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PART I

HIGHLIGHTS OF THIS ISSUE

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

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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Weekly List of Public Laws

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

S. 37..... Pub. Law 93–250
To amend the Budget and Accounting Act, 1921, to require the advice and consent to the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes
(March 2, 1974; 88 Stat. 11)

H.R. 10203..... Pub. Law 92–251
Authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes
(March 7, 1974; 88 Stat. 12)

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3115 is amended to show that three positions, the Chairman and two members of the Benefits Review Board, are excepted under Schedule A.

Effective on March 13, 1974, § 213.315 (a)(2) is added as set out below.

§ 213.3115 **Department of Labor.**

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

(2) Chairman and two members, Benefits Review Board.

* * * * *

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

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

[FR Doc.74–5814 Filed 3–12–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3184 is revoked in its entirety since the last two positions of Program Assistant in § 213.3184(c)(1) are no longer excepted under Schedule A.

Effective on March 13, 1974, § 213.3184 is revoked.

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

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

[FR Doc.74–5815 Filed 3–12–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Staff Assistant to the Administrator, Drug Enforcement Administration is excepted under Schedule C.

Effective on March 13, 1974, § 213.3310 (i) is added as set out below.

§ 213.3310 **Department of Justice.**

* * * * *

(i) *Drug Enforcement Administration.*

* * *

(1) One position of Staff Assistant to the Administrator.

* * * * *

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

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

[FR Doc.74–5816 Filed 3–12–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–CE–21–AD; Amdt. 39–1797]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model B19 Airplanes

Amendment 39–1751, AD 73–25–4, published in the FEDERAL REGISTER on December 10, 1973 (38 FR 33971), is an Airworthiness Directive (AD) applicable to Beech Model B19 (Serial Number MB–481 through MB–616) airplanes. This AD provides in part that the weight and balance records of these model airplanes must be amended by appropriate entries and calculations to reflect a maximum design weight of 2,000 pounds, c.g. locations between 110.9 and 118.3 inches and a maximum of three occupants (reference Paragraph B(2)). Subsequent to the issuance of AD 73–25–4 it has been determined that the forward c.g. limit should be 109.9 inches rather than 110.9 inches. Accordingly, action is taken herein to amend Paragraph B(2) of the AD so that it reflects the correct forward c.g. limit.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations, paragraph B(2) of amendment 39–1751 (39 FR 33971), AD 73–25–4, is amended so that it now reads as follows:

B. (2) By appropriate entries and calculations amend the airplane weight and balance records to reflect a maximum design weight of 2000 pounds, c.g. locations between 109.9 and 118.3 inches and a maximum of three occupants.

This amendment becomes effective March 18, 1974.

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

Issued in Kansas City, Missouri, on March 1, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74–5692 Filed 3–12–74;8:45 am]

[Docket No. 74–CE–5–AD; Amdt. 39–1798]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Cessna and Piper Airplanes

An Airworthiness Directive (AD) was adopted on February 21, 1974, and made effective immediately as to all known owners of Cessna Models 150, 170, 172, 175 or Piper Model PA–28–140 airplanes modified in accordance with Supplemental Type Certificates (STCs) SA750 CE, SA806CE, SA807CE, SA777CE or SA 793CE respectively, utilizing Avcon Industries, Inc. Kits incorporating defective mufflers. This AD was issued because a recent incident and investigations have established that these mufflers may fail in the tail pipe area so that carbon monoxide will be introduced into the cabin heating air system. In order to correct this condition the AD, applicable to certain Cessna Models 150, 170, 172, 175 and Piper Model PA–28–140 airplanes, requires prior to further flight and at repetitive intervals not to exceed 5 hours' time in service thereafter, inspection of the muffler inner shroud for evidence of cracks or leakage and if cracks or leaks are found replacement of the muffler with a serviceable unit. The AD also requires replacement of the existing muffler with a serviceable unit within the next 25 hours' time in service after the effective date of this AD at which time the inspection is no longer required. Until the existing muffler has been replaced, the cabin heat control must be saftied in the "Off" position.

Since it was found that immediate action was required, notice and public procedure hereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately to the owners of affected Cessna Models 150, 170, 172 and 175 and Piper Model PA–28–140 airplanes by individual letters dated February 22, 1974. These conditions may still exist and the AD 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.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new AD.

CESSNA AND PIPER: Applies to Cessna Models 150, 170, 172 and 175 and Piper Model PA-28-140 airplanes modified in accordance with STCs SA750CE, SA 806CE, SA807CE, SA777CE or SA793CE respectively utilizing Avcon Industries, Inc., kits incorporating defective mufflers.

Compliance: Required as indicated, unless already accomplished.

To prevent possible leakage of carbon monoxide into the cabin heater system, accomplish the following:

(A) Prior to further flight, except that the aircraft may be flown in accordance with FAR 21.197 to a base where the inspection may be performed provided that the cabin heater system is in the "Off" position and the cabin fresh air vents are open, and at repetitive intervals not to exceed 5 hours' time in service thereafter, inspect the muffler inner shroud as follows:

(1) Removes muffler outer shroud assembly.

(2) Visually inspect the inner shroud flare and tail pipe weld area for evidence of cracks or leakage. If cracks or leaks are found, replace the muffler prior to further flight with a serviceable unit.

(3) If no cracks or leakage are found during the inspection, safety wire the cabin heat control in the "Off" position.

(B) Within the next 25 hours' time in service after the effective date of this AD, replace the existing muffler with a serviceable unit, at which time compliance with Paragraph A is no longer required.

(C) Any alternate method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Avcon Industries Service Letter No. 1, dated February 19, 1974, pertains to this subject matter.

NOTE: The defective mufflers are contained in Avcon Kits of the following serial numbers: 556, 557, 562, 565, 580, 583, 584, 585, 588, 589, 591, 596, 597, 598, 599, 603, 604, 605, 608, 612, 618, 621, 623, 624, 627, 628, 632, 640, 642, 643, 644, 649, 650, 656, 659, 668, 669, 674 and 690. Confirmation of affected aircraft can be obtained by comparing the Avcon serial number stamped on the STC Kit I.D. tag with the Avcon serial number noted above. STC Kit I.D. tags are mounted near the aircraft manufacturer's I.D. tag.

This amendment becomes effective March 18, 1974, to all persons except those to whom it was made effective by letter dated February 22, 1974.

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

Issued in Kansas City, Missouri, on March 1, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-5691 Filed 3-12-74;8:45 am]

[Airworthiness Docket No. 74-WE-5-AD; Amdt. 39-1799]

PART 39—AIRWORTHINESS DIRECTIVES

Various Piper PA-23 Series Airplanes

The agency has received a report of an uncontrollable engine compartment fire and resultant wing failure in a Piper PA-23-250 airplane that incorporated an AiResearch turbosupercharger installation. A loose fuel line fitting in the engine compartment resulting from maintenance previously performed on the engine, the absence of drainage provisions, the presence of a small non-fireproof turbosupercharger oil tank in the engine compartment, and inadequate firewall sealing were apparent contributing factors.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require improved engine compartment drainage and firewall integrity, and additional fire protection of the turbosupercharger oil tanks on certain Piper PA-23 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 is amended by adding the following new airworthiness directive:

PIPER. Applies to Piper Models PA-23-235, PA-23-250 and PA-E23-250 airplanes certificated in all categories with AiResearch turbosuperchargers installed in accordance with STC SA852WE, SA909WE or SA978WE, or installed in accordance with Piper Aircraft Corporation Drawing 32016.

Compliance required as indicated, unless previously accomplished.

