTTER,
Assistant Secretary.

Order [2] amending the order, regulating the handling of milk in the Quad Cities-Dubuque marketing area.

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Quad Cities-Dubuque marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Quad Cities-Dubuque marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 18, 1973, and published in the FEDERAL REGISTER on December 21, 1973 (38 FR 35010), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modification:

1. In § 1063.14(b)(1), the number "70" is changed to "75".

2. Section 1063.7 is revised to read as follows:

§ 1063.7 Producer.

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plan or diverted to a nonpool plant pursuant to § 1063.14 (b), except:

(a) A producer handler as defined in any order (including this part) issued pursuant to the Act;

(b) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such

[1] The marketing agreement regulating the handling of milk in the Quad Cities-Dubuque Marketing area is filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

milk is allocated to Class II utilization; and

(c) Any person with respect to milk produced by him that is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

3. In §1063.10, paragraph (a) is revised to read as follows:

§ 1063.10 Pool plant.

* * * * *

(a) A distributing plant from which:

(1) The volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 45 percent (40 percent during each of the months of February through August) of the total Grade A fluid milk products, except filled milk, received at such plant, exclusive of receipts of packaged fluid milk products from other pool distributing plants and receipts from other order plants assigned pursuant to §1063.46(a)(4)(ii) and the corresponding step of § 1063.46(b); and

(2) Not less than 15 percent of net receipts specified in subparagraph (1) of this paragraph is so disposed of during the month in the marketing area on routes, except that a plant that meets such minimum requirement under this subparagraph during each of the months of September through January need dispose of only 10 percent or more of such receipts in the marketing area on routes during each of the following months of February through August.

* * * * * *

4. Section 1063.14 is revised to read as follows:

§ 1063.14 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk from a producer that is:

(a) Received at a pool plant; or

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) For pricing purposes under this part such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted: *Provided*, That milk diverted to a plant located less than 75 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted or to a plant at which a higher uniform price would be applicable, shall be deemed to be received by the diverting handler at the location of the plant from which diverted; and

(2) In any of the months of September through January, milk diverted from the farm of a producer on days in excess of the number of days that milk was delivered to a pool plant from such farm during the month shall not be producer milk.

5. In § 1063.52(a), the words "subparagraph (3)" are changed to "subparagraphs (3) and (4)" and the last word "and" is deleted in subparagraph (2), the period is changed to a semicolon followed by the word "and" in subparagraph (3), and a new subparagraph (4) is added as follows:

§ 1063.52 Location adjustments to handlers.

(a) * * *

(4) At a plant located within the Central Illinois marketing area as specified in Part 1050, add any amount by which the price specified in § 1063.50(b) is exceeded by the applicable Class I price at the same location pursuant to Part 1050 regulating the handling of milk in the Central Illinois marketing area.

* * * * *

[FR Doc.74-2303 Filed 1-28-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 442.11]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart N—Loans to Indian Tribes and Tribal Corporations

On March 21, 1973, there was published in the FEDERAL REGISTER (38 FR 7399) notice of a proposed amendment to Subchapter B, "Loans and Grants Primarily for Real Estate Purposes" of Chapter XVIII, Title 7 of the Code of Federal Regulations, adding a new Subpart N to Part 1823, "Association Loans and Grants—Community Facilities, Development Conservation, Utilization." This new Subpart N, "Loans to Indian Tribes and Tribal Corporations," provides regulations for making loans to Indian tribes or tribal corporations for land acquisition within reservations and Alaskan communities.

Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed amendment. All comments received with respect to the proposed amendment were given due consideration. As a result of comments received and FHA experience, minor changes were made in security requirements. Minor editorial changes include setting out a complete list of loan forms and documents and certain suggested forms in exhibits attached to the regulation.

Subpart N will be effective on January 29, 1974.

Part 1823, Chapter XVIII of Title 7 of the Code of Federal Regulations is amended by adding a new Subpart N, reading as follows:

Subpart N—Loans to Indan Tribes and Tribal Corporations

Sec.

1823.401 General.
1823.402 Definitions.
1823.403 Eligibility.
1823.404 Loan purposes.
1823.405 Ineligible loan purposes.
1823.406 Rates and terms.
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1823.408 Special requirements.
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1823.411 Land rights.
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1823.414 Title to security property.
1823.415 Supervision and servicing.
1823.416 Check request and loan closing.
1823.417 Civil rights.
1823.418 State requirement.

AUTHORITY: (7 U.S.C. 1989); (5 U.S.C. 301); delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.

§ 1823.401 General.

This Subpart contains policies and procedures of the Farmers Home Administration (FHA) applicable to making initial and subsequent insured loans to Indian tribes or tribal corporations for the acquisition of land within tribal reservations and Alaskan communities. The Secretary of the Interior or his authorized representative will determine whether lands lie within a tribal reservation or community.

§ 1823.402 Definitions.

The following definitions are applicable to the subsequent provisions of this Subpart.

(a) *Land.* The term "land" includes any or all rights or interests therein.

(b) *Tribe.* The term "tribe" means, an Indian Tribe recognized by the Secretary of the Interior or a tribal corporation established pursuant to the Indian Reorganization Act, and/or a community in Alaska incorporated by the Secretary of the Interior pursuant to the Indian Reorganization Act.

(c) *Tribal.* The term "tribal" refers to an Indian tribe or Alaskan community described in paragraph (b) of this section, and "tribal members" refers to the members of such a tribe or community.

(d) *Reservation.* The term "reservation" means the lands or interests therein within the tribe's reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary of the Interior pursuant to the Indian Reorganization Act.

(e) *Mortgage.* The term "mortgage" includes deeds of trust and other liens on land.

§ 1823.403 Eligibility.

To be eligible for a loan, the tribe must:

(a) Be without adequate uncommitted funds to acquire needed land within the reservation.

(b) Be unable to obtain sufficient credit elsewhere at reasonable rates and

terms to finance the proposed land acquisition.

(c) Show reasonable prospects of repaying the loan as determined by:

(1) A feasible plan for the use of the tribe's land.

(2) Satisfactory evidence of financial ability to develop and operate the land.

(3) A satisfactory management and repayment plan.

§ 1823.404 Loan purposes.

Loan funds may be used by the tribe to:

(a) Acquire land within the reservation for use of the tribe or its members. The land acquisition may be made for purposes such as elimination of fractional heirships and rounding out farming and ranching units.

(b) Pay costs incidental to land acquisition, such as those for appraisals, title clearance, legal services, land surveys, and loan closing.

§ 1823.405 Ineligible loan purposes.

Loan funds may not be used for any improvement or development purposes, acquisition or repair of buildings or personal property, payment of operating costs, refinancing of debts, payment of finder's fees or similar costs.

§ 1823.406 Rates and terms.

Each loan will be amortized over a period not to exceed 40 years. In addition, no repayment period will exceed any statutory limit on a tribe's borrowing authority or the useful life of the security if other than land. Interest to the borrower will be five percent.

§ 1823.407 Use of acquired land.

The land acquired with the FHA loan may be leased or sold to tribal members for dwelling, farming, grazing, recreational, and other purposes approved by the National Office as beneficial to the tribe or its members. The plan for use of the land must have the approval of the tribal council or other authorized governing body, and should be in accordance with the recommendations of appropriate Bureau of Indian Affairs (BIA) officials. It should also be consistent with the land use in the area unless other uses are justified. The plan should make maximum use of cost sharing and technical assistance of Federal and State programs.

§ 1823.408 Special requirements.

(a) *Loan authorization.* The tribe will take appropriate action to authorize obtaining and giving security for the loan, using Exhibit B of this Subpart N, Tribal Council Resolution, as a guide.

(b) *Right to mortgage.* If a mortgage is to be obtained on trust or restricted property and the tribe's constitution or charter does not specifically authorize a mortgage of such property, the mortgage must be authorized by tribal referendum.

(c) *Waiver of immunity.* The appropriate tribal official(s) will execute on behalf of the tribe and in favor of FHA a waiver of any immunity from suit or liability which it possesses. The waiver will be approved by the Secretary of the Interior or his authorized representative.

(d) *Mortgages or assignments to third parties.* At the time of loan closing an agreement will be obtained from the tribe that as long as any indebtedness on the loan is outstanding it will not, without the written consent of FHA;

(1) Give assignments or pledges to other parties of income, revenue, or other property assigned or pledged to FHA.

(2) Mortgage, sell, or otherwise dispose of any land (except sales to tribal members for market value) regardless of whether it is or is not mortgaged to FHA.

(3) This agreement will be submitted to the Office of the General Counsel (OGC) for review as to content and validity. For trust lands, a copy will be forwarded to the BIA. For other than trust lands, it will be recorded in the land records if OGC advises that such recordation is legally necessary.

(e) *Land acquisition, debt service, and reserve accounts.* The following accounts will be established at the time of loan closing. A properly bonded official of the tribe will receive the monies for each account and issue receipts therefor. The bonded official will deposit all such monies in the appropriate trust or counter-signature accounts. As a basis for withdrawals, the deposit agreement for each account will require the signatures of appropriate tribal official(s) and the FHA County Supervisor or a BIA official, depending on whether the account is a BIA trust account or an FHA supervised account in a commercial bank.

(1) *Land acquisition account.* The loan funds will be deposited in this account which will be established as a "Supervised Bank Account." If funds in this account exceed $20,000, it shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176.

(2) *Debt service account.* A debt service account will be established at the time of loan closing for deposit of income assigned to FHA to be used in making repayments on the loan and payments to the reserve account.

(3) *Reserve account.* This account will be established for debt service reserve purposes. On or before the first installment due date, an amount equal to one-tenth (1/10) of the amount to be paid annually on the loan will be deposited in this reserve account. An equal amount will be deposited in the account during each succeeding year until a full annual payment is accumulated.

(i) Funds in the reserve account may be used to make repayments on the loan when the tribe cannot meet the installments from other sources as they fall due. Any funds used for that purpose will be replaced as soon as possible before the next installment due date.

(ii) The reserve fund may be invested in short-term investments that are issued, guaranteed, or insured by the Federal or a State Government and name FHA as co-owner.

§ 1823.409 Security.

All loans will be secured in a manner that will adequately protect the interests of FHA. Ordinarily, the security will include a lien on land acquired with loan funds plus assignment(s) of income. However, the security may consist only of assignments of income if the State Director determines that it will provide as good or better security than the land acquired with loan funds. Such security may be supplemented by security interests in personal property which is available and needed to protect the interests of FHA.

(a) *Land plus assignments of income.* When land security is taken, it will be coupled with assignment(s) of uncommitted tribal, trust, or other income sufficient to cover loan repayments and payments to the reserve account.

(b) *Assignments of income without land security.* One or more assignments of income determined to be sufficient to cover the installment repayments plus reserve on the loan will be taken using Exhibit C in this Subpart N as a guide. The assignment may consist of one or more of the following:

(1) *Assignment of uncommitted income.* A general assignment of uncommitted tribal, trust, or other income, together with a BIA Subordination Agreement using Exhibit D in this Subpart N as a guide. A statement will be obtained from BIA on the amount of such income that will be available to cover repayments and payments to the reserve account.

(2) *Assignment of land sale or lease income.* An assignment of any net proceeds from the sale, lease, or other disposition of real estate, including minerals, timber, water, water rights, or other interests in real estate, if a real estate mortgage is not taken on such property.

(3) *Assignment of other income.* An assignment or pledge of other income or revenue.

(c) *Recordation of assignments.* Each assignment of income will be approved by BIA and recorded in the appropriate public records.

§ 1823.410 Purchase price and appraisal.

The purchase price of land will not exceed its market value as determined by the State Director based on an appraisal made by authorized FHA personnel, BIA appraisers, or a qualified private appraiser approved by the State Director. Any existing buildings that pass with the land will not affect the market value of the land.

§ 1823.411 Land rights.

Title to land acquired may, with the approval of the Secretary of the Interior or his designee, be in the name of the United States in trust for the tribe.

§ 1823.412 Loan docket.

The loan docket will consist of those items set forth in Exhibit A. Forms and guides are available in all FHA County Offices. Part of the docket will be prepared by the tribe with the assistance of

BIA in accordance with Exhibits A(1), B, C and D of this Subpart N. FHA will provide items in Exhibit A(2) of Subpart N.

§ 1823.413 Loan approval.

State Directors are authorized to approve all loans except those in excess of $500,000 which must first be authorized by the National Office. Information to be furnished the National Office will include the completed loan docket, proposed letter of conditions to be met by the applicant, any comments of OGC, and the State Director's recommendations. The State Director will forward executed Forms FHA 440–1, "Payment Authorization," and 440–3, "Record of Actions," to the Finance Office for each loan approved. If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the Form FHA 440–3. An executed Form FHA 440–1 will be forwarded to the applicant on the same date the loan is approved, that is, on the same date it is forwarded to the Finance Office.

§ 1823.414 Title to security property.

The applicant will provide evidence of title satisfactory to the FHA for all property that will serve as security for the loan.

(a) *Real estate security.* (1) *Trust property.* The applicant will request BIA to furnish Title Status Reports to the County Supervisor. The County Supervisor will review the reports in accordance with § 1807.2(d) of this Chapter. Form FHA 427–13, "Waiver of Encumbrances, Exceptions, and Reservations," will be used as appropriate. The County Supervisor will ask the State Director for advice if he has any questions.

(i) If administrative closing requirements can be met, BIA will prepare the deeds and obtain the needed signatures. The County Supervisor will supply BIA with Forms 427–1, "Real Estate Mortgage for (State)", and FHA 440–22, "Promissory Note (Association or Organization)." BIA will insert the appropriate land descriptions.

(ii) The partly completed real estate mortgage and note will be returned to the County Supervisor. The loan check can then be ordered and the loan closed. The mortgage and note will be completed and signed, but no funds will be disbursed.

(iii) A conformed copy of the note with the original mortgage and two copies will be forwarded to BIA. They will insert a certification on the mortgage and return it to the County Supervisor. BIA will also indicate that the deeds have been recorded and the priority of the Government's lien in a continuation of the Title Status Report. However, the certification about the lien priority may be made on the old Status Report if BIA prefers this.

(iv) The certified original mortgage will then be recorded by the County Supervisor in the county where the land is located if OGC determines that such recordation is necessary. Funds can be disbursed as soon as the mortgage is recorded or the determination is made that recordation is not necessary.

(2) *Nontrust land.* Title clearance will be obtained in accordance with Part 1807 of this Chapter except the applicant's attorney will be used instead of the designated attorney.

(b) *Rights of way.* The applicant will be responsible for obtaining adequate, continuous, and valid rights-of-way for operation, and maintenance of its property. The following documentary evidence will be furnished FHA:

(1) A copy of the form of right-of-way instrument to be used if it differs from Form FHA 442–20, "Right-of-Way Eastment." Rights-of-way with restrictive provisions should be accepted only in very unusual circumstances. Whenever the form of the instrument differs from Form FHA 442–20 or contains special provisions that are required by either the applicant or the grantor, copies of such instruments will be submitted to the FHA for review prior to acceptance and recording. Either specific rights-of-way containing a legal property description or a centerline description of the rights-of-way or general rights-of-way containing only a description of the tract or parcel of land affected, may be used.

(2) A certificate by a duly authorized official of the applicant that it has obtained and presently holds adequate and sufficient legal title to all rights-of-way, permits and other authorizations deemed necessary by the applicant and its attorney for an uninterrupted right-of-way for the operation and maintenance of the property. Use Form FHA 442–21, "Right-of-Way Certificate."

(3) An opinion by the applicant's attorney relating to the adequacy and legality of the rights-of-way covered by the right-of-way certificate. Use Form FHA 442–22, "Opinion of Counsel Relative to Rights-of-Way," to the extent possible.

(c) *Lien on water rights.* When a mortgage or an assignment will be taken on water rights, the applicant's attorney will furnish a statement regarding the nature of the water rights owned, such as convenance of title, appropriation and decree, application and permit, public notice of appropriation and use, and so forth.

(d) *Lien on chattel property.* When liens will be taken on chattel property, the following will be furnished:

(1) Description of the property for use in preparing security instruments.

(2) Form FHA 440–13, "Report of Lien Search," or similar form prepared in accordance with the State requirements prescribing the use of such form for Operating loans.

(e) *Disposition of title evidence.* All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed. The opinion of title or title insurance policy and any water stock certificates will be retained in the borrower's county office case folder.

§ 1823.415 Supervision and servicing.

Borrowers will be supervised in accordance with Subpart G of Part 1802 of this Chapter. Loans will be serviced in accordance with Subpart F of Part 1861 of this Chapter. The cooperation, assistance, and advice of appropriate BIA officials will be sought at all times.

§ 1823.416 Check request and loan closing.

Before any loan can be closed, the District Director must notify the State Director in writing that all loan closing conditions have been met. Checks will be requested and loans will be closed in accordance with § § 1823.271 and 1823.272.

§ 1823.417 Civil rights.

Indian tribes, for the purpose of this Subpart, are not subject to Title VI of the Civil Rights Act of 1964 so long as the expected use of land acquired does not include operation of a facility which would be open to the public. Therefore, such tribes are not subject to Part 1816 of this Chapter.

§ 1823.418 State requirements.

Each State Director will, with the assistance of OGC, supplement this Subpart with State regulations, forms, worksheets, sample documents, and such other guidance as necessary to successfully carry out the program.

EXHIBIT A—LOAN DOCKET ITEMS—LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

(1) The tribe with the assistance of BIA will provide the following:

AD 621: Preapplication for Federal Assistance.

Form FHA 442–12: Financial Statement;

Official audit report of the preceding 4 years including income and expenses;

List of tribal officers, including title and addresses and signature identifications;

Copy of tribe's constitution and bylaws or charter or other evidence of organization and rules of operation;

Legal services contract approved by BIA if a private law firm. A written statement will be provided when a BIA attorney performs the legal services.

Land Utilization Plan including:

(a) A short narrative description of why the land is being purchased, what use is to be made of it, and the annual net income expected to be derived from the land. If it has proven income record, that information should be included. If not, it should be so stated. If any development work is contemplated by the tribe, this should be explained, including assurance of the source of funds to carry out such development. If the land is to be operated by the tribe, this should be described, including assurance of availability of the necessary money to meet operating costs and method of management. If the land is to be leased, there should be a description of how it will be used and assurance that its intended use will conform to the overall land use pattern of the reservation or any variations justified; (b) Recommendation of BIA Soil Conservation Specialist.

Form FHA 440–34: Option to Purchase Real Property or similar purchase agreement containing the provisions of the option.

Form FHA 440–35: Acceptance of Option.

Form FHA 442–7: Operating Budget or Statement of Income and Expenses including income and expenses from all sources.

Resolution of Tribal Council or other governing body approving and providing for the proposed land acquisition and any actions necessary to carry it out, such authority to encumber real estate and waiver of immunity and, where legally necessary, evidence of any required tribal election or referendum. The resolution should substantially conform with Exhibit B.

Subordination Agreement by BIA using Exhibit D as a guide.

Form FHA 442–46: Letter of Intent to Meet Loan Conditions Fidelity Bond for tribal officers authorized to handle monies.

Form FHA 427–9: Preliminary Title Opinion, if required.

Form FHA 442–20: Right-of-Way easement, or right-of-way instrument, if appropriate.

Form FHA 442–21: Right-of-Way Certificate, if appropriate.

Form FHA 442–22: Opinion of Counsel Relative to Right-of-Way, if appropriate.

Form FHA 440–13: Report of Lien Search, if appropriate.

Form FHA 427–10: Final Title Opinion, if required.

(2) The FHA County Supervisor will provide the following:

Form FHA 422–1: Appraisal Report (Farm Tract) if BIA or commercial appraisers have not provided a present market appraisal.

Form FHA 427–13: Waiver of Encumbrances, Exceptions and Reservations, if required.

Form FHA 440–2: County Committee Certification or Recommendation.

Form FHA 442–49: Project Summary (Loans to Indian Tribes and Tribal Corporations).

Form FHA 442–14: Association Project Fund Analysis Letter of Conditions.

Form FHA 440–3: Record of Actions.

Form FHA 440–1: Payment Authorization.

Form FHA 440–22: Promissory Note.

Form FHA 440–9: Supplementary Payment Agreement, if required.

Form FHA 427–1 (State): Real Estate Mortgage.

Form FHA 402–1: Deposit Agreement, if required.

EXHIBIT B—TRIBAL COUNCIL RESOLUTION

No. _____

A RESOLUTION OF THE TRIBAL COUNCIL OF THE _____ TRIBE AUTHORIZING AND PROVIDING FOR: (1) THE ISSUANCE OF AN INSTALLMENT PROMISSORY NOTE IN THE PRINCIPAL AMOUNT OF _____ TO FINANCE THE PURCHASE OF LAND, (2) THE GIVING OF SECURITY, (3) THE COLLECTION, HANDLING, AND DISPOSITION OF REVENUES OF THE LAND TO BE PURCHASED AND ANY OTHER LAND TO BE ENCUMBERED AS SECURITY, AND (4) RELATED ACTIONS AND MATTERS.

The _____, (hereafter referred to as "Tribe"), is an Indian Tribe recognized by the Secretary of the Interior or is a tribal corporation established pursuant to the Indian Reorganization Act;

The Tribe wishes to acquire interests in approximately _____ acres of real estate (hereinafter called "the land") within its reservation or community for the use of and the improvement of the economic standing of the Tribe or its members but does not have adequate uncommitted funds for such acquisition.

A meeting of the tribal council or other governing body (hereafter called the "Council") with the required number of Council members present was held at _____ on the _____ day of _____, 19_____, pursuant to notice thereof as required by its constitution, by-laws, corporate charter, or other organizational documents, (hereafter called the "constitution") to consider a plan to finance the proposed land acquisition.

The tribe has the authority to acquire lands or interests therein.

The Tribe is authorized to mortgage or otherwise hypothecate its land either by its constitution, or by a tribal referendum whereby such mortgage or other hypothecation was approved by at least a majority of the qualified voters at an election in which at least 20 percent of those eligible voted, or under such other rules as may be prescribed by the constitution of the Secretary of the Interior.

The Secretary of the Interior or his authorized representative has approved the mortgaging or hypothecation of the land.

As shown by the minutes of said meeting, of the _____ Council members of record of the Tribe there were present and voting _____ Council Members and by a recorded majority vote, determinations were made and actions authorized as follows:

(Number)

That in order to acquire the land, the Council was authorized and empowered, in its discretion, for and in the name of the Tribe, to make application to the Farmers Home Administration of the United States Department of Agriculture (hereafter referred to as the "Government") for financial assistance; to cause the execution and delivery of promissory note or notes or other evidence of indebtedness and a mortgage, or other appropriate security instrument, to secure any loan or loans made, or insured, by the Government; to comply with any requirements, terms or conditions prescribed by the Government or by Government regulations; and to pay, extend or renew any such indebtedness; and to execute contracts or enter into agreements and, without limitation, to take any and all other action as may be necessary, incidental, or appropriate to finance acquisition of the land or interests therein in behalf of the Tribe.

Now therefore, it is hereby resolved by the Council of the Tribe as follows:

Section 1. (Determination of Council) It is necessary to defray all or a portion of the costs of acquiring the land or interests therein by obtaining a loan to be made or insured by the Government in accordance with applicable provisions of the Consolidated Farm and Rural Development Act and Public Law 91–229, it being determined that the Tribe is unable to obtain sufficient credit elsewhere to finance the acquisition taking into consideration prevailing private and cooperative rates and terms currently available.

Section 2. (Amount and Terms of Loan) The Tribe shall borrow $_____ and issue as evidence thereof installment promissory note(s) in the form prescribed by the Government for the full principal amount of the loan. The note(s) shall be signed by the _____ and attested by the

(Appropriate Official)

_____ and the corporate or other

(Appropriate Official)

seal of the Tribe affixed thereto, and shall bear interest from its date, which shall be the date of loan closing, at a rate prescribed by the Government in its approval of the loan, but not to exceed _____ percent per annum. The security instruments shall be in such form and contain the terms and conditions required by the Government.

Section 3. (Pledge of Revenue) The indebtedness hereby authorized shall be payable from the gross income and revenue to be derived from the operation of the tribal land, a portion of which sufficient to pay the principal and interest as and when the same shall become due is hereby pledged and shall be set aside for that purpose.

Section 4. (Pledge of Additional Security) If the revenue pledged in Section 3 is insufficient to pay the principal and interest as and when the same shall become due or if it appears the revenue will be insufficient, the Council hereby pledges its taxing authority and the funds held in the United States Treasury in trust for the Tribe, for the purpose of making up the deficiency or expected deficiency shall be deposited in the debt service and reserve accounts established by Section 5 B and C hereof and used as therein prescribed.

Section 5. (Protection and Disposition of Funds) The _____ of the Tribe

(Appropriate Official)

shall be the custodian of all loan funds of the Tribe and all revenues pledged for the repayment of the loan. All such funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The _____ shall execute

(Appropriate Official)

a fidelity bond in an amount not less than $_____ with a surety company approved by the Government. The United States of America shall be named as co-obligee in such bond, and the amount thereof shall not be reduced without the prior written consent of the Government. The _____ is hereby directed to es-

(Appropriate Official)

tablish the following accounts into which proceeds of the note, the revenues from the land, and any other income pledged for repayment shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the indebtedness hereby authorized remains unpaid:

A. *Land Acquisition Account.* The proceeds of the loan hereby authorized shall be deposited in the Land Acquisition Account which shall be established as a "supervised bank account" as required by the Government. If funds in this account exceed $20,000, it shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. When all land acquisition costs have been paid in full, any balance remaining in the Land Acquisition Account shall be applied as a refund on the loan and the Land Acquisition Account shall be closed.

B. *Debt Service Account.* All assigned revenues shall be deposited in the Debt Service Account until there is an amount equal to the next annual installment to become due plus any delinquencies and payments are made to the Reserve Account. The Debt Service Account will be used for making annual installment payments on the loan, payments on any delinquencies that might occur, and payments to the Reserve Account.

C. *Reserve Account.* Out of the funds in the Debt Service Account, there shall be transferred annually to the Reserve Account the sum of $_____ (1/10 of an annual payment of principal and interest) until there is accumulated in that fund the sum of $_____ (one annual installment of principal and interest), after which no further transfers need be made to said account except that transfers shall be made to replace any withdrawals. Funds in the Reserve Account shall be used only for the purpose of making payments of principal and interest in the event the amount in the Debt Service Account is insufficient to meet such payments.

Section 6. (Other Covenants and Agreements of the Tribe) The Tribe covenants and agrees that, so long as the indebtedness hereby authorized remains unpaid, the Tribe will—

A. Comply with applicable Federal, State, and Tribal laws and regulations and maintain the land in good condition.

B. Impose and collect such rates and charges that gross revenues will be sufficient at all times for the maintenance of the land and the funding of the Debt Service and Reserve Accounts.

C. Cause to be levied and collected such taxes or assessments as may be necessary to maintain the land in good condition, meet payments on the loan, and make the deposits required by Section 5 B and C, if for any reason gross revenues are insufficient.

D. Maintain complete books and records relating to the operation and maintenance of the land and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and will furnish the Government without request a copy of each annual audit report. The audit will be conducted by independent Certified Public Accountants or by licensed Public Accountants, licensed before December 31, 1970, who are certified or licensed by a regulatory authority of a state or other political subdivision of the United States. At all reasonable times, the Government shall have the right to inspect the land and to inspect and copy the records, accounts, and data of the Tribe relating thereto.

E. Maintain such insurance coverage as may be required by the Government.

F. Not borrow any money from any source or enter into any contract or agreement or incur any other liabilities in connection with making improvements to the land (exclusive of normal maintenance) without obtaining the prior written consent of the Government.

G. Not cause or permit any voluntary dissolution of its organization; merge or consolidate with any other organization; dispose of, transfer, or convey its title to any land or any part thereof or interest therein, by sale, mortgage, lease or other encumbrance, without obtaining the prior written consent of the Government.

H. Not modify or amend its constitution in any way that would affect the Government's security without the written consent of the Government.

Section 7. (Security Instruments) In order to secure the payment of the principal and interest or the note and any related obligations of the Tribe to the Government the _____ and _____ (Appropriate Official) (Appropriate Official) of the Tribe are hereby authorized and directed to execute and deliver a good and sufficient security instrument encumbering the land or other property and an assignment of revenues and funds held in the United States Treasury for the Tribe. The security instrument shall give the Government the lien on the land, Tribal revenues, Tribal Treasury funds or other property and said officials are authorized and directed to acquire such subordination agreements as are necessary to achieve the required priority.

Section 8. (Refinancing) If at any time it shall appear to the Government that the Tribe is able to refinance the loan, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the Tribe will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take such action as may be required in connection with such refinancing loan.

Section 9. (Waiver of Immunity) In order to secure the payment of the principal and interest of the note and any related obligations, the Tribe hereby waives for the benefit of the Government any immunity from suit or liability which it may possess except that this waiver shall not extend to the acquiring of any judgment, lien, or attachment upon the property of the Tribe other than property of the Tribe other than property specifically pledged, assigned, or mortgaged to the Government in connection with this loan provided that if no real estate is mortgaged to the Government this waiver shall extend to acquiring of judgment, lien or attachment on real estate purchased with the loan herein authorized.

Section 10. (Resolution a Contract) The provisions of this resolution shall constitute a contract between the Tribe and the Government so long as the loan made or insured by the Government remains unpaid.

Section 11. This resolution shall take effect and be in force immediately.

The vote was:

YEAS: _____

NAYS: _____

ABSENT: _____

_____ _____
Date (Appropriate official)

_____
(Appropriate official)

CERTIFICATION

I, the undersigned, as _____ (Appropriate Official) of the _____ hereby certify that the Tribal Council or such Tribe is composed of _____ members, of whom _____ (constituting a quorem) were present at a meeting thereof duly called and held on the _____ day of _____, 19 _____: that the foregoing resolution was adopted at such meeting by the affirmative vote of _____ members of such Council and that said resolution has not been rescinded or amended in any way.

Dated this _____ day of _____, 19 _____.

_____
Secretary of _____

EXHIBIT C—ASSIGNMENT OF TRIBAL INCOME AND FUNDS

Whereas, the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (hereinafter called the "FHA") is the holder or insurer of a promissory note (hereinafter called the "Note") in the sum of _____ bearing interest at the rate of _____ percent per annum; and

Whereas, the Note was given by _____ (hereinafter called the "Tribe") to evidence the indebtedness incurred by the Tribe under a loan (hereinafter called the "Loan" made or insured by the FHA, and

Whereas, Tribal Council Resolution No. _____ dated _____, authorized the acceptance of the Loan and the issuance of the Note and pledged and assigned income and funds as security for the payment thereof; and

Whereas, the Tribe has entered into a subordination agreement with the United States Department of the Interior, Bureau of Indian Affairs (hereinafter called the BIA), whereby the General Assignment of Income dated _____ and an Assignment of Income dated _____ in favor of the BIA is fully subordinated to the Assignment made herein;

Now, therefore, in consideration of the FHA's making or insuring the Loan and to secure the payment when due of the installments on the Note, the Tribe does hereby grant, convey, pledge and assign to the FHA (1) all annual gross income from the land purchased with the loan, and (2) all annual gross income from other sources. If the Tribe shall pay the entire principal of and interest on the Note, this Assignment shall terminate and be of no further force and effect.

In Witness Whereof, the _____ Tribe of the _____ Reservation causes this Assignment to be executed by its President and its Tribal seal to be affixed and duly attested.

(Seal) _____ Tribe of the _____ Reservation.

Attest: By _____
_____ (Appropriate Official)

Date _____

The terms and conditions of the foregoing Assignment are hereby agreed to as of the date hereof.

BUREAU OF INDIAN AFFAIRS
U.S. Department of the Interior
By _____
_____
Title

EXHIBIT D—SUBORDINATION AGREEMENT

This Agreement, dated _____, between the United States of America, Department of the Interior (hereinafter called the "BIA", and the _____ tribe of the _____ Reservation (hereinafter called the "Tribe"), for the benefit of the Tribe and to induce the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (hereinafter called the "FHA"), to make or insure a loan to the Tribe:

Witnesseth:

Whereas, under date of _____, the Tribe executed and delivered to the BIA a "General Assignment and Assignment of Income" (hereinafter called the "General Assignment"), a copy of which is attached hereto and marked Exhibit A; and under date of _____ an "Assignment of Specific Income" a copy of which is attached hereto and marked Exhibit B, and

Whereas, the FHA has offered to loan or insure a loan to the Tribe in the sum of _____ for the purpose of paying part or all of the cost of acquiring interests in approximately _____ acres of real estate within its reservation pursuant to the provisions of the Act of April 11, 1970, Public Law 91-229; and

Whereas, FHA requires that the annual gross income from the real estate purchased with the loan and the annual gross income from all other sources in such amount as may be necessary to pay debt service on such loan be pledged to pay the principal and interest on the loan; and

Whereas, the BIA is willing to subordinate to FHA as security for said loan its rights under the General Assignment and under the Assignment of Specific Income to a lien on the income of the Tribe from all sources;

Now, Therefore, the BIA does agree as follows:

1. That the right it has under the General Assignment and under the Assignment of Specific Income as referred to in the first WHEREAS above, or any other instrument not mentioned herein to receive the income derived by the Tribe from all sources shall be in all respects subordinate, subject to and junior in right to the right of FHA in and to said income as said rights are created and defined in the Assignment Pledge Agreements, or other agreements now or hereafter given resulting from the loan from the Farmers Home Administration to the Tribe.

2. That this subordination Agreement shall be effective as of the date hereof.

Dated this _____ day of _____, 19_____.

---------- Tribe of the
---------- Reservation

By ----------

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

By ----------

---------- Title

Dated: January 18, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-2302 Filed 1-28-74;8:45 am]

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies and Authorizations

Miscellaneous Amendments

Subpart A of Part 1832, Chapter XVIII, of Title 7, Code of Federal Regulations, (37 FR 7293; 38 FR 16631; 38 FR 20245; 38 FR 29599) is amended. The changes are as follows:

1. Section 1832.5(b) is revised to provide additional clarifying information required by the enabling act (7 U.S.C. 1961(b)).

2. Section 1832.7(c) is amended for clarity and to permit the purchase of poultry breeding stock. It also provides that the applicant must maintain ownership of the stock through the normal marketing period of that stock.

3. Section 1832.8(h) is revised to exclude eligibility to livestock and poultry feeding operations who only perform a service to others.

4. Section 1832.8(i) is revised to exclude eligibility to livestock and poultry feeding operations who do not maintain ownership of their stock through the normal marketing period.

5. Section 1832.8(m) is revised to exclude eligibility to nonfarm enterprises when these constitute a substantial portion of the total operation.

6. New § 1832.13 and Appendix I are added. Section 1832.13 implements Appendix I which is a memorandum of understanding between the Small Business Administration and the United States Department of Agriculture—Farmers Home Administration pertaining to disaster type loan assistance for agribusiness and farming enterprises, and clarifies which agency will assume the responsibility of handling disaster loan applications from various types of agribusinesses.

In accordance with 5 U.S.C. 553, these amendments are being published without notice of proposed rulemaking inasmuch as they involve the addition to the regulations of the memorandum of understanding (Appendix I) which affects only internal Departmental procedure, and certain other amendments necessary to implement Appendix I, and make existing regulations conform to it.

These amendments are effective on January 29, 1974.

(1) Paragraph (b) of § 1832.5 is revised to read as follows:

§ 1832.5 Eligibility requirements.

* * * * *

(b) Be an established farmer, rancher, or oyster planter with a reasonably good past record of operations, whether owner-operator or tenant, who manages his farming, ranching, or oyster planting operations. If the applicant is a partnership or corporation, it must be engaged primarily in farming, ranching, or oyster planting, and the operation(s) must be managed by one of the partners or stockholders. An applicant who does not devote full time to his farming, ranching, or oyster planting operations may be considered as the manager provided that he (or the managing partner or stockholder) visits the farm or ranch at sufficiently frequent intervals to exercise control and see that the operations are being carried on properly.

* * * * *

(2) Paragraph (c) of § 1832.7 is amended to read as follows:

§ 1832.7 Loan purposes.

* * * * *

(c) Purchase of livestock or poultry as follows:

(1) Breeding stock to replace those lost, destroyed, or disposed of as a result of the qualifying disaster. In such cases, the circumstances surrounding the loss or disposition of the stock to be replaced will be documented carefully.

(2) Feeder or stocker livestock, including poultry, provided it has been the applicant's normal practice to have such an enterprise, ownership of the livestock or poultry will be maintained by the applicant through the normal marketing period of that stock, and there will be security for the reasonable protection of the Government in addition to a first lien on the feeders, stockers, or poultry to be purchased with loan funds. In each case, the loan docket will contain descriptions of the applicant's feeder, stocker, or poultry enterprises during the past three years.

* * * * *

(3) Paragraphs (h), (i) and (m) of § 1832.8 are revised to read as follows:

§ 1832.8 Loan limitations.

* * * * *

(h) To finance commercial livestock or poultry feeding operations where the applicant only performs a service for others.

(i) To finance livestock or poultry feeding operations where the applicant does not maintain ownership of the feeders through the normal marketing period.

* * * * *

(m) To finance an applicant's enterprise(s) involving the buying, processing for market, or selling of agricultural products produced by others when such enterprise(s) constitutes a substantial portion of the total operation (see paragraph III B of Appendix I of § 1832.13. However, EM loans may be made to finance the applicants' farming enterprise(s) if he agrees in writing to maintain separate records of his farming enterprise(s) and assigns to the Farmers Home Administration the income to be received from his farming.

* * * * *

(4) Section 1832.13 is added to read as follows.

§ 1832.13 Implementation of SBA Memorandum.

A memorandum of understanding between the Small Business Administration and the United States Department of Agriculture—Farmers Home Administration is set out below as Appendix I. In implementing the intent of this memorandum, the provisions of § 1832.5(b) must be observed particularly with respect to the requirement that a partnership or corporation must be engaged primarily in farming, ranching, or oyster planting in order to be considered for Emergency loan eligibility.

(5) Appendix I is added to read as follows:

APPENDIX I

MEMORANDUM OF UNDERSTANDING BETWEEN SMALL BUSINESS ADMINISTRATION (SBA) AND THE UNITED STATES DEPARTMENT OF AGRICULTURE—FARMERS HOME ADMINISTRATION (USDA–FHA) PERTAINING TO DISASTER TYPE LOAN ASSISTANCE FOR AGRIBUSINESS AND FARMING ENTERPRISES.

I. *General.*—While recognizing that the determination of eligibility of an agribusiness activity for disaster type loan assistance from SBA or FHA is solely within the jurisdiction and responsibility of each respective agency, this Memorandum of Understanding is herewith set forth as a means of further clarifying which agency will assume the responsibility of handling disaster loan applications from various types of agribusinesses. The objectives of this Memorandum are to (a) assure that intended recipients of Federal disaster assistance are served, (b) define the areas of responsibility for each of the two agencies, and (c) enable both agencies to serve the victims of natural disasters more expeditiously with personnel having greater expertise in a particular type enterprise.

II. *Definitions.—Agribusiness* is defined as farming and the businesses associated with the production, handling, processing, storing and marketing of agricultural commodities.

Farming is defined as the business of producing crops, livestock, and livestock products through the management of land, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

III. *Guidelines.*—An applicant (individual, partnership, or corporation) for SBA or FHA disaster type loan assistance must have had one or more of the following type enterprises in operation at the time of the designated disaster.

A. *Types of enterprises eligible to apply for SBA Disaster Loan Assistance.*

1. Purchase for resale of commodities such as fruits, vegetables, flowers, ornamental shrubbery, etc.

2. Purchase of livestock and poultry for immediate or short-term resale, e.g., by livestock dealers or brokers.

3. Feeding of livestock in specialized facilities as a service to others or as an entity which operates independent of a producing farm enterprise.

4. Packaging, freezing, canning or processing, of any nature, of meats, fish, fruits, and vegetables acquired solely for that purpose from others, or as a service to others.

5. Slaughter and/or dressing of livestock and poultry acquired solely for that purpose from others, or as a service to others.

6. Operation of hatcheries for the production of baby chicks or turkey poults primarily for resale where the hatchery does not maintain its own breeding flocks in its own facilities.

7. Purchase and operation of harvesting combines or other machinery, warehouses, cold storage plants, feed mills, etc., primarily as a service to others or on a rental or "for hire" basis.

8. Extension of landscaping, farm management or any advisory assistance to others for a fee.

9. Trapping of lobsters, crabs, wild animals and other game.

10. Catching of fin fish or shell fish (including oysters) from public waters.

B. *Types of enterprises eligible to apply for FHA Emergency Loan Assistance.*

1. Production of crops including:

(a) Field crops—feed, fiber and tobacco;

(b) Fruits, vegetables, nuts, greenhouse crops; and mushrooms;

(c) Flowers, ornamental plants, shrubs and trees; and sod;

(d) Nursery stock for fruits and nuts;

(e) Vegetables and small fruit plants for transplanting.

2. Production and/or feeding of livestock or poultry including milk and egg production in the applicants own facilities. This would not include feeding operations which functioned primarily as a service to others.

3. Operation of hatcheries for the production of baby chicks or turkey poults where the hatchery maintains its own breeding flocks in its own facilities, regardless of whether the hatchery raises those chicks or poults, or sells them.

4. Operation of hydroponic farms.

5. Production of fur bearing animals, game animals or game birds.

6. Production of fish under controlled conditions for human consumption, e.g., catfish and trout.

7. Production of oysters under controlled conditions—oyster planters.

IV. *Handling applications from victims having both farm and other agribusiness enterprises.*

A. It is recognized by both agencies that a disaster victim may suffer losses in both farm and other agribusiness enterprises which would make him eligible for assistance from both agencies; and recognizing further that FHA has the legislative authority to make disaster type loans to assist nonfarming agribusiness enterprises, it is hereby agreed that each agency will handle disaster loan applications in accordance with the following:

1. FHA:

a. Applications pertaining to farm enterprises, regardless of the significance of that farming enterprise(s) to the applicant's total operation, when the applicant is an individual. When the applicant is a partnership or a corporation, it must be engaged primarily in farming, or

b. Applications pertaining to operators whose primary enterprise(s), based on gross income, is farming, and who are also engaged in other agribusinesses to an incidental degree

2. SBA:

a. Applications pertaining to operations which consist solely of agribusiness(es) other than farming enterprises, or

b. Applications pertaining to agribusiness enterprise(s), other than farming, when farming enterprises do not constitute the primary portion of the total operation. Losses sustained to any farming enterprise(s) may still be eligible for assistance from FHA as described in IV A 1 a.

B. It is further recognized by both agencies that FHA Emergency loan security requirements are more stringent and more limiting and, therefore, it is further agreed that in those cases where it becomes necessary for both agencies to make separate loans to the same applicant, the following understandings will prevail:

1. Appropriate field representatives of both agencies, in consultation with the applicant, will arrive at a mutual understanding regarding:

a. The loans to be made;

b. The purposes for which loan funds will be utilized;

c. The security required and to be taken by each agency;

d. The distribution of income in repayment of the loans.

2. FHA security requirements will take precedence.

3. All parties concerned will make the determination there will be sufficient repayment ability to adequately assure that the scheduled repayment installments can be met.

V. *Referring Applicants*—When referral of applicants between agencies is necessary, neither agency will inform the applicant that he is eligible for a loan from the other agency, nor will they inform the applicant that another agency is responsible for making him a loan. Such statements are misleading and result in confusion and poor public relations for the Federal Government. Therefore, referrals will be made with a statement that "the applicant may wish to contact the other agency as that agency can make loans for enterprises such as he is conducting."

It is recognized that not every applicant will meet the eligibility requirements for a disaster type loan. However, an agency's inability to make a loan to any applicant to finance a enterprise within the field of service of that agency will not be a basis for referring the applicant to the other agency for that part of his financing.

It is the intent to this Memorandum of Understanding that SBA will serve natural disaster victims who sustained losses to enterprises as defined in III A., and FHA will serve those defined in III B. of this Memorandum of Understanding.

This Memorandum of Understanding may be revised from time to time by written mutual consent of the agencies involved.

Signed: January 2, 1974.

((7 U.S.C. 1989; 42 U.S.C 1480; 40 USC 442); delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Dated: January 9, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-2301 Filed 1-28-74;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Area Quarantined

This amendment quarantines an additional portion of Lea County in New Mexico because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (c) relating to the State of New Mexico is amended to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious, and communicable disease, and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) That portion of Lea County bounded by a line beginning at the junction of an unnamed graveled township road (one mile south of Hillburn City) and State Highway 18; thence, following State Highway 18 in a southerly direction for approximately 6 miles to State Highway 337; thence, following State Highway 337 in a northeasterly direction for approximately 7 miles to State Highway 133; thence, following State Highway 133 in a southerly direction for approximately 7 miles to State Highway 83; thence, following State Highway 83 in a westerly direction for approximately 9 miles to State Highway 18; thence, following State Highway 18 in a generally southeasterly direction for approximately 7 miles to an unnamed graveled township road; thence, following the unnamed graveled township road in a westerly direction for approximately 5 miles to State Highway 483; thence, following State Highway 483 in a northerly direction for approximately 15 miles to an unnamed graveled township road; following the unnamed graveled township road in an easterly direction for approximately 2 miles to its junction with State Highway 18.

(2) That portion of Lea County bounded by a line beginning at the junction of county roads 147 and 148 (4 miles west of McDonald, New Mexico); thence, following county road 147 in a westerly, then northerly direction for approximately 11 miles to county road 149; thence, following county road 149 in an easterly direction for approximately 3 miles to county road 148; thence, following county road 148 in a southeasterly direction for approximately 6 miles to its junction with county road 147.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective on January 23, 1974.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to

accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the Federal Register.

Done at Washington, D.C., this 23rd day of January 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-2298 Filed 1-28-74;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

The following counties were deleted from the list of Modified Certified Brucellosis Areas in 9 CFR 78.13 on the specified dates: Sullivan County in Missouri on October 4, 1973; and Shannon County in South Dakota on November 2, 1973. Since said dates, it has been determined that these counties again come within the definition of § 78.1(i); and therefore, they have been redesignated as Modified Certified Brucellosis Areas.

Accordingly, § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby revised to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

All States of the United States are hereby designated as Modified Certified Brucellosis Areas.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); FR 28464, 28477, 38 FR 19141, 9 CFR 78.16).

Effective date. The foregoing amendment shall become effective January 29, 1974.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of brucellosis and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking procedure would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of January 1974.

J. M. HEIL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-2299 Filed 1-28-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13502; Amdt. 39-1779]

PART 39—AIRWORTHINESS DIRECTIVES

Israeli Aircraft Industries, Ltd.

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive was adopted on December 14, 1973, and made effective immediately as to all known United States operators of Israeli Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 airplanes. The directive requires periodic inspection of the upper bodies of the main landing gears for cracks, rough surfaces, and tool marks, and repair, rework, or replacement of those parts, as required.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Israeli Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 airplanes by individual telegrams dated December 14, 1973. These conditions still exist and the airworthiness directive is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

ISRAELI AIRCRAFT INDUSTRIES, LTD. Applies to Jet Commander Model 1121 and West Wind Model 1123 (Serial Numbers 3 and subsequent) airplanes.

Compliance is required as indicated.

To prevent possible failure of the main landing gear, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, unless already accomplished since December 9, 1973, and thereafter at intervals prescribed in paragraphs (b), (c), or (d), whichever is applicable, inspect the upper bodies of the main landing gears (P/N's ES 12845–1 and –4) for cracks, rough surfaces and tool marks in accordance with Part 1 of Israeli Aircraft Industries, Ltd. Temporary Service Bulletin No. CJ–10/WW2, dated December 9, 1973, or an FAA-approved equivalent.

(b) If no crack is found during an inspection required by paragraph (a), repeat the inspection required by paragaph (a) at intervals of 200 hours' time in service.

(c) If a crack is found during an inspection required by paragraph (a) that is 0.060 in. deep or less, before further flight, except that the airplane may be flown in accordance with FAR § 21.197 to a base where the work can be performed, repair in accordance with Part 2 of Israeli Aircraft Industries, Ltd. Temporary Service Bulletin No. CJ–10/WW2, dated December 9, 1973, or an FAA-approved equivalent, and repeat the inspection required by paragraph (a) at intervals of 30 landings or 50 hours' time in service, whichever occurs sooner.

(d) If a crack is found during an inspection required by paragraph (a) that is more than 0.060 in. deep, before further flight, except that the airplane may be flown in accordance with FAR § 21.197 to a base where the work can be performed, replace the cracked upper body (P/N's ES 12845–1 or –4) with a serviceable part of the same part number, or an FAA-approved equivalent, and repeat the inspection required by paragraph (a) at intervals specified in paragraphs (b), or (c), whichever is applicable.

(e) If rough surfaces or tool marks are found during an inspection required by paragraph (a), before further flight, except that the airplane may be flown in accordance with FAR § 21.197 to a base where the work can be performed, rework in accordance with Part 1 of Israeli Aircraft Industries, Ltd. Temporary Service Bulletin No. CJ–10/WW2, dated December 9, 1973, or an FAA-approved equivalent, and thereafter continue to inspect in accordance with paragraph (a) at intervals specified in paragraphs (b), or (c), whichever is applicable.

NOTE 1: Copies of Israeli Aircraft Industries, Ltd. Temporary Service Bulletin No. CJ–10/WW2, dated December 9, 1973, may be obtained from Commondore Aviation, Bethany, Oklahoma 73008.

NOTE 2: The applicable compliance times for the inspection, repair, rework, and replacement required by this AD are contained in this AD and are not those stated in the Israeli Aircraft Industries, Ltd. Temporary Service Bulletin No. CJ–10/WW2 dated December 9, 1973.

This amendment is effective on January 29, 1974, as to all persons except those persons to whom it was made immediately effective by the telegram dated December 14, 1973, which contained this amendment.

Issued in Washington, D.C., on January 21, 1974.

C. R. MELUGIN, Jr.,
Acting Director Flight Standards Service.

[FR Doc.74-2246 Filed 1-28-74;8:45 am]

[Airspace Docket No 73-EA-101]

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

Alteration of Control Zone and Transition Area

On page 33501 of the FEDERAL REGISTER for December 5, 1973, the Federal Avia-

tion Administration published proposed regulations which would alter the Huntington, W. Va., Control Zone (39 FR 391) and Transition Area (39 FR 513).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. March 28, 1974.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 15, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

1. Amend § 71.171 of Part 71, Federal Aviation Regulations by deleting the description of the Huntington, West Virginia Control Zone and by substituting the following in lieu thereof:

"HUNTINGTON, W. VA.

Within a 6-mile radius of the center, latitude 38°22'00" N., longitude 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, West Virginia, and within 3.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 6-mile radius zone to 4.5 miles east of the Shoals, West Virginia FM.".

2. Amend § 71.181 of Part 71, Federal Aviation Regulations by deleting the description of the Huntington, West Virginia 700-foot floor transition area and by substituting the following in lieu thereof:

"HUNTINGTON, W. VA.

That airspace extending upward from 700-feet above the surface within an 11-mile radius of the center, latitude 38°22'00" N., longitude 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, West Virginia; within 4.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 11-mile radius area to 6 miles east of the Shoals, West Virginia FM; and within 5-miles each side of the Tri-State (Walker-Long Field) ILS localizer west course, extending from the 11-mile radius area to 11.5 miles west of the OM.".

[FR Doc.74-2248 Filed 1-28-74;8:45 am]

[Airspace Docket No. 73-EA-87]

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

Alteration of Control Zone and Transition Area

On page 32816 of the FEDERAL REGISTER for November 28, 1973, the Federal Aviation Administration published proposed regulations which would alter the Rome, N.Y., Control Zone (38 FR 416) and Utica, N.Y., Transition Area (38 FR 591).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. March 28, 1974.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 10, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations by deleting in the description of the Rome, N.Y. control zone the coordinates "43°14'10" N., 75°24'25" W." and inserting the following in lieu thereof: "43°13'45" N., 75°25'00" W."

2. Amend § 71.181 of Part 71 of the Federal Aviation regulations as follows:

(a) In the description of the Utica, N.Y. 700 foot transition area, delete the coordinates "43°14'10" N., 75°24'25" W." and insert "43°13'45" N., 75°25'00" W." in lieu thereof.

(b) Delete the description of the Utica, N.Y., 1,200 foot transition area and insert the following in lieu thereof:

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at 43°24'00" N., 76°53'00" W. to 42°57'00" N., 76°57'00" W. to 42°40'00" N., 77°23'45" W. to 42°41'30" N., 76°23'00" W. to 42°40'00" N., 75°30'00" W. to 43°00'00" N., 74°30'00" W. to 43°18'40" N., 74°30'30" W. thence counterclockwise along an arc with a radius of 46 miles from the center of Griffiss AFB to 43°36'00" N., 74°39'30" W. to 43°31'00" N., 74°43'00" W. thence counterclockwise along an arc with a radius of 40 miles from the center of Griffiss AFB to 43°44'00" N., 75°49'15" W. to 43°32'-00" N., 76°23'00" W. to 43°24'00" N., 76°40'-00" W. to point of beginning.

[FR Doc.74-2250 Filed 1-28-74;8:45 am]

[Airspace Docket No. 73-EA-88]

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

Alteration of Transition Area

On page 32817 of the FEDERAL REGISTER for November 28, 1973, the Federal Aviation Administration published a proposed rule which would alter the Pottsville, Pa., Transition Area (38 FR 561).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. March 28, 1974.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 10, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Pottsville, Pa., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°42'15" N., 76°23'00" W. of Schuylkill County (Joe Zerbey) Airport, Pottsville, Pa.; within 3 miles each side of the 103° bearing from the Zerby RBN 40°-42'25" N., 76°22'19" W., extending from the 6-mile radius area to 8.5 miles east of the RBN; and within 2 miles each side of the Ravine, Pa. VORTAC 049° radial, extending from the 6-mile radius area to 9 miles northeast of the VORTAC.

[FR Doc.74-2249 Filed 1-28-74;8:45 am]

[Airspace Docket No. 73-AL-24]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Colored Federal Airways, Jet Routes, and Redesignation of Reporting Points

The purpose of these amendments to Part 71 and Part 75 of the Federal Aviation Regulations is to redescribe Color Federal Airways and Jet Routes, and redesignate low and high altitude reporting points.

This action is based on the conversion of the Gulkana, Alaska, and Hinchinbrook, Alaska, low frequency ranges to nondirectional radio beacons. Additionally, because of duplication of NAVAID location names at Gulkana, Alaska, the nondirectional radio beacon is renamed "Glenallen" in compliance with current criteria for naming navigational aids and is assigned a new identifier "GLA." The VORTAC will retain the name "Gulkana VORTAC" with the identification "GKN."

These radio ranges are frequently advertised for radio beacon use only because of multiple and shifting course signals. Reliable repairs have become increasingly difficult since standard replacement parts are no longer available. Furthermore, on March 1, 1971, the Federal Aviation Administration issued a Notice under aeronautical study 71-AL-18NR, proposing to convert all four-course radio ranges in Alaska to nondirectional radio beacons. No objections were received.

Therefore, the Gulkana and Hinchinbrook low frequency ranges will be permanently converted to nondirectional radio beacons, effective March 28, 1974.

Since these amendments are minor in nature and do not assign or reassign the use of domestic or offshore navigational airspace presently coordinated under the Federal Aviation Act of 1958 and Executive Order 10854, notice and public procedure hereon are unnecessary. However, in order to allow sufficient time to make appropriate editorial changes to aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing Part 71 and 75 of the Federal Aviation Regulations are amended effective 0901 G.m.t., March 28, 1974, as herein set forth.

1. Section 71.103 (39 FR 305) is amended as follows:

In G–8 * * * "Gulkana, Alaska, RR; INT northeast course Gulkana RR" * * * is deleted and * * * "Glenallen, Alaska, RBN; INT 052° bearing Glenallen RBN" * * * is substituted therefor.

2. Section 71.105 (39 FR 305) is amended as follows:

In A–1 * * * "INT northwest course Yakutat RR and southeast course Hinchinbrook Alaska, RR; Hinchinbrook, RR; INT west course Hinchinbrook RR and 122° Campbell Lake, Alaska, RBN" * * * is deleted and * * * "INT Yakutat RR west course and Hinchinbrook, Alaska, RBN 106° bearing, Hinchinbrook, RBN; INT of Hinchinbrook RBN 286° and Campbell Lake, Alaska, RBN 122° bearings; * * * is substituted therefor.

3. Section 71.109 (39 FR 306) is amended as follows:

B–25 is redesignated to read:

From INT Hinchinbrook, Alaska, RBN 206° and Middleton Island, Alaska, RBN 296° bearings: Hinchinbrook RBN; 11 miles, 21 miles 55 MSL, 28 miles, 90 MSL, INT Hinchinbrook RBN 026° and Glenallen, Alaska, RBN 171° bearings; Glenallen, RBN; Big Delta, Alaska, RR.

4. Section 71.171 (39 FR 354) is amended as follows:

In Cordova, Alaska * * * "Hinchinbrook, Alaska, RR east course;" * * * is deleted and * * * "Hinchinbrook, Alaska, RBN 106° bearing;" * * * is substituted therefor.

5. Section 71.181 (39 FR 440) is amended as follows:

a. In Cordova, AK * * * "the east course of the Hinchinbrook, Alaska, RR" is deleted and "Hinchinbrook, Alaska, RBN 106° bearing" is substituted therefor.

b. In Yakataga, Alaska * * * "east course of the Hinchinbrook, Alaska, RR;" * * * is deleted and * * * "Hinchinbrook, Alaska, RBN 106° bearing" * * * is substituted therefor wherever it appears.

6. Section 71.211 (39 FR 632) is amended as follows:

a. East Cordova INT is redesignated to read "East Cordova INT: Hinchinbrook, Alaska, RBN 106° and Cordova, Alaska, RBN 151° bearings.

b. "Gulkana, Alaska, RR" is deleted and "Glenallen, Alaska, RBN" is added.

c. In Hinchinbrook, Alaska, "RR" is deleted and "RBN" is substituted therefor.

7. Section 71.213 (39 FR 634) is amended as follows:

In King Fish INT: * * * "Hinchinbrook, Alaska, 118° bearing" * * * is deleted and * * * "Hinchinbrook, Alaska, RBN 118° bearing" is substituted therefor.

8. Section 75.100 (39 FR 699) is amended as follows:

In Jet Route No. 133 (Annette Island, Alaska, to Anchorage, Alaska). "Hinchinbrook, Alaska RR;" is deleted and "Hinchinbrook, Alaska, RBN;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), and Executive Order 10854 (24 FR 9565))

Issued in Anchorage, Alaska, on January 18, 1974.

QUENTIN S. TAYLOR,
Acting Director, Alaskan Region.

[FR Doc.74–2247 Filed 1–28–74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS

PART 373—SPECIAL LICENSING PROCEDURES

PART 377—SHORT SUPPLY CONTROLS

Export Licensing and Commodity Controls

I. METHOD OF LICENSING EXPORTS OF PETROLEUM AND PETROLEUM PRODUCTS IN THE FIRST QUARTER 1974

The FEDERAL REGISTER of December 13, 1973, announced that in light of the critical energy shortage facing the world economy, validated licenses would be required for export of the petroleum commodities listed in Supplement No. 1 to Part 377. The REGISTER advised exporters that in order to be eligible to receive shares of any quotas to be established for the listed petroleum commodities (other than crude oils), they had to submit properly executed statements of past participation in the manner and by the dates therein specified. The purpose of this issuance is to designate which of the controlled petroleum commodities will be subject to quota restriction, how shares of such quotas will be allocated to individual exporters, and the methods of issuing export licenses for both quota and nonquota petroleum products.

Exporters having any questions should call area code 202–967–3795.

The petroleum commodities which are subject to licensing requirements have for purposes of administration of the controls been divided into 9 groups. These groups are as follows: Group A (crude oils subject to a virtual embargo pursuant to the Alaskan Pipeline Act); Groups B, C, F and G (gasoline, distillates and residual fuel oils subject to quantitative restrictions based on level of exports during period January 1971–June 1973) and Groups D, E, H and I (kerosene, jet fuel, carbon black feedstocks and butane, propane and natural gas liquids, remain subject to 100 percent licensing as long as rate of export does not exceed prior historic rate).

Crude oils (Schedule B Nos. 331.0100 and 331.0200) will continue to be licensed under the basis announced on December 13, 1973 (see § 377.6(e)).

Each exporter who properly submitted a statement of past participation will be issued a letter of quota participation for the first quarter 1974, which shall specify, for the following petroleum commodities the total quantities on a country-by-country basis for which he is eligible to apply for validated licenses:

	Schedule B Number
Aviation gasoline	332.1015
Gasoline, n.e.c.	332.1030
Gasoline blending agents, hydrocarbon compounds only, n.e.c.	332.1050
Distillate fuel oils	332.3000
Residual fuel oils	332.4000

Those countries for which separate quotas have not been established will be grouped in a single entity labelled, "all other countries", and the exporter may designate the quantity allocated for such other countries for shipment to any countries which are not specifically identified in Supplement No. 1 to Part 377 as countries for which separate quotas have been provided.

The gasolines, distillates, and residuals listed above have been placed under quota restriction because of increases in export licensing above past historic levels of exports for such commodities. With respect to the remaining petroleum commodities, those in Petroleum Commodity Groups D, E, H, and I as established in Supplement No. 1 to Part 377, the 100 percent licensing system established the issuance of December 13, 1973, remains in effect. Exporters are cautioned that in the event that significant increases are experienced with respect to petroleum commodities in Groups D, E, H, or I, they also will be placed on quota restriction.

A quota set-aside of 5 percent of the total quota for each commodity group subject to quota restriction has been earmarked for use during the first quarter for contingencies, including situations involving applicants without an exporting history during the base period who would suffer particular hardship if denied any quota share.

A special rule is established for the documentation of export orders for which no contract is entered into pursuant to a well-established and consistently maintained trade practice. With respect to such orders in lieu of the copy of the contract and affidavits which would otherwise be required, the exporter may submit an affidavit describing the special circumstances with particularity.

Licenses issued during the first quarter 1974 will expire 60 days from the date of issuance, but no later than April 30, 1974.

Exporters are advised that while no decision has been made as to the petroleum commodity export policy that may be in effect after the first quarter 1974, they should recognize the risks inherent in making export commitments that anticipate the specific form such a policy might take.

II. REVISION OF COMMODITY CONTROL LIST TO REALIGN ENTRIES TO CONFORM WITH QUOTA GROUPINGS AND TO INCLUDE CARBON BLACK FEEDSTOCK OIL UNDER A SEPARATE CLASSIFICATION

The FEDERAL REGISTER of December 13, 1973, imposed short supply export controls on 13 Schedule B classifications of petroleum and petroleum products. On January 1, 1974, the U.S. Bureau of the Census revised the Schedule B classifications to establish a new Schedule B No. 332.9160 for carbon black feedstock oil. In order to avoid misinterpretation of the regulations, the Commodity Control List is revised to clarify that a validated export license is required for shipment

of carbon black feedstock oil to any foreign destination, including Canada. Additionally, the entries announced in the FEDERAL REGISTER of December 13, 1973, are realigned to coincide with the commodity groupings established for quota purposes.

Accordingly, § 399.1 of the Export Administration Regulations is amended to read as follows:

U.S. Department of Commerce Export Control Commodity Number and Commodity Description	Unit	Processing No.	Validated license required for country groups shown below	GLV $ value limits for shipments to country groups		
				T	V	Q
3(7b) B. Petroleum, crude or partly refined, including shale oil and topped crudes. (Specify 7-digit Schedule B No.).	Barrel	252	QSTVWYZ and Canada.	250	250	250
3(7c) B. Aviation gasoline. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7d) B. Other gasoline (except jet fuel), including natural gasoline; and gasoline blending agents, n.e.c. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7e) B. Kerosene, except kerosene-type jet fuel. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7f) B. Jet Fuel. (Specify 7-digit Schedule B No.)	do	252	do	250	250	250
3(7g) B. Distillate fuel oils. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7h) B. Residual fuel oils. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7i) B. Carbon black feedstock oil. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250
3(7j) B. Butane; propane; and natural gas liquids, including liquefied petroleum gas (L.P.G.), n.e.c. (Specify 7-digit Schedule B No.).	do	252	do	250	250	250

Any exporter who desires to export carbon black feedstock oil (Schedule B No. 332.9160) shall, no later than February 4, 1974, submit, pursuant to the rules of § 377.6(a), a statement of past participation for such commodity on Form DIB–669P, which shall be accompanied, as appropriate, by revised Forms DIB–669P for petroleum commodity Schedule B classifications such as Schedule B No. 332.4000, under which any exports of carbon black feedstock oil during the base period were previously reported. Generally, the revised forms should show a total reduction in the previously reported quantity of exports equal to the quantity now reported for carbon black feedstock oil separately. An exporter who makes the submission described in this paragraph shall, upon verification, receive a revised letter of quota participation. The forms must be signed by an authorized representative of the exporter. The statement will be treated as confidential information under section 7(c) of the Export Administration Act of 1969, as amended.

III. EXCLUSION OF COMMODITIES UNDER SHORT SUPPLY CONTROLS FROM CERTAIN SPECIAL LICENSE PROCEDURES

The Export Administration Regulations are revised effective January 28, 1974, to exclude from export eligibility under the Project and Distribution License procedures, which are based on national security considerations, all those commodities listed in Supplement No. 1 to Part 377 which are subject to short supply licensing controls. As a result, these commodities may no longer be exported under the general provisions of the Project or Distribution License procedures.

Accordingly, the Export Administration Regulations (15 CFR Parts 373 and 377) are amended as follows:

1. Paragraph (b) of § 373.2 is amended by adding a new subparagraph (6) to read as follows:

§ 373.2 Project License.

* * * * *

(b) *Commodities, Technical Data, and Activities Not Eligible for Project License.* The Project License Procedure does not apply if: * * *

(6) The commodities are listed in Supplement No. 1 to Part 377 as being under short supply controls.

* * * * *

2. Paragraph (b) of § 373.3 is amended by adding a new subparagraph (4) to read as follows:

§ 373.3 Distribution License.

* * * * *

(b) *Eligible Commodities.* Any commodities requiring a validated license for export to the countries listed above qualify for the Distribution License Procedure, except: * * *

(4) Commodities listed in Supplement No. 1 to Part 377 as being under short supply controls.

* * * * *

3. Section 377.6 is amended by revising paragraph (b) and adding paragraphs (c), (d), (e), (f), (g) and (h) and the portion of Supplement No. 1 to Part 377 that relates to "Petroleum and Petroleum Products" is amended to read as follows:

§ 377.6 Petroleum and Petroleum Products.

* * * * *

(b) *Special submission re: carbon black feedstock oil.* Any exporter who desires to export carbon black feedstock oil (Schedule B No. 332.9160) shall submit, pursuant to the rules of paragraph (a) of this section, a statement of past participation for such commodity on Form DIB–669P, which shall be accompanied, as appropriate, by revised Forms DIB–669P for those petroleum commodity Schedule B classifications under which exports of carbon black feedstock oil during the base period were previously reported under paragraph (a). Generally, such revised forms should show a total reduction in the previously reported quantity of exports equal to the quantity reported for carbon black feedstock oil separately. Such documentation must be actually received by the Office of Export Administration, Main Department of Commerce Building, Room 1613, 14th and E Streets NW., Washington, D.C. 20230, no later than February 4, 1974.

(c) *Letters of quota participation (Groups B, C, F, and G).* Each exporter who submitted statements of past participation pursuant to the rules of paragraphs (a) and, as appropriate, (b) of this section shall be eligible to receive shares of the quotas for the first quarter 1974 against which he will be eligible to apply for licenses to export commodities from Petroleum Commodity Groups B, C, F and G as established in Supplement No. 1 to this Part 377. Such shares shall be determined by the Office of Export Administration pursuant to the rules of § 377.2. The base period used for quota determinations is the period from January 1, 1971 to June 30, 1973. Quota shares are based on an exporter's base period exports to specific foreign destinations and, for destinations for which separate quotas have not been established, to "all other countries" (which are for this purpose treated as a single entity). Each eligible exporter shall, upon appropriate verifictaion, be issued a letter of quota participation, and (if appropriate) a revised letter of quota participation pursuant to paragraph (b) of this section, for the first quarter 1974, which shall indicate for each of the petroleum commodity groups referred to above for which the exporter is eligible to apply for validated licenses, the total quantity (in barrels of 42 gallons) of his quota share for specific foreign country destinations and for "all other countries." A stated quota share for a specified foreign country destination may only be used for shipment to such country. A quota share for "all other countries" may only be used for shipment to a country or countries not specifically identified in Supplement No. 1 as a country for which a separate quota has been provided. All export licenses issued to an exporter on or after January 1, 1974, under the 100% licensing system shall be charged against such exporter's quota shares.

(d) *Issuance of export licenses.* (1) *Group A.* An application for a validated license to export a commodity from Petroleum Commodity Group A as established in Supplement No. 1 to this Part 377 will be considered if submitted with supporting documentation as required by paragraph (e)(1) of this section by the date specified in Supplement No. 1, to the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

(2) *Groups D, E, H, and I.* An application for a validated license to export a

commodity from Petroleum Commodity Group D, E, H, or I as established in Supplement No. 1 to this Part 377 will be considered if submitted with supporting documentation as required by paragraph (e)(2) of this section by the date specified in Supplement No. 1, to the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

(3) *Groups B, C, F, and G.* An application for a validated license to export a commodity from Petroleum Commodity Group B, C, F, or G as established in Supplement No. 1 to this Part 377 will be considered, but only to the extent of the exporter's quota share for such group, if submitted with supporting documentation as required by paragraph (e)(2) of this section by the date specified in Supplement No. 1, to the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

(e) *Documentation.* (1) *Group A.* An application for a validated license to export a commodity from Petroleum Commodity Group A as established in Supplement No. 1 to this Part 377, must be submitted on Forms FC–419 (or DIB–622) and FC–420 [1] and accompanied by:

(i) A photocopy or certified copy of the contract of sale for export to a foreign buyer calling for shipment during the first quarter 1974,

(ii) A sworn affidavit by the applicant as to the amount previously exported against such contract, if any, and

(iii) A sworn affidavit, signed by an authorized representative of the exporter, which demonstrates to the satisfaction of the Office of Export Administration that such export will not diminish the total quantity or quality of petroleum available to the United States, or that unique hardship grounds exist.

(2) *Groups B, C, D, E, F, G, H, and I.* An application for a validated license to export a commodity from Petroleum Commodity Group B, C, D, E, F, G, H, or I must be submitted with the same documentation required by subparagraph (1) above, except that the affidavit described in subparagraph (1)(iii) shall not be required.

(3) *Exception for established trade practices.* A special rule is established for the documentation of export orders for which no contract is entered into pursuant to a well-established and consistently maintained trade practice. With respect to such orders in lieu of the copy of the contract and affidavits which would otherwise be required pursuant to paragraphs (e)(1) and (2) of this section, the exporter may submit an affidavit describing the special circumstances with particularity.

(f) *Hardship.* A quota set-aside of 5 percent of the total quota for each commodity group subject to quota restriction has been earmarked for use during the first quarter for contingencies, including situations involving applicants without an exporting history during the base period who would suffer particular hardship if denied any quota shares. Those parties who feel they qualify under the criteria of this rule may submit an application under the rules of § 377.5, accompanied by a full and complete statement of the merits of their case. Such application must be clearly labeled "Hardship Application."

(g) *Validity period.* Any license issued pursuant to this section will expire 60 days from date of issuance, but no later than 30 days from the end of the calendar quarter in which it is issued.

(h) *Confidentiality.* Any documentation required from the exporter under this section will be treated as confidential information under section 7(c) of the Export Administration Act of 1969, as amended.

SUPPLEMENT NO. 1—COMMODITIES SUBJECT TO SHORT SUPPLY LICENSING CONTROLS

PETROLEUM AND PETROLEUM PRODUCTS

Schedule B No.	*Commodity description*
	Group A
331.0100	Crude petroleum.
331.0200	Petroleum partly refined for further refining.
	Group B
332.1015	Aviation gasoline.
	Group C
332.1030	Gasoline, n.e.c.
332.1050	Gasoline blending agents, hydrocarbon compounds only, n.e.c.
	Group D
332.2010	Kerosense, except kerosense-type jet fuel.
	Group E
332.2020	Jet fuel.
	Group F
332.3000	Distillate fuel oils.
	Group G
332.4000	Residual fuel oils.
	Group H
332.9160	Carbon black feedstock oil.
	Group I
341.1025	Butane.
341.1030	Propane.
341.1040	Natural gas liquids, including LPG, n.e.c.

Quantities: Report the above commodities in barrels of 42 gallons.
Shipping tolerance: 10 percent.
Submission dates: Application for first quarter 1974 licenses, not later than:

Historical exporters of petroleum commodities other than crude oils	March 20, 1974
Hardships and Crude oil exporters	March 31, 1974
Other petroleum product exporters	March 31, 1974

COUNTRY QUOTAS

COUNTRY QUOTAS FOR GROUP B
(Schedule B No. 332.1015, Aviation Gasoline)

Country:	*1st quarter 1974 quota (bbl)*
Bahamas	1,676
Belgium	78
Bolivia	2,761
Cameroon	65
Canada	3,313
Dahomey	58
French Pacific Islands	3,853
Gabon	115
Holland	18,940
Honduras	307
India	12,743
Ivory Coast	98
Mexico	10,509
Singapore	14,783
All Other	165

COUNTRY QUOTAS FOR GROUP C

Schedule B No. 332.1030, Gasoline, n.e.c.
Schedule B No. 332.1050, Gasoline blending agents, hydrocarbon compounds only, n.e.c.

Country:	*1st quarter 1974 quota (bbl)*
Australia	554
Austria	139
Bahamas	872
Belgium	3,929
Brazil	29,061
Canada	76,078
Denmark	76
Finland	162
France	635
French Pacific Islands	18,523
Holland	48,039
India	143
Iran	106
Italy	314
Japan	299
Leeward & Windward Islands	1,109
Mexico	149,791
Mozambique	66
Nigeria	143
Philippines	137
South Africa	556
Sweden	56
United Kingdom	3,111
Venezuela	165
West Germany	3,966
All Other	513

COUNTRY QUOTAS FOR GROUP F

(Schedule B No. 332.3000, Distillate fuel oils)

Country:	*1st Quarter 1974 Quota (bbl)*
Bahamas	3,125
Canada	98,156
Colombia	36,385
Denmark	22,413
French Pacific Islands	10,086
Holland	58,895
Japan	11,636
Mexico	190,448
Netherlands Antilles	34,072
Peru	13,577
Surinam	327
All Other	1,359

Effective date of action. January 24, 1974, 12:01 a.m.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.74-2233 Filed 1-28-74;8:45 am]

[1] Forms are available from any of the Commerce Department's Domestic and International Business Administration District Offices, or from the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-44]

PART 1—GENERAL PROVISIONS

Revocation of Washington, N.C. as Customs Station

On October 3, 1973, a proposal to revoke the designation of Washington, North Carolina, as a Customs station in the Wilmington, North Carolina, Customs district (Region IV), was published

in the FEDERAL REGISTER (38 FR 27399). There were no comments received.

Accordingly, the designation of Washington, North Carolina, as a Customs station is hereby revoked. To reflect this revocation, the table in § 1.3(d) of the Customs regulations is amended by deleting "Wilmington, N.C." from the column headed "District", "Washington, N.C." from the column headed "Customs stations", and "Wilmington." from the column headed "Port of entry having supervision".

(Sec. 1, 37 Stat. 434 (5 U.S.C. 301, 19 U.S.C. 1))

Effective date. This amendment shall be effective on January 29, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 16, 1974.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.74-2334 Filed 1-28-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED (1974——)

Effectiveness of Specific Notices of Proposed Rule Making

[INTERIM REGULATIONS]

Notice is hereby given that the rules contained in the following notices of proposed rule making and proposed regulations will be applied by the Social Security Administration in order to administer the supplemental security income program during the period from January 1, 1974, when the new program became effective, until final regulations are adopted. Those affected proposed regulations previously published with a Notice of Proposed Rule Making are as follows:

(a) 20 CFR Part 416, Subparts B and E—Eligibility and Amount of Benefits (38 FR 29087)

(b) 20 CFR Part 416, Subpart H—Determination of Age (38 FR 34468)

(c) 20 CFR Part 416, Subparts K and L—Income and Resources (38 FR 27407)

(d) 20 CFR Part 416, Subpart O—Representation of Parties 38 FR 34469)

(e) 20 CFR Part 416, Subpart T—Mandatory State Supplementation (38 FR 27412)

(f) 20 CFR Part 416, Subparts T and U—Optional State Supplementation and Medicaid Eligibility (38 FR 21184)

All persons have been previously given the opportunity to submit any data, views, or arguments pertaining to these proposed amendments to the regulation. Full consideration will be given to all such comments received before final adoption of these regulations.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: January 16, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 23, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

[NOTE: These amendments are issued under authority of the Social Security Amendments of 1972, sections 1102, 1601, 1602, 1611-1614, 1616, 1631, 1633 and 1634; 49 Stat. 647 as amended; 86 Stat. 1465, 1466, 1468, 1470 and 1473-1478; 87 Stat. 155; (42 U.S.C. 1302 and 1381 et seq.)

Persons desiring copies of the interim regulations as published in the respective notices of proposed rule making may obtain them from any Social Security Administration regional office or by writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, Fourth and Independence Ave. SW., Washington, D.C. 20201.]

[FR Doc.74-2329 Filed 1-28-74;8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

Physical Security Controls for Practitioners

On October 25, 1973, a notice was published in the FEDERAL REGISTER (38 FR 29479) proposing to amend § 1301.75 to permit pharmacies the option of dispersing some or all Schedule II controlled substances throughout the stock of noncontrolled prescription drugs or of using the current security system for some or all of the Schedule II items.

Numerous comments were received. Pharmacy regulatory agencies in California, Nevada, North Carolina, Tennessee and Wisconsin supported the proposal, as did the American Pharmaceutical Association, the National Association of Chain Drug Stores, and the Pharmaceutical Associations of Tennessee, Texas, and Hamilton County, Ohio. Several of these groups also supported the Drug Enforcement Administration's recommendation that pharmacies practice other suitable means of discouraging theft and loss. These could include such measures as maintenance of minimal stocks of controlled substances, improvement of overall physical security in the pharmacy (through the addition of adequate alarm systems, improved lighting, tamperproof locks and closed circuit television surveillance), and secure stocks while maintaining smaller quantities for dispensing in daily operations.

The question of the applicability of the proposed regulation to hospital pharmacies was raised by the American Society of Hospital Pharmacists and by hospitals in Nevada, Ohio, and Washington. The Drug Enforcement Administration believes that the change should apply to institutional practitioners (which includes hospitals by definition) because of the wide variety of noncontrolled drugs among which to disperse the controlled items, because of the special security forces operating in many hospitals, and because of the low rate of theft from these institutions.

This change would not apply, however, to the special security requirements for handling methadone which are imposed upon institutional practitioners.

The question of the applicability of the proposal to physicians was raised by the American Society of Bariatric Physicians. The Drug Enforcement Administration believes that the change should not apply to individual practitioners because physicians frequently lack the variety of noncontrolled drugs among which to disperse controlled drugs, lack any other means of security, and possess significant quantities of controlled substances. Thus, special precautions should be taken by such physicians.

The Alarm Industry Committee for Combating Crime (representing manufacturers of alarm and protection devices) submitted several specific proposals to improve pharmacy security in new ways. The Drug Enforcement Administration will consider these suggestions as it completes its study of security problems in pharmacies and promulgates new regulations to deal with these problems.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973), the Administrator hereby orders that Part 1301 of Title 21 of the CFR be amended by revising § 1301.75 to read as follows:

§ 1301.75 Physical security controls for practitioners.

(a) Controlled substances listed in Schedule I shall be stored in a securely locked, substantially constructed cabinet.

(b) Controlled substances listed in Schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies and institutional practitioners (as defined in § 1304.02(e) of this chapter) may disperse such substances throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances.

(c) This section shall also apply to nonpractitioners authorized to conduct research or chemical analysis under another registration.

Effective date. This revision becomes effective on January 29, 1974.

Dated: January 24, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-2331 Filed 1-28-74;8:45 am]

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the naroctic substance cannot in practice be removed. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973) the Administrator hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 1308.24(i) by adding the following chemical preparations:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Amersham/Searle	d-(side chain ^{3}H) Amphetamine Sulfate Number TRK-444.	Ampoule: 5 ml	Sept. 20, 1973
Applied Sciences Labs, Inc	Opiates, Mixture 1 Numb r 01830	Vial: 10 ml	Oct. 4, 1973
Do	Stimulants, Mixture 2 Number 01831	do	Do.
Do	Depressants, Mixture 3 Number 01832	do	Do.
Do	Barbiturates, Mixture 4 Number 01833	do	Do.
Curtis Nuclear Corp	FeRRONEX Kit No. 00250	Vial: 8 ml	Sept. 19, 1973
Hoffman-La Roche, Inc	Abuscreen Radioimmunoassay for Barbiturates (125I).	Vial: 30 ml and 500 ml	July 6, 1973
Hyland Division Travenol Laboratories, Inc.	T-6	Vial: 20 ml	Oct. 23, 1973
Do	T-7	do	Do.
Do	T-8	Vial: 50 ml	Do.
Do	T-9	do	Do.
Do	T-10	do	Do.
Meloy Laboratories	Counterelectrophoresis Plates for HAA Detection, F-211.	Plates: 10 determinations, 6 per kit.	Sept. 5, 1973.
Do	Counterelectrophoresis Plates, G-301	Plates: 10 determinations.	Do.
Do	Counterelectrophoresis Plates, G-302	Plates: 29 determinations.	Do.
Do	Counterelectrophoresis Kit with vial of Buffer, G-303.	Plates: 10 determinations, 6 per Unit and Vial: 12.15 grams.	Do.
Do	Counterelectrophoresis Kit with vial of Buffer, G-304.	Plates: 29 determinations, 6 per Unit and Vial: 12.15 grams.	Do.
Do	Electrophoresis Buffer Barbital pH 8.6, G-999.	Vial: 12.15 grams	Do.
Do	Immunoelectrophoresis Plates, G-201	Plates: 6 per Unit	Do.
Do	Immunoelectrophoresis Kit with vial of Buffer, G-202.	Plates: 6 per Unit and Vial: 12.15 grams.	Do.
Taylor Chemicals, Inc	Code 1307D—Zinc Reagent D	Bottle: 2 oz, 4 oz, 8 oz, 16 oz.	Aug. 31, 1973
Thyroid Diagnostics, Inc	StaT$_3$	Vial: 10 mm x 110 mm	Sept. 26, 1973
Do	StaT$_4$	do	Do.

b. By amending § 1308.24(i) by deleting the following chemical preparations:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Meloy Laboratories	Agar Gel Plate Kit No. F-101, F-211, F-212, F-213, G-202, G-303 and G-304.	Package: 6 plates and 2 vials (30 x 70 mm) per kit.	Nov. 30, 1973
Do	Barbital Buffer (or Electrophoresis Buffer).	Vial: 12.12 grams per 29.5 x 80 mm vial.	Sept. 15, 1971

Effective date. This order is effective January 29, 1974. Any interested person may file written comments on or objections to the order on or before April 1, 1974. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: January 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-2216 Filed 1-28-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER IV—OFFICE OF ASSISTANT SECRETARY FOR HOUSING MANAGEMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER E—INTEREST REDUCTION HOUSING—MANAGEMENT AND CONTRACT ADMINISTRATION—SECTION 236

[Docket No. R-74-231]

PART 425—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Mortgage Insurance Requirements

Miscellaneous Amendment

The Department of Housing and Urban Development, on June 14, 1973, (38 FR 15631) published proposed regulations to establish guidelines for the admission of applicants, at less than market rent, into multifamily housing insured and assisted under section 236 of the National Housing Act. Such admission is termed "assisted admission." Under the proposed regulations, project owners or their managing agents may, at their discretion and within the guidelines set forth in the proposal, admit applicants for assisted admission. Supporting written documentation shall be maintained for each applicant.

Interested persons were given the opportunity to participate in the rule making through the submission of comments. One of the comments reflected some confusion over whether the project owners and their managing agents would be required to apply the recently revoked 35 percent income limitation in determining whether an applicant has "adequate income" for purposes of paragraph (b) of § 425.22. To clarify this point, neither the old "35 percent rule" or any other test based on a specific percentage of adjusted income is required to be used in determining "adequate income." In addition, another of the comments involved a question about the meaning of the term "income" as used in paragraph (b). That term does not necessarily refer to the technical meaning of the term "adjusted monthly income" as defined in 24 CFR 236.2(a), but rather refers to the income the project owner or managing agent considers available for payment of rent. Several of the letters of comment

contained the point that if project owners and their managing agents were required to keep documentation only on applicants with "inadequate" income who were admitted, this could act as a deterrent to admitting such applicants. To avoid this possibility, the documentation requirement will apply to applicants whose income is considered "inadequate" regardless of whether they are admitted or rejected, and paragraph (b) of § 425.22 has been changed accordingly. Several persons commented that although the proposed guidelines provided project managers with the necessary flexibility to admit families who have the ability to pay the rent, there should be an instruction, in accordance with section 236(i)(2) of the National Housing Act, to accord a preference to those families who are within the lowest practicable limits for obtaining rental accommodations in projects assisted under this section. Paragraph (c) has been added to § 425.22 for this purpose. There were also several comments concerning an appeals procedure. Since these regulations deal with only one aspect of tenant selection for admission into HUD insured and assisted housing, it would be inappropriate to provide a separate appeals procedure for applicants who are determined not to have the ability to pay the rent. The Department is presently formulating proposed regulations concerning the entire subject of tenant selection and admission. One of the issues under consideration is the appropriate means of notification and remedy for applicants who are denied admission. Such proposed regulations will be published for public comments.

On September 29, 1972 (37 FR 20327), the Department issued a final rule adopting Part 425 and established at that time a new Subchapter E—Interest Reduction Housing—Management and Contract Administration—section 236. Part 425 which originally appeared under Subchapter C is being reorganized at this time to appear under the new Subchapter E.

The final regulations are as follows:

1. Section 425.1 is amended by adding a new paragraph (c) to read as follows:

§ 425.1 Purpose and definitions.

* * * * *

(c) "Assisted admission" means admission at a rent less than the fair market monthly rental charge.

2. A new § 425.22 is added to the Table of Contents and text to read as follows:

§ 425.22 Guidelines for assisted admission.

(a) *Maximum income.* The adjusted income of an applicant shall not exceed the maximum income limits established by the Secretary for the project locality.

(b) *Ability to pay rent.* The project owner or his managing agent may, at his discretion, admit an applicant for assisted admission whose adjusted income meets the requirement in paragraph (a) of this section if, in his judgment, the applicant has an adequate income to pay the basic monthly rental charge. If the applicant's income appears inadequate, the factors listed below, in addition to the applicant's income, shall be taken into consideration in making a determination of whether he will be able to pay the basic monthly rental charge. The project owner or his managing agent shall maintain supporting written documentation for the decision to admit or reject an applicant for assisted admission based upon these factors.

(1) A local welfare or other agency has agreed to pay all or a portion of the basic monthly rental charge.

(2) The applicant is 62 years of age or older.

(3) The applicant is a qualified tenant on whose behalf the project owner will receive rent supplement payments under Part 215 of this title.

(4) The applicant has established a history of rent-paying ability at levels equal to or greater than basic rent.

(5) The applicant has sufficient income, when considered together with other assets, to pay the basic monthly rental charge for a reasonable period.

(6) The applicant receives food stamps, surplus commodities or similar benefits that favorably affect the applicant's ability to pay rent.

(7) Such other factors as, in the judgment of the project owner or his managing agent, bear favorably upon the applicant's ability to pay rent.

(c) *Preference for applicants within lowest practicable income limits.* The project owner or his managing agent shall accord a preference to applicants for assisted admission whose incomes are within the lowest practicable income limits and who meet the requirements of paragraphs (a) and (b) of this section.

Effective date. This amendment is effective as of February 26, 1974.

(Sec. 211, 52 Stat. 23, as amended; sec. 236, 82 Stat. 498, as amended (12 U.S.C. 1715b, 1715z-1))

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.74-2309 Filed 1-28-74;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 74—COAL MINE DUST PERSONAL SAMPLER UNITS

Specifications of Sampler Units

On December 15, 1972, the Department of the Interior and the Department of Health, Education and Welfare jointly adopted amendments to Part 74 of Title 30, Code of Federal Regulations, which sets forth testing and approval requirements for coal mine dust personal sampler units (37 FR 26712). The amendments, among other things, require that on and after December 15, 1973, the quantity of respirable dust collected with a coal mine dust personal sampler unit will be within ±5 percent of that collected with a sampling head assembly operated with nonpulsating flow. The amendments further provide that certificates of approval issued for sampler units which fail to comply with the aforementioned requirement on and after December 15, 1973, will be revoked (See 30 CFR 74.3(a)(8)). The effect of these amendments is that all coal mine dust personal sampler units placed in use on and after December 15, 1973, as well as all sampler units currently in use, must be equipped with a device known as a pulsation dampener.

As a result of information received from the manufacturers of approved sampler units that due to a shortage of material a sufficient quantity of pulsation dampeners might not be available to the coal mining industry by December 15, 1973, the Mining Enforcement and Safety Administration (MESA) and the National Institute for Occupational Safety and Health (NIOSH) conducted a public meeting to consider the issue of extension of the December 15, 1973 effective date.

Notice of this public meeting was published in the FEDERAL REGISTER for November 27, 1973 (38 FR 32588), and the meeting was held on December 3, 1973, in the Auditorium of MESA's Health and Safety Technical Support Center, 4800 Forbes Avenue, Pittsburgh, Pennsylvania. Presentations were made by the following organizations: Bituminous Coal Operators' Association, Inc., CSE Mine Service, Inc., and Pittsburgh Coal Company, Inc. In addition letters from Mine Safety Appliances, Inc., Bendix Environmental Science Division, and Eastern Associated Coal Corp., Inc., were entered into the record.

A verbatim transcript of the meeting is available for public inspection in the office of the Chief, Division of Health, Coal Mine Health and Safety, Room 4546, MESA, Department of the Interior, Washington, D.C. 20240.

On the basis of the information received at the public meeting, as well as spot surveys conducted at representative coal mines by MESA's Coal Mine Health and Safety District Offices, it has been determined that sufficient pulsation dampeners will not be available for field use by December 15, 1973. In order to treat all affected parties equitably and to assure the requisite amount of time to equip personal samplers with pulsation dampeners, it is deemed necessary that 30 CFR 74.3(a)(8)(ii) be amended, as set forth below, to permit manufacturers of approved personal samplers to have until July 1, 1974, to comply with the requirement that the quantity of respirable dust collected with a sampler unit shall be within ±5 percent of that collected with a sampling head assembly operated with nonpulsating flow.

Because of the time constraint caused by the present provision of 30 CFR 74.3(a)(8)(ii) it is found, pursuant to (5 U.S.C. 553), that it would be impracticable and contrary to the public interest to give notice of proposed rulemaking,

opportunity for public participation, or to delay the effective date thereof.

C. K. MALLORY,
Acting Assistant Secretary of the Interior.

JANUARY 23, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Section 74.3(a)(8)(ii) of Part 74, Title 30, Code of Federal Regulations is amended by deleting the words and figures "December 15, 1973" and inserting in lieu thereof the words and figures "July 1, 1974."

(Sec. 508, 83 Stat. 803 (30 U.S.C. 957))

[FR Doc.74-2330 Filed 1-28-74;8:45 am]

Title 32—National Defense

CHAPTER XIV—RENEGOTIATION BOARD

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1455—PERMISSIVE EXEMPTIONS FROM RENEGOTIATION

PART 1499—RENEGOTIATION RULINGS AND BULLETINS

Miscellaneous Amendments to Chapter

The Renegotiation Board hereby adopts, without change, the proposed amendments to Parts 1455 and 1499 which were published on November 2, 1973 (38 FR 30285-30286). Said regulations, as adopted, read as set forth below.

Dated: January 24, 1974.

W. S. WHITEHEAD,
Chairman.

§ 1455.4 [Amended]

Section 1455.4 *Contracts when contractual provisions adequate to prevent excessive profits* is amended by changing the comma after "amended" in the first sentence of paragraph (b)(1) to a period, and deleting "whenever such contracts contain or incorporate by reference or are subject to the redetermination and recapture provisions of 46 U.S.C. 1176."

Section 1499.2-8 *Renegotiation Bulletin No. 8: Renegotiation shipping operations* is amended in the following respects:

1. Paragraph (d)(2) is amended by redesignating subdivisions (iii) and (iv) thereof as subdivisions (iv) and (v), respectively, and inserting the following new subdivision (iii) immediately after subdivision (ii) thereof:

2. Paragraph (g) is amended by deleting subparagraph (1) in its entirety and inserting in lieu thereof the following:

§ 1499.2-8 Renegotiation Bulletin No. 8: Renegotiation shipping operations.

* * * * *

(d) * * *

(2) * * *

(iii) Prime contracts of the Maritime Administration providing for the payment of an operating-differential subsidy.

* * * * *

(g) * * *

(1) *Method of allocation.*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, costs and expenses relating to vessel operations should be allocated to renegotiable and nonrenegotiable business in accordance with the contractor's established cost accounting method (§ 1459.1(b)(3) of this chapter). If, in accordance with such method, the contractor records direct vessel operating costs on the terminated voyage basis, they should be so reported for renegotiation. All other expenses, including general and administrative expenses, interest, and vessel depreciation, should be accounted for as period costs and allocated on an appropriate basis.

(ii) *Special allocation.* Notwithstanding any other provision of this section, a contractor receiving payments under an operating-differential subsidy contract which is exempt from renegotiation must allocate directly to nonrenegotiable business such portion of its subsidized operating costs which is equal to the amount of such payments.

* * * * *

(Sec. 109, 65 Stat. 22; (50 U.S.C.A., App. sec. 1219))

[FR Doc.74-2288 Filed 1-28-74;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

SUBCHAPTER F—PERSONNEL

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

Conduct of Postal Employees

Correction

In FR Doc. 74-1301 appearing at page 1989 in the issue of Wednesday, January 16, 1974, make the following changes:

1. In § 447.22(b):

a. In the fifth line, the word "scribe", should read "scribed".

b. Subparagraphs (6) and (7) were inadvertently omitted, therefore, insert the following immediately before paragraph (c):

(6) No employee shall lease real property to the Postal Service except for an area less than 3,000 square feet of net interior space. An existing lease of a greater amount of space may be renewed or extended if (i) the contracting officer determines that it would be in the best interests of the Postal Service and (ii) the Associate Ethical Conduct Officer for the organizational unit to which the employee is assigned is furnished a full statement of all known possible conflicts of interest and, after review thereof, concurs in the proposed extension or renewal.

(7) No employee shall participate in his official capacity in any decision or other matter in which, to his knowledge, he, or any entity by which he is or may become employed, has a financial interest unless (i) he advises his Associate Ethical Conduct Officer of the possible conflict, makes full disclosure of all relevant facts, and receives in advance a written determination by the Associate Ethical Conduct Officer that the interest is too remote or too inconsequential to be likely to affect the integrity of his services, or (ii) a general regulation published in the FEDERAL REGISTER has exempted the interest from the prohibition of this rule as being too remote or too inconsequential to affect the integrity of Government employee's services.

2. In the first line of § 447.23(b), insert "Paragraph (a) of" before "This section".

3. In the first line of the Note which appears immediately under § 447.25(f), insert "Paragraph (f) of", before "This section".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

Reimbursement Grants

Reimbursement grant regulations published on September 26, 1973 (38 FR 26882) are hereby amended to conform to Pub. L. 93-207.

The amendments delete provisions of the existing regulations which set forth a method of prioritizing the funding for certain classes of projects eligible for reimbursement grants under section 206(a) of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1286), and insure that all 1966-72 projects otherwise eligible under the Act will be reimbursed pro rata from sums now available for reimbursement grants. In addition, the regulations are amended pursuant to section 3 of Pub. L. 93-207 to provide that the time for submission of applications for reimbursement be extended until January 31, 1974, that eligible project costs be computed as of January 31, 1974 and that reimbursement from funds appropriated under Pub. L. 92-399 be used solely for section 206(a) projects.

On October 15, 1973, notice of this proposed rulemaking (not including changes in application or cost computation dates or limiting Pub. L. 92-399 funds to section 206(a) projects as provided in Pub. L. 93-207) was published in the FEDERAL REGISTER (38 FR 28572). Written comments were invited and received from interested parties and are on file with the Environmental Protection Agency. Ten responses to the invitation to comment were received. Of that number, seven fully supported the amendment and one encompassed only procedural comments. Two respondents were opposed to the changes, preferring a return to the priority system as delineated in the original regulations. Since the only negative responses called for a course of action now precluded by Pub. L. 93-207, no changes were made in the amendment as proposed.

Effective date. The amended regulation hereby promulgated shall be effective on January 29, 1974, in order to comply with the requirements of Pub. L. 93-207 prior to January 31, 1974, the

revised date for submission of claims under section 206 of the Act.

RUSSELL E. TRAIN,
Administrator.

JANUARY 18, 1974.

A new Subpart D is herewith added to 40 CFR Part 35 to read as set forth below.

Subpart D—Reimbursement Grants

Sec.
35.850 Purpose.
35.855 Project eligibility.
35.860 Eligible costs.
35.865 Applications.
35.870 Allocations generally.
35.875 Priority for funds appropriated by Pub. L. 92–399 and authorized in Pub. L. 93–207.
35.880 Grant amount.
35.885 Obligation and payment schedule.
35.890 Initiation of construction.
35.895 Disputes.

AUTHORITY: Sec. 206, Federal Water Pollution Control Act Amendments of 1972, as amended by Pub. L. 93–207.

Subpart D—Reimbursement Grants

§ 35.850 Purpose.

This subpart governs all grants pursuant to section 206(a) through (e) of the 1972 Amendments to the Federal Water Pollution Control Act (as amended by Pub. L. 93–207, December 28, 1973) for reimbursement of State or local funds used for publicly owned sewage treatment works.

§ 35.855 Project eligibility.

(a) Grants may be made for reimbursement of State or local funds used for public sewage treatment works projects on which construction was initiated after June 30, 1966, but before July 1, 1972: *Provided*, That construction of such project was approved by the State Water Pollution Control Agency: *And provided further*, That the Administrator finds that such project met the requirements of section 8 of the Federal Water Pollution Control Act (Pub. L. 84–660, as amended) in effect at the time of initiation of construction of the project.

(b) Grants may be made for reimbursement of State or local funds used for public sewage treatment works projects on which construction was initiated between June 30, 1956, and June 30, 1966: *Provided*, That construction of such project was approved by the State Water Pollution Control Agency: *And provided further*, That the Administrator finds that such project met the requirements of section 8 of the Federal Water Pollution Control Act (Pub. L. 84–660, as amended) in effect prior to enactment of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500).

§ 35.860 Eligible costs.

Eligible cost of construction shall include costs of preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

§ 35.865 Applications.

(a) No grant under this section shall be made for any project unless an application for such grant is received by the appropriate Regional Administrator on or before January 31, 1974. Applications for reimbursement shall be made in writing (if mailed, a return receipt should be requested) and shall contain the following information:

(1) Brief description of project.

(2) Total eligible cost of project.

(3) Total amount of any Federal assistance received to date.

(4) Amount of additional Federal financial assistance requested under this section.

(5) The dates (actual or estimated) of initiation and completion of construction.

(6) Evidence of approval by State agency.

(b) The applicant must furnish such other information as may be required for determination of entitlement or quantum under this Subpart.

§ 35.870 Allocation generally.

Except as otherwise provided in §§ 35.875 and 35.880(c) funds available from appropriations for reimbursement grants for projects eligible under § 35.855 will be allocated subsequent to January 31, 1974, to each project in an amount which bears the same ratio to the unpaid balance of the reimbursement due such project (not to exceed 100 percent) as the total of such funds for such years bears to the total unpaid balance of reimbursement due all such projects on the date of enactment of such appropriation.

§ 35.875 Priority for funds appropriated by Pub. L. 92–399 and authorized in Pub. L. 93–207.

Initial allocations from funds available under Pub. L. 92–399 (August 22, 1972) and pursuant to the authorization in Pub. L. 93–207 will be made to those projects which meet the requirements of § 35.855(a).

§ 35.880 Grant amount.

(a) For projects described in § 35.855 (a), the grant amount shall not exceed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under Pub. L. 84–660 (as amended) for such project, and, where eligible, 50 percent of the allowable costs of such project (or 55 percent of such costs where the Administrator determines that project construction was undertaken in conformity with a comprehensive metropolitan treatment plan): *Provided*, That reimbursement for project costs from all Federal grant sources may not exceed 80 percent of the costs of the project.

(b) For projects described in § 35.855 (b), the grant amount shall not exceed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under Pub. L. 84–660 (as amended) for such project and 30 percent of the allowable costs of such project.

(c) The eligible project cost, upon which the eligible grant amount is computed, will be based on project costs received by the appropriate Regional Administrator as of January 31, 1974.

(d) A reimbursement grant will be rounded to the nearest hundred dollars. Reimbursement grants will not be awarded to projects entitled to reimbursement of less than $1,000.

§ 35.885 Obligation and payment schedule.

(a) Allocations from the funds available under Pub. L. 92–399 and funds appropriated pursuant to the authorization in Pub. L. 93–207 will be made in accordance with §§ 35.870, 35.875, and 35.880. The obligation of reimbursable grant awards to the eligible projects will commence upon completion of the processing related thereto.

(b) The initial payment request from recipients of reimbursement grant awards will be based on the amount earned (construction-in-place) on each individual project as of January 31, 1974. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

§ 35.890 Initiation of construction.

The phrase "initiation of construction," as used in this subpart, means the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract.

§ 35.895 Disputes.

Final determinations by the Regional Administrator concerning applicant eligibility, the amount to which an applicant is entitled, or allowability of costs shall be conclusive unless appealed within 30 days in accordance with the "Disputes" article (Article 7) of the EPA General Grant Conditions (Appendix A, Subchapter B of this title).

[FR Doc.74–2154 Filed 1–28–74;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O-Ethyl S-Phenyl Ethylphosphonodithioate

A petition (PP 3F1379) was filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a),

proposing establishment of tolerances for combined negligible residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonodithioate and its oxygen analog *O*-ethyl *S*-phenyl ethylphosphonothioalate in or on the raw agricultural commodities fruiting vegetables, seed and pod vegetables, sorghum (grain, fodder, and forage), bean forage, bean vine hay, peanut forage, peanut hay, pea forage, pea vine hay, soybean forage, and soybean hay at 0.1 part per million.

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance for residues in or on peanut hay at 0.1 part per million (negligible residue) and adding the tolerance 0.1 part per million (negligible residue) for residues in or on peanut hulls. Tolerances for residues in or on peanuts and peanut hay have been previously established.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.221 is amended by revising the paragraph "0.1 part per million * * *" to read as follows:

§ 180.221 O-Ethyl S-phenyl ethylphosphonodithioate; tolerances for residues.

* * * * *

0.1 part per million (negligible residue) in or on beans (except lima beans), bean forage, bean vine hay, fresh corn including sweet corn (kernels plus cob with husk removed), corn grain (including popcorn), corn forage or fodder (including sweet corn, field corn, and popcorn), fruiting vegetables, leafy vegetables, mint (peppermint, spearmint, peppermint hay, and spearmint hay), pea forage, pea vine hay, peanuts, peanut forage, peanut hay, peanut hulls, root crop vegetables, seed and pod vegetables, sorghum (grain, fodder, and forage), soybean forage, soybean hay, strawberries, sugar beet tops, and sugarcane.

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective January 29, 1974.

(Sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2)))

Dated: January 23, 1974.

HENRY J. KORP,
Deputy Assistant Administrator For Pesticide Programs.

[FR Doc.74-2234 Filed 1-28-74;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phosalone

In response to a petition (PP 3E1401) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of December 10, 1973 (38 FR 33997), proposing establishment of a tolerance for residues of phosalone (*S*-[6-chloro-3-(mercaptomethyl)-2-benzoxazolinone]*O,O*-diethyl phosphorodithioate) in or on the raw agricultural commodity artichokes at 25 parts per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.263 is amended by inserting the new paragraph "25 parts per million * * *" after the paragraph "50 parts per million * * *", as follows:

§ 180.263 Phosalone; tolerances for residues.

* * * * *

25 parts per million in or on artichokes.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective January 29, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: January 23, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-2235 Filed 1-28-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-50—ADMINISTRATIVE MATTERS

Incremental Funding Documents

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of these amendments is to change the requirement that incremental funding documents be bilateral.

It is the general policy of the Department of Health, Education, and Welfare, to allow time for interested parties to participate in the rule making process. However, the amendments herein concern administrative matters. Therefore, the public rule making process is deemed unnecessary in this instance.

1. Subpart 3-50.6 is amended as follows:

§ 3-50.604 [Amended]

The following is added as item (A)(4) of the clause set forth in paragraph (b)(1) of § 3-50.604:

(4) The contracting officer may allot additional funds to the contract without concurrence of the Contractor.

2. That part of the first sentence of paragraph (c) of § 3-50.604 reading "accomplished by bilateral supplemental agreement" is changed to read "accomplished by a modification to the contract."

3. That part of the second sentence of paragraph (c) of § 3-50.604 reading "into the Supplemental Agreement" is changed to read "into the modification," and that part of the third sentence of the same paragraph and section reading "in the Supplemental Agreement" is changed to read "in the modification."

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. These amendments shall become effective on January 29, 1974.

Dated: January 22, 1974.

S. H. CLARKE,
Deputy Assistant Secretary for Administration and Management.

[FR Doc.74-2292 Filed 1-28-74;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–83]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Functions Under the Federal-Aid Highway Act of 1973; Corrections

By notice in the FEDERAL REGISTER of November 14, 1973 (38 FR 31493), the Secretary of Transportation delegated to appropriate Secretarial Officers and operating administrators functions vested in the Secretary by Pub. L. 93–87, commonly known as the "Federal-Aid Highway Act of 1973" (August 13, 1973, Pub. L. 93–87, 87 Stat. 250) ("the Act"). Two errors appear therein.

The first and more important concerns section 147 of the Act, which authorizes the Rural Highway Public Transportation Demonstration Program. Administratively it had been decided to delegate this function, among others, jointly to the Federal Highway and Urban Mass Transportation Administrators (to the Federal Highway Administrator with the concurrence of the Urban Mass Transportation Administrator and to the Urban Mass Transportation Administrator with the concurrence of the Federal Highway Administrator) thereby requiring that actions under section 147 be the product of agreement between these two administrators. In the published delegation, that was done under 23 U.S.C. 104 (f)(4), 105(d), 106(b) (as it involves the Federal-aid urban system), 117(c), 134(a), and 152. Section 147, the only section of the Act which does not amend title 23, United States Code, which was to be delegated in this manner, was overlooked.

The oversight resulted in publication of an incorrect Departmental control in the Departmental Organization Manual, DOT Order 1100.23. The correct control under section 147 follows:

The second error appears at 49 CFR 1.48(b)(33) wherein "section 103(e)(4), 142(a)(2), and 142(c)" should read "section 103(e)(4), 142(a)(2), or 142(c)".

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended below.

1. Section 1.48 is amended as follows: In the last line of paragraph (b)(33), the word "and" is changed to read "or", and in the second line of paragraph (c)(1), insert after the figure "147" the indicated language.

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(b) * * *

(33) * * * sections 103(e)(4), 142(a)(2), or 142(c);

* * * * *

(c) * * *

(1) * * * (with the concurrence of the Urban Mass Transportation Administrator), * * *

2. In § 1.50, paragraph (g), the following should be inserted after the figure "146" in the first line:

CONTROL OF CERTAIN POWERS AND DUTIES

Powers and Duties	*Controls*
The Federal Highway Administrator and the Urban Mass Transportation Administrator with respect to the Rural Highway Public Transportation Demonstration Program authorized by section 147 of the Federal-Aid Highway Act of 1973, Pub. L. 93–87.	Prior coordination of regulations and guidelines with the Office of the Secretary through the Office of the General Counsel

§ 1.50 Delegations to Urban Mass Transportation Administrator.

* * * * *

(g) * * * 147 (with the concurrence of the Federal Highway Administrator), * * *

Effective date. This amendment is effective January 28, 1974.

(Section 9(e), Department of Transportation Act, (49 U.S.C. 1657(e); section 1.59(m)), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.59(m).)

Issued in Washington, D.C., on January 23, 1974.

RODNEY E. EYSTER,
General Counsel.

[FR Doc.74–2296 Filed 1–28–74;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 1–5; Notice 9]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Brake Hose Identification

This notice amends Standard No. 106, *Brake hoses*, 49 CFR 571.106, to require a manufacturer designation in place of the manufacturer identification code assigned by the National Highway Traffic Safety Administration (NHTSA) which is presently required by the labeling provision.

The NHTSA has not completed consideration of comments to its manufacturer's identification code proposal published June 7, 1973 (38 FR 14968). General Motors has stated that production of 1975 model vehicles that conform to Standard 106 will require the immediate manufacture of brake hose that conforms to Standard 106. This amendment modifies the identification requirements to permit the use of manufacturer designations, such as those presently in use, until the NHTSA issues a final rule on the manuafacturer's identification code proposal. At that time the standard would be amended again to require whatever code might be assigned by the NHTSA.

Other matters raised by petitions for reconsideration are presently under consideration and will be answered in accordance with the procedures of 49 CFR 553.35, *Petitions for reconsideration.*

In consideration of the foregoing, Standard 106 (49 CFR 571.106) would be amended as follows:

§ 571.106 [Amended]

1. S5.2.2(b) would be amended to read—

* * * * *

(b) A designation that identifies the manufacturer of the hose, which shall be filed in writing with: Office of Standards Enforcement, "Brake Hose Identification," National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

2. S5.2.3(b) would be amended to read—

* * * * *

(b) A designation that identifies the manufacturer of the fitting, which shall be filed in writing with: Office of Standards Enforcement, "Brake Hose Identification," National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

* * * * *

3. S5.2.4(b) would be amended to read—

* * * * *

(b) A designation that identifies the manufacturer of the hose assembly, which shall be filed in writing with: Office of Standards Enforcement, "Brake Hose Identification," National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

* * * * *

Effective date. January 29, 1974. Because this amendment creates no additional burden, and because of the immediate need for an effective requirement applicable to equipment to be produced for the 1975 model year, it is found for good cause shown that notice and public procedure thereon are impracticable, and that an immediate effective date is in the public interest.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718, (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51).

Issued on January 23, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74–2346 Filed 1–28–74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Quivira National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on January 29, 1974.

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

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Sport fishing on the Quivira National Wildlife Refuge, Stafford, Kansas is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 990 acres, are delineated on maps available at refuge headquarters, Stafford, Kansas and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, 601 East 12th Street, Room 1748, Kansas City, Missouri 64106. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from May 1, 1974 to September 30, 1974, inclusive.

(2) Fishing will be with closely attended rod(s) and line(s) only.

(3) The use of boats is not permitted. One-man floater tubes may be used.

(4) Overnight camping is not permitted. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1974.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.

JANUARY 21, 1974.

[FR Doc.74-2284 Filed 1-28-74;8:45 am]

PART 33—SPORT FISHING

Mingo National Wildlife Refuge, Missouri

The following special regulation is issued and is effective on January 29, 1974.

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

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Sport fishing on the Mingo National Wildlife Refuge, Missouri is permitted in all waters as designated on the refuge during daylight hours only. The waters comprise about 4,300 acres. Maps and information are available at refuge headquarters and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, 601 East 12th, Kansas City, Missouri 64106. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open Season: January 1, 1974 through March 14, 1974 in designated waters.

(2) Open Season: March 15, through September 30 in all waters.

(3) Open Season: October 1 through December 31 in designated waters.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

GERALD L. CLAWSON,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Missouri.

DECEMBER 31, 1973.

[FR Doc.74-2316 Filed 1-28-74;8:45 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

United States Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Proposed Extension of Time Period Carriers Have To Correct the Inward Foreign Manifest

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 440, 584, 624, 46 Stat. 712, as amended, 748, as amended, 759 (19 U.S.C. 1440, 1584, 1624), it is proposed to amend § 4.12 of the Customs Regulations to extend the time permitted a carrier to correct his inward foreign manifest from 30 to 60 days after the entry of the carrier.

Although § 4.12 of the Customs Regulations pertains to vessels, this extended time period would also be applicable, by reference, to aircraft (§ 6.7(h)), and to vehicles and to vessels of less than 5 net tons (§ 123.9(a)). By allowing the carriers more time in which to determine the disposition of merchandise, the proposed amendment should encourage them to report any discrepancies encountered.

The proposed amendment also provides that the explanation of a discrepancy required to be made by the carrier under § 4.12(a)(4) of the Customs Regulations shall include the reason why the discrepancy was not initially reported by the carrier.

Accordingly, it is proposed to amend § 4.12 to read as follows:

§ 4.12 **Correction of manifest.**

(a)(1) * * *.

(2) Shortages shall be reported to the district director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 158.3 of this chapter or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonimportation or of proper disposition, or other corrective action (see § 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for 1 year.

(3) Overages shall be reported to the district director within 60 days after the date of entry of the vessel by completion of a post entry 24 or suitable explanation of corrective action (see § 4.34) on the Customs Form 5931.

(4) The district director shall advise the master or agent only of those discrepancies which are not timely reported by the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days. The explanation of the discrepancy shall include an explanation as to why the discrepancy was not initially reported by the master or the agent.

* * * * *

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received on or before February 28, 1974.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(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: January 15, 1974.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.74-2333 Filed 1-28-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 401]

[Reg. 1]

RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME

Disclosure of Information

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the proposed amendments set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments set out the conditions under which information will be disclosed for purposes of administration of the new Federal supplemental security income program, which was authorized by Pub. L. 92-603 (the Social Security Amendments of 1972). The proposed amendments provide generally that information about supplemental security income recipients will be released only under the conditions that now apply to the retirement, survivors, and disability insurance programs authorized by title II of the Social Security Act. In addition, information will be disclosed in the case of disabled recipients, who are medically determined to be drug addicts or alcoholics and are required to undergo treatment, where the information is necessary for such treatment. Some recipients will be eligible for additional income or medical assistance from the State of residence; thus pursuant to an agreement, the State, upon request, will be given such information as is necessary to allow it to monitor eligibility for and amount of State payment. Some recipients of supplemental security income may be eligible for participation in food stamp or surplus commodities programs; therefore, the administrators of such programs will, upon request, receive information necessary to determine such recipients' eligibility under such programs.

The rules set forth in the proposed regulations are being applied by the Social Security Administration in order to administer the Supplemental Security Income program until final regulations are adopted.

Prior to the final adoption of the proposed amendments, 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, on or before February 28, 1974.

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 amendments are to be issued under the authority contained in sections 205, 1102, 1106, and 1631(d), 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 86 Stat. 1477 (42 U.S.C. 405, 1302, 1306, and 1383(d)).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: January 16, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 22, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 401 of Chapter III of Title 20 of the Code of Federal Regulations is further amended as set forth below.

1. Section 401.1 is revised to read as follows:

§ 401.1 Prohibition against disclosure.

No disclosure of (a) any return or portion of a return (including information returns or other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, the Federal Insurance Contributions Act or the Self-Employment Contributions Acts, or under regulations made under authority thereof, which has been transmitted to the Department of Health, Education, and Welfare by the Commissioner of Internal Revenue, or (b) any file, record, report, or other paper or any information obtained at any time by or from the Department or any officer or employee of the Department, or any person, agency, or organization with whom the Social Security Administration has entered into an agreement to perform certain functions in the administration of titles II, XVI, or XVIII of the Social Security Act, or of section 212 of Pub. L. 93–66, which in any way relates to, or is necessary to, or is used in or in connection with, the administration of the retirement, survivors, disability, supplemental security income, or health insurance programs conducted pursuant to titles II, XVI, and XVIII of the Social Security Act, shall be made directly or indirectly except as hereinafter authorized by this part or as otherwise expressly authorized by the Commissioner of Social Security.

2. Section 401.3 is amended by amending paragraphs (a)(1)(i) and (iii), and (4); paragraph (b)(3) and (5); by revising paragraphs (d) and (f); by amending paragraph (g)(1) and (2) and by adding a new subparagraph (5) to paragraph (g); by revising paragraph (i)(3); by revising paragraph (j), (m), and (n) and by adding a new paragraph (w) to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

(a)(1) As to information (except medical information) directly concerning any claimant or prospective claimant for benefits or payments under titles II, XVI or XVIII of the Social Security Act;

(i) To such claimant or prospective claimant or his duly authorized representative; or

(ii) To others or to the public but only if such claimant or prospective claimant or his duly authorized representative authorizes disclosure of such information and such disclosure is consistent with the proper and efficient administration of the Act; or

(2) As to medical information directly concerning any claimant or prospective claimant for benefits or payments under titles II or XVI of the Social Security Act;

(i) To such claimant or prospective claimant or his duly authorized representative, but only if disclosure of such medical information is reasonably necessary for a title II or title XVI purpose; or

* * * * *

(iii) To institutions and facilities approved by the Secretary for treatment of drug addicts or alcoholics whenever the claimant or prospective claimant has been referred to such institutions pursuant to section 1611(e)(3)(A) of the Social Security Act, but only if such information is determined necessary for the institution or facility to carry out its assigned treatment;

* * * * *

(4) Statements of earnings and medical information authorized to be furnished under this paragraph may be furnished in summary form or in such detail as is determined by the Department to be consistent with the proper and efficient administration of the retirement, survivors, disability, supplemental security income, and health insurance programs under titles II, XVI, and XVIII.

* * * * *

(b) After the death of an individual;

* * * * *

(3) As to medical information relating to the individual and obtained in the administration of titles II or XVI, to a surviving relative or legal representative of the estate of the individual, but only if disclosure of such medical information is reasonably necessary for a title II or title XVI purpose; or

* * * * *

(5) Statements of earnings and medical information authorized to be furnished under this paragraph may be furnished in summary form or in such detail as is determined by the Department to be consistent with the proper and efficient administration of the retirement, survivors, disability, supplemental security income, and health insurance programs under titles II, XVI, and XVIII. None of the foregoing information under this paragraph (except information furnished for the purpose of determining what benefits or services the deceased individual was eligible to receive under a public or private hospital or medical insurance or benefit program), shall be disclosed except upon written request stating the purpose thereof, and where such disclosure is considered not detrimental to the individual or to his estate.

* * * * *

(d) To any officer or employee of the Treasury Department, or of the Department of Justice, of the United States, lawfully charged with the administration of titles II, VIII, IX, XVI, or XVIII of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Acts, or the Federal Unemployment Tax Act, or any Federal income tax law, for the purpose of such administration only.

* * * * *

(f) To any officer or employee of an agency of the Federal Government lawfully charged with the administration of a law providing for public assistance, or work relief, or pension, or retirement, or other benefit payments, only for the purpose of the proper administration of such law, or of the Social Security Act. Medical information relating to an individual and obtained in the administration of titles II or XVI may be furnished for such a purpose to such an officer or employee only upon consent of such individual or his duly authorized representative, and of the source of such information or, if such source is not available, of a physician in the employ of the Department. Medical information relating to an individual and obtained in the administration of title XVIII may be furnished if the source of such information does not object to the disclosure and the individual or his duly authorized representative consents to such disclosure.

(g)(1) To any officer or employee of an agency of a State Government lawfully charged with the administration of (i) a program receiving grants-in-aid under titles V, VI, and XIX (and, in the case of Puerto Rico, Guam, and the Virgin Islands, under titles I, X, XIV, and XVI) of the Social Security Act, or (ii) an optional supplementation program, information regarding benefits paid to an individual or his entitlement to benefits under title II or XVI of the Social Security Act, or information with respect to entitlement of an individual or benefits provided him under title XVIII of such Act, and, if it has been determined, the date of birth of a recipient or applicant, and also whether a period of disability has been established for such recipient or applicant, the beginning and ending date of such period, and the date determined to be the date of onset of such disability, where such information is necessary to enable the agency to determine the eligibility of or the amount of benefits or services due such recipient or applicant. Medical information relating to an individual and obtained in the administration of title II or XVI may be furnished for such a purpose to such an officer or employee only upon consent of such individual or his duly authorized representative and of the source of such information or, if such source is not available, a physician in the employ of the Department. Medical information relating to an individual and obtained in the administration of title XVIII may be furnished if the source of such information does not object to the disclosure and the individual or his duly authorized representative consents to such disclosure.

(2) To any officer or employee of an agency of a State Government lawfully charged with the administration of a program receiving aid under the Vocational Rehabilitation Act, for the proper administration of such program only, the information specified in the first sentence of subparagraph (1) of this paragraph and in addition:

(i) The name, address, social security account number, and such other information as may be obtained with respect to the alleged disability or blindness, of an

applicant for benefits on account of disability or blindness or for a determination of disability or blindness; and

(ii) The name, address, social security account number, and such other information as may be obtained with respect to the alleged disability or blindness, of any individual making inquiry concerning benefits on account of disability or blindness or concerning a determination of disability or blindness, if no objection is made by such individual to the release of such information.

* * * * *

(5) Pursuant to an agreement entered into under 42 U.S.C. 4222 (the Intergovernmental Cooperation Act) and Social Security Regulations No. 16, § 416.2101(b) of this chapter, to any officer or employee of a State government lawfully charged with the administration (including investigatory and prosecutory functions) of a State plan for medical assistance as provided under title XIX of the Act information regarding an individual's eligibility for benefits under title XVI or title XIX of the Social Security Act (including the date of eligibility, the amount of benefits, the amount of earned or unearned income reported for such individual or otherwise determined by the Secretary as having been received by such individual, and the date of determination of such benefits).