To minimize fire hazards related to engine compartment fires, accomplish the following in accordance with AiResearch Aviation Company Service Bulletin No. 14.1.10, dated February 6, 1974 or later FAA-approved revision, for serial numbers 27-2505 and subsequent (Aztec C, Aztec D, Aztec E), and, in accordance with AiResearch Service Bulletin No. 14.1.11, dated February 6, 1974 or later FAA-approved revision for serial numbers 27-1 through 27-2504 (Aztec, Aztec B, Apache 235):

(a) Within the next 25 hours' time in service after the effective date of this airworthiness directive, add drainage provisions in the airscoops, AiResearch Part No. 286-P23-066-5, of airplanes serial numbers 27-2505 and subsequent.

(b) Within the next 300 hours' time in service or 180 days after the effective date of this airworthiness directive, whichever occurs first:

(1) For airplanes serial numbers 27-1 through 27-2504:

(i) Replace the existing turbosupercharger oil tanks with AiResearch Part No. 286-P23-028-81F oil tanks.

(ii) Install AiResearch Part No. 286-P23-028-231 fire shrouds and seal all openings in the fire shrouds.

(iii) Add drainage provisions in the oil tank fairings, AiResearch Part No. 286-P23-057.

(2) For airplanes serial number 27-2505 and subsequent:

(i) Replace the existing turbosupercharger oil tanks with AiResearch Part No. 286-P23-028-111F oil tanks.

(ii) Seal all openings in the fire shrouds, AiResearch Part No. 286-P23-064-153.

(c) Equivalent modification may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Aircraft may be flown to a base where the maintenance required by this airworthiness directive may be performed per FARs 21.197 and 21.199.

NOTE: For the requirements regarding the listing of compliance of and method of compliance with this airworthiness directive in the permanent maintenance record of the airplane, see FAR 91.173.

This amendment becomes effective March 18, 1974.

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

Issued in Los Angeles, California on March 1, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-5690 Filed 3-12-74;8:45 am]

[Airspace Docket No. 74-SO-1]

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

Alteration of Transition Area

On January 24, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 2773) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Atlanta, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 23, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the Atlanta, Ga., transition area is amended as follows:

"* * * longitude 84°34'07" W.) * * *" is deleted and "* * * longitude 84°34'07" W.); within a 6.5-mile radius of Griffin-Spaulding County Airport, Grdiffin, Ga. (latitude 34°13'30" N., longitude 84°16'30" W.) * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (4) U.S.C. 1348(a)). Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on March 4, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-5693 Filed 3-12-74;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM74-4; Order No. 499]

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

Accounting and Rate Treatment of Advances for Gas Exploration, Development and Production; Correction

FEBRUARY 22, 1974.

In the order amending regulations under the Natural Gas Act, Uniform Systems of Accounts for Class A and Class B Natural Gas Companies and Annual Report Form 2, issued December 28, 1973, and published in the FEDERAL REGISTER of Monday, January 7, 1974, at 39 FR 1262 on page 1265 amend paragraph G. by adding the following second sentence:

G. * * * If the income or return is received in other than money, it shall be included at the market value of the assets received.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5764 Filed 3-12-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-254]

PART 2200—FEDERAL DISASTER ASSISTANCE

Financial Assistance for Acquisition of Construction Purposes

The Flood Disaster Protection Act of 1973, Pub. L. 93-234, imposes certain restrictions on FDAA's approving any Federal financial assistance for acquisition or construction purposes for use in any area that has been identified by the Secretary as an area having special flood hazards. An amendment to Part 2200 of Title 24 of the Code of Federal Regulations is required to implement this provision of the Act. Part 2200 was recently published in the FEDERAL REGISTER, at 39 FR 6697, February 22, 1974.

In view of the requirement to implement certain portions of the Act effective March 2, 1974, good cause exists for making this change effective upon publication in the FEDERAL REGISTER. Inasmuch as these changes are mandated by the Flood Disaster Protection Act of 1973, public procedure is unnecessary.

Accordingly, Part 2200 of Title 24 of the Code of Federal Regulations is amended as follows:

1. A new paragraph (w) is added to § 2200.2 reading as follows:

§ 2200.2 Definitions.

* * * * *

(w) The following definitions apply to the Flood Disaster Protection Act of 1973:

(1) "Financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal financial assistance, other than general or special revenue sharing or formula grants made to States.

(2) "Financial assistance for acquisition or construction purposes" means any form of Federal financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein.

(3) "Building" means a walled and roofed structure, other than a gas or liquid storage tank, that is fully enclosed and affixed to a permanent site.

(4) "Community" means a State or political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards. Unincorporated communities or private non-profit medical care facilities which may be otherwise eligible for Federal disaster assistance but do not fulfill the above definition must meet the flood insurance requirements of these regulations and must be sponsored by an applicant (community) which fulfills this definition in cases when the provision of the Flood Disaster Protection Act applies.

2. Section 2200.3 is amended by adding the following new paragraph (d):

§ 2200.3 Policy.

* * * * *

(d) It is the policy of the FDAA that where the cost of restoration of facilities is recoverable in whole or in part from insurance or any other source, reimbursement will be limited to eligible costs as determined by the Regional Director after deducting any insurance settlement or other recovery. In the event insurance recovery is contingent upon the amount of reimbursement under the Act, reimbursement will be limited to eligible costs after deducting the maximum amount otherwise recoverable under and to the limit of the policy as determined by the Regional Director.

§ 2200.32 [Amended]

3. After Item "(1) Emergency Debris Clearance * * * three months." Add superscript "2" to denote footnote 2 after the tabulation. At that point add footnote 2 as follows:

[2] The Regional Director may approve debris clearance projects for completion in six months only for cleaning debris catch basins or for demolition of disaster-damaged buildings or structures.

* * * * *

4. A new Subpart E and §§ 2200.38 and 2200.39 are added as follows:

Subpart E—Disaster Flood Insurance

Sec.
2200.38 Exclusions.
2200.39 Applicability.

AUTHORITY: Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535 (d)).

Subpart E—Disaster Flood Insurance

§ 2200.38 Exclusions.

(a) The following categories of Federal disaster assistance authorized under the Disaster Relief Act of 1970, as amended, are excluded from the provisions of the Flood Disaster Protection Act of 1973:

(1) Federal financial assistance for emergency work essential for the protection and preservation of life and property eligible for Federal reimbursement under the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies that Act. This exemption includes eligible emergency work under §§ 2200.9, 2200.10, 2200.11(a)(1), 2200.12, 2200.13, 2200.15, 2200.23, and 2200.24.

(2) Federal financial assistance for permanent work under §§ 2200.11(a)(2) and 2200.17 on any State-owned property that is covered by an adequate State policy of self-insurance approved by the Federal Insurance Administrator.

(3) Federal financial assistance under §§2200.33 (Community Disaster Grants), 2200.35 (Grants for Developing, Improving, Maintaining, and Updating State Disaster Plans), 2200.36 (Pre-disaster Assistance), and 2200.37 (Fire Suppression).

§ 2200.39 Applicability.

(a) Federal financial assistance for permanent work on buildings in an area identified by the Federal Insurance Administrator as having special flood hazards unless exempted above, is subject to the full restrictions and limitations imposed by the Flood Disaster Protection Act of 1973 for all project applications approved for such buildings in accordance with the following:

(1) Effective March 2, 1974, if the Federal Insurance Administrator has identified the areas having special flood hazards in a community in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, any building and contents not covered by the required flood insurance is not eligible for Federal financial assistance.

(2) For all project applications approved after June 30, 1975, if the Federal Insurance Administrator has identified an area within a flood-prone community as an area having special flood hazards and the community is not participating in the flood insurance program under the National Flood Insurance Act of 1973, restorative work as the result of disaster damage to buildings in a special flood hazard area is ineligible for Federal financial assistance.