* * * * *

(i) To any officer, agency, establishment, or department of the Federal Government, charged with the duty of conducting an investigation or prosecution, for the purpose of such an investigation or prosecution involving:

* * * * *

(3) An inquiry with respect to an alleged theft, forgery, alteration, unlawful negotiation, or destruction of a check issued for a benefit under titles II, XVI, or XVIII of the Social Security Act; or

* * * * *

(j) Any return, file, record, report, or other paper or any information may be disclosed when it is to be used in connection with any claim or other proceeding under the Social Security Act and such disclosure is necessary for the proper performance of the duties of any officer or employee of the Department, or of any officer or employee of a State agency to carry out an agreement entered into under sections 221, 1616(a), 1633, or 1634 of the Social Security Act or section 212 of Pub. L. 93-66, or of any officer or employee of a public or private agency or organization to carry out the health insurance provisions of title XVIII of said Act.

* * * * *

(m) Disclosure of any return, file, record, report, or other paper or information obtained in the administration of titles II, XVI, or XVIII of the Act not relating or necessary to, or used in or in connection with, the administration of the retirement, survivors, disability, supplemental security income, or health insurance programs conducted pursuant to such titles of the Act, shall not be subject to the limitation on disclosure in section 1106 of the Act and shall be made only as may be otherwise required by law and in accordance with policies prescribed by the Commissioner.

(n) To any officer or employee of an agency of a State government lawfully charged with the supervision of, or financial responsibility for, the care of a person who is mentally incompetent and who is confined in a State mental institution, information regarding his entitlement to benefits under titles II, XVI, and XVIII of the Social Security Act, and if entitled, the amount of such benefits and the name and address of the person to whom such benefits have been or are being paid. Disclosure under this paragraph shall be made only upon written certification by the State agency or institution that such information is to be used in connection with the performance of its duties under State law and that there is no other source from which it can obtain such information.

* * * * *

(w) To any officer or employee of an agency of Federal or State government lawfully charged with the administration of the food stamp or surplus commodities programs, information as to whether an individual is eligible for payment under title XVI of the Social Security Act, the amount of payments, and when such payments began. Disclosure under this paragraph shall be made for the sole purpose of administration of the food stamp or surplus commodities programs.

3. Section 401.4 is amended by amending paragraph (a) to read as follows:

§ 401.4 Definitions.

As used in this part the term:

(a) "Claimant" includes a person who files an application or is deemed to have filed an application on his own behalf, or as guardian of an infant, or as legal representative of an incompetent, or on whose behalf some other person files an application for monthly benefits, supplemental security income, a lump-sum death payment, or health insurance benefits.

* * * * *

4. Section 401.6 is amended by revising paragraph (e) and by adding new paragraph (f) and (g) to read as follows:

§ 401.6 Payment for information in specific cases.

In any case falling within any of the paragraphs of this section, the payment required as a prerequisite to preparation for disclosure or disclosure of information shall be as specified in such paragraph in lieu of the cost of disclosing such information. In any case in which the receipt of payment in advance, pursuant to this section or § 401.5 would interfere with efficient administration, the Department may permit such payment to be made at such time or times as it deems consistent with efficient administration.

* * * * *

(e) When the request is for medical information obtained under titles II or XVI of the Social Security Act relating to an individual, or as to the existence or duration of a disability of an individual, pursuant to § 401.3(a), (f), or (g), by a person or agency authorized to receive such information, the information shall be furnished without charge.

(f) When the request is made by an officer or employee of an agency of a State government lawfully charged with the administration of an agreement described in § 401.3(g)(5) or § 401.3(j), payment shall be made as provided in the agreement.

(g) When the request under § 401.3(g)(1)(ii) is made by an officer or employee of an agency of a State government lawfully charged with the administration of an optional supplementation program, payment shall be made as provided in this section, but may be made at such time or times as the Department deems consistent with efficient administration.

[FR Doc.74-2290 Filed 1-28-74;8:45 am]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Amount 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 Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments adding new Subpart D of Part 416 provide general information and basic guidelines for establishing the amount of benefits to be paid under the program of supplemental security income for the aged, blind, and disabled. Proposed Subpart D (Amount of Benefits) will govern the general provisions for determining the amount of benefits to be paid under various conditions of eligibility under title XVI and the method of computing payments under such conditions.

The rules set forth in the proposed regulations will be applied by the Social Security Administration in order to administer the Supplemental Security Income program during the period from January 1, 1974, when the new program became effective, until final regulations are adopted.

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, on or before February 28, 1974.

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. 13.807, Supplemental Security Income Program)

Dated: January 16, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 22, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding thereto a new Subpart D to read as follows:

Subpart D—Amount of Benefits

Sec.

416.401 Scope of subpart.
416.410 Amount of benefits; eligible individual.
416.412 Amount of benefits; eligible couple.
416.413 Amount of benefits; qualified individual.
416.420 Determination of benefit; general.
416.422 Determination of benefit; application filed in second or third month of quarter.
416.424 Change in eligibility status within a quarter involving an individual; eligibility exists in all months of the quarter.
416.426 Change in eligibility status within a quarter involving an individual; ineligibility occurs within the quarter.
416.428 Eligible individual without an eligible spouse has an essential person in his home.
416.430 Eligible individual with eligible spouse; essential person(s) present.
416.432 Change in eligibility status within a quarter involving a couple; eligibility exists in all months of the quarter.
416.435 Change in eligibility status within a quarter involving a couple; ineligibility occurs within the quarter.

AUTHORITY: Secs. 1611 and 1612, secs. 210, and 211, Pub. L. 93-66, as amended, 86 Stat. 1466-1469, 87 Stat. 154 (42 U.S.C. 1382 and 1382a).

Subpart D—Amount of Benefits

§ 416.401 Scope of subpart.

This Subpart D sets forth basic guidelines for establishing the amount of monthly benefits payable to an eligible individual or couple (as defined in § 416.120(c)(5)). This subpart does not contain provisions with respect to establishing the amount of State supplementary payments payable in accordance with an agreement entered into between a State and the Administration under the provisions of Subpart T of this part. Provisions with respect to determination and payment of State supplementary payments under such agreements will be administered by the Administration in accordance with the terms set forth in such agreements.

§ 416.410 Amount of benefits; eligible individual.

The benefit under this part for an eligible individual who does not have an eligible spouse, who is not in an institution (see § 416.231), who is not living in the household of another under the conditions set forth in § 416.1125(b), and who is not a qualified individual (as defined in § 416.242), shall be payable at the rate of $1,680 per year ($420 per quarter, $140 per month) for the period ending June 30, 1974, and at the rate of $1,752 per year ($438 per quarter, $146 per month) for the remainder of 1974 and any calendar year thereafter, reduced by the amount of such individual's income not excluded pursuant to Subpart K of this part.

§ 416.412 Amount of benefits; eligible couple.

The benefit under this part for an eligible couple neither of whom is in an institution nor is living in the household of another under the conditions set forth in § 416.1125(b), nor is a qualified individual (as defined in § 416.242), shall be payable at the rate of $2,520 per year ($630 per quarter, $210 per month) for the period ending June 30, 1974, and at the rate of $2,628 per year ($657 per quarter, $219 per month) for the remainder of 1974 and any calendar year thereafter, reduced by the amount of income not excluded pursuant to Subpart K of this part, of such individual and spouse. (See § 416.502.)

§ 416.413 Amount of benefits; qualified individual.

A qualified individual (as defined in § 416.242) will receive in addition to the amount specified in § 416.410 or § 416.412, as applicable, $70 per month for the period ending June 30, 1974, and $73 per month thereafter, for each essential person (as defined in § 416.243) living in his household. (See §§ 416.531 and 416.532.)

§ 416.420 Determination of benefits; general.

Except as otherwise stated in this subpart, benefits shall be determined for each calendar quarter (see § 416.221). The amount of the monthly payment will be computed by dividing the applicable quarterly benefit rate (see §§ 416.231(a)(2), 416.410, 416.412, and 416.1125) reduced by the amount of income not excluded pursuant to Subpart K of this part, by the months of eligibility in the quarter.

§ 416.422 Determination of benefits; application filed in second or third month of quarter.

When the initial application is filed in the second or third month of a calendar quarter, benefits shall be determined for the month of application and the succeeding month, if any, in such quarter. In determining the payment amount in any month in such quarter, only income received in such month will be counted.

§ 416.424 Change in eligibility status within a quarter involving an individual; eligibility exists in all months of the quarter.

A redetermination of payment amount shall be made in any case where there is a basic change in eligibility status (which includes but is not limited to entering or leaving an institution or living in the household of another) without loss of eligibility within a quarter. The quarterly rate of payment shall be set to reflect the eligibility status of the recipient for each month of the quarter. In setting the rate of payment for each month, amounts consistent with §§ 416.231(a)(2), 416.410, and 416.1125, as applicable, will be used. The total countable income (see § 416.1115) for all months in the quarter is divided by three, and one-third (1/3) of this countable income shall be used to reduce the rate of payment applicable for each month of the quarter.

§ 416.426 Change in eligibility status within a quarter involving an individual; ineligibility occurs within the quarter.

When ineligibility occurs (see Subpart M of this part) in one (1) or two (2) months of a quarter, the quarterly rate of payment shall be set to reflect the status of the recipient for each month of eligibility in the quarter. In setting the rate of payment for these months, amounts consistent with §§ 416.231(a)(2), 416.410, 416.1125, as applicable, will be used. However, no amount is assigned to any month of ineligibility. The total countable income (see § 416.1115) for all months in the quarter is divided by three, and one-third (⅓) of this countable income shall be used to reduce the rate of payment applicable for each month of the quarter.

§ 416.428 Eligible individual without an eligible spouse has an essential person in his home.

When an eligible individual without an eligible spouse has an essential person (as defined in § 416.243) in his home, the amount by which his rate of payment is increased is determined in accordance with §§ 416.531 and 416.532. The essential person's income is deemed to be that of the eligible individual, and the provisions of §§ 416.401–416.426 will apply in determining the benefit of such eligible individual.

§ 416.430 Eligible individual with eligible spouse; essential person(s) present.

When an eligible individual with an eligible spouse (living together) have an essential person (§ 416.243) living in their home, or when both such persons each has an essential person, the increase in the rate of payment is determined in accordance with §§ 416.531 and 416.532. The income of the essential person(s) is included in the income of the couple and the payment due will be equally divided

between each member of the eligible couple. When the eligible couple is living apart, the increase in the rate of payment attributable to the essential person(s) shall be added only to the payment of the individual with whom the essential person is living, after such payment amount is determined without regard to such essential person. Any income deemed from the essential person to such individual shall then be deducted from that increased payment amount.

§ 416.432 Change in eligibility status within a quarter involving a couple; eligibility exists in all months of the quarter.

When there is a change in status within a quarter, involving only the living arrangements (e.g., institutionalization or living in the household of another) of one or both members of an eligible couple, payments will be redetermined as in § 416.424, with payment rates and payment amounts consistent with §§ 416.231 (a) (2), 416.412, and 416.1125, as applicable. Where the change of status involves the formation or dissolution of an eligible couple (e.g., marriage, divorce, living apart more than 6 months), a redetermination of payment amount shall be made for the months subsequent to the month of such formation or dissolution of the couple in accordance with the following rules:

(a) When one member of a couple lives in the household of another and receives support and maintenance from that person, and the other member of the couple is neither in the household of another receiving support and maintenance, nor in an institution and subject to payment reduction for Medicaid support (§ 416.231), the rate of payment for the couple shall be consistent with § 416.412. The payment amount to the member of the couple living in the household of another shall be one-third of the amount of the monthly payment due the couple minus the value of support and maintenance received (see § 416.1125). The payment amount to the other member of the couple shall be two-thirds of the amount of the monthly payment due the couple.

(b) When one member of a couple is in an institution and subject to payment reduction for Medicaid (§ 416.231), the rate of payment for the couple shall be consistent with §§ 416.410 and 416.231(a) (2) (i). No more than $25 per month shall be paid to such member of the couple so institutionalized. The difference between the rate of payment for the couple and the amount paid to the institutionalized individual will be paid to the member of the couple who is not so institutionalized.

(c) When one member of a couple is in an institution and subject to payment reduction for Medicaid (§ 416.231), and the other member of the couple is living in the household of another and receiving support and maintenance from that person, the rate of payment for such couple shall be $1,420 per year ($355 per quarter, $118.34 per month) for the period ending June 30, 1974, and at the rate of $1,468 per year ($367 per quarter, $122.34 per month) for the remainder of 1974 and any calendar year thereafter. These amounts are based on the sum of $25 and the reduction of the rate of payment for an individual by one-third (⅓). This rate of payment shall then be reduced by the amount of income not excluded pursuant to Subpart K of this part, of such individual and spouse, and paid in accordance with § 416.502. As in paragraph (b) of this section, no more than $25 shall be paid to the institutionalized member of the couple.

(d) When there is a dissolution of an eligible couple and each member of the couple becomes an eligible individual for one (1) or two (2) months of the quarter, the payment amount for each person shall be computed individually for such months. This shall be done by determining the applicable rate of payment for an eligible individual with no eligible spouse (see § 416.410) and the number of months for which this rate applies. The total countable income of the eligible individual for the month(s) after the month of dissolution of couple status is subtracted from the combined rate of payment for the month(s) involved. This countable income is determined by taking the actual income received and subtracting either one-third (if 1 month is involved) or two-thirds (if 2 months are involved) of the appropriate quarterly income exclusions. The result after subtraction is the monthly payment amount (or twice the monthly payment amount which must be divided by two where 2 months are involved).

(e) If the dissolution of the couple also includes a living arrangement change (institutionalization, household of another) which is effective in one or both months of the new computation period, the payment shall be computed in accordance with paragraph (d) of this section.

(f) When two eligible individuals become an eligible couple within a quarter, the payment for the month(s) subsequent to the change in status shall be computed under this new eligibility status in the same manner as described in paragraphs (d) and (e) of this section.

§ 416.435 Change in eligibility status within a quarter involving a couple; ineligibility occurs within the quarter.

When ineligibility occurs in one (1) or two (2) months of a quarter for both members of an eligible couple, their payment shall be redetermined as in § 416.426 with payment rates and amounts set in accordance with §§ 416.231(a) (2), 416.412, and 416.1125, as applicable. Where one member of an eligible couple becomes ineligible for one (1) or two (2) months of a quarter, the remaining member of the couple assumes the eligibility status as an eligible individual without an eligible spouse for such months: *Provided*, That such individual meets the requirements of section 1611(a) (1) of the Act with respect to income and resources; and, that individual's payments for those months shall be redetermined in accordance with either § 416.430 or § 416.432, whichever is applicable.

[FR Doc.74-2291 Filed 1-28-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 144]

[CGD 73-177P]

UNMANNED PLATFORMS

Notice of Proposed Rulemaking

Correction

In FR Doc. 73-538, appearing on page 1360 of the issue of January 8, 1974, the beginning of the fourth line of § 144.10-1 (a) (2), on page 1361, reading "Q of this title," should be changed to read "Q of Chapter I of Title 46,".

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-NW-18]

VOR FEDERAL AIRWAY

Proposed Alteration and Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal Airway No. 121 from Eugene, Oreg., to McCall, Idaho.

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, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before February 28, 1974 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 extend V-121 from Eugene, Oreg., via Redmond, Oreg., Kimberly, Oreg., and Baker, Oreg., to McCall, Idaho. The existing dogleg segment of V-121 between Eugene and Redmond would be renumbered as V-121N. This proposal would provide control airspace and a designated airway for a significant number of aircraft that have been requesting direct routing through this area.

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 January 23, 1974.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-2251 Filed 1-28-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-AL-21]

VOR FEDERAL AIRWAY; TRANSITION AREA

Proposed Alteration and Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would:

1. Realign alternate VOR Federal Airway No. 317S between Johnstone Point, Alaska, and Anchorage, Alaska.

2. Designate a 700-foot transition area in the vicinity of Johnstone Point, Alaska.

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, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before February 28, 1974 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 seaport city of Valdez, Alaska, is the southern terminus of the proposed Alaskan Oil Pipeline, and it is expected that air traffic activity will increase substantially in this area to supply goods and services associated with construction. To provide for this increase, the following action is proposed:

1. Realignment of V-317S from Johnstone Point, Alaska, via the Johnstone Point 271°T(244°M) and Anchorage, Alaska, 130°T(105°M) radials to Anchorage. This would provide the 15 degrees between the main and alternate airway to conform with existing criteria.

2. Designation of the Johnstone Point, Alaska, Transition Area as follows:

That airspace extending upward from 700 feet above the surface within 4 miles north and 5 miles south of the Johnstone Point VORTAC 286° and the 106° radials, extending from 5 miles east to 23 miles west of the VORTAC; within a 35 mile radius of the Johnstone Point VORTAC, extending clockwise from the north edge of V-317 to the 332° radial of the VORTAC; and within 5 miles northeast of the Johnstone Point VORTAC 332° radial extending from the VORTAC to 23 miles northwest of the VORTAC.

This transition area is needed to provide controlled airspace for aircraft executing arrival and departure procedures to the Valdez Airport.

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 January 23, 1974.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-2252 Filed 1-28-74;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 73-GL-48]

RESTRICTED AREA

Proposed Extension

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would redesignate Restricted Area R-3401 Atterbury Reserve Forces Training Area, Ind., as R-3401A and designate a new Restricted Area (R-3401B) to the North, South, and West of R-3401A with a designated altitude from 1,200 feet AGL to and including 14,000 feet MSL.

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, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before February 28, 1974 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket will be available for examination at the Office of the Regional Air Traffic Division Chief.

The proposed amendments would retain the present area (R-3401) as Area A and the expanded area (R-3401B) as Area B. The enlargement (Area B) would be one-half mile north and south and to the west of R-3401 to the three mile boundary of V-53 and the four mile boundary of V-221.

The proposed amendments would designate the following:

1. R-3401 would be designated as R-3401A.

2. R-3401B—Atterbury Reserve Forces Training Area, Ind.

Boundaries. Beginning at Lat. 39°22'00"N., Long. 86°06'40"W.; to Lat. 39°22'00"N., Long. 85°59'30"W.; to Lat. 39°21'30"N., Long. 85°59'30"W.; to Lat. 39°21'30"N., Long. 86°06'00"W.; to Lat. 39°13'00"N., Long. 86°06'00"W.; to Lat. 39°13'00"N., Long. 85°59'30"W.; to Lat. 39°12'30"N., Long. 85°59'30"W.; to Lat. 39°12'30"N., Long. 86°09'50"W.; to Lat. 39°19'00"N., Long. 86°11'20"W.; to point of beginning.

Designated altitude. 1200 feet AGL to and including 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Adjutant General, State of Indiana, Indianapolis, Ind.

3. Part 71.123 would be amended as follows:

V-53—Add "The airspace within R-3401B is excluded."

The reduction of V-53 to the three-mile width in the area of R-3401B will not affect operations.

Active forces and the United States Air Force Reserve and Air National Guard have received modern fighter aircraft (F-100 series/F-4) which require greater lateral maneuvering airspace. The proposed R-3401B would provide adequate airspace, to include a required safety buffer, for participating aircraft maneuvering to conduct aerial gunnery, rocketing, and bombing on the air to ground range. The prescribed flight pattern with safety buffer cannot be contained within the current designated airspace.

Even though the time designation would be continuous, air operations will normally be conducted between 0800 and 1700 hours local time. The remaining hours will be available for public use, since this would be a joint use restricted area.

These amendments are 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 January 23, 1974.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-2254 Filed 1-28-74;8:45 am]

[14 CFR Parts 71 and 75]

[Airspace Docket No. 74-WA-2]

VOR FEDERAL AIRWAY AND JET ROUTES

Proposed Alteration and Extension

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would:

1. Realign J-515 between Northway, Alaska, and Whitehorse, Yukon Territory, Canada.

2. Realign J-536 between Sisters Island, Alaska, and Whitehorse.

3. Extend J-160 from Fort Yukon, Alaska, to Komakuk, Yukon Territory, Canada, NDB.

4. Extend V–307 from Sisters Island, Alaska, to Whitehorse.

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, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before February 28, 1974 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

A new VOR/DME facility has been installed at Whitehorse, Yukon Territory, Canada, located at Lat. 60°37'09'' N., Long. 135°08'13'' W. Commissioning of this facility is scheduled for January 31, 1974. In response to a request from the Canadian Department of Transport, the FAA is considering realignment of two jet routes and extension of one airway to that new facility. The following actions are proposed:

1. Realignment of J–515 from Northway, Alaska, direct to Whitehorse, Yukon Territory.

2. Realignment of J–536 from Sisters Island, Alaska, direct to Whitehorse.

3. Extension of V–307 from Sisters Island, Alaska, direct to Whitehorse.

4. In order to simplify and improve flight planning for polar operations, it is proposed herein to extend J–160 from Fort Yukon, Alaska, direct to Komakuk, Canadian, NDP.

These amendments are 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 January 23, 1974.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–2253 Filed 1–28–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 414]

ORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Proposed Effluent Limitations Guidelines and New Source Standards; Extension of Time for Comments

On December 17, 1973, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et seq. (38 FR 34706). The proposed regulation establishes effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the organic chemicals point source category. The due date for comments provided in the notice was January 16, 1974.

EPA anticipated that the "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Organic Chemicals Manufacturing Point Source Category," which contains information pertinent to the proposed regulation, would be available to the public throughout the comment period. Production difficulties, however, have delayed the availability of the Development Document. The Agency believes that members of the public should have an opportunity to review the Development Document in connection with their review of the proposed regulation. Accordingly, the date for submission of comments is hereby extended to and including February 2, 1974.

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

JANUARY 23, 1974.

[FR Doc.74–2240 Filed 1–28–74;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 410]

PROPOSED LAW OF THE SEA TREATY

Environmental Impact Statement

Pursuant to the requirements of section 102 of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, the Department of State has determined to prepare an environmental impact statement in connection with the proposed new Law of the Sea Treaty. Negotiations for the purpose of concluding such a treaty are scheduled to commence on June 20, 1974, in Caracas, Venezuela, pursuant to a Resolution of the United Nations General Assembly.

All parties who desire to offer comments on the scope and content of the proposed environmental impact statement should communicate their views as soon as possible to Mr. John Norton Moore, Chairman of the Interagency Task Force on the Law of the Sea, Room 4321, Department of State, Washington, D.C. 20520.

Dated: January 17, 1974.

For the Secretary of State.

CHRISTIAN A. HERTER, Jr.,
Special Assistant to the Secretary of State for Environmental Affairs.

[FR Doc.74-2444 Filed 1-28-74;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

LOAN TO THE GOVERNMENT OF TURKEY

Public Notice of Invitation to Bid

I. INVITATION TO BID—CLASSES OF BIDDERS

The Secretary of the Treasury, acting for the Secretary of Defense by this notice and under the terms and conditions hereof invites bids on the interest rate on a $30,000,000 loan to the Government of Turkey, hereinafter referred to as the borrower. The loan is described in Section V hereof. Bidding hereunder shall be subject to the "Regulations Governing the Sales of Treasury Bonds Through Competitive Bidding" (31 CFR 340) insofar as applicable.

The purpose of the loan is to provide private financing for the purchase by the borrower of defense articles and services from United States sources in furtherance of the Foreign Military Sales Act, as amended, P.L. 90-626, October 22, 1968, 82 Stat. 1326; (22 U.S.C. 2571-2793) and Executive Order 11501, December 22, 1969, 34 FR 20169.

Bids will be received only from incorporated banks, trust companies, recognized dealers in investment securities, and other financial institutions doing business in the United States. Bids must be submitted to the Federal Reserve Bank of New York in accordance with the provisions of the last section hereof.

II. UNITED STATES GOVERNMENT GUARANTY OF LOAN

The loan agreement provides that the obligation of the lender is to be conditioned upon the issuance by the United States of a guaranty of timely payment of 100 percent of the principal and 100 percent of the interest thereon by the borrower. The guaranty will further provide that the United States agrees that any claim which it may now or hereafter have against any beneficiary for any reason whatsoever shall not affect in any way the right of any other beneficiary to receive full and prompt payment of any amount otherwise due under this guaranty.

In addition, the borrower convenants at Section 5(b) of the loan agreement that

> Any claim which it may now or hereafter have against any person, corporation, firm or association or other entity (including without limitation, the Untied States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a set-off, counterclaim, or deduction against such payments.

The guaranty, which is authorized by the Foreign Military Sales Act, will be made by the Government of the United States acting through Department of Defense. The Act provides that "any guaranties issued hereunder shall be backed by the full faith and credit of the United States."

III. TAX EXEMPTIONS

(a) There will be no—

(1) Federal income tax resulting from section 7.1 of the loan agreement which will provide that the borrower shall pay to the lender the guaranty fee charged to the latter by the Department of Defense; (The lender will be acting merely as a conduit.)

(2) Federal stamp tax;

(3) interest equalization tax; or

(4) tax imposed by the borrower.

(b) The interest paid on the loan by the borrower will constitute income from sources without the United States in the hands of the lender or any holder of the promissory notes or participations in the loan. Since the interest is foreign source income, there will be no United States withholding under any circumstances.

IV. THE LOAN, PROMISSORY NOTES, PARTICIPATIONS—ELIGIBILITY FOR PURCHASE BY NATIONAL BANKS AS COLLATERAL FOR TREASURY TAX AND LOAN ACCOUNTS, ETC.

(a) Because of the guaranty, the loan, the promissory notes and the participations are deemed to be fully and unconditionally guaranteed obligations of the United States backed by its full faith and credit. Accordingly, they will not be subject to the lending limits of national banks or to the limitations and restrictions concerning dealing in, underwriting and purchase of investment securities.

(b) Section 1.4 of the loan agreement authorizes the sale of participations to legal entities doing business in the United States. Such participations will be acceptable from special depositaries of public money at their face amount to secure deposits under Department of the Treasury Circular No. 92, current revision (31 CFR 203): *Provided*, That they adequately identify the loan and meet the following conditions:

(1) The participation certificate contains the following provision: "Participant may assign or endorse over this participation certificate to the (Name of the Federal Reserve Bank or Branch of the territory in which the participant is located) in connection with a pledge of collateral security to protect a Treasury tax and loan account under Treasury regulations published at Title 31 Code of Federal Regulations, Part 203. In the event that this participation certificate is assigned to (Same bank or branch as above), it shall not be further assigned or sub-divided without prior written notice to that bank and the prior written consent of this bank."

(2) The participation certificate is supported by the original or certified copies of the guaranty agreement relating to the basic loan and the necessary power of attorney and resolution in favor of the Reserve Bank as prescribed in 31 CFR 203.8(d).

(3) The guaranty agreement provides that the guaranty referred to therein is transferable to any participant or beneficiary.

V. DESCRIPTION OF LOAN AGREEMENT

(a) The principal features of the loan are as follows:

(1) There will be a commitment fee payable semiannually of one-quarter of one percent (¼ of 1%) per annum on the daily average unused amount of the commitment. The commitment fee will be calculated on a 365-day basis and actual days elapsed.

(2) There will be a commitment period from the "date of execution" of the loan agreement to and including December 31, 1974 or such earlier date as the entire commitment of the lender shall have been utilized. For this purpose, the "date of execution" will be the date on which the loan agreement is signed on behalf of the borrower or the date on which the Department of Defense executes the guaranty agreement, whichever is later.

(3) The minimum drawdown under the loan agreement will be 1/50th of the principal amount bid.

(4) The principal is to be repayable in seven consecutive semiannual installments commencing on January 1, 1976 as indicated in Exhibit C attached to the loan agreement. Interest is payable on a fixed semiannual basis beginning on July 1, 1974 and thereafter on January 1 and July 1 of each year until the entire principal has been repaid. Principal is payable with interest beginning on January 1, 1976.

(b) Bidders should fill in the blanks in the loan agreement and should furnish three signed copies when submitting the bids. Most of the blanks are self-explanatory. At section 7.1., the guaranty fee will be 1/400th of the amount of the principal liability under the guaranty.

Each bid shall be submitted in triplicate on the letterhead of the bidder and shall specify a single annual rate of interest which shall apply on a 365-day basis only to the portion of the loan in use. The rate shall be expressed as a percent per annum not to exceed three decimals, for example, 5.125 percent. Each bidder may submit a bid for the entire amount of the loan or portions thereof in multiples of $5,000,000.

The bids should be enclosed in sealed envelopes and must be received in the Securities Department of the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, not later than 11:00 a.m., Eastern Daylight Time, on February 8, 1974.

Bids will be opened at the Federal Reserve Bank at 11:00 a.m., Eastern Daylight Time, on February 8, 1974. In determining successful bids, those specifying the lowest rate of interest will be accepted to the extent required to attain the aggregate amount of the loan. Upon the award of bids, the Government of the United States will promptly secure the signature of the borrower to the loan agreement, as well as to necessary copies thereof, and will return one copy.

Dated: January 24, 1974.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

LOAN AGREEMENT

LOAN AGREEMENT made and entered into the _____ day of _____, 1974, between the Government of TURKEY (hereinafter sometimes referred to as the "Borrower") and _____, (hereinafter sometimes referred to as the "Undersigned").

WHEREAS by public notice (which notice is incorporated in this agreement as if fully set forth herein) the Secretary of the Treasury has invited bids on a loan in the amount of $30,000,000 to the Borrower at the lowest basis cost of money;

WHEREAS the Undersigned has submitted a bid in the amount of $_____, for the hereinafter more fully described loan at annual interest rate of ____ percent per annum, payable semi-annually;

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

SECTION 1. COMMITMENT

1.1 Subject to the terms and conditions of this loan Agreement the Undersigned agrees to make loans to the Borrower at any time and from time to time from the date of this Loan Agreement to and including December 31, 1974, or such earlier date as the entire loan offered herein by the Undersigned shall have availed of, in an aggregate principal amount up to the amount of _____ U.S. Dollars (U.S. $_____).

1.2. Each borrowing hereunder shall be made on such date (hereinafter referred to as a "Disbursement Date") as may be designated by the Borrower upon three (3) business days' written notice from the Borrower to the Undersigned. The initial borrowing hereunder shall be made prior to February 25, 1974. Except for the last borrowing, each such notice shall request a borrowing aggregating at least 1/50th of the principal amount bid. Each notice requesting disbursement (a) shall specify the amount of the loan to be made by the Undersigned on the Disbursement Date; (b) shall be delivered to the Undersigned at its address set forth in section 7.3 hereof; (c) shall specify the account of the Borrower at such Bank to which the proceeds of each loan are to be credited; and (d) shall have annexed thereto the documentation set forth in Exhibit A (Disbursement Procedures) annexed hereto.

1.3 The Borrower hereby agrees to pay to the Undersigned a commitment fee computed at the rate of one-quarter of one percent (¼ %) per annum on the daily average unused amount of the Commitment from the date of execution of this loan agreement to and including December 31, 1974 (or such earlier date as the entire Commitment of the Undersigned shall have been availed of). Such commitment fee shall be calculated on a 365-day basis and actual days elapsed.

1.4 The Undersigned may sell participations in the loan to legal entities doing business in the United States.

1.5 At the time at which the Borrower shall send the notices required by section 1.2 above to the Undersigned it shall deliver thereto a promissory note (which shall be substantially in the form of Exhibit B annexed hereto (with the blanks appropriately filled in)) evidencing the obligation of the Borrower to repay the amount of the loan from the Undersigned with interest thereon as hereinafter set forth. Upon request by the Undersigned at any time, the Borrower shall deliver to the Undersigned, in place of any such promissory note, two or more separate promissory notes in such amounts, aggregating not more than the amount of the note such notes shall replace, as shall be specified by the Undersigned. The promissory notes hereinabove referred to are hereinafter referred to as the "Notes" and individually as a "Note".

SECTION 2. REPAYMENT.

2.1 The Borrower hereby agrees:

(a) To pay interest on the outstanding balance of the principal of the loans made under this Loan Agreement on a fixed semiannual basis, such interest payments to begin July 1, 1974, and thereafter on January 1, 1975, and each January 1 and July 1 following, until the entire principal of the loans shall have been repaid; and

(b) To repay the principal of the loans made under this Loan Agreement in accordance with the Principal Repayment Schedule set forth in Exhibit C annexed hereto.

(i) If on any installment repayment date set forth in the Principal Repayment Schedule the Borrower shall not have availed itself of the Commitment of the Undersigned in an aggregate amount (less repayments previously made) equal to the aggregate installment of principal which is repayable on such date to the Undersigned, the Borrower shall, on such installment repayment date, repay to the Undersigned the full amount (less repayments previously made) to which it has availed itself of the Commitment of the Undersigned to such date, together with the interest accrued thereon. If at any time thereafter the Borrower shall avail itself of the Commitment of the Undersigned in an amount which would have been payable on a prior installment repayment date but for the provisions of the immediately preceding sentence, such amount, together with interest accrued thereon, shall be repayable on the next succeeding installment date of the Principal Repayment Schedule occurring after the disbursement of such amount and the said aggregate installment of principal repayable under the Principal Repayment Schedule to the Undersigned on that date shall be increased by such amount.

(ii) If by the date specified in paragraph 1.1 above, the Borrower shall not have availed itself of the entire amount of the Commitment, the installments of principal repayable to the Undersigned set forth in the Principal Repayment Schedule shall be reduced in the inverse order of the maturity thereof to the extent of the unused balance of the Commitment.

2.2 The Undersigned may sell or assign, at any time, in whole or in part, any one or more of the Notes and/or its rights to receive repayments.

2.3 Each Note shall be dated the Disbursement Date of the loan which such Note evidences and shall bear interest at a rate of ____ percent (____%) per annum on the unpaid principal amount of such Note until such amount shall be paid in full. Such interest on each Note shall be payable with the principal as provided in 2.1. The Notes shall be completed by the Borrower in such a manner that repayment of such loans shall be made in the order of their disbursement, utilizing the Principal Repayment Schedule set forth in Exhibit C (as the same may be adjusted in accordance with sections 2.1(b)(i) and 2.1(b)(ii) hereof), and, in determining whether a particular loan is payable in one or more installments, utilizing a particular installment payment date only after the full utilization of the next preceding installment date.

2.4 The Borrower may, with the prior written consent of the Undersigned, which consent will not be unreasonably withheld, prepay any of the Notes held by the Undersigned, in whole or in part, on any principal repayment date, with accrued interest to the date of such prepayment on the amount prepaid.

2.5 Whenever any payments hereunder or under any Note shall be due on a Saturday, Sunday, or public holiday under the laws of the District of Columbia, such payment may be made on the next succeeding business day, and such extension of time shall, in such case, be included in computing interest in connection with such payment, but excluded from the next interest period.

2.6 All payments by the Borrower to the Undersigned under this Loan Agreement and on the Notes, including without limitation payments of principal of, and interest on, the Notes and payment of any commitment fees or expenses hereunder, shall be payable to the Undersigned at the address set forth in

section 7.3 hereof in U.S. dollars and in immediately available funds.

SECTION 3. REPRESENTATIONS AND WARRANTIES

The Undersigned has entered into this Loan Agreement and will make the loans provided for herein on the basis of the following representations and warranties of the Borrower:

3.1 The Borrower has full power, authority and legal right to incur the indebtedness contemplated in this Loan Agreement on the terms and conditions contained herein, and to execute, deliver and perform this Loan Agreement and the Notes:

3.2 The execution, delivery and performance of this Loan Agreement and the Notes will not violate any provisions of, and have been duly and validly authorized under, the laws of the Borrower, and all actions necessary to authorize the borrowings hereunder and the execution, delivery and performance of this Loan Agreement and the Notes have been duly taken; and

3.3 This Loan Agreement has been, and each of the Notes when issued will be, duly executed and delivered by persons thereunto duly authorized, and this Loan Agreement constitutes, and each of the Notes when issued will constitute, the valid legally binding, direct and unconditional general obligation of the Borrower, enforceable in accordance with its respective terms.

SECTION 4. CONDITIONS OF LENDING

4.1 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the condition precedent that, prior to the first Disbursement Date, it shall have received an opinion in the English language of the Ministry of Justice of the Government of TURKEY, dated the date of the initial Disbursement Date, to the same effect as section 3.1, 3.2, and 3.3 hereof, and to the further effect that specified officials of the Borrower identified by name and title in such opinion are duly authorized to execute and deliver this Loan Agreement, the Notes and such other documents as may be required hereunder on behalf of the Borrower, to establish and draw upon an account of the Borrower at the Bank to which account the Undersigned shall disburse the proceeds of all borrowings hereunder, and to certify to such Bank on behalf of the Borrower the identity, names and titles of any other or additional officials of the Borrower who thereafter may be so authorized.

4.2 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the further conditions precedent that, prior to the first disbursement, it shall have received:

(a) The guaranty of the United States (the "Guaranty"), executed by the Department of Defense, guarantying it against all political and credit risks of nonpayment of the obligations of the Borrower to the Undersigned hereunder (including the entire amount of the principal loaned by the Undersigned hereunder and interest thereon at the rate determined as specified herein, but excluding any amounts owing for commitment fees or other fees or expenses), pursuant to the Foreign Military Sales Act (PL 90-629) as amended (hereinafter called "the Act"); and

(b) An opinion of the General Counsel of DOD, to the effect that (i) DOD has full power, authority and legal right to execute, deliver and perform the Guaranty, (ii) the Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing the Guaranty, exceeded the maximum amount of guaranties authorized to be issued under the Act, (iii) the Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (iv) the Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof and backed by the full faith and credit of the United States.

4.3 The obligation of the Undersigned to make any loan to be made by it hereunder, including the initial loan, is subject to the further conditions precedent that:

(a) No event of default within the meaning of section 6 of this Loan Agreement, and no other default with respect to any of the Notes, shall have occurred;

(b) The Undersigned shall have received a Note or Notes payable to its order (or to the order of such other person or persons as the Undersigned may specify) in the amount of the particular loan, executed by the duly authorized representatives of the Borrower;

(c) The Undersigned shall have received the documentation specified in Exhibit A annexed hereto, executed by the duly authorized representatives of the Borrower; and

(d) All legal matters incident to the Guaranty and the transactions contemplated by this Loan Agreement shall be satisfactory to the counsel of the Undersigned.

SECTION 5. COVENANTS

The Borrower convenants and agrees that from and after the date of this Loan Agreement and so long as any amounts remain unpaid on account of the Notes or otherwise under this Loan Agreement:

(a) All payments on account of the principal of, and interest on, the Notes, commitment fees and other fees and expenses shall be made free and clear of and without deduction for, any and all taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected or assessed with respect thereto by the Borrower or any central or local authority thereof or therein;

(b) Any claim which it may now or hereafter have against any person, corporation, firm or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments;

(c) It will pay any and all stamp taxes and other taxes of similar character, if any, now or hereafter in effect, imposed with respect to this Loan Agreement or the Notes (including, without limitation, any United States Interest Equalization Tax or similar future tax), and will save the holder of any Note harmless from any and all losses or liabilities with respect to or resulting from any delay or omission to pay such taxes.

(d) Any legal action or proceeding against it by the Undersigned with respect to this Loan Agreement or the Notes may be brought in the Superior Court of the District of Columbia or in the United States District Court for the District of Columbia or in the Courts of the Borrower, as the undersigned may elect, and by execution and delivery of this Loan Agreement, the Borrower submits to each such jurisdiction. In the case of the Superior Court of the District of Columbia or of the United States District Court for the District of Columbia, the Borrower consents to the service of process out of said Courts by mailing copies of such process by registered United States mail, postage paid, to it at its address set forth in section 7.3 hereof; and

(e) All loans made hereunder shall be utilized solely for the procurement of the Defense items pursuant to Purchase Arrangements authorized by DOD.

SECTION 6. DEFAULTS

Upon the occurrence of any of the following events or default:

(a) If the Borrower fails for a period of ten (10) days to make any payment of principal of, or interest on, any Note or of any commitment fee hereunder, when due; or

(b) If any representation or warranty made by the Borrower herein or in any certificate furnished by the Borrower pursuant hereto, proves to be at any time incorrect in any material respect; or

(c) If the Borrower defaults in the performance of any other term, covenant or agreement contained in this Loan Agreement, and such default shall continue unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the Undersigned:

then, and in any such event, the holder of any Note may declare immediately due and payable the unpaid principal of, and accrued interest on, all Notes held by such holder and such amounts shall become immediately due and payable without protest, presentment, notice or other demand of any kind, all of which are hereby expressly waived by the Borrower, and the Undersigned may terminate its Commitment hereunder.

SECTION 7. MISCELLANEOUS

7.1 Upon the execution of this Loan Agreement, the Borrower shall pay to the Undersigned the aggregate sum of $_____ in payment of the fee charged by DOD with respect to the Guaranty.

7.2 No failure to exercise and no delay in exercising on the part of the Undersigned, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided in this Loan Agreement.

7.3 Except as otherwise provided in this Loan Agreement, all notices, requests or demands hereunder shall be deemed to have been given or made upon the mailing of the same by air mail, postage prepaid, or in the case of telegraphic notice, on delivery to the telegraph company, addressed in the case of the borrower to the Embassy of the Government of TURKEY, 2202 Massachusetts Avenue NW., Washington, D.C., 20008 and to the Office of the Comptroller, DSAA (Room 4B742), The Pentagon, Washington, D.C. 20301, and in the case of the Undersigned to ---------- or to such other addresses as any party may from time to time hereafter designate in writing to the other.

7.4 This Loan Agreement and the Notes shall be construed and interpreted in accordance with the laws of the District of Columbia, United States of America, unless prior to the execution of this Loan Agreement and the Notes the parties hereto have by written stipulation agreed that the laws of another jurisdiction of the United States shall be applied.

7.5. This Loan Agreement shall be binding upon and inure to the benefit of the Borrower and the Undersigned and their respective successors and assigns, except that the Borrower may not assign its rights hereunder without the prior written consent of the Undersigned. All agreements, covenants, representations and warranties made herein shall survive the delivery of the Notes and the making of the loans hereunder.

7.6. This Loan Agreement may be executed in any number of counterparts, each

of which when so executed and delivered shall be an original, but all the counterparts shall together constitute a single instrument. Exhibits A and B attached hereto are, by this reference, made a part of this Loan Agreement.

7.7 In case any one or more of the provisions contained in this Loan Agreement or in any of the Notes should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed and sealed by their duly authorized officers and representatives on the day and year first above written.

---------- (Seal)

EXHIBIT A

----------(Seal)

DISBURSEMENT PROCEDURES

The following procedures and conditions shall be complied with prior to each disbursement to be made by the Undersigned to the Borrower:

1. The designated representative of the Government of ---------- shall execute and deliver each request for disbursement to the Undersigned at its address set forth in section 7.3 of the foregoing Loan Agreement.

2. Each request shall be accompanied by a copy of the written communication from DOD authorizing the Borrower to enter into the Purchase Arrangement(s) pursuant to which the disbursement is requested.

3. Each request also shall be accompanied by a certification of the Borrower as follows:

"The Government of ---------- confirms that the proceeds of this disbursement will be applied entirely to the payment of amounts that have become properly due pursuant to the Purchase Arrangement(s) authorized by the Department of Defense of the United States of America in the attached written communication. This disbursement is requested by the Government of ---------- pursuant to the terms of the Loan Agreement of ---------- between the Government of ---------- and the Undersigned, and confirms that the said Purchase Arrangement(s) (was/were) authorized by the Department of Defense of the United States of America pursuant to the aforesaid Loan Agreement. The Government of ---------- further confirms that the Undersigned to which this certification is addressed is authorized to make this disbursement by crediting the amount thereof to Account Number ------, at such Bank, and that ----------, whose signature appears below, is (and, until further written notice, shall continue to be) authorized to draw upon such account on behalf of the Government of ----------.

"Signature of the representative of the Government of ---------- who is authorized to draw upon its account: "------

"Government of ----------

"By ----------"

(Name and Title Typed)

EXHIBIT B

PROMISSORY NOTE

---------- ----------

(Location) (Date)

U.S. $------

FOR VALUE RECEIVED, the Undersigned, the Government of ----------, hereby promises to pay to the order of ----------, or its assigns, the principal sum of ------ United States dollars (U.S. $------) as follows:

---------- ----------

(Amounts) (Dates)

together with interest on any and all amounts remaining unpaid hereunder from time to time from the date hereof until this Note shall be paid in full, payable semiannually on ------ and ------ of each year from the date hereof, commencing ------, 197--, at the rate of ------ percent (------%), per annum. Such interest shall be calculated using a 365-day factor, both principal and interest to be payable in immediately available funds in lawful money of the United States of America at the office of the payee at ----------, or at the principal place of business of the assignee. All payments made on account of the principal amount hereunder shall be endorsed by the payee, or its assigns, on the reverse side of this Note.

Whenever any payment to be made shall be due on a Saturday, Sunday, or a public holiday under the laws of the District of Columbia, such payment shall be made on the next succeeding business day, and such extension of time shall in such case be included in computing interest in connection with such payment, but excluded from the next interest period.

This Note is one of the Notes referred to in the Loan Agreement dated ------, 197----, between the Government of ---------- and ----------.

It is entitled to the benefits of and may be prepaid on the terms and conditions specified in said Loan Agreement. Prepayments shall be applied to the installments hereof in the inverse order of their maturity.

All payments of principal of, and interest on, this Note are payable free and clear of, and without deduction for, any taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected or assessed with respect thereto by the Government of ------ ------ or any central or local authority thereof or therein.

Upon the occurrence of any event of default specified in said Loan Agreement, the entire unpaid principal hereof and interest hereon to the date of payment may be declared to be forthwith due and payable as provided in said Loan Agreement. The Government of ---------- promises to pay all out-of-pocket costs and expenses (including the reasonable fees and out-of-pocket expenses of counsel) in connection with collection after default of this Note.

GOVERNMENT OF

By ---------- (sealed)

(Name and Title Typed)

EXHIBIT C

PRINCIPAL REPAYMENT SCHEDULE

The First $4,687,500 of Disbursements are Repayable on January 1, 1976.
The Next $4,687,500 of Disbursements are Repayable on July 1, 1976.
The Next $4,687,500 of Disbursements are Repayable on January 1, 1977.
The Next $4,687,500 of Disbursements are Repayable on July 1, 1977.
The Next $4,687,500 of Disbursements are Repayable on January 1, 1978.
The Next $4,687,500 of Disbursements are Repayable on July 1, 1978.
The Last $1,875,000 of Disbursements are Repayable on January 1, 1979.

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT, made and entered into on the ------ day of ------, 1974, (hereinafter called the "Guaranty"), between ----------, a banking association doing business under the laws of ----------, (hereinafter called the "Lender(s)"), on the one part, and the Government of the United States of America (hereinafter called the "United States"), acting through the Department of Defense of the United States (hereinafter called "DOD"), on the other part;

WITNESSETH:

WHEREAS, the Government of TURKEY (hereinafter called the "Borrower") desires to purchase certain defense articles and defense services (hereinafter called "Defense Item") from United States sources; and

WHEREAS, the Lender has entered into a Loan Agreement dated ------, 1974, (hereinafter called the "Loan Agreement"), with the Borrower to provide for the extension of credit to the Borrower of up to U.S. $30,000,000; and

WHEREAS, the Lender(s) obligation under the Loan Agreement to make the initial loan thereunder is to be conditioned upon the issuance of a guaranty from the United States against all political and credit risks of nonpayment by the Borrower of its obligations under the Loan Agreement to pay the principal of and interest on all extensions of credit by the Lender(s) under the Loan Agreement; and

WHEREAS, it is intended that each loan under the Loan Agreement will be repaid by the Borrower in seven (7) semiannual installments, the first of which shall be due January 1, 1976, and the remaining six (6) installments shall be due and payable successively semiannually thereafter on January 1 and July 1 of each year with interest payable semiannually at the interest rate set forth in the Notes; and

WHEREAS, the aforesaid credit will be available only to financse the purchase of Defense Items from United States sources; and

WHEREAS, the Loan Agreement will provide for the issuance by the Borrower to the Lender(s) of promissory notes (herein called the "Notes") evidencing the loans made by the Lender(s) from time to time under the Loan Agreement; and

WHEREAS, the Loan Agreement by the Lender(s) will facilitate and will be in furtherance of the purposes of the Foreign Military Sales Act, Public Law 90-629, as amended (hereinafter called the "Act").

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

The United States, acting through DOD, in consideration of the fee specified in Article IV of this Guaranty, and except as otherwise specified in this Guaranty Agreement, hereby unconditionally and irrevocably severally guarantees each Lender under the authority of Section 24 of the Act, the due and punctual payment in United States Dollars of all amounts payable by the Borrower as principal of all loans made by the Lender(s) under the Loan Agreement and as interest at the rate set forth in the Notes whether or not such obligations are evidenced by Notes. Any disbursement by the Lender(s) shall be considered, for the purpose of this Guaranty, to be a loan made by such Lender(s) under the Loan Agreement if in fact the funds so disbursed are applied to the purchase of articles or services approved in writing by DOD for purchase by the Borrower under the Loan Agreement, or if such disbursement is made in accordance with the procedures to be specified in the Loan Agreement and the Lender(s) is in receipt of documents that on their face conform to such requirements and indicate that DOD has approved in writing the purchases by the Borrower for which the disbursement is requested.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayments arising out of any claim which the Borrower may now or hereafter have against any person,

corporation, firm or association, or other entity (including, without limitation, the United States, the Lender(s) and any supplier of Defense Items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the benefit of and shall be enforceable severally by each Lender(s), its respective successors by operation of law, or its endorsees, assignees or transferees (the Lender(s) and any such successor by operation of law, endorsee, assignee or transferee being hereinafter individually sometimes called a "Beneficiary" and collectively the "Beneficiaries"). All provisions of this Guaranty shall be severally applicable to any Beneficiary acting in its own right in connection with the Notes, the Loan Agreement or this Guaranty.

The United States hereby waives diligence, demand protest, presentment, and any requirement that any Beneficiary of this Guaranty exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DOD hereunder in the event of default on a payment due under the Notes.

The United States further agrees that any claim which it may now or hereafter have against any Beneficiary for any reason whatsoever shall not affect in any way the right of any other Beneficiary to receive full and prompt payment of any amount otherwise due under this Guaranty.

The full faith and credit of the United States is pledged to the performance of this Guaranty.

The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD and has not, in issuing this Guaranty, ceeded the maximum amount of guarantees authorized to be issued under the Act, (c) this Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (d) this Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof.

ARTICLE II

Payment by DOD in the event of a default in the payment of any Note, or any portion thereof, by the Borrower shall be made promptly to the Beneficiary in New York Federal Reserve Funds at the address specified by the Beneficiary (which in the case of the Lender(s) shall be its address set forth opposite its signature below) upon demand to DOD by the Beneficiary after such default has continued for more than 15 days. The amount payable under this Guaranty shall be the amount of any principal and interest then in default, together with interest at the rate then applicable to the defaulted Note from the date of default to the date of payment by DOD. No interest shall be payable by DOD for any period following 30 days after default if the Beneficiary fails to make such demand within 30 days after default. DOD reserves the right to make payments due to a Beneficiary from the Borrower whether or not demand to DOD by the Beneficiary therefore has been made. Upon payment by DOD to a Beneficiary, such Beneficiary will assign to the United States, without recourse to or warranty by such Beneficiary, the corresponding amount of such Beneficiary's rights to such payment from the Borrower.

ARTICLE III

The Lender(s) shall communicate to DOD the date and amount of each disbursement made by the Lender(s) and the date and amount of each payment of principal and interest made by the Borrower under the Loan Agreement within thirty (30) days after each such disbursement and each such payment. Each such communication shall be sent to the Comptroller, Defense Security Assistance Agency, The Pentagon, Washington, D.C. 20301.

ARTICLE IV

DOD acknowledges receipt from the Lender(s) of payment of a guaranty fee of $_____.

ARTICLE V

So long as this Guaranty Agreement is in effect and the United States is not in default hereunder, in the event of a default under the Loan Agreement or in the payment of any Note, or any portion thereof, by the Borrower—

(a) The Lender(s) shall not accelerate or reschedule payment of the principal amount of or interest on any of the Notes except with the written approval of DOD; and

(b) The Lender(s) shall, if so directed by DOD, invoke the default provisions of the Loan Agreement, and shall suspend any further disbursements to, or on behalf of, the Borrower until the Lender(s) has been advised by DOD that it may resume payments under its Commitment.

ARTICLE VI

The Lender(s) will not agree to any material amendment of the Loan Agreement or consent to any material deviation from the provisions thereof without the prior written consent of DOD.

ARTICLE VII

Any Beneficiary's rights under this Guaranty may be assigned to any individual, corporation, partnership, or other association doing business in the United States of America. In the event of such assignment DOD shall be promptly notified.

ARTICLE VIII

Any notice, demand, request or the like on behalf of the United States hereunder will be effective for the purposes hereof if signed by the Director, or Deputy Director, Defense Security Assistance Agency, or their respective successors in office and delivered to the Lender(s) at its address set forth opposite its signature below. Any notice, demand, request or the like on behalf of any Beneficiary of this Guaranty will be effective for the purposes hereof if signed by an authorized official of any such Beneficiary and delivered to the Director, Defense Security Assistance Agency, or his successor in office.

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be duly executed and sealed on the date first mentioned above.

SIGNATURES

Address:

By _____ (Seal)

GOVERNMENT OF THE UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF DEFENSE

By _____ (Seal)

[FR Doc.74-2392 Filed 1-28-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL RESEARCH ADVISORY COMMITTEE

Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act [Pub. L. 92-463 (1972)] notice is hereby given that closed meetings of the Naval Research Advisory Committee will be held on February 7-8, 1974, at the Naval Research Laboratory, Washington, D.C.

In accordance with a determination made by the Secretary of the Navy, these meetings will be closed to the public, as the agenda consists of matters classified in the interests of national security.

Dated: January 23, 1974.

K. A. KONOPISOS,
Captain, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc.74-2323 Filed 1-28-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

PAONIA-SOMERSET, COLORADO

Classification for Competitive Coal Leasing

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and Secretary's Order No. 2563 (15 FR 3193), and Secretary's Order No. 2948, Federal lands within the State of Colorado, have been classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Paonia-Somerset (Colorado) Known Leasing Area (Coal); October 31, 1973, 215,867 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management and is also of record in the U.S. Geological Survey, National Center, Mail Drop 640, Reston, Virginia 22092.

Dated: January 17, 1974.

W. A. RADLINSKI,
Acting Director.

[FR Doc.74-2282 Filed 1-28-74;8:45 am]

HANNA AND CARBON BASINS, WYOMING

Classification for Competitive Coal Leasing

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and Secretary's Order No. 2563 (15 FR 3193), and Secretary's Order No. 2948, Federal lands within the State of Wyoming, have been classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) WYOMING

Hanna and Carbon Basins (Wyoming) Known Leasing Area (Coal); October 31, 1973, 222,711 acres.

A diagram showing the boundaries of the area classified for competitive leas-

ing has been filed with the appropriate land office of the Bureau of Land Management and is also of record in the U.S. Geological Survey, National Center, Mail Drop 640, Reston, Virginia 22092.

Dated: January 17, 1974.

W. A. RADLINSKI,
Acting Director.

[FR Doc.74-2283 Filed 1-28-74;8:45 am]

National Park Service

[Order 1]

ADMINISTRATIVE OFFICER; LINCOLN HOME NATIONAL HISTORIC SITE, ILLINOIS

Delegation of Authority

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for Supplies, Equipment or Services.

1. Administrative Officer. The Administrative Officer, Lincoln Home National Historic Site, may issue purchase orders not in excess of $2,500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7748), as amended; Northeast Region Order No. 7 (37 FR 6325), as amended.)

Dated: November 15, 1973.

ALBERT W. BANTON, Jr.,
Superintendent, Lincoln Home National Historic Site.

[FR Doc.74-2244 Filed 1-28-74;8:45 am]

[Order 1]

ADMINISTRATIVE TECHNICIAN; OHIO GROUP NATIONAL PARK SERVICE, OHIO

Delegation of Authority

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment or Services.

1. Administrative Technician. The Administrative Technician, Ohio Group National Park Service, may issue Purchase Orders not in excess of $300 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Technician in behalf of any area under the administration of the Ohio Group National Park Service.

(National Park Service Order No. 77, (38 FR 7478) as amended; Northeast Region Order No. 7 (37 FR 6325), as amended)

Dated: November 27, 1973.

WILLIAM C. BIRDSELL,
General Superintendent, Ohio Group National Park Service.

[FR Doc.74-2243 Filed 1-28-74;8:45 am]

[Order 1]

ADMINISTRATIVE TECHNICIAN; ST. CROIX NATIONAL SCENIC RIVERWAY, WISCONSIN

Delegation of Authority

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment or Services.

1. Administrative Technician. The Administrative Technician, St. Croix National Scenic Riverway, may issue Purchase Orders not in excess of $500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77, (38 FR 7478) as amended; Northeast Region Order No. 7 (37 FR 6325), as amended)

Dated: December 13, 1973.

GUSTAF P. HULTMAN,
Superintendent, St. Croix National Scenic Riverway.

[FR Doc.74-2245 Filed 1-28-74;8:45 am]

[Order No. 1]

SUPERINTENDENTS, ET AL., MID-ATLANTIC REGION

Delegation of Authority

SECTION 1. *Superintendents.* The National Park Service Superintendents of the Mid-Atlantic Region, in the administration, operation and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director, Mid-Atlantic Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of Master Plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land or its vegetative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000, and acceptance of donations of money in excess of $10,000.

(f) Authority to designate areas at which recreation fees will be charged as specified by the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended.

(g) Authority to select from the fees established by 43 CFR Part 18, (38 FR 3385), as amended, the specific fees to be charged at the designated areas in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies and services, including construction, as follows:

(1) Superintendents, Grade GS-12 and below—in excess of $2,000.

(2) Superintendents, Grade GS-13—in excess of $50,000.

(3) Superintendents, Grade GS-14—in excess of $100,000.

(4) Superintendents, Grade GS-15—in excess of $200,000.

The limitations in this paragraph (h) apply only to open market or non-mandatory sources of supply. Each office may continue to issue orders to GSA Centers and sources under established Federal Supply Schedules of Contracts in amounts exceeding $2,000.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of dam.

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property, and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

(n) Authority to conduct archeological investigations and salvage activities.

SEC. 2. *Delegation*—(a) *Associate Regional Director, Administration.* The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Mid-Atlantic Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto. This authority may be exercised by the Associate Regional Director, Administration, in behalf of any office or area for which the Mid-Atlantic Regional Office serves as the field finance office.

(b) *Regional Chief, Division of Contracting and Property Management.* The Regional Chief, Division of Contracting and Property Management, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Mid-Atlantic Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto. This authority may be exercised by the Regional Chief, Division

of Contracting and Property Management, in behalf of any office or area for which the Mid-Atlantic Regional Office serves as the field finance office.

(c) *Regional Procurement Agent.* The Regional Procurement Agent may execute and approve purchase orders not in excess of $2,000 for equipment, supplies, and services. This authority may be exercised by the Regional Procurement Agent in behalf of any office or area for which the Mid-Atlantic Regional Office serves as the field finance office.

(d) *Regional Purchasing Agent.* The Regional Purchasing Agent may execute and approve purchase orders not in excess of $1,000 for equipment, supplies, and services. This authority may be exercised by the Regional Purchasing Agent in behalf of any office or area for which the Mid-Atlantic Regional Office serves as the field finance office.

(e) *Regional Land Acquisition Officer.* The Regional Land Acquisition Officer is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto. Acceptance of deeds giving to the United States lands or interests of lands. Approve on behalf of the National Park Service offers of settlement in condemnation cases.

(f) *Field Land Acquisition Officers.* The Field Land Acquisition Officers are authorized to execute their land acquisition program, including contracting for acquisition of lands and related property, and acceptance of offers to sell related thereto when the amount does not exceed $100,000.

SEC. 3. *Redelegation.* The authority delegated in this Order No. 1 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated by this order and may authorize written redelegation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 4. *Revocation.* This order supersedes Northeast Region Order No. 7 dated February 25, 1972, and published in 37 FR 6325, as amended. However, redelegations based thereon are continued in effect to the extent that they are not in conflict with this order.

(National Park Service Order No. 77, 38 FR 7478, as amended).

Dated: January 6, 1974.

CHESTER L. BROOKS,
Regional Director,
Mid-Atlantic Region.

[FR Doc.74-2306 Filed 1-28-74;8:45 am]

[Order No. 1]

SUPERINTENDENTS, ET AL., NORTH ATLANTIC REGION

Delegation of Authority

SECTION 1. *Superintendents.* The National Park Service Superintendents of the North Atlantic Region, in the administration, operation and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director, North Atlantic Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of Master Plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000.00, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.00.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land or its vegetative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000.00, and acceptance of donations of money in excess of $10,000.00.

(f) Authority to designate areas at which recreation fees will be charged as specified by the Land and Water Conservation Fund Act of 1965 (78 Stat. 1897), as amended.

(g) Authority to select from the fees established by 43 CFR, Part 18, (38 FR 3385), as amended, the specific fees to be charged at the designated areas in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 1897), as amended.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services, including construction, as follows:

(1) Superintendents, Grade GS–12 and below—in excess of $2,000.00.

(2) Superintendents, Grade GS–13—in excess of $50,000.00.

(3) Superintendents, Grade GS–14 in excess of $100,000.00.

(4) Superintendents, Grade GS–15—in excess of $200,000.00.

The limitations in this paragraph (h) apply only to open market or non-mandatory sources of supply. Each office may continue to issue orders to GSA Centers and sources under established Federal Supply Schedules of Contracts in amounts exceeding $2,000.00.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of dam.

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

(n) Authority to conduct archeological investigations and salvage activities.

SEC. 2. *Delegation*—(a) *Associate Regional Director, Administration.* The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, North Atlantic Region, except authority to contract for acquisition of land and related property and options and offers to sell related thereto.

(b) *Regional Chief, Division of Contracting and Property Management.* The Regional Chief, Division of Contracting and Property Management, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, North Atlantic Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto.

(c) *Regional Procurement Agent.* The Regional Procurement Agent may execute and approve purchase orders not in excess of $2,000.00. This authority may be exercised by the Regional Procurement Agent in behalf of any office or area under the administration of the North Atlantic Region.

(d) *Region Purchasing Agent.* The Regional Purchasing Agent may execute and approve purchase orders not in excess of $1,000 for equipment, supplies, and services. This authority may be exercised by the Regional Purchasing Agent in behalf of any office or area under the administration of the North Atlantic Region.

(e) *Regional Land Acquisition Officer.* The Regional Land Acquisition Officer is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto. Acceptance of deeds giving to the United States lands or interests in lands. Approve on behalf of the National Park Service offers of settlement in condemnation cases.

(f) *Field Land Acquisition Officers.* The Field Land Acquisition Officers are authorized to execute the land acquisition program, including contracting for acquisition of lands and related property, and acceptance of offers to sell related thereto when the amount does not exceed $100,000.00.

SEC. 3. *Redelegation.* The authority delegated in this Order No. 1 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated to him by this order and may authorize written redelegation of such au-

thority. Each redelegation shall be published in the "FEDERAL REGISTER."

(National Park Service Order No. 77 (38 FR 7478), as amended).

Dated: January 7, 1974.

JERRY D. WAGERS,
Regional Director,
North Atlantic Region.

[FR Doc.74-2307 Filed 1-28-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ENVIRONMENTAL STATEMENTS

Proposed Guidelines for Preparation

Pursuant to the guidelines of the Council on Environmental Quality (CEQ), as published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20549), appearing as 40 CFR Part 1500, the Animal and Plant Health Inspection Service publishes herewith its proposed guidelines for preparation of environmental statements required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) dated January 1, 1970 (Pub. L. 91-190, 83 Stat. 853, U.S.C. (2)(C). These proposed guidelines were developed in consultation with CEQ.

Before taking action to issue the proposed guidelines in final form, the Animal and Plant Health Inspection Service will consider comments of all interested parties received in writing before March 15, 1974. Comments should be sent to the Administrator, Animal and Plant Health Inspection Service, Washington, D.C. 20250.

Issued in Washington, D.C., on January 22, 1974.

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

1. *Authority and purpose.* These guidelines state policy and provide guidance for the preparation of environmental statements required by section 102(2)(c) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). This section requires detailed environmental impact statements (EIS) on proposed major Federal actions significantly affecting the quality of the human environment.

Additional authority, direction, and instructions are contained in:

i. Executive Order No. 11514.

ii. Council on Environmental Quality (CEQ Revised Guidelines for Statements on the Proposed Federal Action Affecting the Environment as published in the FEDERAL REGISTER, Vol. 38, No. 147, August 1, 1973, Part II.

iii. Secretary's Memorandum No. 1695 and supplements.

iv. Section 309 Clean Air Act Amendments of 1970.

The purpose of an environmental statement is to provide a means for giving environmental quality careful and appropriate consideration in the planning and decision-making process. The environmental statement must be of sufficient detail to allow a responsible official to make an accurate decision regarding the environmental impacts to be expected from any applicable APHIS action.

2. *Policy.*—(a) *General.* In fulfilling the requirements of section 102(2)(c) of NEPA the responsible official will, as early as possible, and in all cases prior to an Agency decision concerning a major action that significantly affects the quality of the human environment, in consultation with other appropriate Federal, State, local agencies, and the public, assess in detail the potential environmental impact in order to avoid or minimize adverse effects whenever possible and to restore or enhance environmental quality to the fullest extent practicable. In particular, alternative actions that will avoid or minimize adverse impact should be explored and both the long- and short-range implications of a proposed action to man, his physical and social surroundings and to nature should be evaluated.

The analysis supporting an environmental statement should utilize a systematic interdisciplinary approach integrating the natural and social sciences and the environmental design arts in planning and in decision-making. Those disciplines relevant to the program and represented on the staffs should be utilized in making the analysis. Where such disciplines are not represented, appropriate use should be made of relevant Federal, State, and local agencies, including professional services of universities and consultants. This approach should not be limited to the preparation of the statement but should also be used in the early planning of the proposed action.

Assessments of the environmental impacts of a proposed action should be undertaken concurrently with initial technical and economic studies. Draft EIS's on administrative actions should be prepared in time to accompany the proposal through the existing Agency review processes and prior to the first significant point of decision in the Agency formal review process for such action. General policy is that, to the fullest extent possible, the NEPA section 102(2)(C) process will be completed before irreversible decision is made on major APHIS actions significantly affecting the quality of the human environment.

NEPA will supplement existing authorities except where prohibited by law.

In order to more fully implement the Act, and where applicable, existing cooperative agreements and memoranda of understanding should be amended and new documents should include such language that will involve the cooperator in carrying out the requirements of Public Law 91-190 the National Environmental Policy Act of 1969.

(b) *Responsible official.* The Administrator and Deputy Administrators are responsible for determining the need for, and preparation of, environmental statements on specific APHIS actions.

(c) *Lead Agency.* Where USDA and one or more other Departments are involved in an action, the USDA Office of the Coordinator of Environmental Quality Activities (office of the coordinator) and CEQ will assist in determining the feasibility of the preparation of a joint EIS by all parties concerned or the designation of a lead Agency responsible for the preparation of the statement.

The relevant factors as given by CEQ in determining the proper Agency to assume a lead role include:

(1) Relative expertise with respect to the project's environmental effects.

(2) Magnitude of respective involvement for evaluation of the entire project.

(3) Time sequence in which the agencies became involved in the project. When the use of pesticides in Federal-State cooperative pest control programs involve large acreage of the private sector and a lesser acreage of adjoining lands of the public domain, APHIS should exert a strong role in the environmental statement process. Where authority is more or less equal and consequences are major for each of two or more Federal Agencies, statements may be jointly prepared.

In certain instances, several USDA Agencies have program responsibilities relative to a major Federal action having a significant effect on the human environment. In such cases, the lead Agency will be determined in consultation with the office of the coordinator. The lead Agency will coordinate the input of all concerned USDA Agencies in the development of the EIS.

APHIS, when designated as lead Agency for an EIS, will be responsible for consulting with and obtaining information from other involved Agencies with respect to their jurisdiction and expertise.

3. Actions requiring environmental statements.

(a) *General.* The NEPA, section 102(2)(C), requires that environmental statements be prepared and submitted with every recommendation or report on proposals for legislation, and for other "major Federal actions significantly affecting the quality of the human environment." The Administrator and Deputy Administrator are responsible for identifying major actions significantly affecting the environment and determining when environmental statements are required. The action must be a (1) "major" action, (2) which is a "Federal action," (3) which has a significant effect, and (4) which involves the quality of the environment. The words "major" and "significantly" are used to imply thresholds of importance and impact that must be met before a statement is required.

"Major" actions and significant environmental effects are difficult to define precisely and uniformly because of the great variation in social, economic, political, and ecological conditions. The following categories of criteria should be considered in determining whether or not a statement is appropriate.

(1) Degree of ecosystem disturbance; both onsite and offsite effects should be recognized.

(2) Irreversible effects on basic resources; short-term versus long-term commitments.

(3) Cumulative effects of many small actions.

(4) Chain reactions or secondary effects of interrelated activities.

(5) National versus regional and local importance.

(6) Uniqueness or rareness of resource.

(7) Scope of anticipated public involvement and controversy anticipated.

(8) Interaction with other Federal projects and actions of the private sector.

The size or scope of an administrative action is a factor which may be considered in determining whether the action is a "major" action.

(b) *Environmental impact statements for recommendations or favorable reports on proposals for legislation.* When APHIS has primary responsibility for the subject matter involved in a bill referred to USDA or legislative proposals from the Department, the Administrator is responsible for determining which legislative proposals or reports require EIS's and will prepare the APHIS EIS.

The Administrator may, when necessary, consult with appropriate Agencies during each preparation prior to the submission of legislative proposals or reports to OMB.

The comments and views of such Agencies should be considered in the EIS. When time does not permit and prior consultation is necessary, it will be accomplished concurrently with the formal review of the legislative proposals or reports carried out by the OMB.

The Office of Management and Finance will be responsible for forwarding copies of the EIS's on legislation to CEQ through the office of the coordinator. Where there is an EIS on a legislative proposal or report submitted to OMB for clearance, an information copy of

the EIS will accompany each copy of the proposal or report. Sufficient copies of the EIS's will be furnished as enclosures to the proposal or report.

APHIS will respond promptly to requests from other Agencies for information or other assistance needed for developing statements.

(c) *Environmental impact statements for establishing or modifying regulations, rules, procedures, and policy.* When regulations or policy statements are necessary and APHIS has determined that an EIS is required, it will be developed and prepared as outlined in subsection 4.(b) (1 thru 9) and distributed and reviewed as outlined in subsection 4.(c) and 5.(a) (b) (c) and (d) of these guidelines in time to accompany the proposed regulations or policy statement through the review process.

(d) *Statement of Continuing Programs.* After a statement has been developed and approved for a program, additional review will not be required each year unless significant changes are made in program operations. Revised statements will be prepared when:

(1) Important changes are made in conduct of the program, e.g., changes in control agents, methods of application, etc.

(2) The scope of the program is expanded significantly to include new geographical or different ecological areas.

Where program action is controversial but there are no major changes in operational procedures, only an addendum will be issued to cover the area to be treated in the current year.

(e) *Environmental impact statements for USDA administrative actions.* (1) Environmental statements will be prepared on major proposed plans, laboratory facilities, programs, and projects undertaken by APHIS which may significantly effect the quality of the environment. This may include but is not limited to:

(a) Use of pesticides—considered for their effect on production needs, and environmental consequences. Major program actions generally will require an environmental statement if any of the following conditions are encountered:

(i) Significant contamination cannot be avoided in water, air, or soil—The effects of the program may conflict with known national, State, or local standards and policies relating to the environment, including water, air quality, or soil residues.

(ii) The action involves shorelines, scenic areas, wilderness areas, estuaries, or similiar areas of public interest—The visual or aesthetic quality of an area or the natural ecological, cultural, scenic or recreational resources of national, State, or local significance may be substantially affected.

(iii) The action involves densely populated areas—The environmental effects of the program will cause substantial adverse effects on human beings, either directly or indirectly. It may lead to a noticeable change in the ambient noise level for a substantial number of people.

(iv) Persistent or highly toxic chemicals are to be used in ways which have a significant effect on the environment—The program may be in conflict with environmental plans and goals that have been adopted by the Department. Se Secretary's Memorandum 1695 and supplements.

(v) Public controversy is anticipated—There is, or is anticipated, to be a sizable group or body of opinion that considers or will consider the effect of the program to be adverse.

(vi) Rare and endangered species are present in the area involved—It could alter the pattern of behavior for species or interfere with breeding, nesting, or feeding grounds.

(vii) Actions involving areas exceeding 650 contiguous acres.

(b) Laboratory facilities and waste disposal therefrom.

(c) Sanitation requirements for food processing and storage facilities—major changes which could adversely affect the environment. Some examples of significant changes would be:

(i) Measurement of the amount of liquid effluent generated by any change in sanitation requirements versus the amount generated by present requirements.

(ii) Measurement of solid waste generated by any change in sanitation requirements as compared to the amount generated by present requirements.

(iii) The chemical makeup of the liquid and/or solid waste generated by any change in sanitation procedures as compared to the present procedures.

(2) The types of actions which are excluded are those that are not major Federal actions significantly affecting the environment and will not require the preparation of EIS's. These include but are not limited to:

(a) Regulatory actions.[1]

(b) Control treatments on a limited area.[2]

(c) Reorganization.

(d) Personnel decisions.

(f) *Action in which need for EIS will be determined by an environmental analysis.* All new or revised APHIS policies, regulations, programs, and procedures which may effect the quality of the environment will have an environmental analysis prepared.

The environmental analysis should assess the same areas of environmental impact as would be covered in an environmental statement but in considerably less detail.

When the environmental analysis does not indicate controversy or a significant environmental impact, the Administrator may decide that an environmental statement is not required. In these situations, the Administrator will make a written report setting forth his determination that there will be no significant impact upon the quality of the environment or controversy if the proposed action is undertaken. The written determination may be part of the environmental analysis report or may be a separate document.

In either case, the report and determination will be available to the public for inspection.

4. *Preparation and distribution of environmental impact statements*—(a) *General considerations.* An environmental statement is prepared in two stages. A draft environmental statement is the first formal statement for filing with CEQ and for review and comment by other Agencies and the public. It must fulfill requirements of NEPA section 102(2)(C). A final environmental statement reflects the results of the draft review process, and it is also filed with CEQ.

An analysis of alternatives that will reduce adverse impacts or enhance positive effects will be thoroughly explored and should be included in the preparation of a draft environmental statement.

Preliminary consultation with other Federal, State, and local agencies and public involvement should start early in the analysis process. Public involvement will be through a variety of means, such as individual contacts, meetings, workshops, and advisory committees. This should be a useful document for review and comment by other Agencies and the public. The statement should clearly describe the analysis process so reviewers may comment specifically. The comments received must then be considered and evaluated for preparation of the final environmental statement.

Environmental impact statements will be documents complete enough to stand on their own. They should be as succinct and understandable as possible. Highly technical and specialized analyses and data should, if needed, be appended to the body of the statement. Particular attention should be given to the substance of the information conveyed rather than to the particular form, length, or detail of the EIS.

APHIS may request cooperators to furnish analyses and information in connection with cooperative programs with States, local governments, and other Federal Agencies.

To the extent possible, the NEPA process is to meet the consulting and coordinating requirements of the Fish and Wildlife Coordination Act or the wildlife requirement of the Watershed Protection and Flood Protection Act, National Historic Preservation Act, and section 4–f of the Department of Transportation Act, 49 U.S.C. 1653(f).

(b) *Content of environmental impact statements.* The following points must be covered in EIS's. Refer to 4.(b) (8) of these guidelines for format.

(1) *Description.* The proposed action must be clearly described by including enough information and technical data to give readers a clear understanding of the nature of the proposed action. Highly technical and specialized data should be avoided in the draft. Such data should be attached as appendixes or footnoted. Refer to 4.(b) (9) of these guidelines. Where appropriate, describe the present environment, location, size, land ownership and status, physiography, ecosystem, climate, and other special features. Where relevant, maps or other graphic material should be provided. The objectives and purposes of the proposal must be given, along with other relevant background information. A section entitled "Statutory Basis for Conduct of Program" should be included in this item.

The interrelationships of the proposed action with other projects and possible cumulative effects should be presented. As appropriate, APHIS should also identify growth characteristics of the affected area and any population and growth assumptions used. Where available, OBERS Projections are to be used, CEQ Guidelines 1500.8(a) (1).

The relationship of the proposal to land use plans, policies, and controls for the affected area must be described. Where conflicts exist, the proposed resolution of these conflicts or the reasons why they cannot be resolved must be thoroughly addressed.

(2) *Environmental impacts.* This requires analyses and descriptions of both the anticipated favorable and adverse impacts of the proposed action as it affects the environment. Where appropriate, the international environmental impacts are to be assessed. The environment in this case includes both the natural environment and the social and economic environment. Air quality, water quality, land use, and wildlife are examples of areas of environmental impact. Primary, secondary, and accumulative effects must be considered in the analyses.

The distinction between primary and secondary impacts is important for insuring consideration of all alternatives. One way to describe the distinction is that project inputs generally cause primary impacts and project outputs generally cause secondary impacts. Primary impacts are generally easier to analyze and measure, while secondary impacts may require analyses by a number of Agencies because they generally are not within any single Agency area of responsibility or expertise. Secondary impacts may, in fact, be more important or more damaging than primary impacts.

[1] These are the routine regulatory actions taken on a day-to-day basis to prevent the foreign introduction or interstate movement of animal and plant pests.

[2] For the purpose of these instructions, a limited area will be considered not to exceed 640 contiguous acres.

Planned measures to minimize the adverse environmental impacts of the proposal should be discussed.

(3) *Summary of probable adverse environmental effects which cannot be avoided.* Identify and discuss adverse environmental effects which cannot be avoided, such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the Act. The relationship of the proposal to land use plans, policies and controls for the affected area must be described. Where conflicts exist, the proposed resolution of these conflicts or the reasons why they can't be resolved must be thoroughly addressed. If appropriate, describe the present environment, location, size, landownership, and status, physiography, ecosystems, climate, and other special features. The interrelationships of this proposed action with other projects and possible cumulative effects shall be presented.

(4) *Relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity.* This in essence requires the Agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations. Discuss the extent of tradeoffs between short- and long-term impacts.

(5) *Irreversible and irretrievable commitment of resources.* This requires the Agency to identify the extent to which the action curtails the range of potential beneficial uses of the environment.

(6) *Alternatives of the proposed action.* The intent of this section is to assure that the responsible officer has identified the objective(s) and formulated the alternatives to achieve the objectives. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs and risks should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. The cost benefit analyses should clearly indicate the extent to which environmental costs have not been reflected in the analyses. In the review, the "best" alternative is selected as the proposed action or several alternatives are presented pending selection of the best alternative and presented to others for review and criticism. The impacts and consequences of each alternative should be presented so that others may form an independent view of the worth of the proposed action and possible alternative courses of action. In the course of review of the draft statement, additional viable alternatives may be identified. Examples of such alternatives include: The alternative of taking no action, and alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts.

In each case, the analysis of alternatives should be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risks of the proposed action and each alternative. To the extent possible, the analysis of each alternative should indicate the deficiency of the environmental impact information, especially as it relates to benefit-cost data.

(7) *Consultation with appropriate Federal Agencies and review by State and local agencies and public involvement.* In the draft environmental statement, list the agencies, groups, and individuals consulted in the preliminary consultation phases and summarize the comments received. Also, list the agencies and groups to whom the draft environmental statement will be sent.

In the final environmental statement, this section will include a discussion of reviews and comments on the draft environmental statement. Particular attention should be given to making meaningful reference to opposing views. Comments received from Federal, State, and local agencies, private organizations, and substantive comments received from individuals which influence decisionmaking must be attached.

A list and summary of meetings and hearings should be attached to the final statement.

(8) *Formats for cover sheet, summary sheet, and environmental impact statements.* All USDA EIS's will include a cover page and a summary sheet constructed as shown below. The cover page should not include the description title shown on the left margin, but only that information within the box, which is given as an example:

COVER PAGE

Report No[1]_____*	USDA-APHIS (ADM)–74–1.
Title _____	Mormon Cricket Cooperative Control Program.
Subtitle _____	Draft (or Final) Environmental Statement.
Responsible Official.	Frank J. Mulhern, Administrator, Animal and Plant Health Inspection Service.
Performing Organization Name and Address.	U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Washington, D.C. 20250.
Date Prepared____	August 14, 1974.
Sponsoring Agency.	Prepared by: Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Washington, D.C. 20250.

USDA ENVIRONMENTAL STATEMENT

["TITLE"]

PREPARED IN ACCORDANCE WITH

Sec. 102(2)(C) of Pub. L. 91–190

SUMMARY SHEET

(Check one): ( ) Draft ( ) Final Environmental Statement

Name of responsible Federal Agency (with name of operating division where appropriate). Name, address, and telephone number of individual at the Agency who can be contacted for additional information about the proposed action or the statement.

1. Name of action (check one):
   ( ) Administrative Action.
   ( ) Legislative Action.
2. Brief description of action and its purpose. Indicate what States (and counties) particularly affected and what other proposed Federal actions in the area, if any, are discussed in the statement.
3. Summary of environmental impacts and adverse environmental effects.
4. Summary of major alternatives considered.
5. (For draft statements) List all Federal, State, and local agencies and other parties from which comments have been requested. (For final statements) List all Federal, State, and local agencies and other parties from which written comments have been received.
6. Date draft statement (and final environmental statement, if one has been issued) made available to the CEQ and the public.

USDA Animal and Plant Health Inspection Service Environmental Statement.*

(Title)

Prepared in Accordance with Section 102(2)(C) of Pub. L. 91–190

Type of Statement: (Draft or final).
Type of Action: (Administrative or legislative).
Responsible Official: (Name, title, and address).

CONTENTS

I. Description.
II. Environmental impacts.
III. Summary of probable adverse environmental effects which cannot be avoided.
IV. Relationship between local short-term uses of man's environment and the maintenance and enchancement of long-term productivity.
V. Irreversible and irretrievable commitment of resources.
VI. Alternatives to the proposed action.
VII. Consultation with appropriate Federal Agencies and review by State and local agencies developing and enforcing environmental standards.

(9) *The EIS should document data sources.* The following language should be included at the bottom of the first page of the statement with an asterisk after "statement" at top of page:

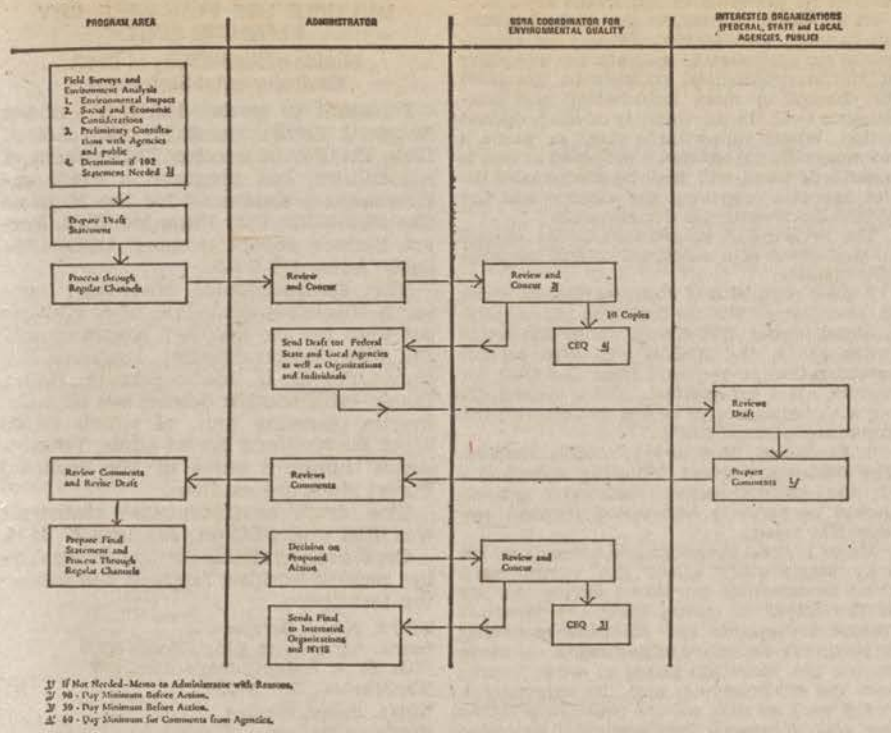
(c) *Processing environmental statements initiated and prepared by APHIS.* The following flow chart shows the review points through which environmental statements must pass before a final decision is made. The chart also shows the minimum time required for review. However, responsible officials are encouraged to allow more time for review whenever possible.

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[1] USDA, APHIS, Environmental Statement (Administrative), fiscal year 1974, sequential number 1, within that year, draft or "F" for final. Some USDA Agencies may wish to use a unit code in addition to the Agency abbreviation. Draft and final statements for the same action should be assigned identical report numbers, even though final statements may be prepared in the subsequent fiscal year.

*There are a number of references cited in this document which are listed in the appendix and which are incorporated by reference into this Statement. Such references are identified herein as (1) and (2), etc. All of such references have been thoroughly considered in connection with preparation of this document, even though there is not set forth in the Statement a detailed analysis of each reference and each item of information contained therein.

FLOW CHART PROCESSING ENVIRONMENTAL STATEMENTS INITIATED AND PREPARED BY APHIS



1/ If Not Needed - Memo to Administrator with Reasons.
2/ 90 - Day Minimum Before Action.
3/ 30 - Day Minimum Before Action.
4/ 60 - Day Minimum for Comments from Agencies.

(d) *Distribution of environmental impact statements.* APHIS is responsible for furnishing 10 copies of draft EIS's and 10 copies of final EIS's to CEQ through the Office of the Coordinator. Following is the sample for the transmittal letter:

Subject: USDA (Draft/Final) Environmental Statement on (title of statement).

To: Chairman, Council on Environmental Quality.

Through: Office of the Coordinator of Environmental and Quality Activities, USDA.

Enclosed are 10 copies of the (draft/final) environmental statement on (title) issued by the Animal and Plant Health Inspection Service. The responsible official is Administrator, APHIS, Frank J. Mulhern. One copy is for submittal to NTIS.

(Double space the letter and do not complete the signature block.)

10 Enclosures.

An Accession Notice Card, Form NTIS–79 (National Technical Information Service, U.S. Department of Commerce), should also be submitted to CEQ with the copies of the EIS's. The card should be addressed to APHIS, the date of submission should be filled in, and the Report number and title from the cover page should be listed as the "Report Identifying Information." The Accession Notice Card will be returned to the originating Agency by the NTIS with an assigned accession number and the cost for a copy of the EIS. This information should be used when inquiries for copies of EIS's are referred to NTIS.

(e) *Federal Register Notice.* The availability of APHIS draft and final EIS's will be published in the FEDERAL REGISTER. Copies of the draft or final will be retained for public inspection at designated locations listed in the FEDERAL REGISTER notice. The notice of availability will be forwarded to FEDERAL REGISTER at the time the draft or final EIS is forwarded to CEQ. See 5(g) of these guidelines concerning lists of such actions to be provided CEQ quarterly.

5. *Consultation, review, and public involvement*—(a) *Preliminary consultation and advice.* For APHIS proposals, consultation with other appropriate Agencies and the public should be obtained at the earliest possible time. Generally, this should be during the analysis phase and before the draft environmental statement is prepared. The approach can be varied to best fit the situation. This preliminary consultation should be documented, but early proposals and analyses should not be titled draft environmental statements.

(b) *Draft Environmental statement and OMB procedures.* The official review period for other Agencies and the public begins when the draft environmental statement is transmitted to CEQ. Documents titled "Draft Environmental Statement" should not be sent to other Agencies and the public prior to transmission to CEQ.

After a draft environmental statement is issued, additional information may occasionally become available which could significantly influence the comments on the statement. A responsible officer may at any time supplement or amend a draft or final environmental statement, particularly when substantial changes are made in the proposed action, or significant new information becomes available concerning its environmental aspects. In such cases, the agency should consult with the Council with respect to the possible need for or desirability of recirculation of the statement for the appropriate period.

After notification that the draft environmental statement has been officially transmitted to CEQ, the responsible official should distribute copies to, and solicit comments from, appropriate Federal, State, and local agencies and the public. State and local agencies should be contacted directly and through clearinghouses as described in OMB Circular No. A–95. Copies of draft and final EIS's are to be made available to the public by the responsible APHIS official without charge to the extent practicable.

Responsible officials should maintain a list of individuals, groups, organizations, and governmental agencies which may be interested in reviewing environmental statements. An automatic mailing list will not be maintained. The list will be used as an aid in mailing distribution on a case-by-case basis. Notification of drafts and finals under preparation will be published in the FEDERAL REGISTER and through other appropriate means. The draft environmental statement can be the basis for news releases, discussion, public meetings, or hearings. The public must be informed about actions having an impact on the environment, and public comments and suggestions will be encouraged.

(c) *EPA review.* Draft environmetal statements must also be submitted to the Environmental Protection Agency (EPA) for review and comment by the Administrator in accordance with section 309 of the Clean Air Act, as amended. Responsible officials will report comments in accordance with EPA procedures.

This review must be made whenever APHIS action is related to air or water quality, pesticide regulation, solid waste disposal, radiation criteria, and standards, or other provisions of the authority of the EPA are involved, but all statements should be submitted for their review and comment unless they specifically ask that the statement not be sent to them.

(d) *Circulation for review and comment, Federal, State, and local agencies and time limit.* The draft environmental statement shall be circulated for review and comment by Federal, State, and local agencies having jurisdiction by law or special expertise with respect to environmental impacts (see Appendix II, CEQ Guidelines, August 1, 1973) and shall be made available for comment by the public. A time limit of not less than 60 days from the date of transmittal by the responsible official to CEQ will be observed to receive comments by reviewers. No decision or administrative action should be taken sooner than 90 days after a draft environmental statement has been filed with the CEQ and circulated for comment. Neither should decisions be made or administrative action be taken sooner than 30 days after the final environmental statement is filed with CEQ, made available to the public, and notice published in the FEDERAL REGISTER.

(e) *Final environmental statement.* A final environmental statement is prepared after careful consideration of comments received from other Federal, State, and local agencies and the public on an APHIS draft statement. The statement should set forth major contentions and opinions. There should be meaningful reference to substantive comments. The rejection of comments or problems raised in the review process should be explained. Oral consultation with other Agencies should also be documented, and copies of all substantive written comments must be attached to the final statement.

Copies of final environmental statements should be sent at the same time as the final EIS is filed with CEQ, to those Agencies, organizations, and individuals who submitted substantive comments in a timely manner. Copies may also be sent to other agencies, groups, or individuals and anyone requesting a copy.

The final environmental statement is processed in the same manner as the draft statement.

(f) *Expedited procedures.* Where emergency circumstances make it necessary to take action with significant environmental impact without observing the provisions of subparagraphs (a), (b), (c), and/or (d) of this section, APHIS shall work through the

office of the coordinator in consulting with the CEQ about alternative arrangements.

Written explanation and justification for the action is required by CEQ.

(g) *Public information and involvement.* APHIS will use appropriate procedures to insure the fullest practicable provision of timely public information, understanding, and involvement in APHIS plans and programs with environmental impact in order to obtain views and information on alternative courses of action (Excutive Order No. 11514 of March 5, 1970, and Secretary's Memorandum No. 1695, Supplement 5, of December 1, 1970).

It is an objective of APHIS to involve the public early and continue throughout the process in developing its policies and in formulating and implementing its programs. APHIS will discharge its environmental responsibilities in ways that make the management processes visible and its people available. APHIS will utilize timely and effective procedures such as direct verbal contact, meetings, printed materials, news media, public notices and hearings, as appropriate, to accomplish these objectives.

When public hearings are utilized as a result of statutory requirement or agency practice to promulgate or amend quarantines and regulations, the environmental aspect of the proposed action will be considered. Also when appropriate, public hearings should be held on major actions with environmental impact such as: (1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved; (2) the degree of interest in the proposal, as evidenced by requests from the public and from Federal, State, and local authorities that a hearing be held; (3) the complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the Act; and (4) the extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

In the event hearings are held to review draft EIS's, such drafts must be available at least 15 days in advance of the hearing.

APHIS will maintain a list of environmental statements under preparation, revise, and make the list available to CEQ on a quarterly basis. The list will be available for public inspection on request. If APHIS decides that an environmental statement is not necessary for a proposed action: (1) Which has been identified as normally requiring preparation of a statement, (2) which is similar to actions for which the agency has prepared a significant number of statements, (3) which has been previously announced would be the subject of a statement, or (4) for which a negative determination has been made in response to a request from the Council, APHIS shall prepare a publicly available record briefly setting forth the Agency's decision and the reasons for that determination.

Lists of such negative determinations, made which conclude that preparation of an EIS is not yet timely, shall be prepared and made available in the same manner as lists for those statements under preparation.

6. *Review of other Agencies' environmental impact statements.* The APHIS will review and comment on proposals for legislation or other major actions initiated by other Agencies as requested and/or determined appropriate to do so because of jurisdiction by law or special expertise with respect to the environmental impact involved.

Reviewers must be alert to the need to bring in special expertise, when available, for reviews on particularly important actions.

In all cases, comments should be specific, substantive, and factual. It may be appropriate for reviewers to indicate the adequacy of the environmental statements, the need for change, or more information and conclusions as to the advisability of the proposed action. Where unfavorable views or where a recommendation against a proposed action is indicated, these will first be discussed with the Agencies proposing the atcions and the APHIS Environmental Coordinator.

The review and subsequent action should be performed in a constructive and cooperative manner.

7. *CEQ request and consultation.* In order to assist the CEQ in fulfilling its responsibilities under NEPA and under Executive Order 11514, the APHIS will give careful consideration to requests from the CEQ for reports, other information, and actions dealing with issues arising in connection with the implementation of NEPA.

8. *Execution, Monitoring, and Evaluating.* The decision reached following completion of the environmental statement process should be publicly announced through appropriate means.

Major Federal programs and projects which may significantly affect the environment must be carefully monitored during the life of the action to insure that: (1) Environmental safeguards are executed according to plan; (2) necessary adjustments are made during the execution phase in order to protect the environment; and (3) information is fed back so that we are constantly learning and improving our planning, decisionmaking, and execution.

When practicable, the planned monitoring program should be described in the EIS.

[FR Doc.74-2149 Filed 1-28-74;8:45 am]

Cooperative State Research Service

RESEARCH ON SOYBEANS

Invitation for Research Grant Proposals

The Cooperative State Research Service, U.S. Department of Agriculture, invites submission of proposals from State agricultural experiment stations, colleges, universities, and other research institutions and organizations, and Federal and private organizations and individuals (7 USC 450i) to conduct necessary research directed at solution of problems of particular interest to the Department of Agriculture. The general area of concern is soybean production problems, and the specific categories are: 1. Physiology and growth, 2. pest management (weeds, nematodes, insects, diseases), 3. nutrition, soil management and related root factors, and 4. genetic diversity and genetic vulnerability. The total available funds for this research are $400,000. Project grants cannot exceed five years. Grants will be awarded on a competitive basis.

Copies of research proposals should be submitted in quadruplicate to the Office of the Administrator, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250. No more than one proposal may be submitted from each institution. Deadline for receipt of proposals is February 28, 1974. Inquiries may also be directed to the same office.

R. L. Lovvorn,
Administrator.

[FR Doc.74-2300 Filed 1-28-74;8:45 am]

Forest Service

MULTIPLE USE PLAN—ELK CITY PLANNING UNIT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan—Elk City Planning Unit, Forest Service report number USDA-FS-DES (Adm) RI-74-3.

The environmental statement concerns the implementation of a multiple use plan for the Elk City planning unit, Elk City Ranger District, Nezperce National Forest, in Idaho County, Idaho. Eighty-nine thousand acres are included in the planning unit, of which 66,000 acres are National Forest lands. Twenty-seven thousand acres of the National Forest lands are roadless.

The draft environmental statement was filed with CEQ on: January 21, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Building
Missoula, Montana 59801

USDA, Forest Service
Nezperce National Forest
319 East Main
Grangeville, Idaho 83530

A limited number of single copies are available upon request to Forest Supervisor, Robert O. Rehfeld, 319 East Main, Grangeville, Idaho 83530.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and 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 for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert O. Rehfeld, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530. Comments must be received by March 21, 1974 in order to be considered in the preparation of the final environmental statement.

Dated: January 21, 1974.

Keith M. Thompson,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.74-2322 Filed 1-28-74;8:45 am]

TIMBER MANAGEMENT; KLAMATH NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan, Klamath National Forest, California USDA–FS–R5–DES (Adm)–74–1.

The environmental statement concerns a proposed timber management plan for the management of the timber resources on the forest.

This draft environmental statement was transmitted to CEQ on January 21, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
630 Sansome Street, Rm. 531
San Francisco, California 94111

Klamath National Forest
1215 S. Main Street
Yreka, California 96097

A limited number of single copies are available upon request to Regional Forester, Douglas R. Leisz, California Region, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and 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 for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, California 94111. Comments must be received by March 22, 1974 in order to be considered in the preparation of the final environmental statement.

Dated: January 22, 1974.

JOSEPH V. FLYNN,
Acting Regional Forester.

[FR Doc.74–2308 Filed 1–28–74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

INDUSTRY POLICY ADVISORY COMMITTEE FOR MULTILATERAL TRADE NEGOTIATIONS

Notice of Public Meeting

The first meeting of the Industry Policy Advisory Committee for Multilateral Trade Negotiations, initially named the Policy Advisory Committee for Trade Negotiations (formal Notice of Establishment published January 9, 1974, 39 FR 1473), will be held from 10 a.m. to 12:15 p.m. on Wednesday, February 13, 1974 in Room 4830, U.S. Department of Commerce, 14th and E Streets, NW., Washington, D.C. 20230.

The Committee has been established to advise, consult with and make recommendations to the Secretary of Commerce and the Special Representative for Trade Negotiations (STR) on matters concerning the multilateral trade negotiations to be undertaken by the U.S. commencing in 1974. The Committee consists of senior-level executives from various sectors of the U.S. business community, appointed by the Secretary and the STR.

Agenda items are as follows:

I. Opening Remarks by Secretary Dent.

II. Presentation by Ambassador Eberle on the Multilateral Trade Negotiations Status and Outlook.
Discussion Period for Committee Members Regarding Ambassador Eberle's Presentation.

III. Presentation by Secretary Dent Concerning the Joint Industry Consultations Program and the Role of Industry Members.
Discussion Period for Committee Members Regarding the Presentation by the Secretary.

IV. Summing up by Secretary Dent and Ambassador Eberle.
Adjournment.

The meeting will be open to the public and media representatives to the extent that space is available in the conference room. Oral statements or participation by the public or media representatives will not be permitted but anyone who wishes to file a written statement with the Committee may do so either before, or after, the meeting.

Persons who wish to attend should contact Ms. Clare Soponis, Room 3041, Main Commerce Building, telephone (202) 967–2913. Any questions regarding the meeting should also be directed to Ms. Soponis.

Dated: January 24, 1974.

LAWRENCE A. FOX,
Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc.74–2304 Filed 1–28–74:8:45 am]

WORLD TRADERS DATA REPORT

Price Increase

Effective February 1, 1974, the price of a World Traders Data Report (WTDR) will be increased from $5 to $15. WTDR's, designed to help exporters and new to export firms evaluate foreign companies as potential customers or agents, provide the U.S. business community with detailed background and commercial information. The data is obtained by Foreign Service personnel located at American Consulates and Embassies and telegraphed to the Department of Commerce where it is processed and submitted to the requestor in the form of a WTD Report. Request forms (DIB–431) are available from the U.S. Department of Commerce, DIBA–266, Export Information Division, Washington, D.C. 20230, or from any Commerce District Office.

(Catalog of Federal Domestic Assistance Program No. 11.103, International Commerce Information.)

Dated: January 24, 1974.

M. VAN GESSEL,
Deputy Assistant Secretary for International Commerce.

[FR Doc.74–2335 Filed 1–28–74;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.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20014.

Patent 3,755,825: Artificial Heart Consisting of a Biventricular Pump With Control Mechanisms for Total Replacement of Human Heart; filed 18 May 1972. Patented 4 September 1973; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, DC 20240.

Patent 3,648,845: Thin Film Separation Membranes and Processes for Making Same; filed 2 September 1969, Patented 14 March 1972; not available NTIS.

DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent 3,668,684: Portable Morse Code Signaling Device; filed 28 December 1970, Patented 6 June 1972; not available NTIS.

Patent 3,669,912: Method of Making Deep Ocean Buoyant Material; filed 24 May 1968, Patented 13 June 1972; not available NTIS.

Patent 3,670,396: Method of Making a Circuit Assembly; filed 12 April 1971, Patented 20 June 1972; not available NTIS.

Patent 3,670,518: Garment Cooling System; filed 21 December 1970, Patented 20 June 1972; not available NTIS.

Patent 3,670,574: Force Gaging Gloves; filed 7 April 1971, Patented 20 June 1972; not available NTIS.

Patent 3,670,716: Self-Heated Protective Garment; filed 21 December 1970, Patented 20 June 1972; not available NTIS.

Patent 3,671,431: New Lubricating Grease Compositions; filed 22 September 1970, Patented 20 June 1972; not available NTIS.

Patent 3,671,609: New Polymeric Compositions; filed 27 July 1970, Patented 20 June 1972; not available NTIS.

Patent 3,671,796: Plasma Arc Flash Source; filed 27 January 1971, Patented 20 June 1972; not available NTIS.

Patent 3,671,848: Frequency Conversion With Josephson Junctions; filed 27 August 1971, Patented 20 June 1972; not available NTIS.

Patent 3,671,867: Noise Suppression Arrangement for Communication Receivers; filed 15 April 1970, Patented 20 June 1972; not available NTIS.

Patent 3,671,904: Pick-Off; filed 22 January 1971, Patented 20 June 1972; not available NTIS.

Patent 3,671,965: Rapid Deployment Corner Reflector; filed 3 April 1970, Patented 20 June 1972; not available NTIS.

Patent 3,672,717: Claw Arms With Swivel Plate; filed 25 January 1971, Patented 27 June 1972; not available NTIS.

Patent 3,673,474: Means for Generating (a Source of) Surface and Bulk Elastic Waves; filed 25 September 1970, Patented 27 June 1972; not available NTIS.

Patent 3,673,501: Control Logic for Linear Sequence Generators and Ring Counters; filed 18 August 1971, Patented 27 June 1972; not available NTIS.

Patent 3,673,609: Protective Helmet; filed 27 January 1971, Patented 4 July 1972; not available NTIS.

Patent 3,673,613: Variable Friction Knee Unit With an Improved Swing Phase Control of Artificial Legs; filed 8 April 1971, Patented 4 July 1972; not available NTIS.

Patent 3,674,407: Extrusion Press and Barrel; filed 16 November 1970, Patented 4 July 1972; not available NTIS.

Patent 3,674,648: Bacterial Lamp; filed 1 February 1971, Patented 4 July 1972; not available NTIS.

Patent 3,674,702: Hydrogen Gas Generating Composition and Method for the Same; filed 25 February 1970, Patented 4 July 1972; not available NTIS.

Patent 3,675,012: Cinefluorographic Holography; filed 15 October 1970, Patented 4 July 1972; not available NTIS.

Patent 3,675,052: Field-Delineated Acoustic Wave Device; filed 7 August 1970, Patented 4 July 1972; not available NTIS.

Patent 3,675,342: Fire Fighting Trainer; filed 9 March 1971, Patented 11 July 1972; not available NTIS.

Patent 3,675,343: Fire Fighting and Control Simulator; filed 26 April 1971, Patented 11 July 1972; not available NTIS.

Patent 3,676,359: Chemical Sea Surface Marker; filed 14 October 1970, Patented 11 July 1972; not available NTIS.

Patent 3,676,699: Asynchronous Pulse Width Filter; filed 13 September 1971, Patented 11 July 1972; not available NTIS.

Patent 3,676,716: Fast Switch Utilizing Hybrid Electron Beam-Semiconductor Devices; filed 19 May 71, Patented 11 July 1972; not available NTIS.

Patent 3,676,792: Frequency Multiplexing AGC Amplifier; filed 9 June 1970, Patented 11 July 1972; not available NTIS.

Patent 3,677,082: Knotmeter for Small Craft; filed 30 November 1970, Patented 18 July 1972; not available NTIS.

Patent 3,677,787: Method of Rehardening Encapsulating Compositions; filed 21 October 1970, Patented 18 July 1972; not available NTIS.

Patent 3,678,388: Ground Station System for Retransmitting Satellite Facsimile Signals Over Digital Data Links; filed 14 December 1970, Patented 18 July 1972; not available NTIS.

Patent 3,678,468: Digital Data Storage System; Filed 15 December 1970, patented 18 July 1972; not available NTIS.

Patent 3,678,853: Quick Disconnect Explosive Connector Assembly; filed 12 June 1970, Patented 25 July 1972; not available NTIS.

Patent 3,679,215: Tape Recorder; filed 3 February 1967, Patented 25 July 1972; not available NTIS.

Patent 3,679,394: Method for Casting High Ti Content Alloys; filed 24 November 1969, Patented 25 July 1972; not available NTIS.

Patent 3,680,036: Electrical Connector; filed 17 September 1970, Patented 25 July 1972; not available NTIS.

Patent 3,680,046: Alerting System; filed 18 December 1970, Patented 25 July 1972; not available NTIS.

Patent 3,680,050: Serial Digital Pulse Phase Interface Driver and Receiver; filed 10 July 1970, Patented 25 July 1972; not available NTIS.

Patent 3,680,087: Scan Conversion Through Electroluminescent Storage Panels; filed 20 October 1970, Patented 25 July 1972; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA—Code GP-2, Washington, D.C. 20546.

Patent 3,751,733: Tactile Sensing Means for Prosthetic Limbs, Patented 14 August 1973; not available NTIS.

[FR Doc.74-2310 Filed 1-28-74;8:45 am]

Office of the Secretary

[Dept. Organization Order 45-1]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Assignment of Functions

This order effective January 11, 1974, supersedes the material appearing at 37 FR 8006 of April 22, 1972.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Economic Development Administration (EDA). Department Organization Order 10-4, "Assistant Secretary for Economic Development," prescribes the scope of authority of the Assistant Secretary for Economic Development and the functions of EDA.

SEC. 2. *Organization structure.* The principal organization structure and line of authority of the Economic Development Administration shall be as depicted in the attached organization chart (Exhibit 1). A 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 Assistant Secretary for Economic Development.* .01 The "Assistant Secretary" directs the programs and is responsible for the conduct of all activities of the Economic Development Administration subject to the policies and directives prescribed by the Secretary of Commerce.

.02 The "Deputy Assistant Secretary" shall act as principal adviser to the Assist Secretary in the formulation, development and definition of policy issues; serve as Executive Secretary and provide or arrange for staff support, as required, for the National Public Advisory Committee on Regional Economic Development; represent the Administration on international organizations when so designated; provide overall direction and coordination of the Regional Offices; supervise the activities of the Investigations and Inspections Staff and the Indian Program Staff; assist the Assistant Secretary in all matters affecting the Economic Development Administration; and perform the duties of the Assistant Secretary during the latter's absence.

.03 The "Investigations and Inspections Staff" shall investigate alleged violations of law or other impropriety on the part of applicants or recipients; conduct inspections relating to the conduct and performance of field personnel and review the suitability of applicants for financial assistance. The Staff shall also conduct special investigations requested by the Assistant Secretary, as well as inspections to assure the physical security of all EDA offices.

.04 The "Indian Program Staff" shall administer the Indian economic development program and advise the Deputy Assistant Secretary concerning its general effectiveness. It shall recommend approval or denial of projects proposed for Indian areas and negotiate and monitor interagency agreements relating to Indian economic development.

SEC. 4. *Deputy Assistant Secretary for Economic Development Planning.* .01 The Deputy Assistant Secretary for Economic Development Planning is the principal adviser to the Assistant Secretary on matters of development planning, including the development of policies for improving Federal, State, and local government economic programming. Through the offices reporting to him, the Deputy Assistant Secretary shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial needs;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Regional Offices;

c. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development for districts and areas;

d. Recommend designation of economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Public Works and Economic Development Act of 1955, as amended (42 U.S.C. 3121) (the "Act"), and recommend such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Asssitant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The "Office of Planning and Program Support" which shall: 1. Have prime responsibility for coordinating the preparation, review and approval of EDA-developed planning documents;

2. Develop analyses and recommended strategies of economic development, including a system of priorities of EDA's financial assistance, for areas and districts;

3. Develop economic development planning systems that reflect EDA objectives and respond to local and regional problems and potentials;

4. Develop the methods and techniques needed to evaluate established planning systems including the ability of local representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

5. Participate in the development of budgetary requirements and coordinate with the Office of Administration and Program Analysis in the allocation of resources among Regional Offices as well as among EDA programs;

6. Provide information and special services on domestic and international regional development planning;

7. Provide guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the Region;

8. Advise and assist Regional Offices in implementing economic planning activities after the formal designation of economic development districts and areas;

9. Guide Regional Offices in assisting development organizations to prepare Overall Economic Development Programs (OEDPs);

10. In coordination with Regional Offices, provide guidance to economic development district and area organizations on the techniques and methods of economic analysis;

11. Formulate planning and development policies and procedures for guiding the preparation and submission of district and area OEDPs, including the establishment of policies and standards for their review by Regional Offices;

12. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports;

13. Evaluate services, efficient existing capacity, and competitive producers for use in making determinations on excess capacity, pursuant to section 702 of the Act; and

14. Identify industries which have demonstrated growth trends for the purpose of relating those industries to agency plans.

b. The "Office of Economic Research" which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA-sponsored research conducted by other elements of the Department, other Government agencies, or private organization;

3. Encourage and stimulate research and data collection on economic development, both in and out of Government;

4. Review, evaluate, integrate and disseminate (a) the results of research sponsored by EDA, and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government policies on sub-national economic development.

c. The "Office of Development Organizations" which shall:

1. Design and direct a program to establish multi-county development districts in consultation and with the assistance and cooperation of EDA Regional Offices, and with the concurrence of the States affected;

2. Initiate policy guidelines and criteria concerning the development district and area organizations for use by other elements of EDA, and by appropriate State and local agencies;

3. Evaluate and approve proposed area and district economic development organizations;

4. Assist Regional Office efforts to organize economic development districts, including the recruitment of staff;

5. Develop and recommend model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

6. Establish policies and standards for the review of progress reports by Regional Offices in cooperation with the Office of Planning Program Support;

7. Design a system of records to indicate progress as compared to planned objectives on all grants made under Section 301(b) of the Act and assist Regional Offices in implementing system;

8. Provide guidelines to Regional Offices in order to administer planning grants made under the Act to State, district, and area agencies;

9. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts in cooperation with the Regional Offices;

10. Review Regional Office recommendations for the designation and/or termination of economic development districts and economic development centers;

11. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

12. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

13. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a Title I area;

14. Recommend changes in the qualification status of redevelopment areas and Title I areas;

15. Recommend designation or change in the designation status of redevelopment or Title I areas;

16. Conduct an annual review of area eligibility and recommend termination of areas no longer eligible for designation; and

17. Recommend minor adjustments to boundaries of redevelopment areas.

SEC. 5. *Deputy Assistant Secretary for Economic Development Operations.* .01 The Deputy Assistant Secretary for Economic Development Operations, through the offices reporting to him, shall:

a. Provide coordinated direction of all EDA activities related to financial assistance for or to physical projects which will improve local economies and supervise the execution of this aspect of EDA's programs;

b. Recommend standards, policies and criteria for the technical evaluation and processing of project applications for financial assistance, including public works grants and loans, business loans, and technical assistance;

c. Direct, conduct, coordinate, monitor and, where appropriate originate technical assistance projects (including management assistance and feasibility studies) subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district or center planning;

d. Review and recommend approval or denial of project applications;

e. Evaluate activities of the Regional Offices in applying policies, standards, and procedures for processing project applications to assure efficient, effective, and economical accomplishment of approved projects;

f. Execute agreements with other Federal departments and agencies for the

conduct of specialized technical assistance; and

g. Study and evaluate the manpower development and training needs of redevelopment areas and of economic development districts, and recommend appropriate joint action with the Departments of Labor and Health, Education, and Welfare.

.02 The Deputy Assistant Secretary for Economic Development Operations shall direct and supervise the following organization elements:

a. The "Office of Public Works" which shall:

1. Recommend policies, standards and procedures for accepting, processing, reviewing, and approving requests for public works grants and loans, consistent with the procedures contained in the Act;

2. Review and recommend for approval or denial public works grant and loan project applications, and suggest alternate methods of financing where indicated;

3. Maintain surveillance, evaluate progress, and submit reports on the application by Regional Offices of standards, policies, and procedures to assure efficient, effective, and economical accomplishment of the approved projects;

4. Arrange for services from other Federal agencies for the administration of approved public works grants and loans; and

5. Maintain operating liaison with Federal agencies having grant-in-aid programs which may supplement EDA programs, and with those Federal agencies delegated responsibility for administering or servicing EDA projects.

b. The "Office of Business Development" which shall:

1. Recommend policies, standards, and procedures for processing and approving applications for financial assistance for industrial or commercial usage, consistent with the criteria contained in the Act;

2. Review applications for commercial or industrial loans and working capital guarantees, and recommend approval or denial;

3. Maintain surveillance over the implementation by Regional Office and policies, standards and procedures related to processing loan applications for business development to assure efficient, effective, and economical accomplishment of the business development programs;

4. Develop and implement EDA approved agreements with the Small Business Administration and other Federal agencies to secure support of the business development programs;

5. Monitor operations of industrial and commercial projects approved by EDA, including outstanding loans for projects approved under provisions of the Area Redevelopment Act, and prepare reports of accomplishments;

6. Arrange for or provide needed specialized assistance to recipients of EDA industrial and commercial loans and guarantees and Area Redevelopment Act loans;

7. Develop policies, plans, and procedures to improve or terminate projects in default of loan conditions;

8. Provide assistance in the liquidation of the affairs and functions conducted under the Area Redevelopment Act;

9. Establish contact and promote large scale involvement of the private sector in EDA's economic development activities; and

10. Maintain operating liaison with other agencies concerned with the activities of this Office.

c. The "Office of Technical Assistance" which shall:

1. Propose policies, standards, and procedures pertaining to the acceptance, review, and approval of requests for technical assistance, consistent with the criteria of the Act;

2. Plan and develop technical assistance projects in cooperation with other offices, where appropriate;

3. Direct or monitor the performance and implementation of approved technical assistance projects;

4. Recommend policies, standards, and procedures for evaluating and utilizing the results of technical assistance projects;

5. Execute agreements with other Federal departments and agencies for the conduct of specialized technical assistance;

6. Recommend policies and practices to facilitate effective relationships with other Government agencies which have complementary programs for technical assistance;

7. Maintain surveillance over the application of policies, standards, and procedures by the Regional Offices in processing project applications;

8. Review and recommend project applications for approval or denial; and

9. Coordinate the efforts of EDA in the manpower training program.

SEC. 6. *Office of Administration and Program Analysis.* The Office of Administration and Program Analysis shall be responsible for providing the full range of administrative management services and for program analysis and evaluation functions with respect to EDA's substantive programs. These functions shall be carried out through the principal organizational elements of the Office, as prescribed below, except that personnel management services, accounting for administrative funds, and in-house equal opportunity staff services shall be obtained from the appropriate Departmental offices.

.01 The "Program Analysis Division" shall:

Develop and implement measures of resource utilization for programming and budgeting purposes; develop and conduct a systematic program evaluation effort for EDA; prepare the annual Program Memorandum and analytical studies required by the Office of Management and Budget; and develop cost benefits studies to aid the Assistant Secretary in making choices and decisions between alternative programs for economic development projects, activities, and programs in achieving the objectives of the Act and EDA.

.02 The "Management Analysis Division" shall:

Conduct organization and management studies and surveys; plan and conduct a program for achieving maximum economy, effectiveness, and efficiency, and for obtaining optimum personnel utilization; develop and conduct a program for the efficient management of all official records, including an issuance system for administrative and program orders, and the design and control of official forms; and develop and administer a report control system for all administrative and operational reports.

.03 The "Budget Division" shall:

Develop and manage an integrated financial management and budgeting system for EDA. It shall develop and prepare the annual budget for EDA; be responsible for the total financial program of EDA, and for the fiscal aspects of EDA programs entrusted to other Federal agencies; and operate a fiscal control system for both program and administrative expenses consistent with the requirements of the Anti-Deficiency Act, which shall include but not be restricted to, allotment of funds, operating budgets, employment limitations, and analyses of reports and proposed actions relating thereto.

.04 The "Accounting Division" shall:

Develop and maintain accounting systems and prepare financial reports for internal and external use, according to the needs of management, the requirements of laws or regulations, and established policies; analyze financial and operating data to assure that financial and management policies are being followed; and serve as the liaison with the Office of the Secretary and other Federal agencies in all accounting matters.

.05 The "Information Systems and Services Division" shall:

Plan, develop, acquire, and coordinate the use of automatic data processing systems and equipment for EDA; provide data processing services, including the conduct of feasibility studies and the development of systems and programs for the applications of automatic data processing techniques; develop and maintain a comprehensive information and data base system to meet specified requirements for administrative, planning, operational, program management, and program evaluation purposes; and provide periodic and special summary reports on current optional trends and performance comparisons to planned goals.

.06 The "Office Services Division" shall:

Provide or arrange for office services for EDA's headquarters and, as required, for the Regional Offices, including the procurement of administrative supplies, vehicle hire, furniture, equipment, and the distribution of printed and bound materials; evaluate, report on, and make recommendations on the utilization of space, supplies, equipment, communications, and related services within EDA; and serve as liaison with the Office of the Secretary on office services matters.

.07 The "Executive Secretariat" shall:

Receive all correspondence addressed to the Office of the Assistant Secretary, and assign it to the appropriate office for action; record controlled and noncontrolled correspondence, maintain prompt follow-up of replies to insure that deadlines are met; and provide a selective reference service to files as requested by EDA officials.

SEC. 7. *Office of the Chief Counsel.* The Office of the Chief Counsel shall:

a. Render all necessary legal services, subject to the provisions of Department Organization Order 10–6; and

b. Have primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Department orders.

SEC. 8. *Office of Public Affairs.* The Office of Public Affairs shall:

a. Advise on all public information matters;

b. Conduct a public information program under the policy guidance of the Assistant Secretary; and

c. Provide assistance in the editing, printing or reproduction, and distribution of technical matterials and publications.

SEC. 9. *Office of Congressional Relations.* The Office of Congressional Relations shall:

a. Advise on all Congressional matters pertinent to the activities under the direction of the Assistant Secretary; and

b. Serve as the primary point of coordination for continuing liaison with the Congress in collaboration with the Deputy Under Secretary for Legislative Affairs.

SEC. 10. *Office of Civil Rights.* The Office of Civil Rights shall:

a. Advise the Assistant Secretary in the development and implementation of policy and guidance affecting equality of opportunity connected with economic development programs;

b. Maintain liaison with Federal, State and local governmental organizations and with non-governmental organizations to coordinate and assist in planning operations aimed at achieving non-discrimination and equality of opportunity;

c. Provide leadership, staff services and advice in matters affecting nondiscrimination to economic development program units, to organizations obligated as participants in an economic development program to achieve nondiscrimination, and to ultimate beneficiaries of economic development program activities;

d. Conduct, sponsor, or coordinate meetings, conferences, and training courses for equal employment specialists, program managers, and executives to achieve nondiscrimination in economic development programs;

e. Establish effective systems throughout EDA to obtain and monitor reports concerning the program of equality of opportunity and assure conformance thereto;

f. Establish report requirements to insure equality of opportunity by participants in economic development programs, conduct on-site inspections, and receive, investigate, and adjust complaints; and

g. Receive, investigate, review, adjust complaints, and evaluate EDA experience relating to the Equal Employment Opportunity program and make recommendations to the Assistant Secretary for improvement of employment practices within EDA.

SEC. 11. *Economic Development Regional Offices.* .01 The Economic Development Regional Offices, headed by Regional Directors, are as follows:

Name	Located at	Serves
Atlantic	Philadelphia, Pa	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.
Southeastern	Atlanta, Ga	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Midwestern	Chicago, Ill	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Rocky Mountain	Denver, Colo	Colorado, Kansas, Iowa, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
Southwestern	Austin, Tex	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Western	Seattle, Wash	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

.02 Each Regional Director, for the EDA programs in his region, shall:

a. Assist designated areas and districts in organizing, staffing, and funding for economic planning through the development of (OEDPs);

b. Assist local communities in the development of applications for financial assistance to meet the needs of areas and districts serviced by the Regional Office; and

c. Process applications for economic development assistance, monitor and service approved projects, including appropriate public works construction projects and, when appropriate, liquidate projects.

.03 The geographic areas of the EDA Regional Offices are depicted in Exhibit 2. A copy of Exhibit 2 is attached to the original of this document on file in the Office of the Federal Register.

Effective date: January 11, 1974.

WILLIAM W. BLUNT, JR.,
Assistant Secretary for Economic Development.

Approved:

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.74–2336 Filed 1–28–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OBSTETRICS AND GYNECOLOGY ADVISORY COMMITTEE

Notice of Continuance

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776; (5 U.S.C. App.)), the Food and Drug Administration announces the continuance by the Secretary, Department of Health, Education, and Welfare, on December 26, 1973, of the following public advisory committee:

Designation. Obstetrics and Gynecology Advisory Committee.

Purpose. The committee will (1) review and evaluate all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of obstetrics and gynecology and (2) advise the Commissioner of Food and Drugs regarding current advances, changing concepts, and trends in the field.

Authority for the committee will expire December 31, 1975, unless the Secretary formally determines that continuance is in the public interest.

Dated: January 21, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–2256 Filed 1–28–74;8:45 am]

STATUS OF IN VITRO DIAGNOSTIC TESTS FOR GONORRHEA

Notice to Manufacturers, Distributors, and Investigators

The Commissioner of Food and Drugs published in the FEDERAL REGISTER of March 15, 1973 (38 FR 7096), a final order establishing a new Part 167 containing labeling requirements and procedures for the development of standards for in vitro diagnostic products for human use. Section 167.6 of these regulations (21 CFR 167.6) provides that a drug shall be deemed to be in compliance with the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act, which prohibits interstate shipment of a new drug without Food and Drug Administration approval, if it meets all the requirements of Part 167, unless the Commissioner finds that additional requirements should be imposed pursuant to section 505 of the act in order to protect the public health.