(3) In the case of subparagraph (1), or (2) of this paragraph, any building may become eligible for Federal financial assistance, if the community concerned within six months after the date of the Federal Damage Survey Report qualifies for and enters the flood insurance program; obtains and maintains the necessary flood insurance policy for the required period, as determined by FDAA

Regional Director; and provides FDAA with written evidence thereof, except that in those cases involving appeals to the Federal Insurance Administrator, the Regional Director may authorize an extension of time to the applicant for the purpose of meeting this flood insurance requirement. Flood insurance is required in connection with obtaining Federal disaster assistance grants for permanent restorative work within an identified flood-hazard area, even if a flood had not occasioned the major disaster declaration. If the applicant replaces a building outside of the special flood hazard area, Federal financial assistance for eligible permanent restorative work will not be denied, even if the community is not participating in the flood insurance program.

(b) Where permanent repair, replacement, or relocation is involved, floodproofing not required by locally applicable codes, specifications, and standards shall be accomplished at the owner's expense. In any instance where compliance with such locally applicable codes, specifications and standards may significantly increase the eligible Federal restorative costs, the Regional Director may determine that such Federal assistance shall be based on relocation.

(c) FDAA Regional Director or the Federal Coordinating Officer will work closely with the State Coordinating Officer, State and local governments and the Regional Office of the Federal Insurance Administration to ensure that the provisions of this part for special flood hazard areas are considered in the processing and approval of project applications under § 2200.8. In addition, the FDAA Regional Director or the Federal Coordinating Officer will require compliance with the provisions in this part in issuing mission assignments for direct Federal assistance under §§ 2200.6 and 2200.27 whenever property subject to the provisions of the Flood Disaster Protection Act of 1973 is involved.

(d) For any State-owned building not covered by an approved State policy of self-insurance, the FDAA Regional Director shall require proof of adequate flood insurance covering proposed permanent restorative work eligible for reimbursement under the Disaster Relief Act of 1970, as amended.

(e) When an eligible applicant for permanent restorative work to buildings damaged by a disaster provides proof of flood insurance to obtain Federal funding, he makes a commitment to continue the flood insurance for the life of the eligible restorative work, as determined by FDAA Regional Director. For those buildings on which the owner is delinquent on flood insurance commitments, the Regional Director shall suspend any future Federal assistance to the eligible applicant (owner) until such delinquency is eliminated.

(f) When a State has been approved by the Federal Insurance Administrator as a self-insurer, the FDAA Regional Director shall determine the amount of self-insurance applicable to any building damaged by a major disaster and shall deduct such self-insurance coverage from the Federal grant for permanent restorative work.

(g) In administering this section, Regional Directors will utilize current information obtained from the Federal Insurance Administration to identify States having a satisfactory program of self-insurance, communities eligible for flood insurance under the regular or emergency programs, flood hazard area boundaries, and flood risk zones.

(Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d))

(Catalog of Federal Domestic Assistance, No. 14.701, Disaster Assistance)

Effective date. This amendment is effective on March 13, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-5782 Filed 3-12-74;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

Underground Mine Escape and Evacuation, and Self Rescue Devices

In accordance with the provisions of section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725) there was published in Part II of the FEDERAL REGISTER for December 9, 1972 (37 FR 26379 and 26380) a notice of proposed rule making setting forth proposals to amend Part 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations, relating to certain health and safety standards applicable to underground mines subject to the Act. These standards had been developed after consultation with the Federal Metal and Nonmetal Mine Safety Advisory Committee appointed pursuant to section 7 of the Act (30 U.S.C. 726). Included among these standards were proposals to (1) revoke mandatory standard 57.4-50 and to revise mandatory standard 57.11-53, and (2) add two new mandatory standards 57.15-30 and 57.15-31. Although considered, these proposed standards were not recommended by the Advisory Committee.

Subject to the provisions of subsection (e) of section 6 of the Act (30 U.S.C. 725 (e)) and in accordance with the provisions of subsection (d) of section 6 (30 U.S.C. 725(d)) on or before the last day of the period fixed for the submission of comments and recommendations, any person who may be adversely affected by a proposed health and safety standard which had been designated as a "Mandatory" standard and which had not been recommended as a "Mandatory" standard by the Advisory Committee may file with the Secretary of the Interior written objections thereto stating the grounds for such objections and requesting a public hearing (subject to the provisions of the Administrative Procedure Act (5 U.S.C. 556 and 557) on such objections).

Interested persons were afforded a period of 30 days following publication of the notice of proposed rulemaking in the FEDERAL REGISTER within which to submit to the Director, Bureau of Mines, their written data, views, arguments or objections to the proposed mandatory standards. Such period was subsequently extended to January 31, 1973, by a notice published in the FEDERAL REGISTER for January 23, 1973 (38 FR 2219).

Included among the letter responses submitting comments and objections to the notice of proposed rulemaking of December 9, 1972, was a letter dated January 12, 1973 to the Director, Bureau of Mines, from the President, American Mining Congress, on behalf of its member companies, requesting a public hearing with respect to proposed mandatory standards 57.11-53, 57.15-30 and 57.15-31 which, as indicated above, had been designated as "Mandatory" standards and which had not been recommended as "Mandatory" by the Advisory Committee.

On April 25, 1973 a Notice was published in the FEDERAL REGISTER (38 FR 10156) which set forth the objections which had been filed and upon which a hearing had been requested and gave notice that a public hearing would be conducted by an Administrative Law Judge, Office of Hearings and Appeals, Department of the Interior, to receive evidence relevant and material to the issues raised by the objections which had been filed, commencing on Monday, May 21, 1973, at 9 a.m., m.s.t. at the Airport Holiday Inn, 4040 Quebec, Denver, Colorado. The notice further provided that the Administrative Law Judge would consider all objections and based upon the record submit a recommended decision to the Secretary of the Interior who would review the recommended decision and issue the final decision.

The public hearing commenced at 9 a.m., on May 21, 1973 and closed at 12 noon on May 22, 1973. Among those organizations which were represented and actively participated in the public hearing were the American Mining Congress, the National Crushed Stone Institute, the United Steel Workers of America, the United States Bureau of Mines, the Colorado Bureau of Mines, and several metal and nonmetal mining companies. At the conclusion of the hearing the parties and other interested persons were allowed 30 days from availability of transcript of the proceedings to file statements of facts and arguments in support of their positions.

After carefully considering the sworn statements of testimony presented, the exhibits admitted into evidence and the post hearing statements of facts and arguments, Administrative Law Judge, John R. Rampton, Jr., who presided at the hearing, submitted a recommended decision to the Secretary of the Interior on September 13, 1973.

Section 6(d)(2) of the Act prescribes that as soon as practicable after completion of the hearing the Secretary shall act upon such objections and make his decision public. Based upon the substantial evidence of record and the recommended decision, the Secretary of the Interior adopted and ratified the recommended decision as the final decision in this matter. A notice which adopted and set forth the recommended decision in its entirety was published in the FEDERAL REGISTER on Friday, October 26, 1973 (38 FR 29623–29627).

An editorial change has been made in standard 57.15–30 which is promulgated below. This change deleted the reference to the words "Bureau of Mines" in the proposed standard and substituted in lieu thereof the words "Mining Enforcement and Safety Administration," and is made in accordance with Secretarial Order 2953 issued on May 7, 1973 which established within the Department of the Interior the Mining Enforcement and Safety Administration. MESA became operative on July 16, 1973 (38 FR 18665–18668 and 18695–18696) and is responsible for administering health and safety and education and training functions under the Federal Metal and Nonmetallic Mine Safety Act that were carried out by the Bureau of Mines.