The only procedures generally recognized as effective for the determination of gonorrhea in humans are those based on the identification of the *Neisseria gonorrhoeae* organism. These procedures include the demonstration of typical gram-negative intracellular diplococci in a stain smear of purulent urethral exudate or by culture on a selective medium to demonstrate the presence of colonies of oxidase-positive, gram-negative diplococci.

It has come to the attention of the Commissioner that certain products are being marketed or are being prepared for

marketing as in vitro diagnostic tests for the detection of gonorrhea in humans. One of these products is described in the labeling as a qualitative two-minute in vitro latex agglutination test for the presence of gonorrheal antibody in serum. Another product is described as an immunofluorescent blood test for the identification of the presence of the gonorrhea antibody. It is further anticipated that other such products may be developed which may have value in the in vitro detection of gonorrhea in humans or as a test of cure.

In view of the medical importance of the disease, the treatment involved, the consequences of non-treatment of a patient with the disease, the already available established bacteriological techniques in the detection of active gonorrhea or as a test of cure, and the potential for abuse of a product which has not yet been demonstrated to be safe and effective for the detection of active gonorrhea or as a test of cure, the Commissioner hereby concludes that the public health requires that such products, other than those based on the identification of the *Neisseria gonorrhoeae* organism, be marketed only under the provisions of section 505 of the act. Pursuant to 21 CFR 130.3, current investigation of these products requires a "Notice of Claimed Investigational Exemption for a New Drug" to be submitted to the Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Such products may not be commercially marketed in interstate commerce unless the subject of an approved new drug application as required by section 505 of the Act and 21 CFR 130.4, to assure that the products do in fact perform effectively in the in vitro detection of gonorrhea in humans or as a test of cure.

This notice will remain in effect until a standard for such products is promulgated pursuant to 21 CFR Part 167. Any interested person may petition for the establishment of such a standard.

This notice is issued pursuant to the Federal Food, Drug, and Cosmetic Act (sec. 201, 501, 502, 505, 508, 510, 701, 52 Stat. 1040–1042, as amended, 1049–1053, as amended, 1055–1056, as amended, 76 Stat. 794, as amended; (21 U.S.C. 321, 351, 352, 355, 358, 360, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), and in accordance with 21 CFR 167.6.

Dated: January 21, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–2257 Filed 1–28–74;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Notice of Meeting

The Administrator, Health Resources Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of February 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Health Professions Education.	February 4 and 5, 8:30 a.m., Conference Room No. 6, Bldg. 31–C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md.	Open February 4, 1974, 8:30 a.m., to 10:30 a.m., Closed remainder of meeting. Contact Ms. Lynn Stevens, Bldg. 31–C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. Code 301–496–5353.

Purpose. Advises the Secretary with respect to the administration of programs of financial assistance for the health professions, including construction of facilities, student loans and scholarships, capitation for the support of educational programs, special projects and other purposes to improve the quality of education and conducts the final review of grant applications in these areas.

Agenda. The Council will discuss administrative and staff support and this portion will be open to the public. The Council will review grant applications, and this portion will be closed to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92–463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. Anyone wishing to participate should contact the above individual.

Dated: January 22 ,1974.

HAROLD MARGULIES,
Acting Administrator, Health Resources Administration.

[FR Doc.74–2324 Filed 1–28–74;8:45 am]

NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

Notice of Meeting

The Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory body scheduled to assemble the months of February and March 1974:

Council name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Regional Medical Programs.	February 12 and 13, 9:00 a.m., Parklawn Bldg., Conference Room G/H, 5600 Fishers Lane, Rockville, Md.	Open—a.m., February 12: Closed for Grants Review, Contact Mr. Kenneth Baum, Room 11–11, 5600 Fishers Lane, Rockville, Md., Code 301–443–1520.
	March 12 and 13, 9:00 a.m., Parklawn Bldg., Conference Room G/H, 5600 Fishers Lane, Rockville, Md.	Open—a.m. March 12: Closed for Grants Review, Contact Mr. Kenneth Baum, Room 11–11, 5600 Fishers Lane, Rockville, Md., Code 301–443–1520.

Purpose. The Council advises and assists the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this Program. Reviews applications for grants under Title IX, and recommends to the Secretary with respect to approval of applications for, and the amounts of, grants under this Title.

Agenda. The Council will discuss policy matters and conduct other business, and this portion of the meeting shall be open to the public. The Council will review grant applications, and this portion of the meeting shall be closed to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92–463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. Anyone wishing to participate should contact the above individual.

Dated: January 22, 1974.

HAROLD MARGULIES,
Acting Administrator, Health Resources Administration.

[FR Doc.74–2325 Filed 1–28–74;8:45 am]

Office of Education

BILINGUAL EDUCATION

Notice of Acceptance of Applications

The Commissioner of Education hereby gives notice that pursuant to 20 U.S.C. 880b–880b–5, the Bilingual Education Act, applications for assistance are being accepted from local educational agencies, institutions of higher education in combination with such agencies, certain organizations of Indian tribes which operate schools for Indian children, and elementary and secondary schools for Indian children on a reservation which are operated or funded by the Department of the Interior.

Application procedure. Applications must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th & D Streets, SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202 Attn: 13.403), on or before March 5, 1974.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner

will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

Program period. Awards of assistance will be made pursuant to this notice to develop and carry out programs commencing no earlier than July 1, 1974, and terminating no later than June 30, 1975.

Applicable regulations. Awards of assistance made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the bilingual education program, and to the Office of Education general provisions regulations relating to direct project assistance programs (45 CFR Part 100a, 38 FR 30654, November 6, 1973). A notice of proposed rulemaking setting forth proposed amendments to Part 123 was published in the FEDERAL REGISTER on October 1, 1973 (38 FR 27223), and it is expected that the proposed amendments, as revised pursuant to comments received thereon, will be published and in effect prior to the making of awards pursuant to this notice.

It is anticipated that the criteria contained in § 123.14(a) of the proposed amendments to Part 123 with minor modifications will be applied in the evaluation of applications invited by this notice. In order to expedite the processing and review of applications, applicants for both initial assistance and the continuation of assistance should submit the information described in § 123.14(a) of the proposed amendments. Applicants for the continuation of assistance should also submit the information described in § 123.14(b) (1) (i) of the proposed amendments.

(20 U.S.C. 880b–5)

(Catalog of Federal Domestic Assistance Program No. 13.403, Bilingual Education)

Dated: January 24, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–2435 Filed 1–28–74;8:45 am]

Office of the Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part 1 in the Statement of Organization, Functions, and Delegations of Authority of the Department, Chapter 1N, entitled Office of the Assistant Secretary for Health (38 FR 18571, July 12, 1973) is hereby amended to establish the Office of Equal Employment Opportunity.

SECTION 1N.10 *Organization.* Under Special Functions add, as the first item, Office of Equal Employment Oppportunity.

SEC. 1N.20 *Functions.* In subsection 1N.20B2., Special Functions, insert as the first item the following:

a. *Office of Equal Employment Opportunity (1N11).* The Director of the Office of Equal Employment Opportunity serves as the principal advisor to the Assistant Secretary for Health on all Equal Employment Opportunity (EEO)-related matters:

(1) Develops, and recommends for adoption, PHS-wide EEO policies, goals, and priorities designed to carry out the intent of Civil Service Commission and Department of Health, Education, and Welfare, Equal Employment Opportunity policies and requirements under Executive Order 11478; (2) provides leadership, direction, and technical guidance to Public Health Service Agency EEO Officers for the development of comprehensive EEO progress and plans, coordinates and evaluates PHS Agency EEO operations and plans, including Affirmative Action Plans; (3) develops plans, programs, and procedures designed to assure the prompt receipt, investigation, and resolution of complaints of alleged discrimination by reason of race, sex, religion, or national origin for the Office of the Assistant Secretary for Health; (4) collaborates with the Office of Administrative Management in the identification of EEO data and training needs and the development of training courses for all PHS supervisory personnel and for the Office of Equal Employment Opportunity and such other organizational entities within the PHS as may be required; and (5) prepares, or coordinates the preparation of, reports and analyses designed to show the status of minority employment in the PHS and maintains liaison with the Department and other organizations concerned with equal employment opportunity.

Dated: January 22, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–2293 Filed 1–28–74;8:45 am]

OFFICE OF GRANTS AND PROCUREMENT MANAGEMENT

Statement of Organization, Function, and Delegation of Authority

Part 1 of the statement of organization, function, and delegation of authority for the Department of Health, Education, and Welfare is hereby amended to reflect the transfer to the Office of Grants and Procurement Management the responsibility for minority business assistance and certain other internal shifts of responsibility. A complete restatement of the functions of this office is as follows:

SEC. 1T60.00 *Mission.* The Office of Grants and Procurement Management develops departmental policy in the areas of grants, procurement, and materiel; supervises and oversees the grants, procurement and materiel functions of the constituent agencies and evaluates the grants, procurement, and materiel activities of such agencies; establishes to the maximum practicable extent an integrated and interrelated system for development, initiation, making and administration of grants, procurement, and materiel; provides staff support and technical assistance to the Office of the Secretary and to constituent agencies in implementing departmental policies and in instituting necessary changes in grants, procurement, and materiel management; and monitors the entire system to insure effective implementation of departmental policy. The Office is responsible for management of the Department's Minority Business Assistance Program and has overall departmental accountability for the success of the program.

SEC. 1T60.10 *Organization.* The Office of Grants and Procurement Management is headed by the Deputy Assistant Secretary for Grants and Procurement Management who reports to the Assistant Secretary for Administration and Management. The Office consists of the following:

Immediate Office of the Deputy Assistant Secretary.
Division of Grants Policy and Regulations Development.
Division of Procurement and Materiel Policy and Regulations Development.
Division of Analysis, Review, and Compliance.
Division of Grants, Procurement, Materiel Management Information and Reports.
Division of Minority Business Assistance.

SEC. 1T60.20 *Functions.* The Office of Grants and Procurement Management provides specialized support and assistance to the Secretary, other staff officers in the Office of the Secretary and other officials throughout the Department.

1. Serves as the Secretary's manager for grants, procurement, and materiel programs. Insures, through establishing policies and standards, providing guidance and interpretation and surveillance and evaluation, that agency programs are effectively supporting operational needs and are in compliance with the law and regulations.

2. Develops policies, regulations, systems, methods and procedures for the management and administration of grants, procurement, and materiel activities of the Department.

3. Fosters the use of consistent policies, procedures, and terms and conditions for discretionary grants and contracts. Develops these materials for use by Department grant and contract activities.

4. Evaluates the effectiveness of these activities, and institutes changes where required.

5. Directs and provides departmental training to grant, procurement, and materiel personnel and program or project officials engaged in the grant, procurement, and materiel process.

6. Develops and directs a system for compilation and analysis of data required in the administration and management of grants, procurement, and materiel management.

7. Provides liaison with other Government agencies, the Congress, and professional associations concerned with departmental grants, procurement, and materiel management.

8. Reviews and approves all operating agency grant administration policies and procedures prior to publication.

9. Approves all new or revised forms for grants, procurement, and materiel

management and develops simplified and standard grant forms for departmental use.

10. Augments the role of minority owned business as sources of supply to the Department and its contractors and as grantees and sources of supply to grantees, monitors the progress of the Department minority business program and institutes changes where required.

11. Augments the role of private industry, small businesses, and surplus area businesses as sources of supply to the Department and its contractors and monitors the progress of the Department in these areas and institutes changes where required.

12. Represents the Department in dealing with the Department of Commerce and other Government agencies on the national minority business, small business and labor surplus area programs.

B. Immediate Office of the Deputy Assistant Secretary. 1. Manages, directs, supervises and administers Office of Grants and Procurement Management.

2. The Business Affairs Staff. Augments the role of private industry, small businesses and labor surplus area concerns as sources of supply to the Department and its contractors; monitors the progress of the Department's small business and labor surplus area programs and represents the Department in collaborating with other Government agencies in the national small business and labor surplus area programs; serves as the Small Business Assistance and Economic Utilization Programs advisor to the Department; provides leadership, guidance and advice to the divisions of the Office of Grants and Procurement Management and the procuring activities of the Department in the aspects of procurement and materiel management governed by the Small Business Act of 1958 and related statutes and national policy directives.

3. The Special Projects Staff assists the Deputy Assistant Secretary for Grants and Procurement Management in planning and executing a wide variety of projects consisting generally of projects that require continuous or numerous discretionary decisions and transcend the organizational lines and areas of specialization within the Office of Grants and Procurement Management.

4. The Grant Appeals Board Executive Secretary Staff provides staff assistance to the Chairman of the Board in the administrative aspects of the functioning of the Board.

C. Division of Grants Policy and Regulations Development. 1. Develops Department-wide administrative and fiscal policies governing the award and administration of grants and publishes these as departmental regulations or in the DHEW Grants Administration Manual.

2. Makes special studies of problem areas in grants administration including the application of management and financial policies and procedures.

3. Reviews and prepares comments on grant administration aspects of proposed new or amended legislation and operating agency program regulations.

4. The Director, Division of Grants Policy and Regulations Development chairs the Department's Executive Committee on Grants Administration Policy and chairs or otherwise takes part in various inter-departmental and intra-departmental boards and committees.

5. Establishes and maintains working relationships with the OMB, other Federal agencies, associations of grantee institutions and State and local government agencies in order to develop and coordinate grant administration policies.

6. Provides advice and technical assistance to the operating agencies, regional offices, and staff offices of OS on matters relating to grant administration.

7. Reviews and approves all operating agency grant administration policies and procedures prior to publication.

8. Conducts or partcipates in seminars and training for departmental employees engaged in the grant process, grantees and associations of grantees on grant administration matters.

9. Performs analyses of data and information received from the Division of Grants, Procurement, Materiel Management Information and Reports on grant activities of the Department and prepares reports on such activities.

D. Division of Procurement and Materiel Policy and Regulations Development. 1. Develops and issues departmental policies, and procedures pertaining to (1) the procurement from non-Federal sources of personal property and nonpersonal services (including construction) by such means as purchasing, renting, leasing (including real property), contracting, or bartering, but not by seizure, condemnation, donation, or requisition and (2) materiel management including acquisition from established sources, utilization, inventory management, storage and distribution and disposition of materials, supplies and equipment as well as transportation and traffic management, and the commercial and industrial activities of the Department. Recommends issuance of procurement and materiel management regulations. Coordinates with OFEPM concerning material involving architectural/engineering and construction-related matters.

2. Provides staff guidance to activities of the Department on all procurement and materiel management matters.

3. Approves all new or revised forms to be used for materiel management purposes and for contracts and develops general and standard contract forms for departmental use.

4. Maintains liaison with other Government agencies and represents the Department in interagency activities, such as the Interagency Procurement Policy Committee and the Office of Management and Budget Procurement Committee on procurement and materiel matters other than economic utilization, small business or labor surplus area and minority business programs.

5. Conducts research, originates, and develops innovations in procurement and materiel concepts, philosophies, and practices.

6. Directs and provides departmental training to procurement and materiel management personnel, or program or project officials engaged in the procurement and materiel process.

7. Reviews and makes recommendations on determinations and findings required by statutes or regulations to be made at the Office of the Secretary level such as advance payment, research and development, etc.

8. Reviews and takes necessary action on cases involved with mistakes in bid, protests of awards, and late proposals or modifications.

9. Recommends proposed delegations of procurement and materiel authority to operating agencies.

10. Performs analyses of data and information received from the Division of Grants, Procurement, Materiel Management Information and Reports on procurement and materiel management of the Department and prepares reports on such activities.

E. Division of Analysis, Review, and Compliance. 1. Provides special policy, management, and operations analyses.

2. Monitors the entire funding system for quality control, production flow, and efficiency.

3. Conducts indepth review and studies of the policies and practices of all grant, procurement, and materiel functions of the Department including those of the operating agencies and regional offices.

4. Reviews operating agency and regional office funding procedures for grants and contracts in order to assure timely obligation of appropriated funds.

5. Determines whether adequate utilization is made of reports, studies and analyses provided to the Department as a result of grants and contracts, including appropriate publication or dissemination of materials by grantees and contractors.

6. Conducts studies on the overall activities of the program contracting and discretionary grants functions of the Department in order to foster standardization in the award and administration functions, development of criteria for selective utilization of their instruments, and maximum use of common terminology and processes.

7. Insures that the operating agency and other personnel involved in grant, procurement and materiel activities comply with the applicable laws, standards, and procedures.

8. Recommends, and where necessary, institutes corrections and improvements to carry out findings of the foregoing analyses, studies, and reviews.

F. Division of Grants, Procurement, Materiel Management Information and Reports. 1. Plans, develops and administers an integrated system of statistical reporting and analysis for procurement, grants and materiel management.

2. Develops an information data system on all contract, materiel and grant activities, and assures that adequate controls are established which will permit the rapid retrieval of necessary data for all echelons of management.

3. Provides data and information on grant, procurement and materiel activities as required, to the Congress, the Executive Office of the President, industry, the educational community and the general public.

4. Responsible for the preparation of pamphlets and other publications and special tables and charts, as well as all data necessary for informing the operating components of the Department and the general public on the procurement, materiel and grant activities of the Department.

G. Division of Minority Business Assistance. Performs a liaison and advocate role for all Departmental activities involving assistance to minority business enterprises and minority business related programs. As part of this role, the Division:

1. Plans, establishes and promulgates Department-wide policy for the Department's Minority Business Assistance programs.

2. Serves as Department monitor and coordination point for all matters concerning the placement of contracts by Department Contracting Officers with the Small Business Administration under section 8(a) of the Small Business Act.

3. Seeks to encourage the awarding of contracts to qualified minority business both under provisions of section 8(a) of the Small Business Act, and under the provisions of Federal and Departmental Procurement Regulations.

4. Encourages qualified minority nonprofit institutions to apply for applicable DHEW grants and loans.

5. Assists in carrying out the Department's commitment to increase deposits in minority-owned banks of funds which are directly or indirectly under the Department's control or influence.

6. Has overall responsibility for the establishment of minority-owned concessions in DHEW-managed facilities.

7. Evaluates reports and otherwise monitors agency progress toward accomplishment of minority business assistance goals.

8. Maintains continuous communication with minority business community nationally and facilitates interface with DHEW program resources.

9. Represents the Department in Federal, State, and locally sponsored conferences, seminars, and forums on minority enterprise program matters.

10. Assists and monitors DHEW line authorities with program responsibility for contracts, grants, and similar funding activities which impact on the minority business community.

11. Plans and administers a program for providing current information on all minority business activites of the Department.

Dated: January 19, 1974.

ROBERT H. MARIK,
Assistant Secretary for Administration and Management.

[FR Doc.74-2327 Filed 1-28-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX73-7; Notice 2]

ALBANY MOTOR CARRIAGE CO.

Petition for Temporary Exemption

The National Highway Traffic Safety Administration has decided to grant the Albany Motor Carriage Company, Ltd., an exemption of its Vintage Car Type A passenger car from several Federal motor vehicle safety standards.

Notice of petition for the exemption was published in the FEDERAL REGISTER on September 19, 1973 (38 FR 26223), and an opportunity afforded for comment. Albany, of Christchurch, Hampshire, England, manufactures an open two-seater replica of vehicles constructed in Great Britain around 1906, powered by a contemporary Triump Spitfire engine, and with a top speed of 40 mi/h. The company requested exemption from portions of several standards: An exemption from the defrosting and defogging standard (No. 103) as the vehicle has no doors or sides; from No. 104 on grounds that the vehicle does not need two wiping speeds due to its low top speed; from Nos. 109 and 110 as the tires and rims are larger than those covered by the standards; from No. 201 on the grounds that the tests cannot be applied realistically being written around modern closed cars. Additionally, exemption was requested from providing head restraints in accordance with No. 202 since they are not possible to fit. Exemption was requested from Nos. 208, 209, and 210; Type 2 restraints will be provided but may vary from the requirements in several technical respects. The company says it has made modifications so that the vehicle will comply with certain of the other standards. Others, such as No. 206, are considered not to apply, as the car has no doors.

The petition was submitted on hardship grounds: compliance would involve substantial costs and destroy the character and hence the sales appeal of the vehicle. The company has based its costs on the ability to manufacture a total of 600 units, selling half in the United States, and if the exemption is not granted the product is not a viable commercial proposition and must be abandoned.

No comments were received on the petition. Albany's stated situation is simple: modifying a 1906-type vehicle to meet 1974 safety standards would be costly, and a vehicle so modified might have lost its sales appeal in the process. Denial of an exemption so that 50 percent of the total projected production run could not be sold in the United States also constitutes a hardship.

In determining that the exemption is in the public interest, the Administrator has balanced the intent of Congress in providing temporary hardship exemptions to limited-production manufacturers against the need for traffic safety. In the area of accident avoidance, the exemptions requested from the standards concerned (Nos. 103, 104, 109, 110) are generally more technical than substantive, and to grant them would not present a major safety hazard to other users of the public ways. The exemptions requested from the crash protection standards (Nos. 201, 202, 208, 209, and 210) are more substantive in nature, but the configuration of the Albany is such that those who ride in it may be said to have knowingly assumed the risks that it presents. Further, the overall concept of the vehicle is such that it will appeal primarily to those who wish it for occasional limited use, as for show, display, attendance at automotive or historical meets, use at resorts or on private estates, rather than for extensive daily use as a passenger car. Finally, the limited number of vehicles that will be covered by the exemption—300—does not make it likely that the Albany will present a significant hazard to traffic safety.

The exemption provided Albany does not necessarily mean that exemptions will be provided any manufacturer of a replica-type vehicle who petitions for one. Each applcation will be reviewed on the merits and according to the facts of the particular case.

For the reasons discussed above, the NHTSA finds that the exemption from the standards requested by Albany is in the public interest and consistent with the objectives of the Act, and the Albany Carriage Company is hereby granted NHTSA Temporary Exemption No. 73-7, expiring January 1, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.51.)

Issued on January 23, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-2344 Filed 1-28-74;8:45 am]

[Docket No. Ex 73-8; Notice 3]

AVANTI MOTORS CORP.

Petition for Temporary Exemption From Motor Vehicle Safety Standards

This notice grants the petition of Avanti Motor Corporation for a temporary exemption of its Avanti II passenger car from the pendulum impact requirements of Standard No. 215, expiring September 1, 1975.

On September 5, 1973, notice of Avanti's petition for temporary exemption from portions of Standards Nos. 208 and 215, on grounds of substantial economic hardship, was published in the FEDERAL REGISTER (38 FR 23987). The company asked for relief from the starter interlock portion of Standard No. 208 until January 1, 1974. Its primary request, as amplified in a supplemental notice published on November 29, 1973 (38 FR 32963), was for exemption from front and rear pendulum impact and the

bumper corner impact requirements of Standard No. 215. The requested exemption would terminate on September 1, 1976. The petition was predicated on the hardship to Avanti of liquidating $93,395 of an inventory of noncomplying parts, and the cost of immediate redesign and retooling of front and rear bumpers and fenders. On the other hand, the company estimated that its existing tooling could be modified by September 1, 1976 for $38,000.

The petition was supported by Lieutenant Governor Orr of Indiana and the Center for Auto Safety, which suggested the exemption from Standard 215 be granted for one year initially and possibly renewable for not more than one additional year. No comments were filed opposing the petition.

The NHTSA has taken no action with respect to Avanti's request for exemption from Standard No. 208 as the passage of time has rendered it moot. With respect to Standard No. 215, however, the agency has determined that Avanti has shown that immediate compliance would cause it substantial economic hardship. Noting Avanti's comment that lead time alone on most steel components in small volume is being quoted as 15–18 months, the NHTSA is also of the opinion that a 1-year exemption would not provide sufficient relief for Avanti. The agency is not convinced, however, of the need for a 3-year exemption from front and rear pendulum impact or prospectively, of a 1-year exemption (September 1, 1975 to September 1, 1976) from the corner impact requirements. The exemption granted will therefore expire on September 1, 1975. Avanti's inventory as it may exist on September 1, 1975 can of course, be used for replacement purposes. For the above reasons the NHTSA has concluded that an exemption of approximately 20 months' duration is consistent with the public interest and the objectives of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing, Avanti Motor Corporation is granted NHTSA Exemption No. 73–8 from paragraph S5.2 of Federal Motor Vehicle Safety Standard No. 215, from the date of issuance of the exemption to September 1, 1975.

(Sec. 3, Public Law 82–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.51).

Issued on: January 23, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74–2345 Filed 1–28–74;8:45 am]

[Docket No. EX73–9; Notice 2]

SEBRING-VANGUARD, INC.

Petition for Temporary Exemption From Motor Vehicle Safety Standards

This notice grants the petition of Sebring-Vanguard, Inc. for a temporary exemption of its electrically-powered CitiCar for 1-year from certain safety standards.

On November 15, 1973 (38 FR 31556) the NHTSA published notice of a petition by Sebring-Vanguard for a 1-year exemption of its CitiCar from portions of four safety standards on grounds that exemption would facilitate the development and field evaluation of a low-emission motor vehicle. The company cited the unavailability of electric defrosting systems in its request for relief from Standard No. 103, while promising to provide a defogging system. Handcancellable turn signals are supplied but not the self-cancelling ones required by Standard No. 108 because of its steering column configuration, and it asks for exemption from that portion of the motor vehicle lighting standard. It does not believe that the hinge load requirements specified by Standard No. 206 are appropriate for vehicles with an unloaded weight of less than 1,000 pounds, and it plans to use approved marine hardware for door hinges and latches. The company is uncertain whether its frame can withstand the forces required by Standard No. 208 for upper torso restraints, but the CitiCar, which has a top speed of 28 mph, will be equipped with lap belts and padded dashboards.

All comments received in response to the notice endorsed the petition. Several letters of support were also received before the notice was published. The NHTSA has determined that, by allowing production and sale of an electric vehicle, the exemption would facilitate the development and field evaluation of a low-emission vehicle. The impact of the exemption on motor vehicle safety should be minimal due to the limited nature of the exemption in scope and duration, and the low initial production of the CitiCar. The exemption will also allow the public the choice of transportation independent of available supplies of gasoline. For these reasons the NHTSA has also determined that the exemption is consistent with the public interest and the objectives of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing, Sebring-Vanguard, Inc. is granted NHTSA Exemption No. 73–9 exempting its CitiCar model manufactured for a period of 1-year from date of issuance of the exemption, from Federal Motor Vehicle Safety Standards Nos. 103, 108 (S4.1.1.5 only), 206, and 208.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.51)

Issued on January 24, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74–2313 Filed 1–28–74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON SECURITY OF NUCLEAR FACILITIES

Notice of Meeting

JANUARY 25, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Working Group on Security of Nuclear Facilities will hold a meeting on February 6, 1974 in Room 1067, 1717 H Street NW., Washington, D.C. The purpose of the meeting is to develop a plan of action for future Working Group activities which will include discussion of information relating to nuclear plant Industrial Security Plans.

I have determined in accordance with subsection 10(d) of Pub. L. 92–463, that the meeting will consist of internal deliberations and expressions of opinions, the discussion of which, if written, would fall within exemption (5) of (5 U.S.C. 552(b)) and will also involve throughout, a discussion of information which is privileged and falls within exemption (4) of (5 U.S.C. 552(b)). It is essential to close the meeting to protect such privileged information and protect the free interchange of internal views and avoid undue interference with Committee operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–2490 Filed 1–28–74;10:36 am]

[Docket No. 70–1372]

GENERAL ATOMIC CO.

Draft Environmental Statement

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 a Draft Environmental Statement prepared by the Commission's Directorate of Licensing concerning the proposed issuance of a special nuclear material license to the General Atomic Company to possess, process, and use special nuclear material at the planned General Atomic Fuel Fabrication Facility, in Franklin County, near Youngsville, North Carolina, 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 Franklin County Library, 1026 Justice Street, Louisburg, North Carolina. The draft statement is also being made available for public inspection at the State Clearinghouse, Office of the Planning Coordinator, Clearinghouse and Information Center, 116 West Jones Street, Raleigh, North Carolina, 27603 and at the Regional Clearinghouse, Mr. Roy L. Lowe, Executive Director, Kerr-Tarr Regional Council of Governments, Post Office Box 1500, Henderson, North Carolina 27536.

Copies of the draft environmental statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Fuels and Materials, Directorate of Licensing, Regulation.

Gulf Oil Corporation was the original applicant for the facility formerly designated as the Gulf Youngsville Nuclear Facility. The Applicant's Environmental Report, as supplemented is also available for public inspection at the above designated locations. Notice of availability

of the Applicant's Environmental Report was published in the FEDERAL REGISTER on September 20, 1973 (38 FR 26399).

Pursuant to 10 CFR Part 50, Appendix D, interested person may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by March 25, 1974. Comments by Federal, State, and local officials or other persons, received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Franklin County Library in Louisburg, North Carolina. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Fuels and Materials, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland, this 22nd day of January, 1974.

For the Atomic Energy Commission.

R. B. CHITWOOD,
Chief, Technical Support Branch, Directorate of Licensing.

[FR Doc.74-2208 Filed 1-28-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 26057, 26075; Order 74-1-111]

PAN AMERICAN WORLD AIRWAYS, INC. ET AL.

Order Approving Agreement in Part

In the matter of: Pan American World Airways, Inc. Trans World Airlines, Inc. and British Overseas Airways Corp. Dockets 26057 and 26075 Agreement CAB 24109.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of January, 1974.

By Order 73-12-109, December 28, 1973, the Board, inter alia, deferred action on an agreement (CAB 24109)[1] among Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and British Overseas Airways Corporation (BOAC) regarding frequency reductions in the Boston-London and the Philadelphia-London markets, respectively, pending decision on Pan American's application in Docket 26210 to temporarily suspend service, inter alia, at Philadelphia and Baltimore.[2] By Order 74-1-27, January 4, 1974, Pan American's application for temporary suspension at these points was denied.[3]

As set forth in Order 73-12-109, supra, Agreement CAB 24109 provides, with respect to the London-Philadelphia market, that each of the carriers serving this market would reduce its nonstop frequencies, in terms of weekly round trips, from seven (winter schedules, December, 1973) to five during the effective period of the agreement;[4] that the specified service alteration would be implemented, subject to Board approval, on the fifth day following the date of the recent TWA strike, but in no event prior to December 10, 1973; and that the agreement would extend to April 27, 1974.[5] The agreement also contains provisions regarding the operation of extra sections, and the cessation or curtailment of service because of labor disputes or other causes beyond the control of the affected party.

National Air Carrier Association (NACA) filed an answer in opposition to the agreement, and TWA filed a reply. The Aviation Administration of the Maryland Department of Transportation (Maryland DOT) filed comments. Air Line Pilots Association, International (ALPA) filed a motion for leave to file an otherwise unauthorized document containing comments.[6]

In support of their requests, the carriers state that the agreement, insofar as it relates to the Philadelphia-London market, provides for service reductions which are compelled by the shortage of fuel; that significant savings in fuel consumption will be effected,[7] and that under the maximum scheduled frequency level, a better pattern of service for the traveling public would result, than that resulting from a unilateral cutback,[8] and adequate capacity would be maintained in the Philadelphia-London market.[9]

Maryland DOT contends that the agreement, insofar as it involves Pan American's London-Philadelphia service, would result in eliminating the only flight between Baltimore-Washington International Airport (BAL) and London two days a week by reason of agreed reduction in Pan American's service to Philadelphia, where the only daily flight from London to the BAL airport stops westbound. NACA requests that the Board disapprove the agreements, or alternatively, attach a condition that the transatlantic charter volume of the agreement carriers, in any month during the term of the agreements, not exceed the volume of charters performed by that carrier during the same month in the 12-month period preceding the agreements. ALPA asserts that the carriers' mutual agreement to cut back service has expedited a reduction in labor forces as well as creating the threat of adverse industrial consequences, and requests that the Board attach labor protective conditions to any approval of the agreement.

The air transportation industry is being faced with a critical shortage of fuel. As a result, Pan American, TWA, and BOAC must cut back on fuel consumption on international services. In order to meet the cutback levels, the carriers must make fuel-savings adjustments to their schedules. The Board is concerned that reduction in capacity solely as a result of unilateral schedule adjustments may result in cutbacks necessitated by the fuel situation in a manner which does not, under the circumstances, provide the best practicable service to the public.[10] The Board believes that reductions in capacity pursuant to carrier agreements, which are carefully monitored by the Board, will help to provide the public with optimum service. Such agreements can provide the means by which available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances, and, in the Board's view, will best serve the public interest.

Based on the foregoing, the Board concludes that the agreement (CAB 24109) among Pan American, TWA and BOAC with respect to scheduled service between Philadelphia and London should be approved subject to certain conditions. The London-Philadelphia market is characterized by a multiplicity of frequencies which have experienced low load factors in the past, and, under the agreement, is estimated by the carriers to reach 67%. The service proposed in this agreement reasonably satisfies the needs of the traveling public as well as saving large amounts of fuel. The agreement also meets the minimum guidelines established by the Board in instances involving multilateral schedule adjustments and capacity limitations resulting from the Mandatory Fuel Allocation Program.[11]

[1] This agreement was erroneously referred to as Agreement CAB 25109 (and its companion agreement, CAB 24110, was erroneously referred to as Agreement CAB 25110).

[2] The Boston-London frequency reduction provision of Agreement CAB 24109 terminated on December 31, 1973 by its own terms. We shall therefore dismiss this portion of the application.

[3] However, the Board noted that Pan American did not need Board authority to suspend service to Baltimore on the carrier's certificated route 132, since Baltimore is a hyphenated point with Washington in the carrier's certificate on that route.

[4] The agreement specifies which carrier, under the established maximum scheduled frequency levels, will operate on which days of the week so that nonstop service may be maintained in each direction on every day of the week and capacity coordinated with demand peaking to the extent possible.

[5] In the Philadelphia-London market all frequencies will be operated with narrowbody aircraft, B-707 or VC-10, as presently oeprated in these markets.

[6] In view of the Board's action in Order 73-12-109, supra, deferring action on Agreement CAB 24109, we shall accept ALPA's comments.

[7] The carriers estimate that fuel savings by the three carriers will amount to 190,818 gallons per week in the Philadelphia-London market.

[8] The agreement allows for the maintenance in the Philadelphia-London market of nonstop service in each direction on every day of the week, including off-peak traffic days.

[9] The carriers estimated the average load factor in this market will be 67%.

[11] Order 73-11-50.

We are not persuaded that the benefits of fuel saving which will result from the agreement should be denied in order to maintain a higher level of Baltimore/Washington-London one-stop service at the BAL airport, as the Maryland Department of Transportation urges. Pan American does not now provide nonstop London service at the airport, and even with the proposed reductions, one-stop round-trip service will be provided five days per week. Baltimore and Washington passengers will retain additional London service through Dulles International Airport.[13] Accordingly, it is apparent that the public will retain a substantial level of service in the Baltimore/Washington-London market, and in light of the resulting fuel savings, we are unable to conclude that the proposed service cutback at BAL would be adverse to the public interest.

We find that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the carrier applicants by reason of the limited extent of, and unusual circumstances affecting, their operations, and is not in the public interest, particularly in light of the reduced fuel supplies. Pursuant to section 416 of the Act, we will therefore grant Pan American and TWA an exemption from section 405(b), and from any regulations made pursuant thereto, to permit implementation of the subject schedule changes without 10 days' prior notice to the Postmaster General.

In view of the fact that more than 21 days have elapsed since the filing of the application herein on December 4, 1973, we shall dismiss, as moot, applicants' request for waiver of the Board's Procedural Regulation PR–138, allowing 21 days for answer to the application.

NACA's alternative request that a charter capacity ceiling be attached as a condition of approval of the agreements herein has heretofore been considered and rejected by the Board.[14] However, the Board has repeatedly stated that the transfer of freed-capacity to non-agreement markets will not be tolerated.[14] Thus, in order to effectively monitor the implementation of this agreement the Board will retain jurisdiction, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking our approval of the agreement at any future date. Furthermore, we shall require each air carrier seperately to report within 15 days after the end of each month any schedule changes in the Philadelphia-London market during the term of the agreement. (See Appendix A.)[15]

We have considered the implications of the proposed agreement on Pan American's and TWA's employees as described by ALPA. For the reasons detailed at length in Order 73–12–32, December 7, 1973, and Order 74–1–41, January 4, 1974, which are equally applicable here, we are unable to conclude that the public interest requires the imposition of any labor protective conditions.

Accordingly, it is ordered, That:

1. Agreement CAB 24109 insofar as it relates to frequency reductions in the Boston-London market be and it hereby is dismissed;

2. Agreement CAB 24109, insofar as it relates to frequency reductions in the Philadelphia-London market, be and it hereby is approved pursuant to section 412 of the Act, subject to the following conditions:

(a) The Board shall retain jurisdiction to modify, amend or revoke approval at any time, or take whatever other action may be deemed appropriate;

(b) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 15 days after the end of each month in accordance with the format of Appendix A;[16] copies of such reports shall be provided to all carriers requesting them;

3. Within 28 days hereafter, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the Philadelphia-London market:

a. Seats operated in 1972/1973 (November through April).

b. Passengers carried in 1972/1973.

c. Forecast passengers carried in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type to be operated in the market.

f. Calculations in developing fuel savings for this market.

g. 1972/1973 fuel use by month for the system of each carrier.

h. 1972/1973 fuel use by month in the agreement market;

4. Pursuant to section 416 of the Act, Pan American and TWA be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days' prior notice to the Postmaster General;

5. The request of the applicants that the Board waive the recent amendment to the Board's Procedural Regulation PR–138, which would otherwise permit 21 days for answers to this application, be and it hereby is dismissed;

6. ALPA's motion for leave to file an otherwise unauthorized document be and it hereby is granted;

7. Except to the extent granted or dismissed herein, all other requests be and they hereby are denied; and

8. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; the State Aviation Administration of the Maryland Department of Transportation; the City of Philadelphia; ALPA; NACA; and all certificated route and supplemental air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–2332 Filed 1–28–74;8:45 am]

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[13] Pan American's certificate names Baltimore and Washington as a hyphenated point, thereby permitting the carrier to select the airport through which service is provided. See Order 74–1–27, footnote 9.

[14] Orders 73–10–110; 73–11–147; 73–12–109; and 74–1–34.

[15] No useful purpose would be served in repeating our views on this issue as set forth in Order 73–11–34, supra, since no new issues are presented.

[16] American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., Order 73–10–110, supra.

[15] Such reports will enable the Board to analyze such sechdule change(s) to ensure that freed capacity is not being unnecessarily shifted to nonagreement markets. Appendix A filed as part of the original.

[16] As previously required of TWA and Pan American (Order 73–10–110, supra, as amended by Order 73–12–32, supra, and Order 74–1–34, supra), the air carriers shall separately file with the Board's Docket Section a report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment; and shall maintain records, subject to inspection by the Board, or by such other persons as the Board may authorize, detailing the fuel used each month, throughout its system, on a city-pair and flight-by-flight basis (including charter operations).

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, February 6, 1974, to continue discussions on the fiscal year 1975 comparability adjustment for the statutory pay systems of the Federal Government.

In accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, it was determined by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, who serve jointly as the President's Agent for the purposes of the Federal pay comparability process, that this meeting of the Federal Employees Pay Council would not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management, Officer for the President's Agent.

[FR Doc.74–2326 Filed 1–28–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

DOW CHEMICAL U.S.A.

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; (21 U.S.C. 346a(d)

(1))), notice is given that a petition (PP 4F1445) has been filed by Dow Chemical U.S.A., Post Office Box 1706, Midland, MI 48640, proposing establishment of tolerances (40 CFR Part 180) for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities lima bean forage and snap bean forage at 0.2 part per million, fresh corn including sweet corn (kernels plus cob with husk removed) and corn fodder and forage at 0.1 part per million (negligible residue), and lima beans and snap beans at 0.05 part per million (negligible residue).

The analytical methods proposed in the petition for determining residues of the insecticide and its metabolite are gas chromatographic procedures. The insecticide is determined directly using flame photometric detection. The metabolite is reacted with *N,O*-bis(trimethylsilyl) acetamide to form the pyridinol trimethylsilyl derivative and determined using electron capture detection.

Dated: January 21, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-2237 Filed 1-28-74;8:45 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; (21 U.S.C. 346a(d)(1))), notice is given that a petition (PP 4 F1448) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities spinach at 6 parts per million, broccoli and celery at 3 parts per million, and brussels sprouts and cauliflower at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a modification of the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry", volume 16, pages 554–7 (1968). The modified method utilizes a flame photometric detector instead of a sulfur microcoulometric detector.

Dated: January 23, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-2239 Filed 1-28-74;8:45 am]

2-(α-NAPHTHOXY)-N,N-DIETHYLPROPIONAMIDE

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; (21 U.S.C. 346a(d)(1))), notice is given that a petition (PP 4F1447) has been filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the herbicide 2-(α-naphthoxy)-*N,N*-diethylpropionamide in or on the raw agricultural commodities figs, nuts (including almond hulls), and pome fruits at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a conductivity detector for nitrogen compounds.

Dated: January 21, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-2238 Filed 1-28-74;8:45 am]

VELSICOL CHEMICAL CORP.

Withdrawal of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Velsicol Chemical Corp., 341 East Ohio Street, Chicago, IL 60611 (formerly at 1725 K Street, NW., Washington, D.C. 20006), has withdrawn its petition (FAP 2H5007), notice of which was published in the FEDERAL REGISTER of March 25, 1972 (37 FR 6226), proposing establishment of food additive tolerances (21 CFR Part 121) for total residues of the insecticidelleptophos (*O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate) and its metabolites *O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonate, 4-bromo-2,5-dichlorophenol, and *O*-(2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate in or on sweet corn canning waste (cobs and husks) at 15 parts per million and crude oil of cotton at 2 parts per million.

Dated: January 23, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-2236 Filed 1-28-74;8:45 am]

TOYO KOGYO CO.

Granting of 1975 Suspension

In the November 29, 1973, FEDERAL REGISTER (38 FR 32965), notice was given of application by Toyo Kogyo Company for a one-year suspension of the 1975 light duty vehicle exhaust emission standards. Review of the Toyo Kogyo application indicated that the company had made all good faith efforts to meet the 1975 emission standards. In the November 29, 1973 notice the Acting Administrator of EPA announced his intention to grant suspension of the standards with respect to Toyo Kogyo for its 1975 model year light duty vehicles within thirty (30) days, unless any interested person requested in writing a public hearing on the application.

The thirty (30) day time period passed without any person requesting a hearing on the application. Therefore, I hereby grant to Toyo Kogyo the requested one-year suspension of the 1975 light duty vehicle emission standards as allowed by section 202(b)(5)(D) of the Clean Air Act. Toyo Kogyo will be required to meet the interim standards set forth at 38 FR 17441 (July 2, 1973) for all 1975 model year light duty vehicles sold in the United States.

Dated: January 22, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-2347 Filed 1-28-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO MILTON, INC.

Standard Broadcast Application Ready and Available for Processing

JANUARY 23, 1974.

By the Chief, Broadcast Bureau. The following application, seeking the facilities of Station WSRA, Milton, Florida, has been tendered. An application for renewal of the license of WSRA has been dismissed by order of the Chief Administrative Law Judge released January 10, 1974. Radio Milton, Inc., FCC 74M-36, Docket No. 19788. Accordingly, the Commission has accepted this application for filing. Similarly, the Commission will accept any other applications for consolidation with the following application which propose essentially the same facilities. The Commission will also entertain a request for joint interim operation by all interested and qualified applicants.

NEW, Milton, Florida
Millard F. Adams, Jr.
Req: 1490 kHz, 250 W, 1 kW-LS, U

Pursuant to the provisions of §§ 1.227 (b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application must be tendered no later than March 1, 1974. Any request for joint interim operation must be filed no later than April 1, 1974.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309 (d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: January 21, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-2320 Filed 1-28-74;8:45 am]

[FCC 74-78]

TELEVISION ADVERTISING

Broadcast of Information by Means of Subliminal Perception Techniques

JANUARY 24, 1974.

Shortly before Christmas 1973 the Commission received a few complaints that some television stations had broadcast an advertisement which contained a statement of such short duration that most viewers were unaware of it—at least, consciously unaware of it. The message broadcast in this manner was "Get It," referring to the product advertised in the commercial. Since this statement could not be consciously perceived by most persons, it involved use of the "subliminal perception" technique which was the subject of Commission inquiry years ago.

In a Public Notice dated November 27, 1957, the Commission noted that the Television Code Board of the NAB (then the NARTB) had asked its subscribers to refer any proposals for television use of subliminal perception to the Board. In that Notice, the Commission stated in part:

> Deep concern has been expressed by members of the public, the broadcast industry and leaders in public life with respect to the use of "subliminal perception" advertising by television stations. That this concern has a firm basis is evidenced by the action of the NARTB and the caution with which television licensees have approached the technique. Obviously, it is a matter which vitally concerns the public interest. Accordingly, the Commission's study is being directed toward determining what appropriate steps, if any, should be taken by the Commission with respect to the possible use of the above technique by the television licensees. The posture of the problem is such that the public interest is not in immediate danger of being adversely affected. Ample proof has been given of the recognition by television licensees of their responsibilities and obligation to operate their stations in the public interest.

At that time the Commission had no information that any television station had made use of subliminal perception techniques, except on an experimental basis and for scientific purposes, and after 1957 no instance of telecasting of such messages came to the attention of the Commission until the 1973 pre-Christmas advertising campaign, in which an advertising agency distributed spots involving the "Get It" statement.

Commission inquiry revealed that the NAB TV Code Authority had learned of the use of the subliminal messages in late November and had received a statement from the advertising agency that it was dispatching telegrams to all stations to which the advertisements had been sent, informing them of the subliminal statements, authorizing the stations to delete the statements from the spots and informing the stations that film prints which did not contain the "Get It" flashes would be sent to them. (The Television Code now prohibits use of "Any technique whereby an attempt is made to convey information to the viewer by transmitting messages below the threshold of normal awareness * * *")

Despite the Code Authority's action, some stations apparently continued to broadcast spots containing the "Get It" statement, and some state they have no record of having received the telegram from the agency.

We believe that use of subliminal perception is inconsistent with the obligations of a licensee, and therefore we take this occasion to make clear that broadcasts employing such techniques are contrary to the public interest. Whether effective or not, such broadcasts clearly are intended to be deceptive.

In closing, we note that the Federal Trade Commission also received a complaint about the pre-Christmas announcements, and that it is making inquiry into the matter in light of the laws that it administers.

Action by the Commission January 23, 1974. Commissioners Burch (Chairman), Lee, Reid, Wiley and Hooks.

Sent to all broadcast licensees.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-2318 Filed 1-28-74;8:45 am]

WALTON BROADCASTING CO.

Standard Broadcast Application Ready and Available for Processing

JANUARY 23, 1974.

By the Chief, Broadcast Bureau. The following application, seeking the facilities of station WMRE, Monroe, Georgia, has been tendered. In a decision released December 4, 1973, the Commission denied an application for renewal of the license of WMRE. Walton Broadcasting Company, — FCC 2d —, 28 RR 2d 1492. Accordingly, the Commission has accepted this application for filing. Similarly, the Commission will accept any other applications for consolidation with the following application which propose essentially the same facilities. The Commission will also entertain a request for joint interim operation by all interested and qualified applicants.

WKUN, Monroe, Georgia
Community Broadcasting Company, Inc.
Has: 1580 kHz, 1 kW, Day
Req: 1490 kHz, 250 W, 1 kW-LS, U

Pursuant to the provisions of §§ 1.227 (b) (1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application must be tendered no later than March 1, 1974. Any request for joint interim operation must be filed no later than April 1, 1974.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309(d) (1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: January 21, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-2319 Filed 1-28-74;8:45 am]

[Docket Nos. 19925, 19926; File Nos. BPH-8349, BPH-8461]

WOLVERINE RADIO CO., INC. AND PATTEN CORP.

Order Regarding Applications

In re applications of Wolverine Radio Company, Incorporated, Midland, Michigan, requests: 93.5 MHz, #228; 3 kW(H); 3kW(V); 300 feet. The Patten Corporation, Midland, Michigan requests: 93.5 MHz, #228; 3 kW(H); 3 kW(V); 194 feet, for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that they seek the same channel in the same community.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

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

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

1. To determine which of the proposals would, on a compartive basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which, if either, of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to

appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: January 23, 1974.

Released: January 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc.74-2321 Filed 1-28-74;8:45 am]

FEDERAL MARITIME COMMISSION

NEW YORK FREIGHT BUREAU (HONG KONG) ET AL.

Notice of Agreements Filed

In the matter of New York Freight Bureau (Hong Kong), Trans Pacific Freight Conferences (Hong Kong), Far East Conference, Pacific Westbound Conference, Trans-Pacific Freight Conference of Japan/Korea and Japan/Korea-Atlantic & Gulf Freight Conference and Empresa Lineas Maritimas Argentinas and Delta Steamship Lines Inc.

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 8, 1974. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 5700-19, entered into by the member lines of the New York Freight Bureau (Hong Kong), amends (1) Article 6 of the approved conference agreement by adding a new paragraph authorizing the member lines to declare rates for specified commodities to be "open", with or without agreed minimums, and thereafter to declare such rates to be "closed", and (2) Article 16 by adding a new paragraph specifically authorizing the member lines to become a party (as a group) to Agreement No. 10108, with four independent carriers operating in the conference trade, provided such agreement is first filed and approved under the Shipping Act, 1916.

Dated: January 23, 1974.

By Order of the Federal Maritime Commission.

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 14-39, entered into by the member lines of the Trans Pacific Freight Conference (Hong Kong), amends (1) Article 6 of the approved conference agreement by adding a new paragraph (D) authorizing the member lines to declare rates for specified commodities to be "open", with or without agreed minimums, and thereafter to declare such rates to be "closed", and (2) Article 17 by adding a new paragraph specifically authorizing the member lines to become a party (as a group) to Agreement No. 10107, with four independent carriers operating in the conference trade, provided such agreement is first filed and approved under the Shipping Act, 1916.

Dated: January 23, 1974.

By Order of the Federal Maritime Commission.

Notice of Agreement Filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 10110, entered into by the four above named conferences and their respective member lines, covers an arrangement whereby the conference lines may cooperate and coordinate actions for the voluntary disposition of interrelated matters concerning the conferences at issue in Docket Nos. 73-28, and 73-29, involving alleged rate disparities in the trades between Japan and the Pacific Coast, and the Atlantic and Gulf Coasts, respectively, of the United States, as provided under the terms and conditions set forth in the agreement.

Dated: January 24, 1974.

By Order of the Federal Maritime Commission.

Notice of Agreement Filed by:

Thos. E. Stakem, Esquire, Macleay, Lynch, Bernhard & Gregg, 1625 K Street NW., Washington, D.C. 20006.

Agreement No. 10111, between Empresa Lineas Maritimas Argentinas (ELMA) and Delta Steamship Lines, Inc. (Delta), provides for the appointment of Delta as ELMA's husbanding agent at all U.S. Gulf ports, and for the appointment of ELMA as Delta's husbanding agent at all ports in Argentina, on cargoes moving northbound and southbound between ports in Argentina and U.S. Gulf ports, including any transshipments. The parties will rationalize their respective sailings; supervise stevedoring and related cargo operations for loading and discharging vessels; perform the tariff services enumerated in the agreement; jointly advertise the sailings of their vessels and jointly share in the cost thereof; process claims for damage; and perform other agency responsibilities under the terms and conditions set forth in the agreement.

Dated: January 24, 1974.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-2337 Filed 1-28-74;8:45 am]

PORT AUTHORITY OF NEW YORK AND NEW JERSEY, ET AL.

Notice of Agreement Filed

In the matter of The Port Authority of New York and New Jersey and Barber Lines and United States Lines, Inc., and Matson Navigation Company.

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 19, 1974. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Francis A. Mulhern, Deputy General Counsel, The Port Authority of New York and New Jersey, One World Trade Center, New York, N.Y. 10048.

Agreement No. T–2880, as amended, between The Port Authority of New York and New Jersey (Port Authority) and Barber Lines A/S (Barber Lines), provides for the lease of certain facilities at the Brooklyn-Port Authority Piers, New York, N.Y., for use by Barber Lines as a marine terminal facility. As compensation, Barber Lines will pay the Port Authority an amount based on revenue tonnage with stated minimum and maximum payments per annum.

By Order of the Federal Maritime Commission.

Dated: January 22, 1974.

Notice of Agreement Filed by:

Peter P. Wilson, Matson Navigation Company, 100 Mission Street, San Francisco, California 94105.

Agreement No. DC–66, between United States Lines, Inc. (U.S. Lines) and Matson Navigation Company (Matson), provides for the 1-year lease to Matson (with year to year renewal options) of U.S. Line's cargo containers, container chassis, and other container equipment for use in either domestic or foreign movements between Hawaii and the U.S. East Coast with transshipment at Oakland or Los Angeles. By its terms, Matson shall have complete control and supervision over the equipment while in its possession, and shall have the right to sublet the equipment with all attendant obligations, including payment of rentals, continuing in full force and effect until equipment is returned to U.S. Lines. Matson will be liable for any damage or loss arising out of its use, operation and possession of the equipment, and will release, agree to defend and hold harmless U.S. Lines in such an event. Charges shall accrue to U.S. Lines on a per diem basis as more specifically outlined in the Lease Schedule.

Dated: January 22, 1974.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretay.

[FR Doc.74–2338 Filed 1–28–74;8:45 am]

UNITED STATES ATLANTIC & GULF JAMAICA CONFERENCE AND UNITED STATES ATLANTIC & GULF HAITI CONFERENCE

Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, February 5, 1974. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreements Filed by:

C. D. Marshall, Chairman, Associated Latin American Freight Conferences, 11 Broadway, New York, New York 10004.

Petitions filed in behalf of the United States Atlantic & Gulf-Jamaica Conference and the United States Atlantic & Gulf-Haiti Conference have been assigned Federal Maritime Commission Number 4610–22 and Number 8120–17, respectively.

The petitions are to amend the present intermodal arrangement provisions in the basic agreements of the above conferences by deleting the following portions thereof:

> However, if the Conference does not exercise the intermodal authority granted herein within 12 months from February 12, 1973, then the member lines, either individually or in concert with any other member line or lines or any non-member line or lines, may establish, publish, file or operate under any through intermodal transportation rates and issue any through bills of lading negotiated on its (their) own initiative.

and to extend their intermodal arrangement provisions, as so amended, for an indefinite period beyond the present termination dates of August 12, 1974.

Dated: January 22, 1974.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–2339 Filed 1–28–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP73–115, RP72–47, CP74–149]

CONSOLIDATED GAS SUPPLY CORP.

Order Consolidating Proceeding; Granting Interventions; Establishing Procedural Dates, and Fixing Date for Formal Hearing

JANUARY 22, 1974.

On November 28, 1973, an order was issued in Docket No. CP74–149 directing the Consolidated Gas Supply Corporation (Consolidated) to show cause why maximum annual and daily volumetric limitations should not be established for each customer on Consolidated's pipeline system for deliveries of gas based on 1971–72 requirements. Since the issuance of the above-mentioned order, we have received timely petitions to intervene from the following parties:

Tennessee Gas Pipeline Company
General Motors Corporation
Southern Tier Gas Corporation
Rochester Gas and Electric Corporation
Niagara Mohawk Power Corporation
Peoples Natural Gas Company
Corning Natural Gas Corporation
Pavilion Natural Gas Company
North Penn Gas Company
New York State Electric Gas Corporation
Iroquois Gas Corporation
Pennsylvania Gas Company
United Natural Gas Company

All petitioners aver as a basis for their intervention that they are currently purchasing supplies of natural gas from Consolidated and that, therefore, they have a direct interest in the subject proceeding. We believe that the petitioners have stated sufficient reasons to warrant the requested intervention. We would also note that on December 3, 1973, the Public Service Commission for the State of New York filed a Notice of Intervention in Docket No. CP74–149, pursuant to the provisions of § 1.8(a)(1) of the Commission's rules of practice and procedure.

On December 11, 1973, Consolidated filed a "Motion for Consolidation of Proceedings" and for a change in certain of the procedural dates set out in our November 28, 1973 order. Consolidated, in support of its motion, maintains that:

> Pursuant to the provisions of its curtailment filing at Docket No. RP73–115, Consolidated proposes to determine the requirements of its various customers on the basis of attached loads as of the time a gas supply curtailment is involved. Thus the general question of Consolidated's delivery obligation to each of its customers will be an issue in the curtailment proceeding.

On December 18, 1973, Rochester Gas and Electric Corporation (Rochester) filed a motion to dismiss proceedings or, in the alternative, for joinder of Rochester in the above-stated motion of Consolidated. The basis for Rochester's filing, both as to its motion and as to its joinder in Consolidated's motion, is essentially the same as set forth by Consolidated. We would also note that both Consolidated and Rochester are of the view that by requiring Consolidated to show cause why volumetric limitations should not be established based on 1971–72 requirements, we have misinterpreted a relevant portion of the settlement agreement that was approved by an order issued September 18, 1970, in Docket No. RP69–19, et al. The objection of the petitioners to the employment of the 1971–72 base period for purposes of establishing volumetric limitations is essentially that Article VIII of the July 29, 1970 settlement agreement contemplated the imposition of volumetric limitations as a result of the next major certificate proceeding involving expansion of Consolidated's facilities, with the timing of such certificate filing being the key for determining

the appropriate base period. However, Consolidated has not proposed any major expansion of its system since the date of the settlement agreement. Inasmuch as the 1971–72 heating season has come and gone, the petitioners assume that it would be inequitable to base volumetric limitations on that period.

We are of a different view, however. In this time of severe nationwide gas shortages, it is incumbent on this Commission to carefully assess any increase in deliveries of gas as well as to critically evaluate the allocation of our finite natural gas supplies. As we stated in our November 28, 1973 order herein, it is important that maximum volumetric limitations be established for each customer on any given interstate pipeline system to effectively assist us in carrying out our duty to the public interest. We believe that the July 29, 1970 settlement agreement contemplated the near-term imposition of volumetric limitations on the Consolidated system. If such were not the case, it would have been inconsistent to include Paragraph 2 of Article VIII of the settlement agreement which removed certain pre-existing volumetric limitations in order to subsequently facilitate systemwide limitations intended to apply to the aggregate volume of purchases by each of Consolidated's customers. The clear implication of Article VIII, when read in its entirety, is that volumetric limitations were to be soon forthcoming.

As Consolidated correctly notes in its filing, there has been no subsequent major certificate proceeding involving expansion of Consolidated's facilities since the date of the settlement agreement. In view of this and in view of the current nationwide supply crisis, we have determined that now is an appropriate time to require that volumetric limitations be imposed on the Consolidated's system and, therefore, we issued the November 28, 1973, "Show Cause Order." Since there has been no major expansion, and inasmuch as Consolidated has agreed to volumetric limitations, "on wholesale sales to its jurisdictional customers applicable to such sales beginning with the 1971–72 heating season." (Settlement Agreement, Article VIII, Paragraph 1); we have determined that the 1971–72 heating season would be an appropriate and reasonable base period. This is not to say, however, that Consolidated or Rochester or any party to the proceeding is precluded from submitting record evidence demonstrating that an alternative base period should be employed. We must insist only that the record evidence to be submitted in this proceeding by Consolidated include volumetric sales information as to 1971–72 jurisdictional sales. As a means of clarification, we would additionally note that the imposition of volumetric limitations is by its very nature restrictive. We believe such restrictions are required however, as a result of the supply crisis that is currently visited upon the natural gas industry. In view of this, we do not believe that a base period established for purposes of limiting volumetric sales should be prospective in nature. Indeed, if prospective increases in jurisdictional sales are to be made they must first be evaluated and certificated by this Commission.

As a result of our notice deferring procedural dates issued December 20, 1973, in Docket No. CP74–149, and a similar Notice issued November 9, 1973, deferring the hearing in Docket No. RP73–115, a procedural hiatus has evolved in both docketed proceedings. We are persuaded by Consolidated that it would be reasonable and expeditious to consolidate the two proceedings for hearing and disposition. Consolidated's motion therefore is granted. However, in the hearing that we shall schedule, we deem it critically important that the record be developed first with regards to the volumetric limitations issue.

On November 1, 1973, Mobay Chemical Company, Division of Baychem Corporation (Mobay), filed a petition to intervene out of time in Docket No. RP73–115. Mobay purchases natural gas from the Hope Natural Gas Company, a division of Consolidated Gas Supply Corporation, under tariffs filed with the West Virginia Public Service Commission. Inasmuch as the proceeding in Docket No. RP73–115 is herein consolidated with Docket No. CP 74–149, Mobay need not file an additional petition to intervene.

Finally, we would note that on November 8, 1973, Staff filed a motion for extension of time and request for order in Docket No. RP73–115. On that same date, Staff served Consolidated with a questionnaire designed to elicit the necessary data for evaluation of the curtailment plan filed by Consolidated. On November 16, 1973, Consolidated filed an answer to Staff's motion in which it averred that it had no objection to furnishing the end-use data for the 12 months ended March, 1973, as specified in the Staff's proposed Information Form 2, but that it did object to Staff's request for data on proposed Information Form 1, due to the fact that Consolidated's distribution company affiliates do not record sales volumes delivered to individual customers on a daily basis. End-use data are of critical importance in the proper evaluation of the impact of a curtailment plan as implemented on any pipeline system. We will, therefore, require that Consolidated comply with the Staff data request as filed November 8, 1973, to the extent that the data is available to Consolidated. In complying with the Staff data request, Consolidated must clearly state the reasons for the omission of any data.

The Commission finds. (1) It is appropriate in the administration of the Natural Gas Act to consolidate for purposes of hearing and disposition the proceedings in Docket Nos. RP73–115, et al. and CP74–149.

(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 may be determined.

(3) It is necessary and in the public interest to require Consolidated to comply with the Staff data request served on Consolidated on November 8, 1973, in Docket No. RP73–115, et al.

The Commission orders. (A) Docket Nos. RP73–115, et al. and CP74–149 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 proceeding subject to the rules and regulations of the Commission: *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) A formal hearing shall be convened in the proceedings consolidated by ordering paragraph (A) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on March 19, 1974, at 10:00 a.m. (e.d.t.). The Presiding 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 hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The record in the hearing scheduled in ordering paragraph (C) shall be developed first with regards to the issues resulting from Docket No. CP74–149.

(E) The direct case of Consolidated in accordance with this Order shall be filed and served on all parties including the Commission Staff on or before February 12, 1974. Additionally, any intervenor desiring to submit testimony and/or exhibits on the issues raised by this proceeding shall file and serve its direct evidence on or before March 4, 1974.

(F) Consolidated is directed to comply with the Staff data request filed on November 8, 1973, in Docket No. RP73–115, et al. to the extent data is available to Consolidated. In complying with the Staff data request, Consolidated must clearly state reasons for the omission of any data.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–2264 Filed 1–28–74;8:45 am]

[Docket No. CS74–210]

G/O ENTERPRISES, INC.

Notice of Petition for Disclaimer of Jurisdiction or in the Alternative, for a Certificate of Public Convenience and Necessity

JANUARY 23, 1974.

Take notice that on January 3, 1974, G/O Enterprises, Inc. (Petitioner), 201 Attorney's Building, 300 Louisiana Avenue, Baton Rouge, Louisiana, 70801 filed

in Docket No. CS74–210 a petition for disclaimer of jurisdiction over a sale of natural gas to Mid-Louisiana Gas Company (Mid-Louisiana) from the University Hills Subdivision area of Baton Rouge, Louisiana, and delivery of said gas to Gulf States Utility Company (Gulf States), or in the alternative an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's regulations thereunder (18 CFR 157.40) for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it has contracted with Mid-Louisiana to sell natural gas which it will produce from a well in the University Hills Subdivision area of Baton Rouge, Louisiana, and will deliver to Gulf States' local distribution system, which is a few feet from the subject well. Gulf States is a local distribution company operating in the City of Baton Rouge and is subject to the jurisdiction of the Louisiana Public Service Commission. The petition indicates that Mid-Louisiana has an exclusive contract with Gulf States to furnish all of its gas and that Gulf States refused to buy Petitioner's gas directly because of its arrangement with Mid-Louisiana.

Petitioner believes that its sale of gas to Mid-Louisiana and delivery thereof to Gulf States are not jurisdictional and requests that the Commission make such a determination because:

(1) There are no interstate transportation or sale of natural gas;

(2) The gas is not commingled with any interstate gas; and

(3) All of the facilities of Gulf States form a part of its local distribution system and are exempt from Commission jurisdiction under section 1(b) of the Natural Gas Act.

In the alternative, out of an abundance of precaution and at the request of Mid Louisiana, if this sale is found to be jurisdictional, Petitioner requests a small producer certificate of public convenience and necessity pursuant to § 157.40 of the Commission's regulations under the Natural Gas Act (18 CFR 157.40).

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–2265 Filed 1–28–74;8:45 am]

[Docket No. E–7740]

INDIANA AND MICHIGAN ELECTRIC CO.

Notice Postponing Hearing

JANUARY 23, 1974.

Staff Counsel filed a motion on January 21, 1974, to change the hearing date fixed for January 29, 1974, by order issued November 2, 1973, in the above-designated matter. The motion states that counsel for the company and the intervening cooperatives support the motion. The motion also states that counsel for Indiana and Michigan Municipal Distributors Association and the Cities of Richmond, Auburn, Anderson, and Fort Wayne object to the proposed date.

Upon consideration, notice is hereby given that the hearing is postponed to January 31, 1974, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–2267 Filed 1–28–74;8:45 am]

[Docket No. ID–1721]

JANET GERDES SHORT

Notice of Application

JANUARY 22, 1974.

Take notice that on January 14, 1974, Janet Gerdes Short (Applicant), filed an initial application pursuant to Section 305(b) of the Federal Power Act seeking authority to hold the following positions:

Director, Monongahela Power Company, Public Utility.
Director, The Potomac Edison Company, Public Utility.
Director, West Penn Power Company, Public Utility.

Monongahela, Potomac and West Penn have from time to time various contracts and arrangements of a continuing nature with non-affiliated corporations regarding electrical interconnections, generating station and transmission line construction, servicing office equipment, advertising, distributing information to the public, testing, scrap materials, coal, ash handling, right-of-way, tree trimming, engineering studies, and other miscellaneous matters, and with certain banks acting as bond trustees or stock transfer agents or registrars.

Any person desiring to be heard or to make any protest with reference to said application, should on or before February 14, 1974, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–2276 Filed 1–28–74;8:45 am]

[Docket No. ID–1722]

JOHN T. KAUFFMAN

Notice of Application

JANUARY 22, 1974.

Take notice that on January 14, 1974, John T. Kauffman (Applicant), filed an initial application pursuant to section 305(b) of the Federal Power Act, seeking authority to hold the following positions:

Vice President, System Power & Engineering, Pennsylvania Power & Light Company, Public Utility.
Director, Safe Harbor Water Power Corporation, Public Utility.

Pennsylvania Power and Light Company is an operating company with about 7,000 employees. It derives about 99 percent of its operating revenues from supplying electric service, the balance from supplying steam heating service. The Company serves a 10,000 square mile territory in 29 counties of central eastern Pennsylvania with a population of approximately 2,349,000 persons. This service area, which has extensive agricultural and industrial sections, includes the cities of Allentown, Bethlehem, Harrisburg, Hazleton, Lancaster, Scranton, Wilkes-Barre and Williamsport.

Safe Harbor Water Power Corporation is engaged in hydroelectric generation and sale of electric service at wholesale. Safe Harbor sells two-thirds of its output to Baltimore Gas and Electric Company and the remaining one-third to Pennsylvania. Pennsylvania owns one-third of Safe Harbor's common capital stock representing one-half the voting power. The remainder of Safe Harbor's common capital stock is owned by Baltimore Gas and Electric Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before February

14, 1974, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2266 Filed 1-28-74;8:45 am]

[Docket No. CP69-251]

MICHIGAN WISCONSIN PIPE LINE CO. AND NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Petition To Amend

JANUARY 22, 1974.

Take notice that on January 10, 1974, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP69-251 a petition to amend further the order of the Commission issuing a certificate of public convenience and necessity in said docket on May 20, 1969, as amended on April 21, 1970, August 20, 1971, and August 1, 1972, pursuant to section 7(c) of the Natural Gas Act, by authorizing certain modifications of the exchange of natural gas between Michigan Wisconsin and Natural, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The orders of May 20, 1969, April 21, 1970, August 20, 1971, and August 1, 1972, authorized the construction and operation of facilities and the exchange and delivery between Michigan Wisconsin and Natural on an equivalent thermal content, no monetary compensation basis, of a basic average daily quantity of 125,000 Mcf of natural gas at exchange points at junctions of their transmission lines in Cameron Parish, Louisiana, and in Wheeler and Hansford Counties, Texas.

The petition to amend states that Michigan Wisconsin and Natural have entered into an amendatory agreement dated July 5, 1973, to modify the above described gas exchange agreement of May 20, 1969, as amended. Pursuant to said amendatory agreement Petitioners propose to extend the term of said exchange through October 31, 1977, and thereafter until cancellation by 180 days' notice. In addition, the volumes to be exchanged are modified by substituting for the definite average daily quantity of 125,000 Mcf, a range of average daily quantities of 90,000 Mcf to 125,000 Mcf of gas. Petitioners have agreed to deliver certain quantities within this range for designated periods through October 31, 1977, on a best-efforts basis.[1]

The petition states further that all deliveries by Natural will be made at the Wheeler County exchange point. Deliveries by Michigan Wisconsin will be made at the Cameron Parish exchange point, except that deliveries in excess of a daily average of 50,000 Mcf during November through March shall be made at the Hansford County exchange point.

In addition to aforementioned modifications, Petitioners propose to delete the current obligation of Michigan Wisconsin to deliver an additional 10,000 Mcf per day of available gas; to allow either party to curtail its receipt of gas for any one remaining contract year down to 75,000 Mcf of gas as an average daily quantity upon 120 days' notice; and to increase pressures at which Natural is obligated to deliver gas to not more than 900 psig for all deliveries.

The petition to amend states that the proposed modifications would be mutually beneficial to Petitioners as Petitioners will not be required to construct the additional facilities otherwise necessary to dispose of the quantities of gas currently being exchanged. Petitioners state the proposed modifications which allow for flexibility in quantities will permit more efficient utilization of existing facilities and that no new facilities will be necessary in order to effectuate the modifications proposed herein.

Any person desiring to be heard or to make any protest with reference to said Petition to Amend should on or before February 15, 1974, 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.74-2268 Filed 1-28-74;8:45 am]

[Docket No. CP72-62]

MICHIGAN WISCONSIN PIPE LINE CO., ET AL.

Notice of Petition To Amend

JANUARY 22, 1974.

Take notice that on January 4, 1974, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, Trunkline Gas Company (Trunkline) and Panhandle Eastern Pipe Line Company (Panhandle), both at P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP72-62 a petition to amend the order of the Commission in said docket on April 7, 1972, pursuant to section 7(c) of the Natural Gas Act by requesting authorization to modify certain arrangements covering the delivery of Repayment Volumes of natural gas by Panhandle to Michigan Wisconsin, 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 April 7, 1972, Michigan Wisconsin was authorized, among other things, to sell to Trunkline (Panhandle's affiliated supplier) certain volumes of gas during the period July 1, 1971, through October 31, 1972, pursuant to a gas sale and transportation agreement among Petitioners dated July 15, 1971. Under the terms of this agreement Michigan Wisconsin, commencing no earlier than December 1, 1973, would purchase from Panhandle equivalent volumes of gas (Repayment Volumes) delivered to Michigan Wisconsin from Panhandle's west-end system into Michigan Wisconsin's southwest system.

As originally provided Panhandle was to deliver said gas to Michigan Wisconsin at a proposed delivery point to be constructed at a point where their respective pipeline systems crossed near Panhandle's Greensburg Compressor Station in Kiowa County, Kansas at an estimated cost of $706,000. Michigan Wisconsin was authorized to require deliveries of up to 70,000 Mcf of gas daily from Panhandle during repayment, with Panhandle's being obligated to provide such deliveries through December 31, 1976.

The petition to amend states that Petitioners have entered into an amendatory agreement dated December 18, 1973. Under said agreement Panhandle would make such Repayment Volumes available to Michigan Wisconsin at a point on Michigan Wisconsin's existing facilities located immediately upstream of the latter's Edgar G. Hill Compressor Station in Hansford County, Texas, in lieu of the originally proposed delivery point in Kiowa County, Kansas. Petitioners state that the use of the Hansford County site will allow Panhandle to deliver gas to Michigan Wisconsin from volumes available to Panhandle at Philips Petroleum Company's processing plant located near said compressor station, which plant presently delivers gas to both Michigan Wisconsin and Panhandle.

Petitioners state that the use of the Hansford County site will obviate the necessity of construction of facilities in Kiowa County as originally proposed, thereby avoiding the projected $706,000 expenditure as well as short-term operating costs related to such facilities. Use of the new location will, however, result in greater hauls for Michigan Wisconsin than originally contemplated and Panhandle proposes to supply to Michi-

[1] Nov. 1, 1974–Mar. 31, 1975: 125,000 Mcf, April 1, 1975–Oct. 31, 1975: 110,000 Mcf, Nov. 1, 1975–Mar. 31, 1976: 100,000 Mcf, April 1, 1976–Oct. 31, 1976: 90,000 Mcf, Nov. 1, 1976–Mar. 31, 1977: 90,000 Mcf, April 1, 1977–Oct. 31, 1977: 90,000 Mcf.

gan Wisconsin, without charge, a volume of gas for compressor fuel that is equal to three percent of the Repayment Volume to be delivered to Michigan Wisconsin.

Additionally, Petitioners request that delivery of Repayment Volumes as proposed herein commence on November 1, 1974, and continue through October 31, 1977. Petitioners state that this additional year in which Repayment Volumes may be delivered to Michigan Wisconsin will allow Panhandle to be relieved of its obligation to deliver up to 70,000 Mcf per day of such gas volumes as Panhandle's obligation under the amendatory agreement is to deliver Repayment Volumes at such approximate uniform daily rate as will effectuate delivery of these obligated volumes over this extended period of time.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 15, 1974, 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.74-2269 Filed 1-28-74;8:45 am]

[Docket No. RP71-16, etc.]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

JANUARY 22, 1974.

On January 4, 1974, Staff Counsel filed a request for a further postponement of the procedural dates fixed by notice issued October 31, 1973. The request states Midwestern and its principal customers either support or do not object to this request.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Testimony and Exhibits by Staff, April 5, 1974.
Prehearing Conference, April 23, 1974 (10:00 a.m., e.d.t.).
Service of Exhibits and Testimony by Interveners, May 31, 1974.
Rebuttal Evidence by Company, June 28, 1974.
Hearing, July 9, 1974 (10:00 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2270 Filed 1-28-74;8:45 am]

[Docket Nos. G-18314; GP66121, 110, 112]

MIDWESTERN GAS TRANSMISSION AND GREAT LAKES TRANSMISSION COMPANY

Order Consolidating Dockets and Establishing Hearing Procedures

JANUARY 23, 1974.

On September 5, 1973, Midwestern Gas Transmission Company, (Midwestern) filed a petition to amend the company's import authorizations [1] to provide for adjustment clauses in the price provisions of two of Midwestern's purchased gas contracts with TransCanada Pipelines Limited (TransCanada).

On September 7, 1973, Great Lakes Gas Transmission Company (Great Lakes) filed a similar petition to amend its import authorizations [2] to allow the inclusion of an adjustment clause in the price provision of one of the company's three purchased gas contracts with TransCanada.

Midwestern states that it currently purchases gas from TransCanada under three separate contracts. One of these contracts includes an adjustment clause in the pricing provision which provides that whenever the contract price per Mcf computed at 100 percent load factor is less than 105 percent of the regulated price of gas sold by TransCanada at the Manitoba Zone Rate, the commodity portion of the contract rate shall be increased by the difference between the contract and the zone rate. Midwestern requests authority to add this provision to its other two contracts with TransCanada. The immediate effect of the amendment would be an increase in purchased gas costs to Midwestern of $3.6 million annually, as well as an additional $6 million annually if TransCanada's pending rate increase is approved by the Canadian National Energy Board (NEB).

Great Lakes states that it also purchases gas from TransCanada under three separate contracts. Two of Great Lakes contracts contain the adjustment provision described above. It now seeks to amend the remaining contract to include this provision as well. The impact of the amendment upon Great Lakes is an estimated $1.3 million annually in increased purchased gas costs, with a possibility of an additional $1.6 million increase if TransCanada's pending rate increase is approved by the NEB.

Notice of these proposed amendments of Midwestern was issued on October 19, 1973, providing for all comments and petitions to intervene to be filed by November 9, 1973. Notice of Great Lakes proposed amendments was issued on October 2, 1973, setting October 26, 1973 as the due date for all comments and petitions to intervene. Numerous interventions have been filed in all dockets.[3]

In support of its requested amendment, Midwestern states that this adjustment clause is necessary to enable TransCanada to maintain the reserves necessary to meet the requirements of its customers. The existing pricing provision, absent the adjustment clause, according to Midwestern, could make it impossible for TransCanada to meet even its present commitments. Midwestern asserts that the Commission approved this provision in granting the authorization in Opinion No. 577 and no reason exists to treat this amendment differently.

Great Lakes concurs in contending that this adjustment clause will enable TransCanada to insure the reliability of its reserves. Great Lakes also states that the adjustment clause will not allow an automatic flow through of rate increases by TransCanada, as all such increases may only become effective upon approval by the NEB.

Our review of the filings indicates that the proposed amendments have not been shown to be in the public convenience and necessity. We shall accordingly establish procedures for a hearing to determine whether the present or future public convenience and necessity requires the amendment of Midwestern and Great Lakes import authorizations in the manner requested. Further, we are not convinced that the pricing and other provisions of the subject contracts presently certificated are still in the public interest. Accordingly, the hearing herein ordered shall be for the further purpose of reviewing the basic contracts, to determine if their modification or continuation is in the public interest.

Due to the similarity of the issues in each of these affected dockets, we conclude that their ultimate disposition would best be accomplished in a consolidated proceeding. Accordingly, Docket Nos. G-18314, CP66-121, CP66-110 and CP66-112 shall be consolidated and the service of evidence and the trial of the issues raised therein shall be in accordance with the schedule prescribed below.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

(2) Good cause exists to permit intervention of the above-named petitioners.

(3) Good cause exists for consolidation of Docket Nos. G-18314, CP66-121, CP66-110 and CP66-112 in this proceeding.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly sections 3, 4, 5, 7 and 15 thereof, a pre-hearing conference shall be held on April 10, 1974, at 10:00 a.m. in a hearing room of the Federal Power

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[1] Midwestern's importation authorizations were granted by the Commission in Docket Nos. G-18314, Opinion No. 331, 22 FPC 775; CP66-110, et al., Opinion No. 521, 37 FPC 1070; and CP70-19, et al., Opinion No. 577, 43 FPC 635.

[2] Great Lakes importation authorizations were granted by the Commission in Docket Nos. CP66-110, et al., Opinion No. 521, 37 FPC 1070; CP70-19, et al., Opinion No. 577, 43 FPC 635; and CP71-222 and CP71-223, 45 FPC 1034, 1037.

[3] See Appendix.

Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(B) On or before February 18, 1974, Great Lakes and Midwestern shall file their direct testimony in support of the proposed amendments. The Commission Staff shall file its direct testimony and exhibits, if any, on or before March 1, 1974. The direct testimony and exhibits of intervenors, if any, shall be filed on or before March 15, 1974. Rebuttal evidence of Great Lakes and Midwestern, if any, shall be filed on or before March 29, 1974. Cross-examination of the evidence shall commence at 10:00 a.m. on April 11, 1974.

(C) Docket Nos. G–18314, CP66–121, CP66–110 and CP66–112 are hereby consolidated for the purposes of hearing and decision.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, and shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(E) The parties named above are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

INTERVENORS

Northern States Power Companies
TransCanada Pipelines Limited
North Central Public Service Company
Peoples Natural Gas Division of Northern Natural Gas Company
Great Plains Natural Gas Company
Wisconsin Gas Company
Inter-City Gas Limited
Michigan-Wisconsin Pipe Line Company

[FR Doc.74–2262 Filed 1–28–74;8:45 am]

[Rate Schedule Nos. 9, et al.]

MITCHELL ENERGY AND DEVELOPMENT CORP., ET AL.

Notice of Rate Change Filings

JANUARY 23, 1974.

Take notice that the producers listed in the Appendix attached below have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix below.

Any person desiring to be heard or to make any protest with reference to said filings should on or before February 1, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Jan. 7, 1974	Mitchell Energy and Development Corp., 3900 1 Shell Plaza, Houston, Tex. 77002.	9	Texas Eastern Transmission Corp.	Texas Gulf.
Jan. 10, 1974	Monsanto Co., 5051 Westheimer, Houston, Tex. 77027.	66	Transcontinental Gas Pipe Line Corp.	Do.
Do	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	28	do	Do.

[FR Doc.74–2271 Filed 1–28–74;8:45 am]

[Docket No. E–8568]

NORTHERN STATES POWER CO.

Notice of Coordinating Agreement

JANUARY 23, 1974.

Take notice that on December 27, 1973, Northern States Power Company of Wisconsin (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, a Coordinating Agreement dated December 18, 1972 between Applicant and Dairyland Power Cooperative, Lake Superior District Power Company and Superior Water, Light and Power Company for the joint operation of a 161 kilovolt transmission line from Superior to Barron, Wisconsin, connecting the transmission systems of the parties to that of the Mid-Continent Area Power Pool. The Agreement establishes a Coordinating Committee to determine routine operating conditions and anticipate unforeseen future exigencies of use.

The Coordinating Agreement which took effect December 18, 1972, extends at least until January 1, 2008, whereupon it may be terminated by not less than 48 month's prior written notice by any party.

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). All such petitions and protests should be filed on or before February 6, 1974. 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.74–2272 Filed 1–28–74;8:45 am]

[Docket No. E–8540]

OHIO POWER CO. AND COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Notice of Changes in Rates and Charges

JANUARY 23, 1974.

American Electric Power Service Corporation (AEP) on December 6, 1973, tendered on behalf of its affiliate, Ohio Power Company (Ohio), Modification No. 4 dated November 1, 1973, to the Interconnection Agreement dated December 1, 1963, between Ohio and Columbus and Southern Ohio Electric Company (Columbus), designated Ohio's Rate Schedule FPC No. 32. Columbus, on December 18, 1973, submitted its certificate of concurrence with Modification No. 4.

Section 1 of Modification No. 4 provides for an increase in the demand charge for short term power from $0.40 to $0.45 per kilowatt per week. Section 2 provides for an increase in the demand charge for limited term power from $2.15 to $2.50 per kilowatt per month. Applicant states that the terms and conditions of this service are substantially the same as those submitted on November 30, 1973, in Amendment No. 5 to the Operating Agreement dated March 1, 1966, among Consumers Power Company, The Detroit Edison Company, and Indiana & Michigan Electric Company, Docket No. E–8538. Applicant requests waiver of any requirements not already complied with under § 35.13 of the Commission's regulations under the Federal Power Act.

(No statement of service of copies of the filing, pursuant to §§ 35.13(a) and 1.17(b) of the regulations, and no form of notice of publication in the FEDERAL REGISTER, pursuant to § 1.19(c)(3) of the

Commission's rules of practice and procedure, were included in AEP's filing.)

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 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 February 7, 1974. 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.74-2273 Filed 1-28-74;8:45 am]

[Docket No. CP74-182]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

JANUARY 23, 1974.

Take notice than on January 7, 1974, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP74-182 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressor, pipeline and related facilities on its existing gas supply system west and southwest of Applicant's Haven, Kansas, Compressor Station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed compressor and pipeline facilities will be located at existing sites and operated as adjuncts to existing gathering systems used to receive gas from some of Applicant's older reservoirs which have experienced declines in the level of natural gas pressure. Applicant states further that the facilities proposed herein will produce the necessary pressure reductions in capacity reqiured to compensate for this decline in natural gas pressure and enable Applicant to receive gas committed to it.

The application states that the proposed facilities are required to assist Applicant in meeting its main line requirements east of its Haven Compressor Station by preventing a peak winter day shortfall of west end input of approximately 85,000 Mcf of gas.

Applicant proposes to construct and operate the following facilities:

(A) 25,400 horsepower compressor facilities at the following stations:

Name of station	Location	Proposed horsepower
Liberty	Woods County, Okla.	1,400
Columbian	Grant County, Kans.	4,000
Denson No. 1	Moore County, Tex.	600
Woods	Seward County, Kans.	[1] 1,800
Panoma	Stevens County, Kans.	4,000
Breech	do	3,000
Hugoton	do	4,000
Hall	Moore County, Tex.	[2] 1,200
Continental	do	1,200
Brent	do	700
Deer	Carson County, Tex.	700
Teagarden	Woods County, Okla.	700
N. E. Seiling	Woodward County, Okla.	700
Larabee	Meade County, Kans.	700
Mouser	Texas County, Okla.	[3] 700

[1] Consisting of 1,200 hp relocated from Seward.
[2] Consisting of 600 hp relocated from Denson No. 2.
[3] Relocated from N. E. Seiling.

(B) 111.9 Miles of pipeline at the following locations:

Area	Location		Length	
	County	State	Miles	Size (inches)
West Panhandle Area.	Moore	Texas	1.1	6
	do	do	2.9	8
	do	do	2.1	10
Guymon Deep Area.	Texas	Oklahoma	5.3	10
	Hansford	Texas		
Meade Area	Meade	Kansas	1.0	8
	do	do		
Ulysses Area	Grant	do	1.4	6
			5.1	8
	Seward	do	2.1	10
	Grant	do	2.6	12
	do	do	0.5	16
Seward Area	Seward	do	3.3	4
	do	do	1.4	6
		do	2.2	10
Hugoton Area.	Stevens	do	0.9	6
	do	do	29.2	8
			17.2	10
			11.0	12
	do	do	16.0	16
	Morton	do	2.5	20
Rolla Area	Texas	Oklahoma	2.4	10
	do	do	1.7	12

Applicant states that the estimated cost of the facilities proposed herein is $15,176,000 which will be financed initially from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2274 Filed 1-28-74;8:45 am]

[Docket No. E-8242]

PUBLIC SERVICE CO. OF OKLAHOMA

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

JANUARY 23, 1974.

On January 8, 1974, Staff Counsel filed a motion for a further extension of the procedural dates fixed by notice issued October 31, 1973, in the above-designated matter. The motion states that all parties except Oklahoma Consumer Protection Agency had been contacted and had no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Evidence by Staff, February 8, 1974.
Service of Intervener's Evidence, February 26, 1974.
Service of Rebuttal Evidence, March 15, 1974.
Prehearing Conference, March 25, 1974 (10:00 a.m., e.d.t.).
Hearing, March 26, 1974 (10:00 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2275 Filed 1-28-74;8:45 am]

[Docket No. CP74-180]

TENNESSEE GAS PIPELINE CO. AND COLUMBIA GULF TRANSMISSION CO.

Notice of Application

JANUARY 23, 1974.

Take notice that on January 2, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP74-180 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and compressor facilities in Acadia and Vermilion Parishes,

Louisiana, which facilities will, upon completion, become a part of Applicants' existing Blue Water Project (BWP), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf proposes to construct facilities over a period of two successive years, as follows:

In 1974 (a) 18.7 miles of 30-inch pipeline loop of the Western Shore Line of the BWP between the existing separation and dehydration facility in Vermilion Parish, Louisiana, known as the Pecan Island Plant, and the southern terminus of Columbia Gulf's existing 30-inch pipeline loop of the Western Shore Line south of Egan, Acadia Parish, Louisiana; (b) A 12,000 horsepower engine compressor unit, to be known as the Pecan Island Compressor Station, at the Pecan Island Plant site; (c) An additional high pressure gas dehydration train at the Pecan Island Plant; (d) Additional metering facilities at Egan; and in 1975—an additional 12,000 horsepower engine-compressor unit at the Pecan Island Compressor Station. Said facilities will be operated by Columbia Gulf.

The total cost of the above facilities is estimated by Applicants to be approximately $14,577,600.

In addition to construction of the above-described facilities, Applicants seek authorization for the commitment, at the time the facilities to be constructed in 1975 are placed in service, by Columbia Gulf to the BWP of 22.6 miles of existing 30-inch pipeline loop in Acadia and Vermilion Parishes extending along side the Western Shore Line of the BWP. The net depreciated book value of such pipeline facilities, over which Columbia Gulf shall retain 100 percent ownership, is stated as approximately $4,569,000.

Applicants state that the cost of the proposed facilities will be shared in such a manner that the cost to each party upon completion of the 1975 facilities and the addition by Columbia Gulf to the BWP of its 22.6 miles of existing pipeline loop shall be equal to one-half of the total cost and book value of such facilities.

Applicants state that the ownership of all such facilities is determined pursuant to a Letter Agreement between them, dated December 7, 1973, and that under such agreement, the proposed facilities will be constructed, operated and maintained by Columbia Gulf. The subject agreement states that the total cost of the 1974 facilities shall be borne 28.8 percent by Columbia Gulf and 71.2 percent by Tennessee and that they shall share the costs and have undivided ownership of such facilities and of related rights of way and appurtenances as follows:

Item (a): Tennessee's share of the cost of Item (a) shall equal one-half of the sum of the 1974 construction cost of Item (a) and the 1975 net depreciated book cost as of November 1, 1975, of the 22.6 miles of 30-inch loop line, which Columbia Gulf will dedicate to the BWP in 1975. Columbia Gulf's share of the cost of Item (a) shall be equal to the remainder of the 1974 construction cost of Item (a) not paid by Tennessee. Applicants shall share undivided ownership of Item (a) in proportion to the contribution of each to the total cost of Item (a).

Item (c) and (d): Each Applicant's share of the cost of Items (c) and (d) shall be one-half the total 1974 construction cost of such items; however, Tennessee's share of such cost shall be applied exclusively to Item (c), and Columbia Gulf's share of such cost shall be applied first to 100 percent of the cost of Item (d) and the remainder of its contribution applied to pay the remaining balance of Item (c) not contributed by Tennessee. Columbia Gulf shall continue to own 100 percent of Item (d), with Tennessee having no ownership in Item (d). The undivided ownership of each Applicant in the Pecan Island Plant shall then be redetermined by adding each Applicant's contribution to Item (c) as determined above to such Applicant's original cost in such plant (prior to the construction of Item (c)) and then dividing such sum by the sum of both Applicants' original cost in such plant (prior to the construction Item (c)) and the total cost of Item (c).

Item (b): Tennessee's share of the cost of Item (b) shall be equal to that amount determined by subtracting from Tennessee's 71.2 percent share of the 1974 total construction cost, the sum of Tennessee's cost of Items (a), (c) and (d) as determined above. Columbia Gulf's share of the cost of Item (b) shall be equal to that amount determined by subtracting from Columbia Gulf's 28.8 percent share of the 1974 total construction cost, the sum of Columbia Gulf's cost of Items (a), (c) and (d). Applicants shall share undivided ownership in item (b) in proportion to the contribution of each to the total cost of Item (b).

The agreement additionally provides that the cost of the 1975 facilities shall be borne by Applicants in such a manner that the total expenditure by each Applicant for (1) the facilities constructed in 1974 and 1975 and (2) the net depreciated book value, as of their BWP in-service date, of the existing pipeline facilities added to the BWP by Columbia Gulf in 1975, shall be equal to ½ of the sum of the cost and the book value of such facilities. Ownership of said 1975 facilities shall be shared prior to completion in proportion to the capital contribution of each Applicant in 1975.

The ownership of the Pecan Island Compressor Station after completion of the 1975 facilities, shall be shared by Applicants in proportion to the total original cost contributed in 1974 and 1975 by each Applicant, while Columbia Gulf will retain 100 percent ownership of its 22.6 miles of pipeline loop after commitment to the BWP. Each Applicant shall furnish the actual volume of gas required for linepack in the 41.3-mile loop section in proportion to its percentage entitlement to utilize the capacity of the BWP after the completion of the 1975 construction.

The application states that the proposed facilities will make additional transmission capacity of approximately 312,100 Mcf of gas per day at 14.73 psia available to Applicants in the fall of 1974, of which 223,800 Mcf of gas per day will be available to Tennessee and 88,300 Mcf of gas per day will be available to Columbia Gas. Starting in the fall of 1975, Applicants will have available an additional increase in transmission capacity of approximately 112,500 Mcf of gas per day for a total additional capacity increase of 424,600 Mcf of gas per day. The application states that at this time half of this total increase in capacity, 212,300 Mcf per day, will be available to each Applicant for continuous future use.

The application states further that under the present BWP design total capacity of 1,083,700 Mcf per day of gas, Tennessee has an existing capacity entitlement of 639,400 Mcf of gas per day and Columbia Gulf has an existing capacity entitlement of 444,300 Mcf of gas per day. Upon completion in 1975 of the proposed facilities and addition of the 22.6 miles of existing pipeline, the total design capacity will be 1,508,300 Mcf of gas per day, of which 851,700 Mcf of gas per day will be available to Tennessee and 656,600 Mcf of gas per day will be available to Columbia Gulf.

Applicants state that for the present Columbia Gulf proposes to take all its gas receipts from the BWP at the BWP's Western Shore Line terminus at Egan, Louisiana. Columbia Gulf also proposes to introduce volumes of gas from Exxon Company U.S.A. (Exxon), for transmission through this Western Shore Line at Pecan Island. The application states that part of the facilities proposed herein by Columbia Gulf are required by it so as not to interfere with Tennessee's utilization of Tennessee's BWP capacity entitlement in the Western Shore Line as provided by the BWP Agreement of March 5, 1971.

In order for Columbia Gulf to receive 306,000 Mcf of gas per day from Exxon at Pecan Island, Columbia Gulf must relinquish 43,000 Mcf of gas per day of capacity entitlement for transportation of offshore gas volumes in the BWP to be delivered at Egan, thereby reducing its 532,600 Mcf per day total BWP capacity entitlement resulting from the proposed 1974 facilities to 489,600 Mcf per day of available offshore capacity in 1974. In 1975 Columbia Gulf must relinquish 26,000 Mcf per day of BWP capacity entitlement for such offshore transportation in order to transport a projected 275,400 Mcf of gas per day to be received from Exxon at Pecan Island, thereby reducing its 1975 entitlement of 656,000 Mcf of gas per day to 630,600 Mcf of gas per day transmission capacity entitlement south of Pecan Island.

The application states that at the beginning of the 1974–75 heating season, Columbia Gulf would utilize its proposed

BWP capacity entitlement of 489,600 Mcf per day as follows:

	Mcf/day
Reserves peak deliverability [1]	240,400
Gas transported for Texas Gas Transmission Corp. and Consolidated Gas Supply Corp	102,000
Natural's entitlement to delivery capacity [2]	75,000
	452,400

[1] Estimated recoverable reserves dedicated to Columbia Gas Transmission Corporation (Columbia Transmission) and available for transportation through the BWP.

[2] The application states that Columbia Gulf has contracted with Natural Gas Pipeline Company of America (Natural) to transport up to 75,000 Mcf of natural gas from Natural's contracted-for gas reserves with Shell Oil Company in Eugene Island Block 331 under an arrangement whereby Natural agrees to make available to Columbia Gulf an equivalent delivery capacity under Natural's entitlement in the Stingray Pipeline Company's proposed pipeline system (Stingray).

The application states further that Columbia Gulf has been requested by its affiliates, Columbia Gas Development Corporation (Development) and Columbia Transmission, to make arrangements for the transportation of gas from gas reserves which they own or control in Blocks 479, 485, and 531 West Cameron Area, offshore Louisiana. An estimated 75,000 Mcf of gas per day will be available from Blocks 485 and 581 in the latter part of 1974; and as these blocks are located near the proposed Stingray pipeline, Columbia Gulf and Natural entered into the above described arrangement with both parties making available up to 75,000 Mcf per day of their delivery capacity entitlements.

The application states further that if for any reason such exchange of pipeline delivery capacity is not consummated, Columbia Gulf will apply for authorization to construct facilities to connect the West Cameron gas to the BWP via an existing pipeline extending from the BWP to East Cameron Block 272. In either event, Columbia Gulf plans to transport said 75,000 Mcf of gas per day through the BWP, commencing in late 1974.

The application states further that at the beginning of the 1975–76 heating season, Columbia Gulf would utilize its proposed BWP capacity entitlement of 630,600 Mcf per day as follows:

	Mcf/day
Reserves peak deliverability [1]	240,000
Gas transported for Texas Gas Transmission Corp. and Consolidated Gas Supply Corp	102,000
Natural's entitlement to delivery capacity [2]	75,000
Deepwater East and West Cameron gas [3]	200,000
	617,400

The application states that Tennessee's system will realize increased deliverability from existing reserves attached to the BWP beginning in 1974. Increased deliverability of approximately 150,000 Mcf of gas per day from such reserves will become available to Tennessee in 1974 with an additional 150,000 Mcf of gas per day in 1975. The application states further that Tennessee through advance payments and other contractual arrangements with certain producers has the right to "call" on volumes of gas reserves that are presently being developed in areas that are reasonably close to the BWP system and can be attached to said system in the immediate future. Tennessee estimates that such reserves will provide additional daily deliverability of 200,000 Mcf of gas per day.

Applicants allege that absent the facilities proposed herein, Applicants will have insufficient capacity in the BWP to accommodate the increased daily volumes of natural gas which will become available from gas reserves in the area which are already dedicated and certificated for sale to Applicants. Applicants state that such increased quantities of gas are needed to serve their respective customers in the immediate years ahead.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1974, 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 acordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2277 Filed 1-28-74;8:45 am]

[3] 200,000 Mcf of gas per day is estimated to be received through the attachment of gas reserves in East Cameron Blocks 370 and 371 and West Cameron Block 642. Columbia Gulf's affiliates, Development and Columbia Transmission, either own or have a right to purchase said gas reserves which are located in water depths of 350 feet or more and are expected to become available for the 1975–76 heating season.

[Docket No. RP74-39-4]

TEXAS EASTERN TRANSMISSION CORP.

Order Granting Temporary Relief Permitting Intervention, Providing for Hearing and Establishing Procedures

JANUARY 22, 1974.

On December 12, 1973, The City of Lawrenceberg, Tennessee (Lawrenceberg) filed a Petition for Emergency Relief pursuant to § 1.7 of the Commission's rules of practice and procedure. Lawrenceberg requests that the Commission order its sole supplier of natural gas, Texas Eastern Transmission (TETCO) to supply it with 124,000 Mcf in excess of its present curtailed annual entitlement. Lawrenceberg states that the entire 124,000 Mcf would be sold to the Murray Ohio Manufacturing Company (Murray), a manufacturer of bicycles and power lawn mowers for use in that company's process steam boilers.

Lawrenceberg, a city of approximately 10,000 people, purchases gas from TETCO under the latter's SGS and WS rate schedules. The City's Annual Quantity Entitlement under both rate schedules is 1,251,227 Mcf. Lawrenceberg is subject to annual curtailment by TETCO, but because it's maximum contract quantity does not exceed 10,000 Mcf per day it is exempt from daily curtailment under TETCO's tariff.

More than half of the gas Lawrenceberg purchases from TETCO, it sells to Murray Ohio Manufacturing Company, a firm industrial customer since 1956 and the city's largest employer. Murray's normal gas requirements are as follows:

	Mcf
Process Steam Boilers	300,000
Brazing Furnaces, Paint Ovens and Plating Tanks	150,000
Winter Heating of Plant	120,000
Total	570,000

Lawrenceberg sold Murray 581.340 Mcf last year.

On September 5, 1973, TETCO placed into effect an end use curtailment plan reflecting the priorities of Commission Order No. 467–B. On September 12, 1973, Lawrenceburg notified Murray that it would only be able to sell it 222,000 Mcf for the twelve months ending August 31, 1974. The reduction in volume includes all gas allotted for the process steam boilers and 23 percent of Murray's remaining requirements. After receiving this communication from Lawrenceburg, Murray lowered plant thermostats to 55°, lowered temperatures in its wash tanks about 70°, operated fewer wash tanks, shut down four paint strip tanks and reduced temperatures in its drying ovens from 400° to 250°. Murray is currently installing two 150,000 gallon tanks to hold fuel oil. By February 15, 1974, Murray will have converted its process steam boilers to use fuel oil in addition to natural gas and propane, and it is now buying as much fuel oil as possible. These procedures will enable Murray to operate with an allocation of 222,000 Mcf next

year, but Murray will need an additional 124,000 Mcf to continue to operate until September 1, 1974, since it could not immediately switch to oil. Lawrenceburg also has purchased a peak shaving plant which will add about 70,000 Mcf to its annual gas supply which it hopes to use to meet peaks in residential service depending on the supply of propane.

In Lawrenceburg's petition and in an affidavit of Robert A. Flesher, Executive Vice President in charge of manufacturing for Murray, it is stated that denial of this petition will force Murray to shut down from May 1, 1974, to September 1, 1974, leaving virtually all of its 3,100 employees jobless from May until September and causing a loss in payroll of $20,000,000. It is also stated in the petition and in attached affidavits that local suppliers of Murray would be adversely affected. Murray states that if it does not meet its orders for bicycles, importers will fill the gaps and Murray may be unable to recapture its market. Murray further states that the first half of the year is crucial in making power mower sales and if orders are not filled, Murray might lose customers permanently. A permanent loss of sales will cause a permanent loss in jobs in the Lawrenceburg area according to Murray.

Murray claims that even if it is able to purchase oil by February 15, which it has contracted to do, it will be forced to close from May 1 until September 1, 1974 unless it obtains the relief sought herein. If it is unable to purchase oil because of the national oil shortage, it states that it will be forced to close down as early as February 1, 1974.

Public notice of Lawrenceburg's petition was given on December 27, 1973, with protests and petitions to intervene due by January 7, 1974. The following were received:

Public Service Commission of the State of New York, 1/7/74.
Columbia Gas Transmission Corporation, 1/7/74.
General Motors Corporation, 1/7/74.
Central Illinois Public Service Company, 1/7/74.
Algonquin Gas Transmission Corporation, 1/7/74.
Texas Eastern Transmission Corporation, 1/7/74.

Only Columbia Gas Transmission Corporation has requested a hearing.

Under these circumstances good cause has been shown to authorize and direct TETCO to supply Lawrenceburg with 124,000 Mcf in excess of its curtailed annual quantity entitlement pending hearing and decision. Accordingly, we grant Lawrenceburg temporary extraordinary relief on the basis of sworn allegations made pending hearing and decision on its petition.

The Commission finds. (1) The grant as hereinafter ordered of Lawrenceburg's petition filed December 12, 1973, is in the public interest and is consistent with the purposes of the Natural Gas Act.

(2) Good cause exists to set the proceedings in Docket No. RP74-39-4 for formal hearing.

(3) The participation of each party which has petitioned to intervene in these proceedings may be in the public interest.

The Commission orders. (A) The relief sought by Lawrenceburg in its petition filed December 12, 1973, is hereby granted on a temporary basis pending hearing and decision on the merits of the petition.

(B) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on February 12, 1974, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the Lawrenceburg petition.

(C) On or before February 1, 1974, petitioners and all parties supporting or opposing petitioner's request shall serve with the Commission and upon all parties to the proceeding including Commission Staff their testimony and exhibits in support of their position.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for this purpose, shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(E) Each party which has petitioned to intervene in this proceeding is hereby permitted to intervene, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-2263 Filed 1-28-74;8:45 am]

[Docket No. CP74-183]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JANUARY 23, 1974.

Take notice that on January 7, 1974, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-183 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport natural gas for United Gas Pipe Line Company (United) pursuant to an agreement between said parties dated October 26, 1973. Under the proposed arrangement, United will deliver to Applicant volumes of natural gas purchased by United from the Block 186 Field, Ship Shoal Area, offshore Terrebonne Parish, Louisiana. Applicant will transport such gas on a firm basis and deliver it to United at a presently existing connection between the facilities of United and Applicant in Terrebonne Parrish at Applicant's Compressor Station 062.

The application states that Applicant is not obligated to transport more than 10,000 Mcf at 14.73 psia of such gas per day, for which United will pay Applicant 6.262755 cents per each Mcf transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-2278 Filed 1-28-74;8:45 am]

GAS INDUSTRY RESEARCH PLAN

Notice of Conference

JANUARY 25, 1974.

A conference between members of the Federal Power Commission staff and representatives of the natural gas industry is to be held in Room 6200 of the Federal Power Commission offices, 825 North Capitol Street NE., Washington, D.C. on Thursday, February 7, 1974, at 10 a.m., to further discuss a Gas Industry Re-

search Plan which has just been developed, defining the total research needs for the natural gas industry covering exploration, production, synthetic supplies, transmission, distribution, LNG, and utilization. As this research will be funded both by the Federal Government and industry, the group will explore various concepts for providing industry funds and developing an organization to effectively manage the broad research program.

The conference is open to the public.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2419 Filed 1-28-74;8:45 am]

[Docket No. E-8560]

CONSUMERS POWER CO.

Notice of Supplemental Agreement

JANUARY 25, 1974.

Consumers Power Company (Consumers) on December 18, 1973 tendered for filing Supplemental Agreement No. 6 dated November 21, 1973 to the emergency energy and capacity agreement dated November 15, 1967 (designated Consumers Rate Schedule FPC No. 15 between Consumers and the City of Holland, Michigan. Supplemental Agreement No. 6 provides that the Planning Committee shall determine the mutual emergency capacity to be in effect under the agreement during the six-month period commencing on December 1, 1973 and for each six-month period thereafter during the term of the agreement. The supplement also provides that the mutual energy capacity to be in effect during the period from December 1, 1973 to June 1, 1974, shall be five (5) megawatts.

(No statement of service of copies of the filing, pursuant to §§ 35.13(a) and 1.17(b) of the Commission's regulations under the Federal Power Act, and no proposed notice for publication in the FEDERAL REGISTER, pursuant to § 1.19(c)(3) of the Commission's rules of practice and procedure, were included in Consumer's filing.)

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests 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 January 29, 1974. 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.74-2421 Filed 1-28-74;8:45 am]

[Docket No. RP71-16, etc.]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Proposed PGA Rate Adjustment

JANUARY 25, 1974.

Take notice that on December 14, 1973, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 1 and Second Revised Sheet No. 5 to be effective February 1, 1974.

Midwestern states that the sole purpose of filing Second Revised Sheet No. 5 is to reflect PGA rate adjustments pursuant to the PGA Clauses in Articles XVII and XVIII of the General Terms and Conditions. Midwestern further states that as to the Southern System, the Current Purchased Gas Cost Rate Adjustment pursuant to section 2 of Article XVII reflects the rate increases filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), to be effective on January 1, 1974, and that such rates of Tennessee are the revised rates of Tennessee filed on November 30, 1973, in Docket No. RP73-113 which also reflect Tennessee's PGA rate increase filed November 16, 1973, to be effective on January 1, 1974. Midwestern also states that as to the Northern System, the PGA rate adjustment consists of a Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System pursuant to section 3 of Article XVIII based on the balance in such account as of October 31, 1973.

Midwestern states that First Revised Sheet No. 1 is filed to revise the Table of Contents to eliminate Rate Schedule TWS which was cancelled, effective November 9, 1973, by Midwestern's filing in Docket No. RP74-29.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 January 29, 1974. 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; *Provided, however,* That any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2420 Filed 1-28-74;8:45 am]

[Docket No. RP73-36]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Proposed PGA Rate Adjustment

JANUARY 25, 1974.

Take notice that on December 14, 1973, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Eighth Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1.

This sheet is being filed pursuant to Section 18 of the General Terms and Conditions of Panhandle's FPC Gas Tariff, Original Volume No. 1. Panhandle submits that the foregoing tariff sheet reflects an increase in the current cost of gas and recovery of amounts in the deferred purchased gas cost account and flow-through of amounts resulting from Trunkline Gas Company's rate adjustment effective February 1, 1974. An effective date of February 1, 1974, is proposed. Panhandle states that copies of the filing were served upon its jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said application should filed 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 January 29, 1974. 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.74-2418 Filed 1-28-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on February 5, 1974 at the Howard Johnson Motor Lodge, National Airport, Arlington, Virginia from 5:00 p.m.-10:00 p.m., and on February 6, 1974 at 425-13th Street, NW., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting is called to discuss subcommittee reports, legislative proposals and recommendations from State Title I Coordinators to improve the delivery of Title I, ESEA services, and to discuss draft of the annual report for 1974.

Because of limited space for the meeting of February 5 and 6, all persons wishing to attend should call for reservations at Area Code 202–382–6945 by February 4, 1974.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street NW, Suite 1012, Washington, D.C.

Signed at Washington, D.C., on January 18, 1974.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.74–2258 Filed 1–28–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 433]

ASSIGNMENT OF HEARINGS

JANUARY 24, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 73165 Sub 324, Eagle Motor Lines, Inc., now assigned March 5, 1974, will be held in Room 235, Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbis, Ohio.

MC 119777 Sub 267, Ligon Specialized Hauler, Inc., now assigned March 6, 1974, will be held in Room 235, Federal Bldg., & U.S. Courthouse 85 Marconi Blvd., Columbus, Ohio.

MC 123685 Sub 17, Peoples Cartage, Inc., now assigned March 8, 1974, will be held in Room 235, Federal Building, & U.S. Courthouse, 85 Marconi Blvd., Columbus Ohio.

MC 119789 Sub 173, Caravan Refrigerated Cargo, Inc., now assigned March 7, 1974, will be held in Room 235, Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio.

MC 107515 Sub 855 Refrigerated Transport Co., Inc., now assigned March 11, 1974, will be held at the Holiday Inn-Downtown, 4th and Town Sts., Columbus, Ohio.

MC 118848 Sub 16, Domenico Bus Service, Inc., now assigned February 11, 1974, at Newark, N.J., is postponed indefinitely.

MC 130186, Vergil M. Webb, Marian H. Webb and Larry H. Webb, dba Holiday World Tours, now assigned February 19, 1974, at Salt Lake City, Utah, will be held in Room 314, Annex Building, 135 South State Street.

MC 124692 Sub 114, Sammons Trucking, now assigned February 25, 1974, will be held in Room 13025, 450 Golden Gate Avenue, San Francisco, Calif.

MC 111375 Sub 69, Pirkle Refrigerated Freight Lines, Inc., now assigned February 27, 1974, will be held in Room 13025, 450 Golden Gate Ave., San Francisco, Calif.

MC 138185, F. Robert McDonald, dba Auto Delivery Service, now assigned March 4, 1974, will be held in Room 13025, 450 Golden Gate Ave., San Francisco, Calif.

MC–F–11874, Matlack, Inc.—Control—CF Tank Lines, Inc., now assigned March 6, 1974, will be held in Room 13025, 450 Golden Gate Avenue, San Francisco, Calif.

MC–F–11940, System 99—Control and Lease—Trans Western Express, Inc., MC 98327 Sub 7, System 99, FD 27445, System 99 Notes, now assigned March 11, 1974, will be held in Room 103, Pioneer Courthouse, 555 SW., Yamhill St., Portland, Oregon.

MC–C–8077, Middle and Western Farms Cooperative Association, Northern Fruit Company Ritzlo Produce, Inc., Jack T. Baillie Co., Inc., Couture Farms, B. J. McAdams, James D. Pauly, Edward Farrington, James Wade, and William R. Crow, Jr.—Investigation of Operations and Practices; MC 134922 Sub-27, B. J. McAdams, Inc., Extension—Helen, Arkansas, is continued to April 1, 1974, at 2106 Federal Office Building, 700 W. Capitol Street, Little Rock, Arkansas.

MC–107012 Sub 188, North American Van Lines, Inc., now assigned March 18, 1974, at Chicago, Ill., is cancelled and the application is dismissed.

MC 48958 Sub 114, Illinois-California Express, Inc., now assigned February 25, 1974, at Salt Lake City, Utah, is cancelled and application dismissed.

MC 127834 Sub 94, Cherokee Hauling & Rigging, Inc., now assigned March 6, 1974, at Columbus, Ohio, will be held in Room 235, Federal Building & U.S. Courthouse, 85 Marconi Blvd. instead of at the Holiday Inn-Downtown.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–2340 Filed 1–28–74;8:45 am]

[Notice 11]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 23, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 44735 (Sub-No. 12 TA), filed January 14, 1974. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, P.O. Box 6237, Kansas City, Mo. 64126. Applicant's representative: Lowell L. Knipmeyer, 2704 Power & Light Building, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between St. Louis, Mo.-East St. Louis, Ill. Commercial Zone on the one hand, and, on the other, points in Kansas and Nebraska; and points in Missouri on and west of Highway 63 in Missouri, for 180 days. Note: Applicant intends to interline at St. Louis, Mo. with MC 44735. SUPPORTING SHIPPER: Wheeling-Pittsburgh Steel Corporation, 1134–1140 Market Street, Wheeling, W. Va. 26003. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 105632 (Sub-No. 29 TA), filed January 14, 1974. Applicant: SOUTHERN REGION MOTOR TRANSPORT, INC., Mail: P. O. Box 1808, (Box zip 20013), Off: 920 15th Street NW., Washington, D.C. 20005. Applicant's representative: William H. Teasley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except explosives and commodities in bulk, in tank vehicles), between Macon, (Bibb County) Ga. and Warner Robins, (Houston County) Ga., restricted to the movement of trailers having a prior or subsequent rail haul, for 180 days. SUPPORTING SHIPPER: H. Frederick Heller, Midland Glass Co., Inc., P. O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue, NW., Washington, D.C. 20423.

No. MC 109677 (Sub-No. 48 TA), filed January 15, 1974. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, N.Y. 12828. Applicant's representative: J. Fred Relyea (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor*, in bulk, in tank vehicles, (1) from Corinth, N.Y., to Baltimore and Leslie, Md.; Cambridge, Mass.; Philadelphia, Plymouth Meeting, Lancaster, Mount Union, and Morrisville, Pa.; Jackson, Niles and Black Fork, Ohio; and the Ports of Entry on the United States-Canada International Boundary line at Champlain and

Rouses Point, N.Y., with no transportation for compensation on return, except as otherwise authorized; (2) from Corinth, N.Y., to Ambler, Van Dyke and Womelsdorf, Pa.; Passaic, N.J.; and the Ports of Entry on the United States-Canada International Boundary line at Buffalo and Niagara Falls, N.Y., with no transportation for compensation on return, except as otherwise authorized; (3) from Corinth, N.Y., to points in New York located on the Hudson River, Mohawk River, Erie Canal, Champlain Canal, and the St. Lawrence Seaway, restricted to shipments having a subsequent movement by water, with no transportation for compensation on return, except as otherwise authorized; and (4) from Corinth, N.Y., to points in Maryland (except Baltimore and Leslie), points in Pennsylvania (except Philadelphia, Plymouth Meeting, Lancaster, Mount Union and Morrisville), and points in New Jersey, with no transportation for compensation on return, except as otherwise authorized, for 180 days. SUPPORTING SHIPPER: Georgia-Pacific Corporation Chemical Division, 800 Summer Street, Stamford, Conn. SEND PROTESTS TO: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 110420 (Sub-No. 696 TA), filed January 15, 1974. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186 (Box zip 53158), Pleasant Prairie, Wis., and Off: I–94 County Highway C, Bristol, Kenosha Co., Wis. 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt emulsions*, in bulk, in insulated tank vehicles, from Chicago, Ill., to Shamokin, Pa., for 180 days. SUPPORTING SHIPPER: J. J. Trumpeer Co., Inc., 520 N. Michigan Ave., Chicago, Ill. (Don Eckberg, Sales Manager). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street—Room 807, Milwaukee, Wis. 53203.

No. MC 112822 (Sub-No. 311 TA), filed January 14, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Campbell Soup Company at or near Omaha, Nebr., to Granite City, Ill. and points in Missouri, Wisconsin, and Upper Peninsula of Michigan, for 180 days. SUPPORTING SHIPPER: Campbell Soup Company, Albin J. Budash, Campbell Place, Camden, N.J. 08101. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240—Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 112989 (Sub-No. 35 TA), filed January 14, 1974. Applicant: WEST COAST TRUCK LINES, INC., P.O. Box 668, Coos Bay, Oreg. 97420. Applicant's representative: Frederick M. Kelley, Jr., Route 4, Box 194R, Eugene, Oreg. 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Portland, Oreg., to points in California, for 180 days. SUPPORTING SHIPPER: The Flintkote Co., 5500 S. Alameda, Vernone, Calif. 90058 and Bird & Son, Inc., 2555 Flores Street, Suite 590, San Mateo, Calif. 94403. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Court House, 520 S. W. Morrison Street, Portland, Oreg. 97204.

No. MC 113410 (Sub-No. 82 TA) (AMENDMENT), filed December 20, 1973, published in the FEDERAL REGISTER issue of January 14, 1974, and republished as amended this issue Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr. (same address as above).

NOTE.—The purpose of this partial republication is to add additional supporting shippers, which was omitted in previous publication in the Federal Register. The supporting shippers are: Gustafson Oil Company, 1234 Baker Bldg., Minneapolis, Minn. 55402 and Phillips Petroleum Company, 154 Phillips Bldg. Annex, Bartlesville, Okla. 74004. The rest of the application will remain the same.

No. MC 113410 (Sub-No. 85 TA), filed January 15, 1974. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain products*, with not more than 40% other ingredients, in bulk, from Minneapolis, Minn., to Superior and Appleton, Wis.; Hillsdale, Mich.; New Albany, Ind.; and Springfield, Ill., for 180 days. SUPPORTING SHIPPERS: ADM Milling Co., 2501 Hiawatha Avenue, Minneapolis, Minn. 55406 and The Pillsbury Co., 608 2nd Avenue South, Minneapolis, Minn. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 116319 (Sub-No. 7 TA), filed January 14, 1974. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Darrington, Wash. 98241. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, shakes and shingles*, from Darrington, Wash. and points within radius of three miles thereof, to points in Washington, including ports of entry on the United States-Canada International Boundary line, for 180 days. SUPPORTING SHIPPER: Summit Timber Company, P.O. Box 419, Everett, Wash. 98206. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 118060 (Sub-No. 4 TA) (CORRECTION), filed December 21, 1973, published in the FEDERAL REGISTER issue of January 14, 1974, and republished as corrected this issue. Appliant: CAPITOL PACKING CO., a Corporation, 1050 Yuma Street, Suite 109, Denver, Colo. 80204. Applicant's representative: Chester Zyblut, 1522 K Street NW., Washington, D.C. 20005.

NOTE: The purpose of this partial republication is to add the state of New York as a destination state, which was omitted in the previous publication in the Federal Register. The rest of the application will remain the same.

No. MC 125168 (Sub-No. 29 TA), filed January 15, 1974. Applicant: OIL TANK LINES, INC., Hook Road & Darby Street, P.O. Box 190, Darby, Pa. 19023. Applicant's representative: R. H. Davis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, (1) from Reno, Rouseville, Karns City and Pittsburgh, Pa., to points in West Virginia and (2) from Charleston and Falling Rock, W. Va., to points in Pennsylvania, for 180 days. SUPPORTING SHIPPER: Pennzoil Company, Drake Bldg., Oil City, Pa. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 127303 (Sub-No. 13 TA), filed January 15, 1974. Applicant: HENRY ZELLMER, doing business as ZELLMER TRUCK LINES, P.O. Box 996, Granville, Ill. 61326. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Iowa City, Iowa, to points in Illinois (except Chicago and Rock Island, Ill. and their commercial zones), Wisconsin and points in Missouri, on and east of U.S. Highway 63, restricted to traffic originating at the facilities of Heinz U.S.A., Division of H. J. Heinz Company and destined to above named destinations, for 180 days. SUPPORTING SHIPPER, Donald S. Horvath, Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, Pa. 15230. SEND PROTESTS TO: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128030 (Sub-No. 54 TA), filed January 14, 1974. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, RR #1, Urbana, Ill. 61801. Applicant's representative: R. C. Stout (same address as above). Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Crates, towers, water cooling, air conditioner,* with or without blowers or fans, sheet steel thicker than 20 gauge S.U. Item 187030 Sub. 6 N. MFC, A*11 and/or *crates, condensers, equalizers, exchangers, pipe type* Item 123320 NMFC A–11; and *materials* used in the manufacturing, producing and packaging thereof, between the plantsite of Baltimore Aircoil, Paxton, Ill. and points in Alabama, Arkansas, Colorado, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Mr. George E. Klein, Traffic Manager, Baltimore Aircoil Company, Inc., R. R. #2, Box 7, Paxton, Ill. 60957. SEND PROTESTS TO: R. G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 133478 (Sub-No. 10 TA), filed January 14, 1974. Applicant: HEARIN TRANSPORTATION, INC., 8565 S.W. Beaverton, Hillsdale Hiway, Portland, Oreg. 97225. Applicant's representative: Nick I. Goyak, 404 Oregon National Bldg., 610 S.W. Alder Street, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Plastic and wood moldings*, from the plant site of DG Shelter Products Co. at Marion, Va., to points in Minnesota, Nebraska, Iowa, Wisconsin, Kansas, Oklahoma, Texas, Illinois, Missouri, Ohio, Arkansas, Louisiana, Michigan, Indiana, Kentucky, Tennessee, Mississippi, Alabama, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Delaware, West Virginia, Virginia, Maryland, North Carolina, South Carolina, Georgia, and Florida and (B) *paint, fibreboard, cardboard cartons, plastic granules or powder, mill machinery and materials* used in connection with the manufacturing of wood products, from Greensboro, N.C.; Asheboro, N.C.; Houston, Texas; Louisville, Ky.; Niagara Falls, N.Y.; Broken Bow, Okla.; and Chicago, Ill., to the plant site of DG Shelter Products Co. at Marion, Va., for 180 days. SUPPORTING SHIPPER: D. G. Shelter Products Co., One Maritime Plaza, San Francisco, Calif. 94111. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Court House, 520, S.W. Morrison, Portland, Oreg. 97204.