Part 57 of Chapter I of Title 30 of the Code of Federal Regulations is amended and revised as set forth below:

Effective date: The effective dates of the revocation and revision of standards and the new standards are as follows:

1. The revocation of standard 57.4–50 and the revision of standard 57.11–53 shall become effective April 29, 1974.

2. Standards 57.15–30 and 57.15–31 shall become effective September 9, 1974.

(Sec. 6 Federal Metal and Nonmetallic Mine Safety Act; 80 Stat. 772; (30 U.S.C. 725))

Dated: March 11, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

Part 57, Title 30, Code of Federal Regulations, is amended and revised as follows:

1. Standard 57.4–50, promulgated on July 31, 1969 (34 FR 12519), is revoked.

2. Standard 57.11–53, promulgated on February 25, 1970 (35 FR 3675) which applied to underground only, is revised to read as follows:

§ 57.11 Travelways and escape ways.

* * * * *

57.11–53 *Mandatory*—A specific escape and evacuation plan and revisions thereof suitable to the conditions and mining system of the mine and showing assigned responsibilities of all key personnel in the event of an emergency shall be developed by the operator and set out in written form. Within 45 calendar days after promulgation of this standard a copy of the plan and revisions thereof shall be available to the Secretary or his authorized representative. Also copies of the plan and revisions thereof shall be posted at locations convenient to all persons on the surface and underground. Such a plan shall be updated as necessary and shall be reviewed jointly by the operator and the Secretary or his authorized representative at least once every six months from the date of the last review. The plan shall include:

(a) Mine maps or diagrams showing directions of principal air flow, location of escape routes and locations of existing telephones, primary fans, primary fan controls, fire doors, ventilation doors, and refuge chambers. Appropriate portions of such maps or diagrams shall be posted at all shaft stations and in underground shops, lunchrooms, and elsewhere in working areas where men congregate.

(b) Procedures to show how the miners will be notified of emergency.

(c) An escape plan for each working area in the mine to include instructions showing how each working area should be evacuated. Each such plan shall be posted at appropriate shaft stations and elsewhere in working areas where men congregate.

(d) A fire fighting plan.

(e) Surface procedure to follow in an emergency, including the notification of proper authorities, preparing rescue equipment, and other equipment which may be used in rescue and recovery operations.

(f) A statement of the availability of emergency communication and transportation facilities, emergency power and ventilation and location of rescue personnel and equipment.

3. New standards 57.15–30 and 57.15–31, which apply to underground only, are added to read as follows:

§ 57.15 Personal protection.

* * * * *

57.15–30 *Mandatory*—A 1-hour self-rescue device approved by the Mining Enforcement and Safety Administration shall be made available by the operator to all personnel underground. Each operator shall maintain self-rescue devices in good condition.

57.15–31 *Mandatory*—(a) except as provided in paragraph (b) and (c) of this section, self-rescue devices meeting the requirements of standard 57.15–30 shall be worn or carried by all persons underground.

(b) Where the wearing or carrying of self-rescue devices meeting the requirements of standard 57.15–30 is hazardous to a person, such self-rescue devices shall be located at a distance no greater than 25 feet from such person.

(c) Where a person works on or around mobile equipment, self-rescue devices may be placed in a readily accessible location on such equipment.

[FR Doc.74–5866 Filed 3–12–74;8:45 am]

Title 7—Agriculture

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Blackfly

Establishment of Quarantine

On September 26, 1973, a notice was published in the FEDERAL REGISTER (38 FR 26808) of a public hearing and proposed rulemaking proceeding to determine whether to establish a Federal quarantine on account of the citrus blackfly. It was proposed to quarantine the State of Texas. It was also proposed to regulate the movement therefrom of specified articles under certain conditions; and, if such quarantine were established, to terminate the citrus blackfly emergency regulations (7 CFR 331.2, as amended).

Interested persons were given an opportunity to submit written data, views, and arguments, and a public hearing was held on October 30, 1973, with respect to these proposals. After due consideration of all relevant matters, including those presented at the hearing or otherwise pursuant to the notice, it has been determined to be in the best interest of the public to establish a citrus blackfly quarantine of the State of Texas and to terminate the emergency regulations.

Therefore, pursuant to section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), the citrus blackfly emergency regulations (7 CFR 331.2, as amended) are hereby terminated, and pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161, 162) and said section 106 of the Federal Plant Pest Act, Notice of Quarantine No. 86 relating to the citrus blackfly and regulations supplemental to said quarantine to appear in 7 CFR 301.86, 301.86–1 et seq. are hereby issued to read as follows:

Sec.

301.86	Quarantine; restriction on interstate movement of specified regulated articles.
301.86–1	Definitions.
301.86–2	Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.
301.86–3	Conditions governing the interstate movement of regulated articles from quarantined States.
301.86–4	Issuance and cancellation of certificates and permits.
301.86–5	Compliance agreements; and cancellation thereof.
301.86–6	Assembly and inspection of regulated articles.
301.86–7	Attachment and disposition of certificates or permits.
301.86–8	Inspection and disposal of regulated articles and pests.
301.86–9	Movement of live citrus blackflies.
301.86–10	Nonliability of the Department.

AUTHORITY: Secs. 8 and 9, 37 stat. 318, as amended, sec. 106, 71 stat. 33 (7 U.S.C. 161, 162, 150 ee); 37 FR 28464, 28477; 38 FR 1914.

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

(a) *Notice of quarantine.* Pursuant to the provisions of section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), the Secretary of Agriculture has determined, after public hearing, that it is necessary to quarantine the State of Texas in order to prevent the spread of an infestation of the citrus blackfly, a dangerous insect injurious to citrus trees and not heretofore widely prevalent or distributed within and throughout the United States. Therefore, under the authority of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act

(7 U.S.C. 161, 162, 150ee), the Secretary hereby quarantines the State of Texas with respect to the interstate movement from the quarantined State of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.86–1(n) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Leaves, attached or unattached, of citrus, mango, persimmon, Japanese persimmon, pear, quince, coffee, myrtle, cherimoya, black sapote, and sweetsop.

(2) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by subparagraph (1) of this paragraph, when it is determined by an inspector that they present a hazard of spread of the citrus blackfly, and the person in possession thereof has been so notified.

§ 301.86–1 Definitions.

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

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

(b) *Citrus blackfly.* The insect known as the citrus blackfly (*Aleurocanthus woglumi* Ashby) in any stage of development.

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

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

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with §301.86–2.

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

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

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

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

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

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

(l) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Plant Pest Act and regulations promulgated thereunder.

(m) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301.86–2a, or otherwise designated as a regulated area in accordance with § 301.86–2(b).

(n) *Regulated articles.* Any articles as described in § 301.86(b).

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

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

(q) *State.* Any State, Territory, or district of the United States, including Puerto Rico.

(r) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective as designated under § 301.86–2(a).

(s) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Citrus Blackfly Quarantine" and the "Fumigation Procedures Manual."[1]

[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782, or from an inspector.

§ 301.86–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.86–2a, each quarantined State; or each portion thereof in which citrus blackfly has been found or in which there is reason to believe that citrus blackfly is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may designate any regulated area or portion thereof as a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.86–1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

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

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

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.86–2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the premises.

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

the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.86–2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.86–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

Any regulated articles may be moved interstate from any quarantined State under the following conditions:

(a) With certificate or permit issued and attached in accordance with §§ 301.86–4 and 301.86–7, if moved:

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

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

(3) Between any noncontiguous suppressive areas; or

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

(5) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (b) (5) of this section, or

(b) Without certificate or permit if moved:

(1) From any regulated area, under the provisions of § 301.86–2b which exempts certain articles from certificate and permit requirements; or

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

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

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

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

(c) From any area outside of any regulated area, if moved:

(1) With a certificate or permit attached; or

(2) Without a certificate or permit, if:

(i) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.86–2b; or

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

§ 301.86–4 Issuance and cancellation of certificates and permits.

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

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

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

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

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

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

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of the citrus blackfly.

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

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

§ 301.86–5 Compliance agreement, and cancellation thereof.

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

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

§ 301.86–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.86–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.86–7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of quired for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such

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

articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

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

§ 301.86–8 Inspection and disposal of regulated articles and pests.

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

§ 301.86–9 Movement of live citrus blackflies.

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

§ 301.86–10 Nonliability of the Department.

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

The foregoing quarantine and regulations impose restrictions that are necessary in order to prevent the interstate dissemination of the citrus blackfly. Therefore, they should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to the noninfested States.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice of rulemaking and other public procedures with respect to the said quarantine and regulations are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date: The foregoing quarantine and regulations shall become effective March 13, 1974, and shall supersede the citrus blackfly emergency regulations (7 CFR 331.2, as amended), which are hereby terminated. However, said emergency regulations shall be considered as remaining in effect with respect to any violation thereof that occurred, and any liability that was incurred and any right that accrued under said regulations, prior to said date.

Done at Washington, D.C., this 8th day of March, 1974.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74–5833 Filed 3–12–74;8:45 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Blackfly

Regulated Area

This document contains the supplemental regulation (7 CFR 301.86–2a) specifying the regulated area in the quarantined State of Texas for the purposes of the Federal Citrus Blackfly Quarantine (7 CFR 301.86) which has been established following public hearing on October 30, 1973.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.86–2 of the Citrus Blackfly Quarantine regulations (7 CFR 301.86–2), a supplemental regulation designating the regulated area is hereby issued to appear in 7 CFR 301.86–2a as follows:

§ 301.86–2a Regulated area; suppressive and generally infested areas.

Cameron County, Texas, in its entirety is designated as the citrus blackfly regulated area and as a suppressive area within the meaning of the provisions of this subpart.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee). 37 FR 28464, 28477; 38 FR 19140; 39 FR 9653, 7 CFR 301.86–2)

Effective date. This regulation shall become effective March 13, 1974.

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the citrus blackfly has been found or there is reason to believe it is present in the civil division designated in § 301.86–2a as the regulated area, or that it is necessary to regulate such area because of its proximity to citrus blackfly infestation and its inseparability for quarantine enforcement purposes from citrus blackfly infested localities. Further, he has determined that the area designated as a suppressive area is eligible for such designation under § 301.86–1.

The Deputy Administrator has also determined that the quarantined State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under the quarantine and regulations in this subpart and that the designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the citrus blackfly.

Therefore, the civil division named above is designated as the citrus blackfly regulated area and as a suppressive area.

This document imposes restrictions that are necessary in order to prevent the dissemination of the citrus blackfly and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to the foregoing regulation 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 8th day of March, 1974.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74–5832 Filed 3–12–74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 1]

PART 1434—HONEY

Subpart—Standards for Approval of Warehouses for Extracted Honey

Transfer of Functions

The regulations appearing in this subpart which were published on July 22, 1970 (35 FR 11691) are hereby amended to reflect the transfer of functions relative to the extracted honey program from the Minneapolis Agricultural Stabilization and Conservation Service Commodity Office, to the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208. Since the amendment does not change the substantive terms and conditions of the Standards, it is determined that compliance with the proposed rule making procedures is not necessary.

1. Paragraphs (b), (c), and (d), of § 1434.50 are amended to read as follows:

§ 1434.50 General statement and administration.

* * * * *

(b) Copies of the storage contract and other forms required to obtain approval under this subpart may be obtained from the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as "the Prairie Village Office").

(c) A warehouse must be approved by the Prairie Village Office and a storage contract must be entered into by CCC and the warehouseman before such

warehouse will be used by CCC. The approval of a warehouse or the entering into of a storage contract does not constitute a commitment that the warehouse will be used by CCC, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, in applying for approval under this subpart, shall submit to CCC at the Prairie Village Office:

* * * * *

2. Subparagraph (c)(1) of § 1434.55 is amended to read as follows:

§ 1434.55 Approval of warehouses; requests for reconsideration.

* * * * *

(c)(1) If disapproval or withdrawal of approval by CCC is due to failure to meet the standards set forth in § 1434.51, other than the standard in paragraph (a) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the Prairie Village Office, orally or in writing, information in support of his request. The Director, upon consideration of such information, shall notify the warehouseman in writing of his determination. The warehouseman may, if the Director's determination is adverse to the warehouseman, obtain a review of the determination and an informal hearing in connection therewith by filing an appeal with the Deputy Administrator, Commodity Operations, ASCS. The time for filing appeals, form of request for appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed by §§ 780.6, 780.7, 780.8, 780.9, and 780.10, respectively, of the ASCS regulations governing appeals, Part 780 of this title. In connection with such regulations, the warehouseman shall be considered to be a "participant".

* * * * *

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

Effective date: This amendment becomes effective on March 13, 1974.

Signed at Washington, D.C. on March 6, 1974.

GLENN A. WEIR,
Acting Executive Vice Persident, Commodity Credit Corporation.

[FR Doc.74-5831 Filed 3-12-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

AUTHORITY FOR ISSUANCE OF NOTICES OF OPPORTUNITY FOR HEARINGS: NEW DR OPPORTUNITY FOR HEARINGS: NEW DRUG APPLICATIONS

The Commissioner of Food and Drugs is amending Part 2—Administrative Functions, Practices, and Procedures (21 CFR Part 2) to include a new delegation of authority to the Director of the Bureau of Drugs to issue proposals to refuse approval or withdraw approval of new drug applications and supplements thereto for drugs for human use, and notices withdrawing approval of such applications and supplements when opportunity for hearing is waived.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended in § 2.121 by adding a new paragraph (l) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(l) *Delegations regarding issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and new drug application supplements for drugs for human use.* The Director of the Bureau of Drugs is authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and new drug application supplements for drugs for human use submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act and to issue notices of withdrawal of approval when opportunity for hearing has been waived.

* * * * *

Effective date. This order shall be effective March 13, 1974.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: March 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-5511 Filed 3-12-74;8:45 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

AUTHORITY TO CERTIFY TRUE COPIES

The Commissioner of Food and Drugs is amending Part 2—Administrative Functions, Practices, and Procedures (21 CFR Part 2) to reflect a revision in the line of delegation for authority to certify true copies. In simultaneous actions published in the FEDERAL REGISTER of July 9, 1973 (38 FR 18260), the Assistant Secretary for Administration and Management revoked the delegation of authority to the Commissioner of Food and Drugs and redelegated the authority to the Assistant Secretary for Health who redelegated the authority back to the Commissioner.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended in § 2.120 by revising paragraph (c) to read as follows:

§ 2.120 Delegations from the Secretary and Assistant Secretary.

* * * * *

(c) The Assistant Secretary for Health has redelegated to the Commissioner of Food and Drugs, with authority to redelegate, the authority delegated to him by the Assistant Secretary for Administration and Management: To certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such; to certify that true copies are true copies of the entire file of the Department; to certify the complete original record or to certify the nonexistence of records on file within the Department; and to cause the Seal of the Department to be affixed to such certifications and to agreements, awards, citations, diplomas, and similar documents.