No. MC 134601 (Sub-No. 5 TA), filed January 14, 1974. Applicant: GOOSE CREEK TRANSPORT, INC., R.D. #1, Asheville, N.Y. 14710. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products distributed by meat packing houses* as described in Section A of the Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 under a continuing contract with Fairbank Farms, Inc., from Emporia, Kans., to Harmony (Chautauqua Co.), N.Y., for 180 days. SUPPORTING SHIPPERS: Fairbank Farms, Inc., R.D. #1, Ashville, N.Y. 14710 and Iowa Beef Processors, Inc., P.O. 515, Dakota City, Nebr. 68731. SEND PROTESTS TO: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 139256 (Sub-No. 1 TA), filed January 18, 1974. Applicant: FRANK C. FLEEGER, doing business as FLEEGER TRUCKING, 5341 West Waveland Avenue, Chicago, Ill. 60641. Applicant's representative: Edward G. Finnegan, 134 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular *ucts, film, chemicals, paper, electric/* routes, transporting: *Photographic prod- electronic parts and supplies and metal cabinets*, from Chicago, Ill., to points in Illinois, Iowa, Missouri, Kansas, Minnesota, Wisconsin, Indiana, Michigan, Kentucky, and Ohio, for 180 days. SUPPORTING SHIPPER: Richard D. Tripple, Agfa-Gevaert, Inc., Chicago Regional District Administrative Manager, 6901 North Hamlin, Lincolnwood, Ill. 60645. SEND PROTESTS TO: Richard O. Chandler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 139398 (Sub-No. 1 TA), filed January 8, 1974. Applicant: WASHINGTON MOVING AND STORAGE COMPANY, INC., 188 E. 135th Street, Bronx, N.Y. 10451. Applicant's representative: Thomas Mariani, 6400 Armor Drive, Clinton, Md. 20375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, and unaccompanied baggage and personal effects*, between Forestville, Md.; points in Montgomery, Prince Georges, Charles, and Anne Arundel Counties, Md.; points in Fairfax, Loudon, Alexandria, Fauquier, Arlington, and Prince William Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and to the performance of pickup and delivery service in connection with packing, crating and containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. SUPPORTING SHIPPER: Curtis L. Wagner, Jr., The Department of Defense, Office of the Judge Advocate General, Washington, D.C. 20310. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20434.

No. MC 139416 TA, filed January 11, 1974. Applicant: J. E. WILLIAMS, doing business as J. E. WILLIAMS TRUCKING, 2332 Alderson Avenue, Billings, Mont. 59102. Applicant's representative: J. E. Williams (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products; dairy products; and articles distributed by meat packing houses*, from Billings, Mont., to points in Arizona, California, Idaho, Iowa, Illinois, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wisconsin with return movements of *such articles* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, for 180 days. SUPPORTING SHIPPER: Midland Empire Packing Co., Inc., 800 Minnesota Avenue, Billings, Mont. 59101. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 139422 TA, filed January 15, 1974. Applicant: D & J TRANSPORT, INC., P.O. Box 367, Ray, N. Dak. 58849. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, from the plantsite of Hardy Salt Co. near Williston, N. Dak., to points in Montana, South Dakota, and Wyoming, and (2) *Salt*, in bulk only, from the plantsite of Hardy Salt Co. near Williston, N. Dak., to points in Minnesota, for 180 days. SUPPORTING SHIPPER: Hardy Salt Company, P.O. Drawer 449, St. Louis, Mo. 63166. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 139423 TA, filed January 15, 1974. Applicant: PETERSON BROS. MFG. CO., a Corporation, Carney, Mich. 49812. Applicant's representative: Michael J. Anuta, 960 First Street, Menominee, Mich. 49858. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, viz: *wood chips, sawdust, shavings, wood waste and pulpwood*, (Wood chips, sawdust, shavings and wood waste to be shipped in bulk, in covered open-top vans modified for dumping), from Carney, Menominee County, Mich., to pulp mills and paper mills in Brown, Outagamie, Winnebago, Lincoln, Wood, Marathon, and Portage Counties, Wis., for 180 days. SUPPORTING SHIPPER: American Can Company, P.O. Box 60, Menominee, Mich. 49858. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 139424 TA, filed January 14, 1974. Applicant: FISHER TRUCKING

COMPANY, INC., 640 Pleasant Mills Road, Hammonton, N.J. 08037. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste plastic resins*, in bulk, in dump vehicles, from Delaware City, Del., to South Plainfield, N.J., for 180 days. SUPPORTING SHIPPER: Kentile Floors, Inc., 58 2nd Avenue, Brooklyn, N.Y. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

By the Commission.

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

[FR Doc.74-2342 Filed 1-28-74;8:45 am]

[Notice 12]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 24, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) and 311(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 359 TA), filed January 16, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tung oil*, in bulk, in tank vehicles, from Avondale, La., to Azusa, Calif., for 180 days. SUPPORTING SHIPPER: Geismar & Company, Inc., 30 North Main Street, Port Chester, N.Y. 10575. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 39568 (Sub-No. 13 TA), filed January 16, 1974. Applicant: ARROW TRANSFER & STORAGE CO., 1124 Market Street, Chattanooga, Tenn. 37402. Applicant's representative: Joseph M. Hambrick, 2265 Vistamont Drive, Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, in truckload lots, only on flatbed trailers or equipment (open top) which because of size or weight require the use of special equipment, only for a freight forwarder at Section 409-rates regulated under Part IV of the Interstate Commerce Act, from Chattanooga, Tenn., on the one hand, to points in Alabama (in the counties of Cherokee, DeKalb, Jackson, Etowah, Marshall and Madison), and Georgia (all points in that part of Georgia in and north of the counties of Polk, Bartow, Cherokee, Dawson, Lumpkin and Union), and Tennessee (all points in that part of Tennessee in and southwest of the counties of Blount, Loudon, Roane, Cumberland, White, Warren, Coffee and Franklin), on the other, for 180 days. RESTRICTION: Authority sought in application is to be further restricted to apply only on shipments having initial origin at points in Belmont, Carroll, Columbiana, Cuyahoga, Geouga, Guernsey, Harrison, Jefferson, Lorain, Mahoning, Medina, Monroe, Morgan, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, Ohio; Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venanago, Washington, and Westmoreland Counties, Pa.; Brooke, Doodridge, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tyler, Wetzel, and Wood Counties, W. Va.; Lake and Porter Counties, Ind.; Cook, DuPage, Grundy, Jersey, Monroe, Madison, St. Clair, and Will Counties, Ill., and those points in Illinois contiguous to the Illinois River which are not located in the previously named Illinois Counties, and points in St. Charles, St. Louis, and Jefferson Counties, Mo. and transported as service subject to Part IV of the Act by Common Carriers subject to Parts I or III of the Interstate Commerce Act to Chattanooga, Tenn. SUPPORTING SHIPPER: Joe M. Hambrick, doing business as I & S Forwarding Company, 2265 Vistamont Drive, Decatur, Ga. 30033. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 52460 (Sub-No. 136 TA), filed January 16, 1974. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9515, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, in rolls, containers, or bundles in straight or mixed shipments, from the facilities of Allied Materials Corporation at Stroud, Okla., to points in Kansas and Missouri, for 180 days. SUPPORTING SHIPPER: Allied Materials Corp., Glen Bateman, T.M., 5101 N. Penn, Box 12340, Oklahoma City, Okla. 73112. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240-Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 82492 (Sub-No. 99 TA), filed January 16, 1974. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and non-edible foods* when moving in vehicles equipped with mechanical refrigeration, from the facilities utilized by Terminal Ice & Cold Storage Co. at or near Bettendorf, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, and Wisconsin, for 180 days. SUPPORTING SHIPPERS: Terminal Ice & Cold Storage Company, 1618 S. W. First Avenue, Portland, Oreg. 97201 and Lamb-Weston, Inc., P.O. Box 23507, Portland, Oreg. 97223. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107403 (Sub-No. 877 TA), filed January 15, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Magnesium sulphite*, dry, in bulk, from the plant site of Potomac Electric and Power Company at Dickerson, Md., to Rumford, R.I. and (2) *Magnesium oxide*, dry, in bulk, from Rumford, R.I., to the plant site of Potomac Electric and Power Company at Dickerson, Md., for 180 days. SUPPORTING SHIPPER: R. A. Brady, Traffic Manager, Chemico Process Plants Company, One Penn Plaza, New York, N.Y. 10001. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 929 TA), filed January 11, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855, (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined soybean oil*, in bulk, from Belmond, Iowa, to Rockford, Ill., for 150 days. SUPPORTING SHIPPER: Central Soya Company, Inc., Belmond, Iowa

50421. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 930 TA), filed January 11, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resin*, in bulk, in tank vehicles, from Burlington, Iowa, to Elizabethtown, Ky., for 150 days. SUPPORTING SHIPPER: The Celotex Corporation, 1500 North Dale Mabry, Tampa, Fla. 33607. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 111401 (Sub-No. 407 TA), filed January 15, 1974. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt emulsion #4004*, in bulk, in tank vehicles, from Allied Materials Corporation, Stroud, Okla., to Gold Bond Building Products Division of National Gypsum Company, East Shoals, Ind., for 180 days. SUPPORTING SHIPPER: Gold Bond Building Products, Division of National Gypsum Company, Oliver L. Parish, Distr. Serv. Mgr., 325 Delaware Ave., Buffalo, N.Y. 14202. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240–Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 112750 (Sub-No. 306 TA), filed January 15, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Minneapolis, Minn., and Sheboygan, Wis., for 90 days. SUPPORTING SHIPPER: Citizens Bank of Sheboygan, 636 Wisconsin Avenue, Sheboygan, Wis. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 119422 (Sub-No. 54 TA), filed January 8, 1974. Applicant: EE–JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, Ill. 62204. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, and pesticides*, in containers, from the facilities of Swift Chemical Company, East St. Louis, Ill., and Fairmont City, Ill., to points in Wisconsin, for 180 days. SUPPORTING SHIPPER: J. A. Griffin, Transportation Manager, Swift Chemical Company, 111 West Jackson Boulevard, Chicago, Ill. 60604. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 125254 (Sub-No. 25 TA), filed January 15, 1974. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste and scrap paper and materials and supplies* used in the manufacture of insulation, from points in Indiana, Illinois, Wisconsin, Minnesota, Missouri, and Nebraska, to Muscatine, Iowa, for 180 days. SUPPORTING SHIPPER: HI–R Insulation Company, 1208 Washington Street, Muscatine, Iowa 52761. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 127651 (Sub-No. 18 TA), filed January 14, 1974. Applicant: EVERETT G. ROEHL, INC., 201 W. Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallet and pallet parts*, from Rhinelander, Wis., to Millard and Omaha, Nebr. and Detroit, Mich., for 180 days. SUPPORTING SHIPPER: Marplex Products Co., Inc., Rhinelander, Wis. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 133119 (Sub-No. 43 TA), filed January 16, 1974. Applicant: HEYL TRUCK LINES, INC., 225 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and vegetable products*, from Grand Island, York, and Omaha, Nebr. and Kansas City, Mo., to points in Texas, Louisiana, Iowa, and Minnesota, restricted to traffic originating at the facilities of or utilized by Delicious Foods Co., for 180 days. SUPPORTING SHIPPER: Delicious Foods Co., R. E. Martin, Vice Pres.—Marketing, No. Highway 281, Grand Island, Nebr. 68801. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 No. 14 Street, Omaha, Nebr. 68102.

No. MC 133133 (Sub-No. 9 TA), filed January 11, 1974. Applicant: FULLER MOTOR DELIVERY CO., a Corporation, 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles, from Cincinnati, Ohio, to points in Indiana, for 180 days. SUPPORTING SHIPPER: Indiana Farm Bureau Coop. Assn., Inc., 47 S. Pa. St., Indianapolis, Ind. 46204. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 134477 (Sub-No. 47 TA), filed January 16, 1974. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, St. Paul, Minn. 55165. Applicant's representative: Thomas Fischbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Huron, S. Dak., to Portland, Oreg. and Boise, Idaho and (2) from Worthington, Minn. and Sioux City, Iowa, to Bellevue, Seattle and Tacoma, Wash., for 180 days. SUPPORTING SHIPPER: Armour Food Company, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134484 (Sub-No. 4 TA), filed January 14, 1974. Applicant: EDWARDS BROS., INC., 1875 N. Holmes, Idaho Falls, Idaho 83401. Applicant's representative: Dennis M. Olsen, 485 "E" Street, Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat*, from the facilities of Missouri Beef Packers, Inc., a corporation at or near Boise, Ada County, Idaho, to points in California, Oregon, Washington, Nevada, Arizona, Utah, and Montana, for 180 days. SUPPORTING SHIPPER: Missouri Beef Packers, Inc., a corporation, P.O. Box 8127, Boise, Idaho 83707. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 134538 (Sub-No. 2 TA), filed January 14, 1974. Applicant: JOHN L. CLARK, RFD 3, Montpelier, Ohio 43543. Applicant's representative: Michael Marshall Briley, 1200 Edison Plaza, Toledo,

Ohio 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* contained in piggyback trailers loaded or empty, having an immediately prior or subsequent movement by rail, (A) between Montpelier, Ohio, on the one hand, and, on the other, points in Wood, Lucas, Erie, Ottawa, Henry, Sandusky, Paulding, and Van Wert Counties, Ohio; (B) between Montpelier, Ohio, on the one hand, and, on the other, points in LaGrange, Steuben, Noble, DeKalb, Allen and Whitley Counties, Ind.; and (C) between Montpelier, Ohio, on the one hand, and, on the other, points in Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, Monroe, Washtenaw, Jackson, Calhoun, Kalamazoo, Van Buren, Allegan, Barry, Eaton, Ingham, Livingston, Genesee, Shiawassee, Clinton, Ionia, Kent, Ottawa and Muskegon Counties, Mich., restricted in each and every case to the transportation of piggy-back trailers loaded or empty, having an immediately prior or subsequent movement by rail, for 180 days. SUPPORTING SHIPPER: Watson Trading Company, Montgomery, Mich. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 134783 (Sub-No. 17 TA), filed January 16, 1974. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Dimmett Hwy. West, Plainview, Tex. 79072. Applicant's representative: Ronald V. Dreckman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsites of National Fruit Product Company, Inc., at or near Martinsburg, W. Va., and Winchester, Va., to points in Texas, for 180 days. SUPPORTING SHIPPER: Donald D. Holliday, Manager, Traffic Department, National Fruit Product Company, Inc., P.O. Box 609, Winchester, Va. 22601. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 136553 (Sub-No. 23 TA), filed January 15, 1974. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from Dubuque, Iowa, to Prairie du Chien and Spring Green, Wis., for 180 days. SUPPORTING SHIPPER: Pickett Brewing Co., East 4th Street Extension, Dubuque, Iowa 52001. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 139001 (Sub-No. 1 TA), filed January 16, 1974. Applicant: PIETTE TRANSPORT INC., 11650 Metropolitan Blvd., Montreal, Quebec, Canada. Applicant's representative: Adrien R. Paquette, 200 Rue St. James, W., Montreal, Quebec, Canada H2Y 1M1. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from the ports of entry on the International Boundary line between the United States and Canada located at or near Derby Line and Highgate Springs, Vt.; Champlain and Rouses Point, N.Y., to points in New Hampshire, New York, Massachusetts, and Vermont, restricted to traffic having an immediate prior movement in foreign commerce for 180 days. SUPPORTING SHIPPER: Piette Oil Co., Ltd., 11650 Blvd. Metropolitan East, Montreal, Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 139355 (Sub-No. 1 TA), filed January 16, 1974. Applicant: GARDNER AND RAYFIELD TRUCKING SERVICE, INC., Highway 15 North, Box 667, Hartsville, S.C. 29550. Applicant's representative: Martin S. Driggers, Sr., P.O. Box 519, Hartsville, S.C. 29550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk or in bags, in flat bed, kilebrew or dump trucks, from points in Darlington County, S.C., to points in Anson, Richmond, Scotland, Robeson, Columbus, Harnett, Cumberland, Hoke, and Forsyth Counties, N.C., for 180 days. SUPPORTING SHIPPER: International Minerals & Chemical Corp., P.O. Box 1000, Hartsville, S.C. 29550. SEND PROTESTS TO: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Bldg., 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 139385 (Sub-No. 1 TA), filed January 16, 1974. Applicant: C. B. CHAVERS, doing business as CHAVERS STORAGE COMPANY, P.O. Box 710, Milton, Fla. 32570. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* in containers having a prior or subsequent movement beyond the points applied for, between points in San Rosa County, Fla., for 180 days. RESTRICTION: Restricted to the performance of pickup and delivery service in connection with the packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. SUPPORTING SHIPPER: The Department of Defense, Office of The Judge Advocate General, Washington, D.C. 20310. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814—2121 Building, Birmingham, Ala. 35203.

No. MC 139425 TA, filed January 14, 1974. Applicant: HAROLD E. RICH, 14608 Benfield, Norwalk, Calif. 90650. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery goods, bakery racks, pallets and advertising material*, between the plant site of Pogens Family Bakery Plant at Compton, Calif., and Akron, Ohio; Albany, N.Y.; Blue Island, Ill.; Brentwood, Md.; Buffalo, N.Y.; Clifton, N.J.; Columbus, Ohio; Cornwall Heights, Pa.; Dallas, Tex.; Detroit, Mich.; Euclid, Ohio; Houston, Tex.; Louisville, Ky.; Memphis, Tenn.; Miami, Fla.; Milwaukee, Wis.; Minneapolis, Minn.; Mishawaka, Ind.; Nashville, Tenn.; New York, N.Y.; Oklahoma City, Okla.; Orlando, Fla.; Pittsburgh, Pa.; St. Louis, Mo.; Tampa, Fla.; and Tulsa, Okla. and (2) *Bakery goods ingredients*, viz: *Oats, flour, sugar and prepared bakery mix*, from Columbus, Ohio; Denver, Colo.; Kansas City, Kans.; Newport News, Va.; Minneapolis, Minn.; New York, N.Y.; and Philadelphia, Pa., to the plant site of Pogens Family Bakery Plant at Compton, Calif., for 180 days. SUPPORTING SHIPPER: Pogens Family Bakery, Inc., 1800 South Anderson Avenue, Compton, Calif. 90220. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139429 TA, filed January 15, 1974. Applicant: ELLIS ROSS AND LUCILLE ROSS, doing business as STEWART TRANSFER CO., 144 Dakota Avenue South, Huron, S. Dak. 57350. Applicant's representative: Ellis Ross (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, in bags and in bulk, from Huron, S. Dak., to points in North Dakota, for 180 days. SUPPORTING SHIPPER: Farmland Industries, Inc., P.O. Box 7305, Kansas City, Mo. 64116, Clifford H. DeKesel, Manager, Transportation Service. SEND PROTESTS TO: District Supervisor J. L. Hammond, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 139428 TA, filed January 14, 1974. Applicant: HAUGEN TRUCKING, INC., 6253 Buckingham Avenue, Omaha, Nebr. 68117. Applicant's representative: Clayton H. Shrout, 1004 City National Bank Bldg., Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ceramic tile*, (a) from Chicago, Ill.; Minneapolis, Minn.; Cleveland, Minerva and Summitville, Ohio; and Markham, Ill., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized and (b) from Houston, Tex.; Baltimore, Md.; Seattle, Wash.; and Los Angeles, Calif., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations authorized under (b) above are restricted to transportation of shipments having a prior movement in foreign com-

merce. (2) *Grouts and adhesives*, from Kansas City, Mo.; Columbus, New Philadelphia, and Cleveland, Ohio; Palatine and Chicago, Ill., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; (3) *Chrome accessories*, from Los Angeles, Calif., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; (4) *Ceramic accessories*, from Gilmer, Tex., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; (5) *Shower doors*, from Hialeah and Orlando, Fla. and Ft. Scott, Kans., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; (6) *Concrete panels*, from Hamilton, Ohio, to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; (7) *Prefabricated fireplaces*, from Wisconsin Rapids, Wis., to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized; and (8) *Quarry tile*, from Coal Grove, Ohio; Mineral Wells, Tex.; and Salt Lake City, Utah, to Des Moines, Iowa and Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized, for 180 days. RESTRICTION: The operations authorized under (1) through (8) are limited to a transportation service to be performed under a continuing contract, or contracts with Sunderland Bros. Co., of Omaha, Nebr. SUPPORTING SHIPPER: Sunderland Bros. Co., Wilbur A. Beam, Vice Pres., 609 No. 46 St., Omaha, Nebr. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, 110 No. 14 St., Suite 620, Union Pacific Plaza, Omaha, Nebr.

WATER CARRIERS OF PASSENGERS

No. W-1263 (Sub-No. 3 TA). By order entered January 15, 1974, the Motor Carrier Board granted New England Steamboat Lines, Inc., Haddam, Connecticut, 180-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of *passengers*, between Middletown, Haddam, Chester, Essex, East Haddam, Deep River, and Old Saybrook, Connecticut, on the one hand, and, on the other, Sag Harbor, New York. Charles A. Robertson, New England Steamboat Line, Inc., Steamboat Landing, Haddam, Connecticut 06438, applicant's representative. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2341 Filed 1-28-74;8:45 am]

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

CERTAIN CANNED FOOD PRODUCTS

Emergency Permit Control and Proposed Records Retention Requirements

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 90—EMERGENCY PERMIT CONTROL

Definitions and Procedures

The Commissioner of Food and Drugs published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716) a final order establishing the requirements and conditions for compliance with, or exemption from, section 404 of the Federal Food, Drug, and Cosmetic Act with respect to thermally processed low-acid foods in hermetically sealed containers. A ruling on the objections received in response to this order is published elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner also published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12720), and corrected in the FEDERAL REGISTER of May 30, 1973 (38 FR 14174), proposed definitions and procedures to govern implementation of the emergency permit control authority contained in section 404 of the act. In response to this proposal, comments were received from three trade associations. The comments submitted and the Commissioner's decisions are as follows:

1. One comment requested that the term "emergency permit" be prefaced by the word "temporary" wherever it appears in the regulation.

The Commissioner agrees with the intent of this comment and also believes that the definition should be clarified to reflect the exact language of section 404 (a) of the act. Section 90.1(d) (21 CFR 90.1(d)) is therefore revised accordingly.

2. Deletion of all or part of § 90.2 was requested on the ground that Subpart A, though termed a "procedural mechanism," is in reality a substantive regulation illegally promulgated under section 701(a) of the act. It was contended that all regulations under section 404 of the act must be promulgated under section 701(e) of the act, which provides for an opportunity for a public hearing.

The Commissioner reaffirms the position that Subpart A of Part 90 is procedural in nature and designed to provide the mechanism for implementation of Part 90. Subpart B, which at present consists only of § 90.20 relating to thermally processed low-acid canned foods in hermetically sealed containers, contains the substantive requirements established under section 404 of the act for any particular food or class of foods. The Commissioner has concluded that section 701(e)(1) of the act provides an opportunity for a public hearing only on the substantive regulations applicable to a particular food or class of foods authorized by section 404(a) of the act, and that the procedural regulations generally implementing the emergency permit control system of section 404 are authorized by section 701(a) of the act, which does not provide for a public hearing. Any person who wishes to challenge any provision in Subpart A of Part 90, as promulgated by this order, may therefore do so by appeal to the courts pursuant to the Administrative Procedure Act.

3. One comment suggested that §§ 90.3 (a) and 90.4(b) be revised to specify that issuance of an emergency permit must be based solely on noncompliance with those requirements of Subpart B which are mandatory.

The Commissioner agrees that an action to require an emergency permit must be based on violation of mandatory requirements of Subpart B. The regulations have been revised accordingly.

4. The Commissioner concurs with the suggestion that § 90.3(a)(1) be revised to provide for the filing of objections to the requirement of a permit by telegram, telex, or any other mode of written communication, and the section has been revised accordingly.

5. One comment requested that §§ 90.3 (b) and 90.5(c) be revised to furnish guidance in the selection of the location at which a hearing will be held.

The Commissioner agrees that such guidance is needed. The sections have therefore been revised to provide the guidance requested.

6. The introductory text and paragraph (a)(1) of § 90.3 have been revised to correct inadvertent omissions.

7. A comment requested that § 90.4(b) be revised to require that, once the Commissioner has made a determination that an emergency permit is necessary, within five days of receipt of an application from the affected person, the Food and Drug Administration must conduct a factory inspection. The comment also requests that, within five days thereafter, the Commissioner shall either issue the permit or offer the applicant a hearing pursuant to § 90.3 (b) and (c).

The Commissioner recognizes the desire of all concerned to resolve such matters as quickly as possible, but must reserve the right to conduct factory inspections at those times warranted by the gravity of the particular situation. Such inspections will, in keeping with available resources, be conducted as expeditiously as possible. Since the Commissioner agrees that timeliness is necessary in the resolution of a decision to issue or deny an emergency permit, or to offer an opportunity for a hearing, § 90.4(b) has been revised to reflect that policy.

8. An additional comment with respect to § 90.4(b) requests that it be revised to eliminate the inclusion of requirements and conditions in an emergency permit which go beyond those which are mandatory in Subpart B of Part 90.

The Commissioner has revised the regulation to refer only to the mandatory requirements and conditions of Subpart B, as well as to any additional requirements or conditions which may be necessary to protect the public health. Such additional requirements or conditions are explicitly authorized by section 404(a) of the act.

9. The Commissioner concurs with the suggestion that § 90.5(b) be revised to incorporate a definite time frame in which to fully consider, and reach a decision to grant or deny, an application for reinstatement of a suspended emergency permit. Since the time period of five working days suggested in the comment may prove unduly restrictive, § 90.5(b) has been revised to afford a more appropriate time period of ten working days within which to consider all pertinent facts and reach an appropriate decision.

10. The Commissioner agrees with the suggestion that procedures should be added for recourse from a denial of an application to reinstate an emergency permit, and accordingly a new § 90.5(e) has been adopted. The new procedure parallels the comparable provision in § 90.4(c) which deals with the initial issuance and denial of an emergency permit.

11. In response to a comment, the Commissioner agrees that a permit holder, who is in compliance and is likely to remain so, is entitled to a hearing, if warranted, as part of the procedure necessary to revoke both the determination of need and the emergency permit. Section 90.6(b) is revised accordingly, to make it consistent with the comparable provisions for a hearing at other stages in the emergency permit control set forth in §§ 90.3(b), 90.4(b) and 90.5(c).

12. One industry association suggested that § 90.7(a) be revised to be made applicable only to those thermally processed low-acid foods packaged in hermetically sealed containers covered by § 90.20.

The Commissioner is promulgating Subpart A as a procedural mechanism for implementing section 404 of the act, which will cover all foods for which substantive requirements are promulgated under Subpart B. It would be impractical and inappropriate to have different procedures for different foods. If any of the provisions of Subpart A later prove to be unfair or impractical they may be revised, either on the Commissioner's initiative or on the petition of an interested person.

13. In response to several comments, questions, and suggestions, the Commissioner reaffirms that the proposed regulation permits the continued production of a food for interstate commerce for which a permit is required, while a permit is being secured, at the processor's risk. Such food may not be shipped without approval of the Food and Drug Administration. The suggestion that § 90.7(a) of the regulation be revised to permit the continued production of food for interstate commerce in violation of the conditions of an emergency permit cannot be accepted, since it would destroy the emergency permit system.

14. The Commissioner agrees with those comments which suggest that § 90.7 (a) be revised to provide for the orderly distribution into interstate commerce of such foods for which an emergency permit is required, which were produced at the processor's risk during the interim while an emergency permit was being secured. The Commissioner does not agree with the concern expressed in those comments that written approval from the Food and Drug Administration in advance of any interstate shipments of such food that the product is free from microorganisms of public health significance, may not be the most appropriate means

to resolve the situation. The Commissioner is responsible for the interstate shipment of any such foods processed during the interim period. The Commissioner does agree, however, that it is appropriate also to include provisions which will help to resolve such a situation while retaining the necessary safeguards to the consuming public.

15. All other comments have been carefully considered by the Commissioner and, where deemed to be appropriate, have been incorporated into the final order.

Accordingly, having evaluated the comments received and other relevant material, the Commissioner concludes that the regulations should be adopted as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (secs. 402, 404, 701(a), 52 Stat. 1046–1047 as amended, 1048, 1055; (21 U.S.C. 342, 344, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding a new Subpart A to Part 90 to read as follows:

Subpart A—Definitions and Procedures

Sec.
90.1 Definitions.
90.2 Establishment of requirements for exemption from section 404 of the act.
90.3 Determination of the need for a permit.
90.4 Issuance or denial of permit.
90.5 Suspension and reinstatement of permit.
90.6 Revocation of determination of need for permit.
90.7 Manufacturing, processing, or packing without a permit or in violation of a permit.
90.8–90.19 [Reserved]

AUTHORITY: Secs. 402, 404, 701(a), 52 Stat. 1046–1047 as amended, 1048, 1055; (21 U.S.C. 342, 344, 371(a)).

Subpart A—Definitions and Procedures

§ 90.1 Definitions.

(a) The definitions contained in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this part.

(b) "Commissioner" means the Commissioner of Food and Drugs.

(c) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended.

(d) "Permit" means an emergency permit issued by the Commissioner pursuant to section 404 of the act for such temporary period of time as may be necessary to protect the public health.

(e) "Manufacture, processing, or packing of food in any locality" means activities conducted in a single plant or establishment, a series of plants under a single management, or all plants in an industry or region, by a manufacturer, processor, or packer.

§ 90.2 Establishment of requirements for exemption from section 404 of the act.

(a) Whenever the Commissioner finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with microorganisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered interstate commerce, he shall promulgate regulations in Subpart B of this part establishing requirements and conditions governing the manufacture, processing, or packing of the food necessary to protect the public health. Such regulations may be proposed by the Commissioner on his own initiative or in response to a petition from any interested person. Petitions requesting promulgation of regulations in Subpart B of this part shall be in the form specified in § 2.65 of this chapter.

(b) A manufacturer, processor, or packer of a food for which a regulation has been promulgated in Subpart B of this part shall be exempt from the requirement for a permit only if he meets all of the mandatory requirements and conditions established in that regulation.

§ 90.3 Determination of the need for a permit.

(a) Whenever the Commissioner determines after investigation that a manufacturer, processor, or packer of a food for which a regulation has been promulgated in Subpart B of this part does not meet the mandatory conditions and requirements established in such regulation, he shall issue to such manufacturer, processor, or packer an order determining that a permit shall be required before the food may be introduced or delivered for introduction into interstate commerce by that person.

(1) The manufacturer, processor, or packer shall have 3 working days after receipt of such order within which to file objections. Such objections may be filed by telegram, telex, or any other mode of written communication addressed to the Food and Drug Administration, Bureau of Foods, 200 C St., SW., Washington, D.C. 20204. If such objections are filed, the determination is stayed pending a hearing to be held within 5 working days after the filing of objections on the issues involved unless the Commissioner determines that insufficient grounds are provided for such a hearing.

(2) If the Commissioner finds that there is an imminent hazard to health, the order shall contain this finding and the reasons therefor, and shall state that the determination of the need for a permit is effective immediately pending an expedited hearing.

(b) A hearing under this section shall be conducted by the Commissioner or his designee at a location agreed upon by the objector and the Commissioner or, if such agreement cannot be reached, at a location designated by the Commissioner. The manufacturer, processor, or packer shall have the right to cross-examine the Food and Drug Administration's witnesses and to present witnesses on his own behalf.

(c) Within 5 working days after the hearing, and based on the evidence presented at the hearing, the Commissioner shall determine whether a permit is required and shall so inform the manufacturer, processor, or packer in writing, with the reasons for his decision.

(d) The Commissioner's determination of the need for a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay a determination of the need for a permit pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 90.4 Issuance or denial of permit.

(a) After a determination and notification by the Commissioner in accordance with the provisions of § 90.3 that a manufacturer, processor, or packer requires a permit, such manufacturer, processor, or packer may not thereafter introduce or deliver for introduction into interstate commerce any such food manufactured, processed, or packed by him unless he holds a permit issued by the Commissioner or obtains advance written approval of the Food and Drug Administration pursuant to § 90.7(a).

(b) Any manufacturer, processor, or packer for whom the Commissioner has made a determination that a permit is necessary may apply to the Commissioner for the issuance of such a permit. The application shall contain such data and information as is necessary to show that all mandatory requirements and conditions for the manufacture, processing or packing of a food for which regulations are established in Subpart B of this part are met and, in particular, shall show that the deviations specified in the Commissioner's determination of the need for a permit have been corrected or suitable interim measures established. As soon as is practicable, and whenever possible within 10 working days after receipt of such application, the Commissioner shall issue a permit, deny the permit, or offer the applicant a hearing conducted in accordance with § 90.3(b) and (c) as to whether the permit should be issued. The Commissioner shall issue such a permit to which shall be attached, in addition to the mandatory requirements and conditions of Subpart B of this part, any additional requirements or conditions which may be necessary to protect the public health if he finds that all mandatory requirements and conditions of Subpart B of this part are met or suitable interim measures are established.

(c) Denial of a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay such denial pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 90.5 Suspension and reinstatement of permit.

(a) Whenever the Commissioner finds that a permit holder is not in compliance with the mandatory requirements and conditions established by the permit, he shall immediately suspend the permit and so inform the permit holder, with the reasons for the suspension.

(b) Upon application for reinstatement of a permit, the Commissioner shall, within 10 working days, reinstate the

permit if he finds that the person is in compliance with the mandatory requirements and conditions established by the permit or deny the application.

(c) Any person whose permit has been suspended or whose application for reinstatement has been denied may request a hearing. The hearing shall be conducted by the Commissioner or his designee within 5 working days of receipt of the request at a location agreed upon by the objector and the Commissioner or, if an agreement cannot be reached, at a location designated by the Commissioner. The permit holder shall have the right to present witnesses on his own behalf and to cross-examine the Food and Drug Administration's witnesses.

(d) Within 5 working days after the hearing, and based on the evidence presented at the hearing, the Commissioner shall determine whether the permit shall be reinstated and shall so inform the permit holder, with the reasons for his decision.

(e) Denial of an application for reinstatement of a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay such denial pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 90.6 Revocation of determination of need for permit.

(a) A permit shall be required only during such temporary period as is necessary to protect the public health.

(b) Whenever the Commissioner has reason to believe that a permit holder is in compliance with the mandatory requirements and conditions established in Subpart B of this part and is likely to remain in compliance, he shall, on his own initiative or on the application of the permit holder, revoke both the determination of need for a permit and the permit that had been issued. If denied, the applicant shall, upon request, be afforded a hearing conducted in accordance with § 90.3(b) and (c) as soon as practicable. Such revocation is without prejudice to the initiation of further permit proceedings with respect to the same manufacturer, processor, or packer should later information again show the need for a permit.

§ 90.7 Manufacturing, processing, or packing without a permit or in violation of a permit.

(a) A manufacturer, processor, or packer may continue at his own risk to manufacture, process, or pack without a permit a food for which the Commissioner has determined that a permit is required. All food so manufactured, processed, or packed during such period without a permit shall be retained by the manufacturer, processor, or packer and may not be introduced or delivered for introduction into interstate commerce without the advance written approval of the Food and Drug Administration. Such approval may be granted only upon an adequate showing that such food is free from microorganisms of public health significance. The manufacturer, processor, or packer may provide to the Commissioner, for his consideration in making any such determination, an evaluation of the potential public health significance of such food by a competent authority in accordance with procedures recognized as being adequate to detect any potential hazard to public health.

(b) Except as provided in paragraph (a) of this section, no manufacturer, processor, or packer may introduce or deliver for introduction into interstate commerce without a permit or in violation of a permit a food for which the Commissioner has determined that a permit is required.

Effective date. This order shall become effective February 28, 1974.

(Secs. 402, 404, 701(a), 52 Stat. 1046–1047 as amended, 1048, 1055; (21 U.S.C. 342, 344, 371 (a))

Dated: January 21, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-2136 Filed 1-28-74;8:45 am]

PART 90—EMERGENCY PERMIT CONTROL

PART 128b—THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

Manufacture and Processing of Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Confirmation of Effective Date

On May 14, 1973, the Commissioner of Food and Drugs published in the FEDERAL REGISTER (38 FR 12716) a final order under Subpart B of new 21 CFR Part 90, embodying the specific enforcement provisions relating to low-acid canned foods that were originally proposed by the National Canners Association and published in the FEDERAL REGISTER of November 12, 1971 (36 FR 21688) for inclusion under 21 CFR Part 3 of this chapter. The order stated that it would become effective on July 13, 1973, unless there were any provisions that might be stayed by the filing of proper objections on or before June 13, 1973.

In response to the order, objections were received from one member of industry, Hunt-Wesson Foods, Inc., and two trade associations, the National Canners Association (NCA), the original petitioner, and the American Shrimp Canners Association (ASCA).

Following informal conferences at the request of the petitioner and others, NCA submitted revised objections in a second letter. Hunt-Wesson endorsed the original and then the revised NCA objections, and also submitted an objection in addition to those of the NCA.

The objections raised and the Commissioner's conclusions are as follows:

1. *Section 90.20(a).* (a) Two objections were made to the statement referring to the fact that the harmful nature of foods is not adequately determinable after these foods have entered into interstate commerce. They suggested that this be changed to "may not always be" adequately determinable.

The Commissioner does not agree with the changed wording. The Commissioner knows of no way that contamination with harmful microorganisms can adequately be determined in millions of cans after shipment, and the objections identified no evidence to be offered at a hearing to support this objection. Accordingly, no change is made in the wording in the regulation and no hearing is justified on this objection.

(b) Three objections stated that only the mandatory portions of Part 128b should be included as requirements of § 90.20 rather than all of Part 128b. They argued that only those provisions that must be complied with constitute conditions where deviations lead to contamination which could lead to injury to health.

The Commissioner advises that the May 14, 1973, order so provided, and the wording of the regulation has been revised more clearly to reflect that intent. Thus, no hearing is justified on this objection.

(c) Two objections asserted that only "those mandatory portions of Part 128b that are related to ensuring that the product was not contaminated with microorganisms which may cause it to be injurious to health" be required.

The Commissioner concludes that this presents only a legal issue as to the proper scope of section 404 of the Federal Food, Drug, and Cosmetic Act and thus no hearing is justified on this objection.

(d) One objection contended that a "legal regulation cannot by reference to a guideline regulation confer upon the latter the full force and effect of law."

The Commissioner concludes that this presents only a legal issue, and thus no hearing is justified on this objection.

(e) One objection stated that it is impossible to comply with Subpart A of this part as required in § 90.20 because Subpart A, although proposed, does not exist.

The Commissioner advises that elsewhere in this issue of the FEDERAL REGISTER Subpart A is being published as a final regulation. Thus, no hearing is justified on this objection.

2. *Section 90.20(c)(1).* (a) Two objections suggested that the processing method be registered "in terms of the type of processing equipment employed."

The Commissioner accepts this suggestion and the regulation has been so revised. Thus, no hearing is justified on this objection.

(b) One objection contested the wording used concerning the notification of the Food and Drug Administration by a processor who temporarily ceases the processing of low-acid foods. The objection argued that the limitation only to seasonal shutdowns or temporary shutdowns such as strikes, lockouts, fire, or acts of God is overly restrictive, and cited an overlooked temporary shutdown caused by inadequate sales volume. The

objection proposed that any temporary shutdown of less than 6 months duration be the only limitation for exclusion from reporting.

The Commissioner points out that the regulation states that notification of the Food and Drug Administration of any shutdown is required only if the shutdown is of a nontemporary nature. A minor revision to provide for additional clarity is now incorporated in the order, and thus no hearing is justified on this objection.

3. *Section 90.20(c)(2)*. (a) Three objections asserted that, in the case of a commercial processor engaged in the thermal processing of low-acid foods, all the processing information may not be readily available. One objection proposed that the regulation be amended to permit the processor to submit a letter of intent to develop and furnish such information in such situations.

The Commissioner advises that paragraph 11 of the preamble to the May 14, 1973, order makes ample provision for such situations. Because this is a temporary provision it is unnecessary to include it in the regulation. Since this satisfies the objection, no hearing is justified on the matter.

(b) Two objections requested the addition of a provision stating that, if a packer modifies a scheduled process from that previously filed, he shall submit that modification to the Food and Drug Administration within 60 days and shall, prior to utilizing such modified scheduled process, have in his files for review by Food and Drug Administration inspectors substantiation by a qualified scientific authority of the adequacy of the modified process.

The Commissioner agrees to this addition, except that the modification shall be filed with the Food and Drug Administration prior to its use. This will permit needed flexibility in plant operations, and the regulation is revised accordingly. Thus, there is no justification for a hearing on this objection.

4. *Section 90.20(c)(3)(ii)*. (a) Three objections requested that, when the Food and Drug Administration requests records, charts and other particular information concerning processes and procedures which are deemed necessary by the Food and Drug Administration to determine the adequacy of the process, this request shall be made in writing (rather than orally), specifying the records, charts and other particular information.

The Commissioner advises that the regulation itself constitutes a written request for the records. Any additional requirements that record requests be in writing would be duplicative and would delay obtaining data needed for reaching a prompt decision on the adequacy of the processing procedure. Since the regulation itself satisfies the objection, no hearing is justified on the matter.

(b) Three objections requested that a sentence be added to require that the processing information and other data supplied to the Food and Drug Adminnew section which would state that the factory processing records submitted to the Food and Drug Administration would istration be regarded as trade secrets within the meaning of 21 U.S.C. 331(j) and 18 U.S.C. 1905. They argued that nonacceptance of the request would lead to an incompatibility with § 90.20(c)(2).

The Commissioner recognizes the reasonableness of the request and the regulation has been so revised. Thus, no hearing is justified on this objection.

5. *Section 90.20(e)*. Two objections requested addition of the phrase "that cannot be adequately determined after the product has entered distribution" when referring to reporting to the Food and Drug Administration any instance wherein any lot of food which may be injurious to health by reason of contamination with microorganisms has entered into distribution.

The Commissioner advises that the requested wording is of no consequence, and would in no way reduce the obligations of a processor to report contamination of distributed food. No such contamination can adequately be determined after distribution, and the objections identified no evidence to be presented at a hearing to the contrary. In any event, the requested wording is in section 404 of the act, and is the statutory prerequisite to this regulation. Thus, no change in the wording is appropriate and no hearing is justified on this objection.

6. *Section 90.20(f)*. (a) Two objections questioned the authority and feasibility for a recall procedure down to the consumer level. They suggested, instead, that a processor have in his files a recall procedure which the processor will use for products under his control and which he will ask his distributor to follow.

The Commissioner agrees and has made the appropriate revisions in the regulation. Thus, no hearing is justified on this objection.

(b) One objection opposed this paragraph and paragraph (k) because the paragraphs have been included in the order in violation of the provisions of section 701(e)(1) of the act in that prior notice has not been provided. The objection argued that the original petition of NCA did not include the matter.

The Commissioner rejects the argument since the two provisions were within the scope of the proposal. Since this objection presents only a legal issue, no hearing is justified on it.

7. *Section 90.20(g)*. Two objections requested that a sentence be added to state that the Commissioner will not withhold approval of any school qualified to give appropriate instruction.

The Commissioner agrees and includes the statement in the regulation. Thus, no hearing is justified on this objection.

8. *Section 90.20(h)*. Three objections were received concerning the retention of records in the processing plant.

(a) One objection suggested that no requirement be made that the records be held at the processing plant.

The Commissioner rejects this suggestion because it is necessary for the records to be readily accessible to a Food and Drug Administration inspector for a reasonable period of time. Since this represents only a policy judgment, on which the objection identified no evidence to be offered at a hearing, and presents no genuine and substantial issue of fact, no hearing is justified on this objection.

(b) The other two objections suggested that records need to be held at the processing plant for not less than one year and at any other reasonably accessible location for an additional two years.

The Commissioner agrees because adequate facilities for prolonged document storage do not exist at many processing plants and an appropriate revision has been made in the regulation. Thus, no hearing is justified on this objection. In addition the Commissioner has decided to amend the requirements of § 128b.8(d) in the interest of consistency.

9. *Section 90.20(i)*. One objection opposed these provisions of the regulation because they do not apply to processors operating under the provisions of the Federal Meat Inspection Act or the Poultry Products Inspection Act, and there is no provision requiring that the regulations as promulgated under said acts shall be at least equal to the provisions of this order. The objection states that the Food and Drug Administration has ultimate responsibility for the safety of all marketed foods, including those produced under the named inspection programs.

The Commissioner advises that the United States Department of Agriculture has exclusive jurisdiction over the processing of meat and poultry products in licensed establishments under those laws, and the Food and Drug Administration has concurrent jurisdiction over such products once they leave such establishments. Since this objection raises at most a legal issue, no hearing is justified on it.

10. *Section 90.20(j)*. Two objections requested that this paragraph be reworded to allow a state as well as an individual processor to file registration information and the processing information required in paragraph (c) of this section.

Because the suggested wording makes this paragraph more reasonable, the Commissioner agrees and has made the appropriate revision in the regulation. Thus, no hearing is justified on this objection.

11. *Section 90.20(k)*. Two objections requested that this paragraph be reworded to include a statement to the effect that every person offering low-acid canned foods for importation into the United States shall file with the Commissioner, at least 30 days prior to such importation, a certification demonstrating that such imports have been adequately processed.

The Commissioner has determined that the regulation is satisfactory for control of imported foods without revision. Since the objection requests the addition of a new requirement, it is properly presented by a petition to amend the regulation rather than by an objection, and no hearing is justified on it.

12. All three objections requested a not be used in any criminal prosecution under section 303 of the act of any natural person from whom or at whose direction it was prepared or supplied.

As was stated in the preamble of the order published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716), "It has been the practice of the Food and Drug Administration in exercising its discretion under section 306 of the act to weigh carefully all the circumstances involved in any charged violation of the Federal Food, Drug, and Cosmetic Act before recommending the institution of criminal prosecution. The Commissioner believes that the continued application of this long established practice will be sufficient to preclude the unfair use of these documents, and therefore the requested general immunity to criminal prosecution is not given." The Commissioner concludes that a provision providing immunity from criminal prosecution is not authorized by the statute and is contrary to public policy. Since the objection raises either a legal issue or a policy judgment on which the objection identified no evidence to be offered at a hearing, and presents no genuine and substantial issue of fact, no hearing is justified on it.

13. Paragraph 12 of the preamble to the order published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716) dealt with one comment which suggested that, because leakage can occur from rough shipment and handling, and spoilage from leakage is not of public health significance, spoilage from leakage should be omitted from the requirement that the processor report promptly to the Food and Drug Administration instances of spoilage having a potential health significance. The Commissioner concurred with this conclusion. It has, however, been brought to the Commissioner's attention that this may be incorrectly interpreted as suggesting that organisms which may enter a can through faulty or damaged seams cannot possibly create a potential health hazard. It was the Commissioner's intention to agree only that simple leakage is not necessarily of public health significance. If any spoilage, regardless of cause, can be reasonably suspected to be of potential significance to the public health, then it must be promptly reported.

Accordingly, having evaluated the objections received and other relevant material, the Commissioner concludes that no hearing is justified on any aspect of this regulation and that the regulation should be adopted as modified and set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402, 404, 701, 52 Stat. 1046–1047 as amended, 1048, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 342, 344, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. By adding a new Subpart B to Part 90 consisting at this time of one new section to read as follows:

Subpart B—Requirements and Conditions for Exemption From or Compliance Wth an Emergency Permit

90.20 Thermal processing of low-acid foods packaged in hermetically sealed containers.

AUTHORITY: Secs. 402, 404, 701, 52 Stat. 1046–1047 as amended, 1048, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 342, 344, 371).

Subpart B—Requirements, and Conditions for Exemption From or Compliance With an Emergency Permit

§ 90.20 Thermal processing of low-acid foods packaged in hermetically sealed containers.

(a) Inadequate or improper manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers may result in the distribution in interstate commerce of processed foods that may be injurious to health. The harmful nature of such foods cannot be adequately determined after these foods have entered into interstate commerce. The Commissioner of Food and Drugs therefore finds that, in order to protect the public health, it may be necessary to require any commercial processor, in any establishment engaged in the manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers, to obtain and hold a temporary emergency permit provided for under section 404 of the Federal Food, Drug, and Cosmetic Act. Such a permit may be required whenever the Commissioner finds, after investigation, that the commercial processor has failed to fulfill all the requirements of this section, including registration and the filing of process information, and the mandatory portions of Part 128b. These requirements are intended to ensure safe manufacture, processing, and packing procedures and to permit the Food and Drug Administration to verify that these procedures are being followed. Such failure shall constitute a prima facie basis for the immediate application of the emergency permit control provisions of section 404 of the act to that establishment, pursuant to the procedures established in Subpart A of this part.

(b) The definitions in Part 128b.1 of this chapter are applicable when such terms are used in this section.

(c) Registration and process filing: (1) Registration. A commercial processor when first engaging in the manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers in any state, as defined in section 201(a)(1) of the act, shall, not later than 10 days after first so engaging, register with the Food and Drug Administration on Form FD–2541 (food canning establishment registration) information including (but not limited to) his name, principal place of business, the location of each establishment in which such processing is carried on, the processing method in terms of the type of processing equipment employed, and a list of the low-acid foods so processed in each such establishment. These forms are available from the Food and Drug Administration, Bureau of Foods, Industry Guidance Branch, HFF–326, 200 C St., SW., Washington, D.C. 20204, or at any Food and Drug Administration district office. The completed form shall be submitted to the Food and Drug Administration, Bureau of Foods, Division of Food Technology, HFF–419, 200 C St., SW., Washington, D.C. 20204. Commercial processors presently so engaged shall register not later than July 13, 1973. Commercial processors duly registered in accordance with this section shall notify the Food and Drug Administration not later than 90 days after such commercial processor ceases or discontinues the manufacture, processing, or packing of thermally processed foods in any establishment: *Provided*, That such notification shall not be required as to the temporary cessation necessitated by the seasonal character of the particular establishment's production or caused by temporary conditions including but not limited to strikes, lockouts, fire, or acts of God.

(2) *Process filing.* A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall, not later than 60 days after registration and prior to the packing of a new product, provide the Food and Drug Administration information as to the scheduled processes including but not limited to the processing method, type of retort or other thermal processing equipment employed, minimum initial temperatures, times and temperatures of processing, sterilizing value (F_o), or other equivalent scientific evidence of process adequacy, critical control factors affecting heat penetration, and source and date of the establishment of the process, for each such low-acid food in each container size: *Provided*, That the filing of such information does not constitute approval of the information by the Food and Drug Administration, and that information concerning processes and other data so filed shall be regarded as trade secrets within the meaning of 21 U.S.C. 331(j) and 18 U.S.C. 1905. This information shall be submitted on the following forms as appropriate: Form FD–2541a (food canning establishment and process filing for still retort processes), form FD–2541b (food canning establishment and process filing for agitating processes), or form FD–2541c (food canning establishment and process filing for other than still retort and agitating processes). These forms are available from the Food and Drug Administration, Bureau of Foods, Industry Guidance Branch, HFF–326, 200 C St., SW., Washington, D.C. 20204, or at any Food and Drug Administration district office. The completed form(s) shall be submitted to the Food and Drug Administration, Bureau of Foods, Division of Food Technology, HFF–419, 200 C St., SW., Washington, D.C. 20204. If a packer modifies a scheduled process from that previously filed, by changing the initial temperature, retore temperature formulation, container size, or other conditions basic

to the process, prior to utilizing such modified scheduled process he shall submit these modifications to the Food and and Drug Administration and shall have in his files for review by Food and Drug Administration inspectors substantiation by a qualified scientific authority of the adequacy of the modified process.

(3) *Process adherence and information.* (i) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers in any registered establishment shall process each low-acid food in each container size in conformity with the scheduled processes and modifications filed pursuant to paragraph (c)(2) of this section.

(ii) Process information availability: When requested, a commercial processor engaged in thermal processing of low-acid foods packaged in hermetically sealed containers shall provide the Food and Drug Administration with any information concerning processes and procedures which is deemed necessary by the Food and Drug Administration to determine the adequacy of the process: *Provided,* That the furnishing of such information does not constitute approval of the information by the Food and Drug Administration, and that the information concerning processes and other data so furnished shall be regarded as trade secrets within the meaning of 21 U.S.C. 331(j) and 18 U.S.C. 1905.

(d) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall promptly report to the Food and Drug Administration any instance of spoilage or process deviation the nature of which indicates potential health significance where any lot of such food has in whole or in part entered distribution.

(e) A commercial processor engaged in thermal processing of low-acid foods packaged in hermetically sealed containers shall promptly report to the Food and Drug Administration any instance wherein any lot of such food, which may be injurious to health by reason of contamination with microorganisms, has in whole or in part entered distribution.

(f) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall have prepared and in his files a current procedure which he will use for products under his control and which he will ask his distributor to follow, including plans for effecting recalls of any product that may be injurious to health; for identifying, collecting, warehousing, and controlling the product; for determining the effectiveness of the recall; for notifying the Food and Drug Administration of any recall; and for implementing the recall program.

(g) All operators of retorts, thermal processing systems, aseptic processing and packaging systems, or other thermal processing systems, and container closure inspectors shall be under the operating supervision of a person who has attended a school approved by the Commissioner for giving instruction in retort operations, aseptic processing and packaging systems operations or other thermal processing systems operations, and container closure inspections, and has satisfactorily completed the prescribed course of instruction: *Provided,* That this requirement shall not apply in the State of California as listed in paragraph (j) of this section and shall not apply until September 25, 1974 in any other State. The Commissioner will not withhold approval of any school qualified to give such instruction.

(h) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall prepare, review, and retain at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years, all records of processing, deviations in processing, container closure inspections, and other records specified in Part 128b of this chapter. Upon demand during the course of a factory inspection pursuant to section 704 of the act by a duly authorized employee of the Food and Drug Administration, a commercial processor shall permit the inspection and copying by such employee of these records to verify the adequacy of processing, the integrity of container closures, and the coding of the products.

(i) This section shall not apply to the commercial processing of any food processed under the continuous inspection of the meat and poultry inspection program of the Animal and Plant Health Inspection Service of the Department of Agriculture under the Federal Meat Inspection Act (34 Stat. 1256, as amended by 81 Stat. 584; (21 U.S.C. 601 et seq.)) and the Poultry Products Inspection Act (71 Stat. 441, as amended by 82 Stat. 791; 21 U.S.C. 451 et seq.).

(j) Wherever the Commissioner finds that any State regulates the commercial thermal processing of low-acid foods in accordance with effective regulations specifying at least the requirements of Part 128b of this chapter, he shall issue a notice stating that compliance with such State regulations shall constitute compliance with this section: *Provided,* That the State through its regulatory agency or each processor of low-acid foods in such State files with the Bureau of Foods the registration information and the processing information prescribed in paragraph (c) of this section. The laws and regulations governing the thermal processing of low-acid foods packaged in hermetically sealed containers in the State of California have been determined by the Commissioner to satisfy this paragraph.

(k) Imports: (1) This section shall apply to any foreign commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers and offering such foods for import into the United States except that, in lieu of providing for the issuance of an emergency permit under paragraph (a) of this section, the Commissioner will request the Secretary of the Treasury to refuse admission into the United States, pursuant to section 801 of the act, of any such low-acid foods which the Commissioner determines, after investigation, may result in the distribution in interstate commerce of processed foods that may be injurious to health as set forth in paragraph (a) of this section.

(2) Any such food refused admission shall not be admitted until such time as the Commissioner may determine that the commercial processor offering the food for import is in compliance with the requirements and conditions of this section and that such food is not injurious to health. For the purpose of making such determination, the Commissioner reserves the right for a duly authorized employee of the Food and Drug Administration to inspect the commercial processor's manufacturing, processing, and packing facilities.

2. By revising § 128b.8(d) to read as follows:

§ 128b.8 Processing and production records.

* * * * *

(d) Copies of all records provided for in this part except those required under § 128b.4 establishing scheduled processes, shall be retained at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years.

Effective date. After evaluation of the objections, the actions taken and the reasons therefor, the Commissioner concludes that no hearing is justified on any aspect of this regulation. Accordingly, the Commissioner confirms that the regulation as revised in this order shall be effective on February 28, 1974, except that the provision of § 90.20(g) which relates to personnel training shall become effective on September 25, 1974 and the requirements relating to process filing shall become effective April 1, 1974.

Dated: January 21, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-2137 Filed 1-28-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 90, 128b]

THERMAL PROCESSING OF LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

Records Retention Requirements

Elsewhere in this issue of the FEDERAL REGISTER the Commissioner of Food and Drugs is publishing a document ruling on objections filed in the matter of § 90.20 *Thermal processing of low-acid foods packaged in hermetically sealed containers* (21 CFR 90.20) published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716). The Commissioner has concluded that no hearing is justified on any aspect of the objections filed and that the regulation as modified in that notice of rulemaking should be adopted as set forth therein.

Sections 90.20(h) and 128b.8(d) (21 CFR 90.20(h) and 128b.8(d)) prescribe a minimum record retention requirement of three years for food processors. The Commissioner is informed that, due to their diverse nature, some food products may continue to be available to consumers in retail food establishments after the required three-year record retention period has expired. Thus the present provisions of §§ 90.20(h) and 128b.8(d) would not insure the retention of records for the duration of the availability of such foods to consumers. Background information on this matter is on file in the office of the Hearing Clerk, Food and Drug Administration.

Accordingly, the Commissioner concludes that §§ 90.20(h) and 128b.8(d) should be amended to require a food processor to retain such records at the processing plant or other reasonably accessible location for the length of time for which it can reasonably be expected that such products may be available to consumers in retail food establishments after the expiration of the three-year period currently required.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402, 404, 701, 52 Stat. 1046–1047, as amended, 1048, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 342, 344, 371)) and under authority delegated to him (21 CFR 2.120) the Commissioner proposes to amend Parts 90 and 128b of Chapter I of the Code of Federal Regulations as follows:

1. In § 90.20 by revising paragraph (h) to read as follows:

§ 90.20 Thermal processing of low-acid foods packaged in hermetically sealed containers.

* * * * *

(h) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall prepare, review, and retain at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years, all records of processing, deviations in processing, container closure inspections, and other records specified in Part 128b of this chapter: *Provided*, That where there is reason to believe that such foods may be available to the consumer in retail food establishments for a period of time in excess of three years, such records shall be retained at the processing plant or other reasonably accessible location for the length of time for which such products may reasonably be expected to be so available. Upon request during the course of a factory inspection pursuant to section 704 of the act by a duly authorized employee of the Food and Drug Administration, a commercial processor shall permit the inspection and copying by such employee of these records to verify the adequacy of processing, the integrity of container closures, and the coding of the products.

* * * * *

2. In § 128b.8 by revising paragraph (d) to read as follows:

§ 128b.8 Processing and production records.

* * * * *

(d) Copies of all records provided for in this part except those required under § 128b.4 establishing scheduled processes, shall be retained at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years: *Provided*, That where there is reason to believe that such foods may be available to the consumer in retail food establishments for a period of time in excess of three years, such records shall be retained at the processing plant or other reasonably accessible location for the length of time for which such products may reasonably be expected to be so available.

Interested persons may, on or before April 1, 1974, file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 21, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–2135 Filed 1–28–74;8:45 am]

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PART III

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

CARCINOGENS

Occupational Health and Safety Standards

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Carcinogens

Pursuant to section 6(b) and (c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754), Part 1910 of Title 29, Code of Federal Regulations, is hereby amended in the manner set forth below, in order to provide standards dealing with the exposure of employees to certain substances that are known to cause cancer.

Background. On May 22, 1972, the Deputy Assistant Secretary of Labor for Occupational Safety and Health requested information from the Director of the National Institute for Occupational Safety and Health (NIOSH) on nine substances alleged to be carcinogens. As part of his effort to gain the best available scientific data, the Director published on July 6, 1972, at 37 FR 13285, a request for information concerning 15 substances. The data, arguments, and conclusions received by NIOSH were made available to the Occupational Safety and Health Administration.

On January 4, 1973, a petition for an emergency temporary standard from the Oil, Chemical, and Atomic Workers Union (OCAW) and Health Research Group (HRG) was received by the Department of Labor. The petition contained relevant information on the danger of exposure to 10 carcinogens, and suggested regulations to prevent worker exposure to the substances.

On February 9, 1973, a notice was published in the FEDERAL REGISTER (38 FR 4037) of the receipt of the petition for issuance of an emergency temporary standard, and information was requested from interested persons on the issues involved. In response to the notice, more than 50 written comments were received.

An emergency temporary standard on carcinogens was promulgated on May 3, 1973, at 38 FR 10929. The standard concerned work practices and controls designed to protect employees from exposure to 14 carcinogenic substances.

A standard advisory committee on carcinogens was appointed and began its meetings on June 25, 1973. The members of the committee represented employers, employees, Federal and state agencies and professionals. The committee terminated its meetings on August 24, 1973, and submitted to the Assistant Secretary of Labor for Occupational Safety and Health its recommendations for a standard on certain carcinogens on August 27, 1973. The recommendations were published in the FEDERAL REGISTER on September 7, 1973 (38 FR 24375).