Effective date: This order shall be effective on March 13, 1974.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5809 Filed 3-12-74;8:45 am]

PART 8—COLOR ADDITIVES

Subpart—Provisional Regulations

METALLIC SALTS AND VEGETABLE SUBSTANCES IN HAIR DYE

A notice was published in the FEDERAL REGISTER of January 31, 1973 (38 FR 2996) clarifying the status of metallic salts and vegetable substances used as coloring components in cosmetics that are hair dyes. The notice stated, inter alia, that cosmetic product components consisting of metallic salts or vegetable substances capable of imparting color are color additives.

The notice also stated that metallic salts and vegetable substances are not coal tar derivatives and are not exempt from the requirement of listing. When used as components of cosmetics that are hair dyes without an applicable color additive listing permitting such use these components are deemed unsafe within the meaning of sections 601(e) and 706(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 361(e) and 376(a)).

Furthermore, the Commissioner of Food and Drugs gave notice that, on or before July 30, 1973, any person desiring to use any metallic salt or vegetable substance as a coloring component in hair dye, not presently listed for such use, must submit a petition proposing appropriate permanent listings.

Notice was also given that, for an interim period, the Food and Drug Administration was provisionally listing metallic salts and vegetable substances for use as color additives in hair dyes, and that only those color additives for which petitions were filed by July 30, 1973, pursuant to notice, would be retained on the provisional list at that time.

Two petitions, proposing the issuance of regulations to provide for the safe and

suitable use of particular metallic salts as color additives in cosmetics that are hair dyes, were filed prior to July 30, 1973, i.e., a petition for use of lead acetate, submitted by COMBE, Inc., White Plains, N.Y., and a petition for use of bismuth citrate, submitted by the Committee of the Progressive Hair Dye Industry, New York City, N.Y.

A third petition was submitted on July 30, 1973 by the Cosmetic, Toiletry and Fragrance Association, Inc., 1625 Eye St., NW, Washington, D.C. 20006, requesting the listing of "silver salts" as safe and suitable for use as color additives in cosmetics that are hair colors. The petition did not identify the silver salts petitioned for and did not contain data required by § 8.4 (21 CFR 8.4) of the color additive regulations for filing of color additive petitions. Supplementing data submitted on September 12, 1973, did not remedy these defects since, among others, specific silver salts were not identified, production data were lacking, stability data were lacking, no directions for proposed use were provided, and no data on probable exposure were provided. The lack of the foregoing data made it impossible to evaluate the toxicity data submitted. Subsequently, the petitioner requested on November 30, 1973, the provisional listing of silver lactate, silver nitrate, and silver sulfate under § 8.501(g) (21 CFR 8.501(g)). No reference was made in this letter to the July 30, 1973, petition and no data were submitted in support of the listing. Since adequate data have not been submitted to support the provisional listing of "silver salts" or of silver lactate, nitrate, or sulfate as color components in hair dyes, and no petition for such listing of these substances has been accepted for filing, the Commissioner concludes that it would not be consistent with his responsibility to protect the public health to provisionally list these substances for use as color components in hair dye.

No petition proposing the issuance of a regulation pertaining to any vegetable substances was submitted in response to the notice of January 31, 1973.

The Commissioner finds that the provisional listing of lead acetate and bismuth citrate pursuant to the aforementioned filed petitions, and the deletion of provisional listing for metallic salts and vegetable substances pursuant to the notice of January 31, 1973, is consistent with the protection of the public health.

Therefore, pursuant to the transitional provisions accompanying the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, secs. 203 (a)(2) and (d)(1), Pub. L. 86-618, 74 Stat. 404-405; 21 U.S.C. 376 note) and under authority delegated to the Commissioner (21 CFR 2.120), Part 8 is amended in § 8.501(g) by deleting the items, "Metallic salts" and "Vegetable substances" from the color additives provisionally listed for cosmetic use in paragraph (g) and by adding the items, "Bismuth citrate" and "Lead acetate" alphabetically to the color additives provisionally listed for cosmetic use, as follows:

§ 8.501 Provisional lists of color additives.

* * * * *

(g) * * *

Color additive	Closing date	Restrictions
* * *	* * *	* * *
Bismuth citrate.	December 31, 1974, or until a new closing date is established.	For use as a color component in hair dye.
* * *	* * *	* * *
Lead acetate.	December 31, 1974, or until a new closing date is established.	For use as a color component in hair dye.
* * *	* * *	* * *

Notice and public procedure and delayed effective date are not prerequisites to the promulgation of this order, as section 203(a)(2) of Pub. L. 86-618 provides for this issuance.

Effective date. This order is effective as of July 30, 1973.

(Title II, secs. 203(a)(2) and (d)(1), Pub. L. 86-618, 74 Stat. 404-405; 21 U.S.C. 376 note).

Dated: March 7, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-5767 Filed 3-12-74;8.45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND FRUIT JUICES

Canned Applesauce; Amendment of Standard of Identity and Fill of Container; Correction

In FR Doc. 74-4991 appearing at page 8322 in the FEDERAL REGISTER of Tuesday, March 5, 1974, § 27.80(b)(5) is corrected to read as follows:

§ 27.80 Canned applesauce; identity; label statement of optional ingredients.

* * * * *

(b) * * *

(5) Nutritive carbohydrate sweeteners.

* * * * *

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5808 Filed 3-12-74;8:45 am]

PART 121—FOOD ADDITIVES

Ethoxylated Mono- and Diglycerides for Use as an Emulsifier in Foods; Correction

In FR Doc. 74-138 appearing at page 795 in the issue of Thursday, January 3, 1974, in § 121.1221(c), the introductory text and the "Use" for item 5 are corrected to read as follows:

§ 121.1221 Ethoxylated mono- and diglycerides (polyoxyethylene (20) mono- and diglycerides of fatty acids).

* * * * *

(c) The additive is used or intended for use in the following foods when standards of identity established under section 401 of the act do not preclude such use:

Use	*Limitations*
* * *	* * *
5. As an emulsifier in frozen desserts.	* * *
* * *	* * *

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5807 Filed 3-12-74;8:45 am]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals, or for the Treatment of Food-Producing Animals

AMPROLIUM, ETHOPABATE, 3-NITRO-4-HYDROXYPHENYLARSONIC ACID, BACITRACIN METHYLENE DISALICYLATE

The Commissioner of Food and Drugs has evaluated a new animal drug application (49-180) filed by Merck, Sharp & Dohme Research Labs., Div. of Merck & Co., Inc., Rahway, NJ 07065, proposing the safe and effective use of amprolium, ethopabate, 3-nitro-4-hydroxyphenylarsonic acid and bacitracin methylene disalicylate in chicken feed. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.210(c) is amended in Table 1 by adding new items 9.1 and 10.1 as follows:

§ 121.210 Amprolium.

* * * * *

(c) * * *

TABLE 1.—*Amprolium in complete chicken and turkey feed*

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
9.1 Amprolium.	113.5 (0.0125%)	3-Nitro-4-hydroxyphenylarsonic acid.	34 (0.00375%)	For floor-raised broiler chickens; do not feed to laying chickens; withdraw 5 days before slaughter; as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; feed as the sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; amprolium and ethopabate as provided by code No. 023 in § 135.501(c) of this chapter; bacitracin methylene disalicylate as provided by code No. 028 in § 135.501(c) of this chapter; 3-nitro-4-hydroxyphenylarsonic acid as provided by code No. 031 in § 135.501(c) of this chapter; approval for this combination granted to firm No. 023 as identified in § 135.501(c) of this chapter.	For increased rate of weight gain and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur in broiler chickens raised in floor pens.
		+ Ethopabate	36.3 (0.004%)		
		+ Bacitracin methylene disalicylate.	5–35		
10.1 Amprolium.	113.5 (0.0125%)	3-Nitro-4-hydroxyphenylarsonic acid.	34 (0.00375%)	do	For increased rate of weight gain, improved feed efficiency, and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur in broiler chickens raised in floor pens.
		+ Ethopabate	36.3 (0.004%)		
		+ Bacitracin methylene disalicylate.	20–35		

* * * * * * *

2. Section 121.262(c) is amended in Table 1 by adding new items 1.21 and 1.22 as follows:

§ 121.262 **3-Nitro-4-hydroxyphenylarsonic acid.**

* * * * * * *

(c) * * *

TABLE 1.—*3-nitro-4-hydroxyphenylarsonic acid in complete chicken and turkey feed*

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.21 3-Nitro-4-hydroxyphenylarsonic acid.	34 (0.00375%)	Amprolium	113.5 (0.0125%)	§ 121.210(c), table 1, item 9.1.	§ 121.210(c), table 1, under item 9.1.
		+ Ethopabate	36.3 (0.004%)		
		+ Bacitracin methylene disalicylate.	5–35		
1.22 3-Nitro-4-hydroxyphenylarsonic acid.	34 (0.00375%)	..mprolium	113.5 (0.0125%)	§ 121.210(c), table 1, item 10.1.	§ 121.210(c), table 1, under item 10.1.
		+ Ethopabate	36.3 (0.004%)		
		+ Bacitracin methylene disalicylate.	20–35		

* * * * * * *

Effective date. This order shall be effective March 13, 1974.

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

Dated: March 4, 1974.

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

[FR Doc.74-5624 Filed 3-12-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Over-the-Counter Drugs; Procedures Regarding Public Comment on Review Panel Reports

A notice of proposed rulemaking regarding § 130.301(a)(6) (21 CFR 130.301(a)(6)) of the regulations governing the over-the-counter (OTC) drug review was published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31269). Interested persons were invited to submit comments on the proposal within 30 days. No comments were received.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; 5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 130 is amended in § 130.301(a)(6) by adding the following sentence to the end of the undesignated paragraph following subdivision (iv), to read as follows:

§ 130.301 **Over-the-counter (OTC) drugs for human use; procedures for rulemaking for the classification of OTC drugs as generally recognized as safe and effective and not misbranded under prescribed, recommended, or suggested conditions of use.**

* * * * * *

(a) * * *

(6) * * *

(iv) * * *

* * * The Commissioner may satisfy this requirement by publishing in the FEDERAL REGISTER a proposed order summarizing the full report of the advisory review panel, containing its conclusions and recommendations, to obtain full public comment before undertaking his own evaluation and decision on the matters involved.

* * * * * *

Effective date. This order shall become effective on April 12, 1974.

(Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243) as amended; (5 U.S.C. 553, 554, 702, 703, 704))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5804 Filed 3-12-74;8:45 am]

SUBCHAPTER F—BIOLOGICS

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Moisture Content of Hepatitis Associated Antibody (Anti-Australia Antigen) for Use in a Hepatitis Testing Procedure

Each donation of human blood, plasma, or serum to be used in preparing a biological product must be tested for the presence of hepatitis B antigen by a method employing licensed hepatitis associated antibody (21 CFR 610.40). Licenses for this antibody for use in several methods for detection of hepatitis B antigen, principally counterelectrophoresis (CEP) and radioimmunoassay (RIA), are currently in effect.

The Commissioner of Food and Drugs has received a license application for the manufacture of a hepatitis associated antibody intended for use in a new reversed passive hemagglutination procedure (RPHA) for the detection of hepatitis B antigen in human blood. Data submitted in support of the license application, extensive confirmatory research

conducted by the Bureau of Biologics, Food and Drug Administration, clinical investigations and the scientific literature concerning the use of this method, all establish that the RPHA procedure is a valid test method. It is significantly more sensitive and less complicated than the CEP procedure, and can be completed more rapidly than the RIA procedure.

Although the new RPHA method is considered a significant advance in detecting blood that is hepatitis B antigen positive and reduces the risk of hepatitis associated with blood transfusions, the antibody used in this method contains a level of residual moisture in excess of that now permitted by the regulations (21 CFR 610.13(a)(2)). The intent of the existing residual moisture standard is to assure the stability of licensed products. The Commissioner finds that an increased content of moisture and other volatile substances promotes the effectiveness of the product and that data submitted in support of the license application, and verified by the Bureau of Biologics, support its stability at the higher level. The Commissioner concludes that a higher limit, 4.5 percent, should be established for this antibody, in the same manner as the current regulations prescribe higher moisture content levels for several other biological products. By amending § 610.13, the Commissioner will be able to permit licensure of this product for use in detection of hepatitis B antigen.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 610 is amended in § 610.13 by revising paragraph (a)(2) to read as follows:

§ 610.13 Purity.

* * * * *

(a) * * *

(2) *Test results; standard to be met.* The residual moisture and other volatile substances shall not exceed 1 percent except that for BCG Vaccine they shall not exceed 1.5 percent, for Measles Virus Vaccine, Live, Attenuated; Measles-Smallpox Vaccine, Live; Rubella Virus Vaccine, Live; and Antihemophilic Factor (Human), they shall not exceed 2 percent; for Modified Plasma (Bovine); Thrombin; Fibrinogen; Streptokinase; Streptokinase-Streptodornase; and Anti-Influenza Virus Serum for the Hemagglutination Inhibition Test, they shall not exceed 3 percent; and for Hepatitis Associated Antibody (Anti-Australia Antigen) for the Reversed Passive Hemagglutination Test, they shall not exceed 4.5 percent.

* * * * *

Pursuant to the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the promulgation of this order as it does not impose a duty or burden on any person, but rather relieves an unnecessary restriction.

Effective date. This order shall be effective on March 13, 1974.

(Sec. 351, 58 Stat. 702, as amended; (42 U.S.C. 262))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5805 Filed 3-12-74;8:45 am]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Storage Requirement for Measles, Mumps, and Rubella Vaccines and Their Licensed Combinations

To insure the continued safety, purity, and potency of all licensed biological products, regulations include dating period limitations prescribing storage conditions within which licensed products are expected, beyond reasonable doubt, to yield their specific results and retain their safety, purity, and potency (21 CFR 610.53). Consistent with these limitations, licenses for the manufacture of Measles Virus Vaccine, Live, Attenuated; Mumps Virus Vaccine, Live; Rubella Virus Vaccine, Live; and combinations thereof; provide that the final vaccines be stored at temperatures between 2° C. and 8° C. for a period no more than one year from the date of manufacture. These dating periods are based upon data reflecting clinical experience and laboratory testing.

One manufacturer of Measles Virus Vaccine, Live, Attenuated; Mumps Virus Vaccine Live; Rubella Virus Vaccine, Live; and licensed combinations thereof; has proposed that its product licenses be amended to extend the prescribed maximum storage period from one year at 2° C. to 8° C., to one year at −20° C. or colder, in the manufacturer's storage prior to issue, followed by an additional year storage at 2° C. to 8° C.

Studies conducted by the manufacturer and submitted in support of the amended product license applications indicate that the stability of the vaccines are not significantly affected by storage at −20° C. for one year and that storage of the vaccines at −20° C. for one year, followed by additional storage at 4° C. for one year, results in the same satisfactory rate and degree of stability as vaccines stored at 4° C. for one year without previous storage. In addition to reviewing the adequacy of this data the Bureau of Biologics, Food and Drug Administration, has verified by its independent research the quality of these vaccines stored in the manner proposed by the licensee.