This rulemaking proceeding was commenced under section 6(b) and (c) of the Act, with the emergency temporary standard serving as a proposal as required by section 6(c)(3) of the Act. Notice of the proceeding was published in the FEDERAL REGISTER on July 16, 1973 (38 FR 18900). On July 27, 1973, a revision of the emergency temporary standard was published at 38 FR 20074, and an amended notice of rulemaking proceeding was published at 38 FR 22141, on August 16, 1973.

The notices invited interested persons to submit, prior to September 5, written comments, data and arguments concerning the proposals, and also provided for the presentation of oral testimony at a public hearing scheduled for September 11–14, 1973. Numerous written comments were received and about 36 parties testified at the hearing. The record of the hearing was initially held open until September 28, for additional comments. After the close and certification of the record by the administrative law judge, additional comments mailed on or before September 28 were received. On October 2 the judge reopened the record for the limited purpose of including these additional comments. On October 15, the judge closed the proceeding and forwarded the certified record to the Assistant Secretary of Labor for Occupational Safety and Health for final decision.

A final environmental impact statement on the proposed standard on carcinogens was filed with the Council on Environmental Quality on October 2, 1973, and copies were distributed to appropriate agencies. In a letter dated November 2, 1973, the Council pointed out alleged deficiencies in the statement filed. Pursuant to that letter, a supplement to the statement was sent to the Council on November 29, 1973, with a request for a waiver of the full, 30-day review period. By letter dated December 10, 1973, the Council advised that the request had been denied. Notice of the filing of the supplement was published by the Council on December 14, 1973 (38 FR 34488).

The following are the major issues raised in the record of this proceeding:

(1) *Selection of carcinogens.* Some participants in this proceeding have demanded to know the criteria for the selection of the 14 substances for regulation. As the written submission of Uniroyal Chemical notes, thirteen compounds derive from Appendix A to the 1972 TLV pamphlet published by the American Conference of Government Industrial Hygienists (ACGIH). Alpha-Naphthylamine, which is not in the appendix, has been added because it has frequently been found, in industrial experience and in epidemiologic studies, together with beta-naphthylamine, and because experimental animal studies demonstrate its independent carcinogencity. Dimethyl sulfate, which is in the appendix, is not included in the standards because it was concluded after consideration of the relevant literature that the documentation of its carcinogenicity was inadequate. The substances listed by ACGIH (except one) were selected in order to take advantage of the work and judgment of that group. Also, ten of the fourteen substances were proposed to the Occupational Safety and Health Administration (OSHA) for regulation by OCAW and HRG in their petition.

(2) *Documentation of carcinogenicity.* The National Institute for Occupational Safety and Health (NIOSH), as official scientific advisor to OSHA, submitted to OSHA fourteen hazard review documents; one for each of the substances included in the standards. Each hazard review document contains a summary and evaluation of information and data obtained by NIOSH, including experimental animal and epidemiologic data. All but one of the substances are considered by ACGIH to be carcinogenic in man and/or animals.

In promulgating these standards, OSHA has relied extensively but not exclusively, on the hazard review documents prepared by NIOSH. Some of the substances are recognized as human carcinogens by some employers participating in this proceeding. For instance, although Young Aniline Works apparently takes issue with the studies which demonstrated Benzidine to be a human carcinogen, the Benzidine Task Force of the Synthetic Organic Chemical Manufacturers Association does not oppose OSHA considering benzidine as carcinogenic to humans.

The essence of the NIOSH hazard review documents follows.

2-Acetylaminofluorene. Experimental animal investigations involving rats, mice, rabbits, dogs, hamsters and fowl have demonstrated the carcinogenicity of 2-Acetylaminofluorene (2-AAF). Investigations into the mechanism whereby 2-Acetylaminofluorene exerts its carcinogenic effect have demonstrated that the N-hydroxylated metabolite, N-hydroxy-2-AAF, was produced in several animal species and was more carcinogenic than the parent compound. The National Cancer Institute (NCI) demonstrated that humans also metabolize this substance to the same carcinogenic metabolite. From these findings, it seems reasonable to conclude that 2-AAF, which has been shown to be carcinogenic in many animal species, is carcinogenic in man.

4-Aminodiphenyl. The potential of 4-Aminodiphenyl (4-ADP) to induce bladder cancer in humans has been established in epidemiologic studies conducted by Melick et al. and Koss et al. Deichmann & Radomski considered 4-ADP to possess a relative carcinogenic potential for the dog 6 times greater than that of beta-Naphthylamine, 17 times greater than that of 4-Nitrobiphenyl and 27 times greater than that of Benzidine. In addition, the carcinogenicity of 4-ADP has been well-established in the open scientific literature with demonstrated potential for malignant tumor induction in rabbits and mice. The accumulated experimental and epidemiologic evidence have demonstrated 4-Aminodiphenyl may be the most hazardous aromatic amine regarding carcinogenic potential.

Benzidine. Benzidine was demonstrated to be carcinogenic in experimental animal investigations involving

rats, dogs, hamsters, and mice. Epidemiologic investigations of worker populations exposed to Benzidine have clearly demonstrated that this substance and its salts are also carcinogenic in humans. The incidence of urinary bladder cancer in workers exposed to Benzidine in these epidemiologic investigations greatly exceeded the incidence of this disease in the general population.

3,3'-Dichlorobenzidine. The determination that 3,3'-Dichlorobenzidine (DCB) is potentially carcinogenic for humans rests on the determination that DCB has been shown to be carcinogenic in controlled animal studies involving rats, mice and hamsters. A clearly defined and statistically significant worker population exposed to DCB only, in either the past or in the present, is difficult to ascertain. Existing worker populations have been either exposed to other listed chemical carcinogens in their past work experience or are presently being exposed to other suspect carcinogens in addition to DCB. Therefore, the case for the human carcinogenicity of DCB must rely on extrapolation to humans of the most pertinent animal studies of oncogenesis.

The studies by the NCI concerning the induction of tumors, significantly including bladder tumors in hamsters, and the studies by Pliss et al. concerning the induction of tumors in mice and rats present experimental evidence of tumor production in three animal species.

Although DCB has been detected in the urine of workers receiving a minimum of exposure, the metabolism of this substance is unclear, although it probably differs from that of other carcinogenic aromatic amines such as Benzidine and beta-Naphthylamine.

4-Dimethylaminoazobenzene. Numerous reports concerning carcinogenicity of 4-Dimethylaminoazobenzene (DAB) in experimental animals have been published. This substance was demonstrated to be carcinogenic in rats, dogs, neonatal mice and trout. The similarity in metabolism of various aromatic amines in dogs and humans, emphasizes the importance of the finding that DAB has been demonstrated carginogenic for dogs.

alpha-Naphthylamine. The contamination of alpha-Naphthylamine (1-NA) by beta-Naphthylamine (2-NA) a potent carcinogen, and mixed occupational exposures involving 1-NA and other aromatic amines has confounded the epidemiologic conclusion that 1-NA is carcinogenic in man. Both 1-NA and 2-NA are readily metabolized to various derivatives, several of which have a demonstrated carcinogenic potential in experimental animals. The demonstration that a metabolite of 1-NA, N-Hydroxy-1-naphthylamine, possessed a greater carcinogenic potential than the corresponding 2-NA metabolite, N-Hydroxy-2-naphthylamine, emphasizes this consideration. In addition, the extensive epidemiologic study in the dyestuffs industry conducted by Case failed to eliminate an active role for 1-NA as a human bladder carcinogen.

beta-Naphthylamine. beta-Naphthylamine (2-NA) was demonstrated to induce cancer of the urinary bladder in dogs, rhesus monkeys and hamsters. Tumors were induced in other organs of rats and mice exposed to 2-NA although attempts at tumor induction in rabbits was unsuccessful. Epidemiologic investigations of worker populations exposed to 2-NA clearly demonstrates that this substance is carcinogenic in humans.

4-Nitrobiphenyl. Because of the structural similarity of 4-Aminodiphenyl to 4-Nitrobiphenyl and the experimental evidence for in vivo formation of 4-Aminodiphenyl from 4-Nitrobiphenyl, the epidemiologic investigations published by Melick et al. and by Koss et al. are of special significance. These studies have demonstrated the potential of 4-Aminodiphenyl to induce urinary bladder cancer in humans. The case of the carcinogenicity of 4-Nitrobiphenyl is strongly supported by the induction of urinary bladder cancer in dogs, the evidence that 4-Nitrobiphenyl is metabolized, in vivo, to 4-Aminodiphenyl (a highly carcinogenic aromatic amine), and the possibility that the cases of human urinary bladder cancer attributed by Melick et al. to 4-Aminodiphenyl only, may have been induced by exposure to 4-Nitrobiphenyl as well.

N-Nitrosodimethylamine. The carcinogenicity of N-Nitrosodimethylamine (DMN) for the liver and kidney of the rat has been repeatedly demonstrated in experimental studies. In addition, primary tumors of the lungs have been induced in rats administered oral doses of DMN and inhalation of DMN has produced tumors of the nasal area. Other experimental animal investigations have demonstrated the carcinogenicity of DMN for the mouse, the hamster, the guinea pig, the rabbit and several species of fish. In view of this broad spectrum of carcinogenic activity in experimental animals, DMN must be regarded as potentially carcinogenic for man.

beta-Propiolactone. The carcinogenicity of beta-Propiolactone (BPL) has been demonstrated in mice by skin application, subcutaneous injection and intraperitoneal injection. Malignant tumors have been induced in rats by subcutaneous injection, intratracheal administration, and intragastric feeding. Skin application to hamsters induced a very high incidence of skin tumors. Although epidemiologic evidence demonstrating BPL to possess a carcinogenic potential for humans is not available, the weight of the experimental animal data indicates that BPL is also a carcinogen in humans.

bis(Chloromethyl) ether. Investigations with experimental animals (mice and rats) have demonstrated that bis(chloromethyl)ether (BCME) is a very hazardous carcinogenic substance. Skin application or subcutaneous injection of experimental animals has resulted in malignant lesions at the site of application or injection and in malignant tumors of the lungs. Of significance was the demonstration that 1 ppm or 0.1 ppm of BCME in air, induced lung cancer in mice or rats. Epidemiologic investigations conducted separately by the National Institute for Occupational Safety and Health and others demonstrated that employee exposure to BCME is extremely hazardous with a high probability of lung cancer.

Chloromethyl Methyl ether. The results of investigations with experimental animals exposed to commercial grades of Chloromethyl methyl ether (CMME) have been inconclusive regarding the carcinogenicity of this substance because of contamination by small concentrations of the highly carcinogenic bis- derivative-bis(Chloromethyl)ether. However, experimental animal investigations involving chemically purified CMME have demonstrated that this substance possesses a carcinogenic potential.

Epidemiologic investigations reported in 1972 and in 1973 strongly implicated CMME as a human carcinogen, although concomitant exposure to BCME cannot be discounted.

4,4' - Methylene-bis(2 - chloroaniline). The results of experimental animal studies involving rats and mice, as reported by three different groups of investigators, have clearly demonstrated a carcinogenic potential for 4,4'-Methylene-bis(2-chloroaniline). The results of two industrial studies involving workers exposed to 4,4'-Methylene - bis(2 - chloroaniline) were not definitive and cannot be relied upon to assess the hazards of occupational exposure to this substance, although one of the studies reported that several exposed workers developed hematuria.

Ethyleneimine. The carcinogenic potential of ethyleneimine (EI) has been confirmed by a study conducted by Walpole in 1954 involving rats and one sponsored by the National Cancer Institute involving mice. In the first study, animals developed injection site sarcomas which the investigators attributed to the direct action of Ethyleneimine, and in the second study 80 percent of the animals developed tumors, including more than one-half with hepatomas (which the investigators stated had "malignant potentiality") and almost three-quarters with pulmonary tumors. Although high doses of EI were administered, the investigators stated there was no way to predict whether man would be more or less susceptible to tumor induction by EI.

The case for the carcinogenicity of EI, then, rests on the extrapolation to humans of the findings in two separate, controlled animal studies. This position is compatible with that of NIOSH concerning the prior demonstration of carcinogenicity in at least two animal studies.

A major question of occupational carcinogenesis relates to the extrapolation of results of animal experimentation to humans. The basis of numerous objections to the proposals is that, even assuming the validity of animal experiments, such do not furnish sufficient evidence that the substances involved are carcinogenic to humans. Extrapolation of results obtained by animal experimentation is alleged to be vitiated by several considerations: (a) That certain cancers are specific only to some species;

(b) that the conditions of animal experiments are out of proportion to, and not consistent with, conditions prevailing in industrial exposure; and (c) that no cancers have yet been detected in humans exposed to the substances. For those substances whose metabolism is understood, and is similar in both animals and man, the fact that they induce cancers in animals warrants the expectation that they will induce cancers in men. This applies to the substances which cause urinary bladder cancers in animals acting, not directly, but indirectly through the mediation of metabolites formed both in experimental animals and in exposed workers. This is also true of those substances which apparently require no metabolic alteration but attack a particular biologic system (e.g., respiratory tract, alimentary canal) which is similar in both animals and humans.

The objections raise the much broader issue of human exposure to a chemical which is only known to have caused cancers in experimental animals.

It is important to note that some opponents of the regulation of such chemicals do not advocate treating them as if they were harmless with respect to carcinogenic potential. Several employers, for instance insist that such substances must be treated with "care" or "respect," while also insisting that they call for significantly less protection than those substances known to be human carcinogens.

We think it improper to afford less protection to workers when exposed to substances found to be carcinogenic only in experimental animals. Once the carcinogenicity of a substance has been demonstrated in animal experiments, the practical regulatory alternatives are to consider them either non-carcinogenic or carcinogenic to humans, until evidence to the contrary is produced. The first alternative would logically require, not relaxed controls on exposure, but exclusion from regulation. The other alternative logically leads to the treatment of a substance as if it was known to be carcinogenic in man.

We agree with the Director of NIOSH, and the report of the Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens to the Surgeon General, U.S. Public Health Service, April 22, 1970, that the second alternative is the responsible and correct one. This decision accords with the work practices of some who object to the proposed regulation. For example, although the Pharmaceutical Manufacturers Association argues for the exclusion of research laboratories from the standard, it states as its ground the fact that employees in Pharmaceutical research are taught to work with all chemicals under the assumption that they are dangerous, unless it is specifically known that they are not.

(3) *The petition, zero tolerance, and permit system.* The petition of Oil, Chemical and Atomic Workers Union (OCAW) and Health Research Group (HRG) for an emergency temporary standard on ten substances proceeds on the assumption that any exposure to any amount of a carcinogenic substance must be prevented. Accordingly, it proposes a standard of zero tolerance permitting no exposure whatsoever. This objective would be accomplished by means of a permit system and frequent monitoring and reporting.

We agree with the Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens that a safe level of human exposure to any of the 14 carcinogens cannot be established by application of present knowledge. But we are not prepared to draw from this state of knowledge the conclusion that such levels do not exist. First, it is the professional opinion of many knowledgeable people that as yet undetermined safe levels of exposure possibly do exist. Also, a conclusion that safe levels do not exist seems questionable in view of other studies, some in the area of carcinogenicity which demonstrated that below a certain amount of a single or cumulative dosage, no detectable harm is caused, or if harm is caused, the extent of such harm will be of no practicable importance because the latency period prior to manifestation of harmful effects will be of greater duration than the normal lifespan of man. Secondly, no possible exposure to the carcinogens under any circumstances could only be guaranteed by a total ban on the manufacture, use (even for cancer research), and transportation of the substances. As long as the substances are used, exposure to some amounts may occur because of breakdown of equipment or human error. Accordingly, the intent of the standards is to reduce exposure of workers to any of the listed substances to the maximum extent practicable consistent with continued use.

Numerous objections have challenged the authority for, and the administrative feasibility of, the permit system proposed on July 16, 1973 (38 FR 18902). It is argued, for instance, that the Act requires the promulgation of general standards, in accordance with the procedures prescribed in section 6 of the Act, while the proposed permits would be tailored to particular users, and would be issued by a different procedure.

Another objection argues that a permit system, to be effective, would require authority to stop an operation involving a carcinogen by administrative action, in contravention of the statutory scheme which contemplates judicial determinations resulting in the cessation of an operation.

With regard to feasibility, it is pointed out that a multitude of permits would be required, and that, therefore, the implementation of a permit system would require substantial resources and several years.

It has been made clear that there are numerous uses and processes involving carcinogens. It appears, for instance, that there are 800 to 1800 users of 4,4'-methylene bis(2-chloroaniline) alone. The investigations and evaluations of thousands of work situations involving a carcinogen, and the completion of the procedures, possibly including hearings, for the granting of the permits, would require many years and the diversion of substantial resources, even if available, from other serious occupational safety and health problems.

After considering the administrative and legal aspects of a permit system, as against those of general standards enforced by the use of the current enforcement tools of the Act, the decision has been made not to adopt a permit system.

The requirement in the adopted standards for employers to report the uses of carcinogens and the nature of operations involved, together with incidents of releases of carcinogens, will permit significant administrative surveillance.

(4) *Mixtures.* The proposal for this rulemaking proceeding, like the Emergency Temporary Standard, excludes from the scope of the standard mixtures containing less than specified percentages of the 14 listed substances. The specific figure as a cutoff point derives from the regulations of the Commonwealth of Pennsylvania and England, which also regulate exposure to carcinogens, and apparently have faced the same administrative difficulties confronting OSHA. It is recognized that some of the carcinogens may be used in minute amounts with other substances, or may appear as unintended, undesired by-products or contaminants of processes. Some of the substances are used in minute amounts in cancer research laboratories, and for medical purposes. The College of American Pathologists, for instance, points out that for years pathology laboratories and physicians have used benzidine and/or benzidine dihydrochloride for diagnostic purposes. The American Home Products Corporation calls attention to the use of beta-Propiolactone for the sterilization of vaccines and tissue grafts. Koppers, Inc., requests an exemption in some form for materials, such as coal tar and coal tar products, that contain trace amounts of some carcinogens as by-products or contamination of processes essential to our industrial society. It states that the application of the proposed standard to crude mixtures, such as coal tar and coal tar products, without any exemption, would have the effect of closing down large segments of industry, such as steelmaking, wood preserving, roofing, aluminum reduction, and possibly even power plants.

The adopted standards retain the proposed exclusion of solid or liquid mixtures containing less than 1 percent, by weight or volume, of eight of the carcinogens. Solid or liquid mixtures containing 4-Aminodiphenyl, Benzidine (and its salts), 4-Nitrobiphenyl, beta-Naphthylamine, bis-Chloromethyl ether and Methyl chloromethyl ether are excluded only if they contain less than 0.1 percent of those substances. Finally, an exclusion is provided in the destructive distillation of carbonaceous materials, for alpha-Naphthylamine and beta-Naphthylamine, which may occur in such processes.

The overall purpose of all the exclusions is to avoid substantial obstruction, if not stoppage, of the use of many processes and products which are considered useful in industry and even in cancer research, and about which the record contains very little information. We do not know how many such products and processes there are, nor the availability of substitutes for all of the carcinogens involved, nor the effect of the other components of a mixture on the carcinogenic potentiality of the small amounts of the carcinogen involved. The exclusionary percentage for mixtures containing 4-Aminodiphenyl, Benzidine, 4-Nitrobiphenyl, beta-Naphthylamine, bis-Chloromethyl ether and Methyl chloromethyl ether has been lowered from 1 percent to 0.1 percent because these substances are known to be potent human carcinogens.

The exclusion for the destructive distillation of carbonaceous materials is for the purpose of avoiding the extreme consequences to the segments of the industry using vigorous thermal processes at a time when a separate standard-setting proceeding on coke oven emissions will afford the opportunity for a more in-depth consideration of this whole area (see 38 FR 26207). The exclusion of the mixtures rests, not on a finding that the mixtures are non-carcinogenic, but rather on a decision not to regulate them at this time, on the basis of the record of this proceeding.

(5) *Number of Standards Needed.* Another objection to the proposals is that the standard "lumps together" many different substances with different chemicals and physical properties, different physical states, different biological properties and different uses. There is merit in this objection. Accordingly, 14 standards are adopted, one for each substance listed in the proposal of July 16, 1973.

These standards recognize and provide for different uses and operations involving the regulated carcinogens. Ethyleneimine and beta-Propiolactone are immediately corrosive, and provisions are made in the standards for these materials for deluge showers and eye wash fountains, located near places where exposures might be expected. Principally volatile materials will not be present long enough for routine washing or showering to have effect as a protective measure. Thus, a requirement to wash on each exit, and shower at the end of the day, would not offer any significant protection to employees working in areas where the volatile materials, Methyl chloromethyl ether, bis-Chloromethyl ether, Ethyleneimine and beta-Propiolactone, are present in a closed system or closed system transfer operation. Trace amounts that might be adsorbed onto exposed skin vaporize long before the empolyee would routinely wash or shower. Wash requirements are retained for these materials in isolated system operations because the closed confinement of glovebox gloves would inhibit vaporization if a leak should occur.

Special provisions are made for premix operations involving 4,4 Methylene-bis (2-chloroaniline) and liquid prepolymer. These premix solutions, frozen or otherwise, are packaged in such a manner and used only after the 4,4'-Methylene-bis(2-chloroaniline) and the prepolymer have started to react. No dust hazard exists and a vapor hazard is unlikely. For this reason, the standard requires only protective clothing such as smocks, coveralls, or long-sleeved shirts and pants, and gloves. This, we believe, will afford adequate protection for these workers.

On the other hand, some of the differences pointed out do not require different treatment. There are basically two strategies of control, regardless of the physical state of a carcinogen. One is to isolate the carcinogen and the other is to isolate the area of possible exposure. In cases of isolated systems, the physical state of a carcinogen may be disregarded for practical purposes. When a system is isolated and fully closed so that the substances cannot escape into the work environment, it does not matter if the substance in it is a solid, liquid, or gas. An isolated system achieved by engineering controls is the preferred approach and the basic approach adopted in the standards. That is, the preferred method of control is engineering control, such as by closed systems, mechanical seals, remote controls, and local exhaust ventilation. This approach most effectively isolates employees from potential contamination.

This is the reason for the ban on open vessel operations. Because of consideration of feasibility, special provisions are made for laboratory hoods and transfer point operations, and additional work practice requirements are made applicable to them.

When protection is afforded by means of personal protective equipment, it is thought best to require body coverage, regardless of the physical state of the substance and its path of travel into the body. The reason for such personal protection is that even if a substance is considered to do harm only when ingested or inhaled, it is prudent to provide protective garments to be discarded after use, so that a worker may not accidentally inhale or ingest contaminants adhering to his clothing or body. This precaution is reasonable, especially since the standards do not require full impervious air-supplied suits. OSHA agrees with the many comments that a full impervious air-supplied suit is cumbersome, while impervious garments with air-supplied hoods are adequate and more comfortable to the workers when used in accordance with the work practice provisions of these standards.

(6) *Research laboratories.* Numerous objections have been made to the proposal for identical treatment of industrial use and laboratory use of the carcinogens. There are essentially three objections: (a) That laboratories use very small amounts of the substances; (b) that work is done by, or under the direction of, highly trained personnel; and (c) that, in the absence of an exemption or other special consideration, the standard as proposed would obstruct, and possibly even prevent much research including cancer research.

These objections are well-taken and special provisions are made applicable to laboratory activities. The provisions are derived from the Minimum Safety Guidelines for Research in Cancer (Part 1, For Research Involving Chemical Carcinogens), prepared in draft form by the Cancer Research Safety Committee of the National Cancer Institute. In addition, it is to be noted that the exclusion provisions for certain mixtures may, by themselves, make a whole standard inapplicable.

Personnel engaged in animal support activities must necessarily handle animals exposed in connection with experiments involving one or more of the carcinogens. Such support activities include the feeding of animals, cleaning of cages and the animal room, and caring for the animals, including weighing operations. Such close animal contact involves potential exposure both to a carcinogen and to metabolites of the carcinogen and therefore requires the more stringent controls for such personnel provided in the standards.

(7) *Signs and labels.* The controversy with regard to signs and labels centers on whether the word "cancer" should be used. We believe that a diluted form of warning will not suffice. We appreciate the concern of employers with the reactions of their employees and the users of their products. But we consider of paramount importance that a worker should be fully apprised and realize the possible risks involved in his occupation. The use of the word "suspect" in the phrase "Cancer-Suspect" follows the revised Emergency Temporary Standard issued July 27, 1973. Coupled with the information and training requirement in the standard, it appears to provide the necessary warning to employees.

(8) *Information and training.* Employers are responsible for providing indoctrination and training to their employees on the nature of the carcinogenic hazards in the establishment, and the precautions to be used when working with or in the presence of the carcinogens. Information on the training and education to be provided to employees is specified in each of the standards for a carcinogenic agent.

(9) *Monitoring.* No provisions for specific techniques or instruments for environmental monitoring are contained in the standards adopted. OSHA has requested NIOSH to develop, on a priority basis, methods for determining qualitative and quantitative amounts of the carcinogens in the workplace.

(10) *Medical surveillance.* Medical surveillance by a physician is required in the standards prior to assignment, at yearly intervals thereafter and whenever known or possible exposure to a carcinogen has occurred. Medical surveillance is considered necessary because of the long latency period inherent in occupational carcinogenesis, since initiation of exposure and induction of cancer are not synchronous events.

(11) *Reports and records.* The standards require reports concerning the use of carcinogens, the number of employees in regulated areas, and incidents resulting in the release of a carcinogen in an area where employees may be potentially exposed. The standards also require records of medical examinations of employees. The reports and records are considered necessary in order to monitor the effectiveness of the standards in protecting employees against occupational cancer and in order to obtain information, on a continuing basis, concerning the hazards found in the use of the carcinogens.

Accordingly, upon consideration of the whole record of this proceeding, 29 CFR Part 1910 is amended by revising § 1910.93c and by adding new §§ 1910.93d through 1910.93p, reading as follows:

§ 1910.93c 4-Nitrobiphenyl.

(a) *Scope and application.* (1) This section applies to any area in which 4-Nitrobiphenyl, Chemical Abstracts Service Registry Number 92933 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e) (2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume of 4-Nitrobiphenyl.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4-Nitrobiphenyl. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving 4-Nitrobiphenyl where containment prevents the release of 4-Nitrobiphenyl into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of 4-Nitrobiphenyl or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 4-Nitrobiphenyl from the work environment.

(8) "Emergency" means an unforseen circumstance or set of circumstances resulting in the release of 4-Nitrobiphenyl which may result in exposure to or contact with 4-Nitrobiphenyl.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of 4-Nitrobiphenyl, which is impervious to the passage of 4-Nitrobiphenyl, and which would prevent the entry of 4-Nitrobiphenyl into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 4-Nitrobiphenyl within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exist is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving 4-Nitrobiphenyl in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4-Nitrobiphenyl into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4-Nitrobiphenyl.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) "Requirements for areas containing 4-Nitrobiphenyl." A regulated area shall be established by an employer where 4-Nitrobiphenyl is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 4-Nitrobiphenyl within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 4-Nitrobiphenyl is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 4-Nitrobiphenyl is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b) (13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 4-Nitrobiphenyl is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in 4-Nitrobiphenyl handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e) (2), (3), and (4), of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4-Nitrobiphenyl could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4-Nitrobiphenyl. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which 4-Nitrobiphenyl is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 4-Nitrobiphenyl shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 4-Nitrobiphenyl is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 4-Nitrobiphenyl shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(*d*) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with 4-Nitrobiphenyl such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d) (1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 4-Nitrobiphenyl from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of 4-Nitrobiphenyl and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 4-Nitrobiphenyl and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other

than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 4-Nitrobiphenyl contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance. *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of 4-Nitrobiphenyl, including local and systemic toxicity;

(*b*) The specific nature of the operation involving 4-Nitrobiphenyl which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4-Nitrobiphenyl;

(*h*) The purpose for and application of specific first aid procedures and practices;

(i) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 4-Nitrobiphenyl in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which 4-Nitrobiphenyl is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 4-Nitrobiphenyl into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93d alpha-Naphthylamine.

(a) *Scope and application.* (1) This section applies to any area in which alpha-Naphthylamine, Chemical Abstracts Service Registry Number 134327 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of alpha-Naphthylamine.

(3) This section will not apply to operations involving the destructive distillation of carbonaceous materials, such as occurs in coke ovens.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of alpha-Naphthylamine. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving alpha-Naphthylamine where containment prevents the release of alpha-Naphthylamine into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of alpha-Naphthylamine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of alpha-Naphthylamine from the work environment.

(8) "Emergency" means an unforseen circumstance or set of circumstances resulting in the release of alpha-Naphthylamine which may result in exposure to or contact with alpha-Naphthylamine.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of alpha-Naphthylamine, which is impervious to the passage of alpha-Naphthylamine, and which would prevent the entry of alpha-Naphthylamine into regulate areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving alpha-Naphthylamine within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving alpha-Naphthylamine in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of alpha-Naphthylamine into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to alpha-Naphthylamine.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing alpha-Naphthylamine.* A regulated area shall be established by an employer where alpha-Naphthylamine is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with alpha-Naphthylamine within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where alpha-Naphthylamine is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while alpha-Naphthylamine is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where alpha-Naphthylamine is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), and shoe covers and gloves prior to entering a regulated area.

(iv) Employees engaged in alpha-Naphthylamine handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exist of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with alpha-Naphthylamine could result, each authorized employee entering that area shall:

(i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of alpha-Naphthylamine. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which alpha-Naphthylamine is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of alpha-Naphthylamine shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as an solid front grown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where alpha-Naphthylamine is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of alpha-Naphthylamine shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements.*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected areas shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with alpha-Naphthylamine, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove alpha-Naphthylamine from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of alpha-Naphthylamine and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of alpha-Naphthylamine and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have alpha-Naphthylamine contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(*a*) The nature of the carcinogenic hazards of alpha-Naphthylamine, including local and systemic toxicity;

(*b*) The specific nature of the operation involving alpha-Naphthylamine which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of alpha-Naphthylamine;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the informaton required in subdivisions (i), (ii), (ii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of alpha-Naphthylamine in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities; and

(iv) The manner in which alpha-Naphthylamine is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of alpha-Naphthylamine into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(*g*) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physican shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93e 4,4'-Methylene bis(2-chloroaniline).

(a) *Scope and application.* (1) This section applies to any area in which 4,4'-Methylene bis(2-chloroaniline), Chemical Abstracts Service Registry Number 101144 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of 4,4'-Methylene bis(2-chloroaniline).

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4,4'-Methylene bis(2-chloroaniline). The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" mean an operation involving 4,4'-Methylene bis(2-chloroaniline) where containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of 4,4'-Methylene bis(2-chloroaniline) or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 4,4'-Methylene bis(2-chloroaniline) from the work environment.

(8) "Emergency" means an unforseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis(2-chloroaniline) which may result in exposure to or contact with 4,4'-Methylene bis(2-chloroaniline).

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 4,4'-Methylene bis(2-chloroaniline) within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis(2-chloroaniline).

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing 4,4'-Methylene bis(2-chloroaniline).* A regulated area shall be established by an employer where 4,4'-Methylene bis(2-chloroaniline) is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 4,4'-Methylene bis(2-chloroaniline) within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 4,4'-Methylene

bis(2-chloroaniline) is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis(2-chloroaniline is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 4,4'-Methylene bis(2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in 4,4'-Methylene bis(2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills. maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis(2-chloroaniline) could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline). (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which 4,4'-Methylene bis(2-chloroaniline) is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 4,4'-Methylene bis(2-chloroaniline) shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis(2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 4,4'-Methylene bis(2-chloroaniline) shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(7) *Premixed solutions.* Where 4,4'-Methylene bis(2-chloroaniline) is present only in a single solution at a temperature not exceeding 120°F. the establishment of a regulated area is not required; however, (i) Only authorized employees shall be permitted to handle such materials,

(ii) Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the processed used;

(iii) Employees shall be required to remove and leave protective clothing and equipment when leaving the work area at the end of the work day, or at any time solution is spilled on such clothing or equipment. Used clothing and equipment shall be placed in impervious containers for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(iv) Employees shall be required to wash hands and face after removing such clothing and equipment and before engaging in other activities;

(v) Employees assigned to work covered by this subparagraph shall be deemed to be working in regulated areas for the purposes of paragraphs (d)(1), (2), (3)(i) and (ii), and (4)(iii) and (iv), (e), (f), and (g) of this section;

(vi) Work areas where solution may be spilled shall be (*a*) Covered daily or after any spill with a clean covering; or

(*b*) Clean thoroughly daily and after any spill.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with 4,4'-Methylene bis(2-chloroaniline) such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower facilities shall be provided in accordance with § 1910.141 (d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis(2-chloroaniline) from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of 4,4'-Methylene bis(2-chloroaniline) and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) and (c)(7)(iii) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 4,4'-Methylene bis-(2-chloroaniline) and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) and (c)(7)(iii) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph 5 of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 4,4'-Methylene bis(2-chloroaniline) contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance; provided that no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of 4,4'-Methylene bis(2-chloroaniline), including local and systemic toxicity;

(*b*) The specific nature of the operation involving 4,4'-Methylene bis(2-chloroaniline) which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4,4'-Methylene bis(2-chloroaniline);

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 4,4'-Methylene bis(2-chloroaniline) in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities; and

(iv) The manner in which 4,4'-Methylene bis(2-chloroaniline) is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 4,4'-Methylene bis(2-chloroaniline) into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93f Methyl chloromethyl ether.

(a) *Scope and application.* (1) This section applies to any area in which methyl chloromethyl ether, Chemical Abstracts Service Registry Number 107302 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume of methyl chloromethyl ether.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of methyl chloromethyl ether. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving methyl chloromethyl ether where containment prevents the release of methyl chloromethyl ether into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of methyl chloromethyl ether or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of methyl chloromethyl ether from the work environment.

(8) "Emergency" means an unforseen circumstance or set of circumstances resulting in the release of methyl chloromethyl ether which may result in exposure to or contact with methyl chloromethyl ether.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of methyl chloromethyl ether, which is impervious to the passage of methyl chloromethyl ether, and which would prevent the entry of methyl chloromethyl ether into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving methyl chloromethyl ether within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving methyl chloromethyl ether in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of methyl chloromethyl ether into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to methyl chloromethyl ether.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing methyl chloromethyl ether.* A regulated area shall be established by an employer where methyl chloromethyl ether is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with methyl chloromethyl ether within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where methyl chloromethyl ether is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while methyl chloromethyl ether is contained within. Access shall be restricted to authorized employees only;

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where methyl chloromethyl ether is contained in an otherwise "closed system," but is transferred, charged, or discharged into other

normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), and gloves prior to entering the regulated area.

(iv) Employees engaged in methyl chloromethyl ether handling operations shall be provided with and required to wear and use a full-face, supplied air respirator, of the continuous flow or pressure-demand type, in accordance with § 1910.134.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with methyl chloromethyl ether could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of methyl chloromethyl ether. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which methyl chloromethyl ether is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of methyl chloromethyl ether shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where methyl chloromethyl ether is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of methyl chloromethyl ether shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements.*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with methyl chloromethyl ether, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(iii) Where toilets are in regulated areas, such toilets shall be in a separate room.

(iv) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d) (1) and (2) (ii) through (vii).

(v) Where employees are required by this section to showed, showed facilities shall be provided in accordance with § 1910.141(d)(3).

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner

that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove methyl chloromethyl ether from the surfaces of materials, equipment and the decontamination facility.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of methyl chloromethyl ether and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagaph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of methyl chloromethyl ether and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have methyl chloromethyl ether contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of methyl chloromethyl ether, including local and systemic toxicity;

(*b*) The specific nature of the operation involving methyl chloromethyl ether which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of methyl chloromethyl ether;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of methyl chloromethyl ether in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which methyl chloromethyl ether is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of methyl chloromethyl ether into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph.

(i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93g 3,3'-Dichlorobenzidine (and its salts).

(a) *Scope and application.* (1) This section applies to any area in which 3,3'-Dichlorobenzidine (or its salts), Chemical Abstracts Service Registry Number 91941 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1 percent by weight or volume of 3,3'-Dichlorobenzidine (or its salts).

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 3,3'-Dichlorobenzidine (or its salts). The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving 3,3'-Dichlorobenzidine (or its salts) where containment prevents the release of 3,3'-Dichlorobenzidine (or its salts) into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of 3,3'-Dichlorobenzidine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 3,3'-Dichlorobenzidine (or its salts) from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 3,3'-Dichlorobenzidine (or its salts) which may result in exposure to or contact with 3,3'-Dichlorobenzidine (or its salts).

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment, of 3,3'-Dichlorobenzidine (or its salts), which is impervious to the passage of 3,3'-Dichlorobenzidine (or its salts) and which would prevent the entry of 3,3'-Dichlorobenzidine (or its salts) into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 3,3'-Dichlorobenzidine (or its salts) within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving 3,3'-Dichlorobenzidine (or its salts) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 3,3'-Dichlorobenzidine (or its salts) into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 3,3'-Dichlorobenzidine (or its salts).

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing 3,3'-Dichlorobenzidine (or its salts).* A regulated area shall be established by an employer where 3,3'-Dichlorobenzidine (or its salts) is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 3,3'-Dichlorobenzidine (or its salts) within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 3,3'-Dichlorobenzidine (or its salts) is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 3,3'-Dichlorobenzidine (or its salts) is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 3,3'-Dichlorobenzidine (or its salts) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in 3,3'-Dichlorobenzidine (or its salts) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 3,3'-Dichlorobenzidine (or its salts) could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 3,3'-Dichlorobenzidine (or its salts). (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which 3,3'-Dichlorobenzidine (or its salts) is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious

containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 3,3'-Dichlorobenzidine (or its salts) shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exist from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 3,3'-Dichlorobenzidine (or its salts) is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 3,3'-Dichlorobenzidine (or its salts) shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases busines without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with 3,3'-Dichlorobenzidine (or its salts), such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilties shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 3,3'-Dichlorobenzidine (or its salts) from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training.*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of 3,3'-Dichlorobenzidine (or its salts) and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 3,3'-Dichlorobenzidine (or its salts) and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 3,3'-Dichlorobenzidine (or its salts) contents

with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of 3.3′-Dichlorobenzidene (or its salts), including local and systemic toxicity;

(*b*) The specific nature of the operation involving 3,3′-Dichlorobenzidine (or its salts) which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 3,3′-Dichlorobenzidine (or its salts);

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 3,3′-Dichlorobenzidine (or its salts) in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which 3,3′-Dichlorobenzidine (or its salts) is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 3,3′-Dichlorobenzidine (or its salts) into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids of cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93h bis-Chloromethyl ether.

(a) *Scope and application.* (1) This section applies to any area in which bis-Chloromethyl ether, Chemical Abstracts Service Registry Number 542881 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume of bis-chloromethyl ether.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of bis-chloromethyl ether. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving bis-chloromethyl ether where containment prevents the release of bis-chloromethyl ether into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of bis-chloromethyl ether or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of bis-chloromethyl ether from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of bis-chloromethyl ether which may result in exposure to or contact with bis-chloromethyl ether.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment, of bis-chloromethyl ether, which is impervious to the passage of, bis-chloromethyl ether and which would prevent the entry of bis-chloromethyl ether into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving bis-chloromethyl ether within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving bis-chloromethyl ether in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of bis-chloromethyl ether into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to bis-chloromethyl ether.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing bis-chloromethyl ether.* A regulated area shall be established by an employer where bis-chloromethyl ether is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with bis-chloromethyl ether within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where bis-chloromethyl ether is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while bis-chloromethyl ether is contained within. Access shall be restricted to authorized employees only.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where bis-chloromethyl ether is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), and gloves prior to entering the regulated area.

(iv) Employees engaged in bis-chloromethyl ether handling operations shall be provided with and required to wear and use a full-face, supplied air respirator, of the continuous flow or pressure-demand type, in accordance with § 1910.134.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with bis-chloromethyl ether could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of bis-chloromethyl ether. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which bis-chloromethyl ether is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of bis-chloromethyl ether shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where bis-chloromethyl ether is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of bis-chloromethyl ether shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified

to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with bis-choromethyl ether such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(iii) Where toilets are in regulated areas, such toilets shall be in a separate room.

(iv) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d) (1) and (2) (ii) through (vii).

(v) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove bis-chloromethyl ether from the surfaces of materials, equipment and the decontamination facility.

(e) *Signs, information and training.*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of bis-chloromethyl ether and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of bis-chloromethyl ether and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have bis-chloromethyl ether contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear an or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of bis-chloromethyl ether, including local and systemic toxicity;

(*b*) The specific nature of the operation involving bischloromethyl ether which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of bis-chloromethyl ether;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of bis-chloromethyl ether in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which bis-chloromethyl ether is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of bis-chloromethyl ether

into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) Examinations. (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steriods or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examniations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretray or the Director; and upon request of an employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93i beta-Naphthylamine.

(a) *Scope and application.* (1) This section applies to any area in which beta-Naphthylamine, Chemical Abstracts Service Registry Number 91598 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume of beta-Naphthylamine.

(3) This section will not apply to operations involving the destructive distillation of carbonaceous materials, such as occurs in coke ovens.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of beta-Naphthylamine. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving beta-Naphthylamine where containment prevents the release of beta-Naphthylamine into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of beta-Naphthylamine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of beta-Naphthylamine from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of beta-Naphthylamine which may result in exposure to or contact with beta-Naphthylamine.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of beta-Naphthylamine, which is impervious to the passage of beta-Naphthylamine, and which would prevent the entry of beta-Naphthylamine into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving beta-Naphthylamine within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving beta-Naphthylamine in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of beta-Naphthylamine into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to beta-Naphthylamine.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing beta-Naphthylamine.* A regulated area shall be established by an employer where beta-Naphthylamine is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with beta-Naphthylamine within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where beta-Naphthylamine is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while beta-Napthylamine is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where beta-Naphthylamine is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation

so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in beta-Naphthylamine handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In clean-up of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with beta-Naphthylamine could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of beta-Naphthylamine. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which beta-Naphthylamine is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontamined prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of beta-Naphthylamine shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where beta-Naphthylamine is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of beta-Naphthylamine shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with beta-Napththylamine, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove beta-Naphthylamine from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of beta-Naphthylamine and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of beta-Naphthylamine and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have beta-Naphthylamine contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of beta-Naphthylamine, including local and systemic toxicity;

(*b*) The specific nature of the operation involving beta-Naphthylamine which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of beta-Naphthylamine;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of beta-Naphthylamine in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which beta-Naphthylamine is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of beta-Naphthylamine into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and (*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon

request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93j Benzidine.

(a) *Scope and application.* (1) This section applies to any area in which Benzidine, Chemical Abstracts Service Registry Number 92875 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume in Benzidine.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono dispense aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of Benzidine. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving Benzidine where containment prevents the release of Benzidine into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of Benzidine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of Benzidine from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of Benzidine which may result in exposure to or contact with Benzidine.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of Benzidine, which is impervious to the passage of Benzidine, and which would prevent the entry of Benzidine into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving Benzidine within the hood does not required the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving Benzidine in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of Benzidine into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to Benzidine.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing Benzidine.* A regulated area shall be established by an employer where Benzidine is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with Benzidine within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where Benzidine is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while Benzidine is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where Benzidine is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and paints), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in Benzidine handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal, The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with Benzidine could result, each authorized employee entering that area shall: (i) Be provided with and required to wear a clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of Benzidine. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which Benzidine is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of Benzidine shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where Benzidine is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of Benzidine shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with Benzidine such employee shall be required to shower as soon as possible unless contradicted by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove Benzidine from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training.*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contests identification.* (i) Containers of Benzidine and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of Benzidine and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the worning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have Benzidine contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less

than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of Benzidine, including local and systemic toxicity;

(*b*) The specific nature of the operation involving Benzidine which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of Benzidine;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of Benzidine in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which Benzidine is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of Benzidine into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93k 4-Aminodiphenyl.

(a) *Scope and application.* (1) This section applies to any area in which 4-Aminodiphenyl, Chemical Abstracts Service Registry Number 92671 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 0.1 percent by weight or volume of 4-Aminodiphenyl.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4-Aminodiphenyl. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving 4-Aminodiphenyl where containment prevents the release of 4-Aminodiphenyl into regulated areas, nonregulated area, or the external environment.

(5) "Decontamination" means the inactivation of 4-Aminodiphenyl or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 4-Aminodiphenyl from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4-Aminodiphenyl which may result in exposure to or contact with 4-Aminodiphenyl.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of 4-Aminodiphenyl, which is impervious to the passage of 4-Aminodiphenyl, and which would prevent the entry of 4-Aminodiphenyl into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained

in such a way that an operation involving 4-Aminodiphenyl within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) *Open-vessel system* means an operation involving 4-Aminodiphenyl in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4-Aminodiphenyl into regulated areas, nonregulated areas, or the external environment.

(14) *Protective clothing* means clothing designed to protect an employee against contact with or exposure to 4-Aminodiphenyl.

(15) *Regulated area* means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing 4-Aminodiphenyl.* A regulated area shall be established by an employer where 4-Aminodiphenyl is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 4-Aminodiphenyl within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 4-Aminodiphenyl is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 4-Aminodiphenyl is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 4-Aminodiphenyl is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in 4-Aminodiphenyl handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with 4-Aminodiphenyl could result, each authorized employee entering that area shall: (i) Be provided with and required to wear a cleans, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4-Aminodiphenyl. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which 4-Aminodiphenyl is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 4-Aminodiphenyl shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully bottoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 4-Aminodiphenyl is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 4-Aminodiphenyl shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and

maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with 4-Aminodiphenyl such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 4-Aminodiphenyl from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of 4-Aminodiphenyl and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 4-Aminodiphenyl and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 4-Aminodiphenyl contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of 4-Aminodiphenyl, including local and systemaic toxicity;

(*b*) The specific nature of the operation involving 4-Aminodiphenyl which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4-Aminodiphenyl;

(*h*) The purpose for an application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in this application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 4-Aminodiphenyl in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which 4-Aminodiphenyl is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 4-Aminodiphenyl into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident

and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.931 Ethyleneimine.

(a) *Scope and application.* (1) This section applies to any area in which Ethyleneimine, Chemical Abstracts Service Registry Number 151564 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of Ethyleneimine.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of Ethyleneimine. The clean change room shall be contiguous to and have an entry from a shower room, where the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving Ethyleneimine where containment prevents the release of Ethyleneimine into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of Ethyleneimine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of Ethyleneimine from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of Ethyleneimine which may result in exposure to or contact with Ethyleneimine.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of Ethyleneimine, which is impervious to the passage of Ethyleneimine, and which would prevent the entry of Ethyleneimine into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving Ethyleneimine within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving Ethyleneimine in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of Ethyleneimine into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to Ethyleneimine.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing Ethyleneimine.* A regulated area shall be established by an employer where Ethyleneimine is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with Ethyleneimine within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where Ethyleneimine is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while Ethyleneimine is contained within: Access shall be restricted to authorized employees only.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where Ethyleneimine is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), and gloves prior to entering the regulated area.

(iv) Employees engaged in Ethyleneimine handling operations shall be provided with and required to wear and use a fullface, supplied air respirator, of the continuous flow or pressure-demand type, in accordance with § 1910.134.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with Ethyleneimine could result, each authorized employee entering that area shall: (i) Be provided with and required to wear a clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of Ethyleneimine. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which Ethyleneimine is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of Ethyleneimine shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where Ethyleneimine is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of Ethyleneimine shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with Ethyleneimine, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(vi) Emergency deluge showers and eyewash fountains supplied with running potable water shall be located near, within sight of, and on the same level with locations where a direct exposure of Ethyleneimine would be most likely as a result of equipment failure, or improper work practice.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(iii) Where toilets are in regulated areas, such toilets shall be in a separate room.

(iv) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(v) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove Ethyleneimine from the surfaces of materials, equipment and the decontamination facility.

(e) *Signs, information and training.*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES, AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of Ethyleneimine and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of Ethyleneimine and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph 5 of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have Ethyleneimine contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of Ethyleneimine, including local and systemic toxicity;

(*b*) The specific nature of the operation involving Ethyleneimine which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of Ethyleneimine;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports* — (1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of Ethyleneimine in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which Ethyleneimine is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of Ethyleneimine into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93m beta-Propiolactone.

(a) *Scope and application.* (1) This section applies to any area in which beta-Propiolactone, Chemical Abstracts Service Registry Number 57578 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e) (2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of beta-Propiolactone.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of beta-Propiolactone. The clean change room shall be

contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving beta-Propiolactone where containment prevents the release of beta-Propiolactone into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of beta-Propiolactone or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of beta-Propiolactone from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of beta-Propiolactone which may result in exposure to or contact with beta-Propiolactone.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of beta-Propiolactone, which is impervious to the passage of beta-Propiolactone, and which would prevent the entry of beta-Propiolactone into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving beta-Propiolactone within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving beta-Propiolactone in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of beta-Propiolactone into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to beta-Propiolactone.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing beta-Propiolactone.* A regulated area shall be established by an employer where beta-Propiolactone is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with beta-Propiolactone within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where beta-Propiolactone is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while beta-propiolactone is contained within. Access shall be restricted to authorized employees only.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where beta-Propiolactone is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shal be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in beta-Propiolactone handling operations shall be provided with and required to wear and use a fullface, supplied air respirator, of the continuous flow or pressure-demand type, in accordance with § 1910.134.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with beta-propiolactone could result, each authorized employee entering that area shall: (i) Be provided with and required to wear a clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of beta-Propiolactone. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which beta-Propiolactone is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of beta-Propiolactone shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers.

(viii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall

be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where beta-Propiolactone is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of beta-Propiolactone shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with beta-Propiolactone, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(vi) Emergency deluge showers and eyewash fountains supplied with running potable water shall be located near, within sight of, and on the same level with locations where a direct exposure to beta-Propiolactone would be most likely as a result of equipment failure, or improper work practice.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(iii) Where toilets are in regulated areas, such toilets shall be in a separate room.

(iv) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(v) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove beta-Propiolactone from the surfaces of materials, equipment and the decontamination facility.

(e) *Signs, information and training*—

(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of beta-Propiolactone and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of beta-Propiolactone and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have beta-Propiolactone contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(*a*) The nature of the carcinogenic hazards of beta-Propiolactone, including local and systemic toxicity;

(*b*) The specific nature of the operation involving beta-Propiolactone which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of beta-Propiolactone;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and inplant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of beta-Propiolatcone in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which beta-Propiolactone is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of beta-Propiolactone into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken; with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agent, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retiremnt or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93n 2-Acetylaminofluorene.

(a) *Scope and application.* (1) This section applies to any area in which 2-Acetylaminofluorene, Chemical Abstracts Service Registry Number 53963 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of 2-Acetylamino fluorene .

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee who duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 2-Acetylaminofluorene. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving 2-Acetylaminofluorene where containment prevents the release of 2-Acetylaminofluorene into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of 2-Acetylaminofluorene or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 2-Acetylaminofluorene from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 2-Acetylaminofluorene which may result in exposure to or contact with 2-Acetylaminofluorene.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of 2-Acetylaminofluorene, which is impervious to the passage of 2-Acetylaminofluorene, and which would prevent the entry of 2-Acetylaminofluorene into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face volocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 2-Acetylaminofluorene within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving 2-Acetylaminofluorene in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 2-Acetylaminofluorene into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 2-Acetylaminofluorene.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing 2-Acetylaminofluorene.* A regulated area shall be established by an employer where 2-Acetylaminofluorene is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 2-Acetylaminofluorene within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned

task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 2-Acetylaminofluorene is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 2-Acetylaminofluorene is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 2-Acetylaminofluorene is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in 2-Acetylaminofluorene handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with 2-Acetylaminofluorene could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 2-Acetylaminofluorene. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which 2-Acetylaminofluorene is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 2-Acetylaminofluorene shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 2-Acetylaminofluorene is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 2-Acetylaminofluorene shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements.*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with 2-Acetylaminofluorene, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 2-Acetylaminofluorene from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (e)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of 2-Acetylaminofluorene and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 2-Acetylaminofluorene and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 2-Acetylaminofluorene contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance; *Provided,* That no such required lettering need be more than 1 inch height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(*a*) The nature of the carcinogenic hazards of 2-Acetylaminofluorene, including local and systemic toxicity;

(*b*) The specific nature of the operation involving 2-Acetylaminofluorene which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 2-Acetylaminofluorene;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 2-Acetylaminofluorene in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which 2-Acetylaminofluorene is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 2-Acetylaminofluorene into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employees' employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93o 4-Dimethylaminoazobenzene.

(a) *Scope and application.* (1) This section applies to any area in which 4-Dimethylaminoazobenzene, Chemical Abstracts Service Registry Number 60117 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0 percent by weight or volume of 4-Dimethylaminoazobenzene.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4-Dimethylaminoabenzene. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving 4-Dimethylaminoazobenzene where containment prevents the release of into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of 4-Dimethylaminoazobenzene or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of 4-Dimethylaminoazobenzene from the work environment.

(8) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4-Dimethylaminoazobenzene which may result in exposure to or contact with 4-Dimethylaminoazobenzene.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment 4-Dimethylaminoazobenzene, which is impervious to the passage of 4-Dimethylaminoabenzene which would prevent the entry of 4-Dimethylaminoazobenzene into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 4-Dimethylaminoazobenzene within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving 4-Dimethylaminoabenzene in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4-Dimethylaminoazobenzene into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4-Dimethylaminoazcbenzene.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing 4-Dimethylaminoazobenzene.* A regulated area shall be established by an employer where 4-Dimethylaminoazobenzene is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with 4-Dimethylaminoazobenzene within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where 4-Dimethylaminoazobenzene is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while 4-Dimethylaminoazobenzene is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where 4-Dimethylaminoazobenzene is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

(iv) Employees engaged in 4-Dimethylaminoazobenzene handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exist of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with 4-Dimethylaminoazobenzene could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clear, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4-Dimethylaminoazobenzene. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surface on which 4-Dimethylaminoazobenzene is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of 4-Dimethylaminoazobenzene shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency srubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e) (2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e) (2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where 4-Dimethylaminoazobenzene is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of 4-Dimethylaminoazobenzene shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f) (2) of this section.

(iv) Where an employee has a known contact with 4-Dimethylaminoazobenzene, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f) (2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove 4-Dimethylaminoazobenzene from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES, AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers or 4-Dimethylaminoazobenzene and containers required under paragraphs (c)(4)(v) and (c)(6)(vii) (*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and

handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of 4-Dimethylaminoazobenzene and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have 4-Dimethylaminoazobenzene contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to: (*a*) The nature of the carcinogenic hazards of 4-Dimethylaminoazobenzene, including local and systemic toxicity;

(*b*) The specific nature of the operation involving 4-Dimethylaminoazobenzene which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for and application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4-Dimethylaminoazobenzene;

(*h*) The purpose for and application of specific first aid procedures and practices;

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this subparagraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of 4-Dimethylaminoazobenzene in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which 4-Dimethylaminoazobenzene is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of 4-Dimethylaminoazobenzene into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(*d*) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director; and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§ 1910.93p N-Nitrosodimethylamine.

(a) *Scope and application.* (1) This section applies to any area in which N-Nitrosodimethylamine, Chemical Abstracts Service Registry Number 62759 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3), and (4) of this section.

(2) This section shall not apply to solid or liquid mixtures containing less than 1.0% by weight or volume of N-Nitrosodimethylamine.

(b) *Definitions.* For the purposes of this section: (1) "Absolute filter" is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(3) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of N-Nitrosodimethylamine. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) "Closed system" means an operation involving N-Nitrosodimethylamine where containment prevents the release of N-Nitrosodimethylamine into regulated areas, nonregulated areas, or the external environment.

(5) "Decontamination" means the inactivation of N-Nitrosodimethylamine or its safe disposal.

(6) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(7) "Disposal" means the safe removal of N-Nitrosodimethylamine from the work environment.

(8) "Emergency" means circumstance or set of circumstances resulting in the release of N-Nitrosodimethylamine which may result in exposure to or contact with N-Nitrosodimethylamine.

(9) "External environment" means any environment external to regulated and nonregulated areas.

(10) "Isolated system" means a fully enclosed structure other than the vessel of containment of N-nitrosodimethylamine, which is impervious to the passage of N-Nitrosodimethylamine, and which would prevent the entry of N-Nitrosodimethylamine into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(11) "Laboratory type hood" is a device enclosed on three sides and the top and buttom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving N-Nitrosodimethylamine within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(12) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(13) "Open-vessel system" means an operation involving N-Nitrosodimethylamine in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of N-Nitrosodimethylamine into regulated areas, nonregulated areas, or the external environment.

(14) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to N-Nitrosodimethylamine.

(15) "Regulated area" means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing N-Nitrosodimethylamine.* A regulated area shall be established by an employer where N-Nitrosodimethylamine is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved: (1) *Isolated systems.* Employees working with N-Nitrosodimethylamine within an isolated system, such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* Within regulated areas where N-Nitrosodimethylamine is stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while N-Nitrosodimethylamine is contained within: (i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(3) *Open vessel system operations.* Open vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving "laboratory type hoods," or in locations where N-Nitrosodimethylamine is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this subparagraph shall apply. (i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

(iv) Employees engaged in N-Nitrosodimethylamine handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(2), (3), and (4) of this section.

(vi) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(vii) Employees shall be required to shower after the last exit of the day.

(viii) Drinking fountains are prohibited in the regulated area.

(5) *Maintenance and decontamination activities.* In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, where direct contact with N-Nitrosodimethylamine could result, each authorized employee entering that area shall: (i) Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with § 1910.134.

(ii) Be contaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(6) *Laboratory activities.* The requirements of this subparagraph shall apply to research and quality control activities involving the use of N-Nitrosodimethylamine. (i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which N-Nitrosodimethylamine is handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of N-Nitrosodimethylamine shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be (*a*) provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(*c*) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(*d*) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be (*a*) provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(*b*) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and

equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), (3), and (4) of this section.

(c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where N-Nitrosodimethylamine is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of N-Nitrosodimethylamine shall be maintained.

(xii) Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

(d) *General regulated area requirements*—(1) *Employee identification.* A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters, shall be retained for a period of 20 years. The rosters and/or summaries shall be provided upon request to authorized representatives of the Assistant Secretary and the Director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the Director.

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph shall be implemented. (i) the potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with N-Nitrosodimethylamine, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment clean change rooms shall be provided, in accordance with § 1910.141(e), for the number of such employees required to change clothes.

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove N-Nitrosodimethylamine from the surfaces of materials, equipment and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited.

(e) *Signs, information and training*—(1) *Signs.* (i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of N-Nitrosodimethylamine and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible only to, and handled only by, authorized employees, or by other employees trained in accordance with subparagraph (5) of this paragraph, may have contents identification limited to a generic or proprietary name, or other proprietary identification, of the carcinogen and percent.

(ii) Containers of N-Nitrosodimethylamine and containers required under paragraphs (c)(4)(v), (c)(6)(vii)(*b*), and (c)(6)(viii)(*b*) of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph (5) of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

(iv) Containers which have N-Nitrosodimethylamine contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by subparagraph (1) of this paragraph shall be a minimum letter height of 2 inches. Labels on containers required under this section shall not be less than ½ the size of the largest lettering on the package, and not less than 8 point type in any instance: *Provided,* That no such required lettering need be more than 1 inch in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(*a*) The nature of the carcinogenic hazards of N-Nitrosodimethylamine, including local and systemic toxicity;

(*b*) The specific nature of the operation involving N-Nitrosodimethylamine which could result in exposure;

(*c*) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(*d*) The purpose for an application of decontamination practices and purposes;

(*e*) The purpose for and significance of emergency practices and procedures;

(*f*) The employee's specific role in emergency procedures;

(*g*) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of N-Nitrosodimethylamine;

(*h*) The purpose for and application of specific first aid procedures and practices.

(*i*) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees, shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* Not later than March 1, 1974, the information required in subdivisions (i), (ii), (iii), and (iv) of this paragraph shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change. (i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of N-Nitrosodimethylamine in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities and

(iv) The manner in which N-Nitrosodimethylamine is present in each regulated area; e.g. whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents which result in the release of N-Nitrosodimethylamine into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. (i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include: (*a*) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(*b*) A description of the area involved, and the extent of known and possible employee exposure and area contamination, and

(*c*) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(d) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employees' employment. Upon termination of an employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to authorized representatives of the Assistant Secretary or the Director, and, upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Effective date. Sections 1910.93c through 1910.93p shall become effective February 11, 1974.

(Secs. 6(b) and 6(c), Pub. L. 91–596, 84 Stat. 1593, 1596 (29 U.S.C. 655). Secretary of Labor's Order No. 12–71, 36 FR 8754)

Signed at Washington, D.C. this 22d day of January 1974.

JOHN H. STENDER,
Assistant Secretary of Labor.

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Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1973)

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Title 47—Telecommunication (Parts 0–19) 3.40

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