The Commissioner of Food and Drugs finds that the presently prescribed dating period for the subject vaccines places an undue and unnecessary hardship on those manufacturers who submit appropriate data reflecting that their vaccines will retain their safety, purity, and potency after the extended storage as proposed. Accordingly, the Commissioner concludes that the regulations prescribing dating periods for these products should be amended to permit initial storage by the manufacturer at −20° C. or below for one year.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 610 is amended in § 610.53, as follows:

§ 610.53 Dating periods for specific products.

* * * * *	
Measles Virus Vac-	
* * * * *	
Measles Virus Vaccine, Live, Attenuated.	1 yr. (−20° C., 1 yr.).
* * * * *	
Mumps Virus Vaccine, Live.	1 yr. (−20° C., 1 yr.).
* * * * *	
Rubella Virus Vaccine, Live.	1 yr. (−20° C., 1 yr.).
* * * * *	

Pursuant to the Administrative Procedure Act (5 U.S.C. 533 (b) and (d)), the Commissioner concludes that notice, public procedures and delayed effective date are unnecessary for the promulgation of this order as it does not impose a duty or burden on any person, but rather relieves an unnecessary restriction.

Effective date. This order shall be effective on March 13, 1974.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5806 Filed 3-12-74;8:45 am]

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

Reduction in Number of Samples Required To Be Submitted

Standards designed to assure the continued safety, purity, and potency of certain licensed viral vaccines require that manufacturers of these products submit samples of each lot of the final product to the Bureau of Biologics, Food and Drug Administration, for testing. A total of 200 recommended doses of each of the following products are currently required to be submitted: Measles Virus Vaccine, Live, attenuated (21 CFR 630.36(h)(3)); Mumps Virus Vaccine, Live (21 CFR 630.56(f)(3)); and Rubella Virus Vaccine, Live (21 CFR 630.66(e)(3)). The regulations also require that 100 Tuberculin multiple puncture devices be submitted for testing before issuance for each lot of licensed Tuberculin (21 CFR 650.11(c)(2)(i)).

The Commissioner of Food and Drugs has reviewed these provisions and finds

that the number of samples required for submission to the Food and Drug Administration exceeds that which is needed to test each lot of these products. The present requirements are wasteful, unnecessarily increase the costs of the Food and Drug Administration in the processing, storing, and disposing of samples, and impose an undue hardship on manufacturers. Accordingly, the Commissioner concludes that the number of samples required for submission for testing should be reduced.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 630 and 650 are amended as follows:

1. In Part 630:

a. Section 630.36(h)(3) is revised to read as follows:

§ 630.36 General requirements.

* * * * *

(h) * * *

(3) A total of no less than 30 containers of the vaccine from each filling of each bulk lot of single-dose containers. A total of no less than six 50-dose containers or ten 10-dose containers of the vaccine from each filling of each bulk lot of multiple-dose containers.

b. Section 630.56(f)(3) is revised to read as follows:

§ 630.56 General requirements.

* * * * *

(f) * * *

(3) A total of no less than 30 containers of the vaccine from each filling of each bulk lot of single-dose containers. A total of no less than six 50-dose containers or ten 10-dose containers of the vaccine from each filling of each bulk lot of multiple-dose containers.

c. Section 630.66(e)(3) is revised to read as follows:

§ 630.66 General requirements.

* * * * *

(e) * * *

(3) A total of no less than 30 containers of the vaccine from each filling of each bulk lot of single-dose containers. A total of no less than six 50-dose containers or ten 10-dose containers of the vaccine from each filling of each bulk lot of multiple-dose containers.

* * * * *

2. Part 650 is revised in § 650.11(c)(2)(i) to read as follows:

§ 650.11 General requirements.

* * * * *

(c) * * *

(2) * * *

(i) A total of no less than 50 devices.

* * * * *

As these amendments relieve an unnecessary requirement without affecting the adequacy of the Food and Drug Administration testing procedures for the products involved, the Commissioner concludes that, pursuant to the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), notice, public procedure and delayed effective date are unnecessary for the promulgation of this order.

Effective date. This order shall be effective on March 13, 1974.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5766 Filed 3-12-74;8:45 am]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Replacement of Reference for Determining Measles Antibody Titer of Globulin Products

Pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262), all biological products offered for sale in interstate commerce must be licensed and must meet certain standards to insure their continued safety, purity, and potency.

The standards for licensed Immune Serum Globulin (Human) and Measles Immune Globulin (Human) require that the potency of both products shall be measured in relation to the U.S. reference measles serum (21 CFR 640.104(b) and (c) and 640.114(b)). In addition, the definition and manufacturing methods for Measles Immune Globulin (Human) are also based upon this reference serum (21 CFR 640.110(a) and 640.112(b)).

The U.S. reference measles serum used to measure the potency (determination of antibody titer) of globulin products has been exhausted and a new Reference Measles Immune Globulin is being made available to manufacturers of these products. The new reference material contains half the antibody content of the original reference. Therefore, to maintain the present levels of measles antibody titer of globulin products, the currently prescribed measles antibody titers must be doubled to correlate with the new reference. Licensed manufacturers have been advised concerning the use of the new reference for determining measles antibody titer of the globulin products.

Accordingly, the Commissioner of Food and Drugs finds that the standards for these globulin products should be amended to replace references to "U.S. reference measles serum" with "Reference Measles Immune Globulin" and that the prescribed measles antibody titer of globulin products must be adjusted to reflect the new reference.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 640 is amended as follows:

1. By revising § 640.104(b)(2) and (c)(1) to read as follows:

§ 640.104 Potency.

* * * * *

(b) * * *

(2) A measles neutralizing antibody level on no less than 0.50 times the level of the Reference Measles Immune Globulin, except that when recommended for use with Measles Virus Vaccine, Live, Attenuated, the measles antibody level shall be as prescribed in § 640.114.

* * * * *

(c) * * *

(1) Reference Measles Immune Globulin for correlation of measles antibody titers.

2. By revising § 640.110(a) to read as follows:

§ 640.110 Measles Immune Globulin (Human).

(a) *Proper name and definition.* The proper name of the product shall be Measles Immune Globulin (Human). It shall consist of a sterile solution of 10 to 18 percent globulin derived from human blood, having the same measles antibody level as the Reference Measles Immune Globulin. Measles Immune Globulin shall be made from a sterile 16.5 ±1.5 percent solution of human globulin.

* * * * *

3. By revising § 640.112(b) to read as follows:

§ 640.112 Manufacture of Measles Immune Globulin (Human).

* * * * *

(b) *Reference materials.* The following reference material shall be obtained from the Bureau of Biologics: Reference Measles Immune Globulin for correlation of measles antibody titers with globulin products.

* * * * *

4. By revising § 640.114(b) to read as follows:

§ 640.114 Potency.

* * * * *

(b) Each lot of final product shall contain the same measles antibody level as the Reference Measles Immune Globulin. The measles antibody potency shall be determined by simultaneous determinations of the neutralizing antibody titers of the globulin on tests and of a reference preparation against 100 $TCID_{50}$ (50–500 $TCID_{50}$ when based upon a single test) of measles virus in a tissue culture system. The potency test shall also include a determination of virus titer and controls for globulin toxicity and cell culture viability. Twofold serial dilutions of the globulin under test and of the reference preparation shall be employed in this determination. In applying these requirements a plus or minus variation of one twofold dilution is acceptable.

Pursuant to the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice public procedure and delayed effective date are unnecessary for the promulgation of this order, as it is of a minor nature and does not alter, but rather maintains, the current requirements for measles antibody titer of globulin products.

Effective date. This order shall be effective March 13, 1974.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: March 7, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-5768 Filed 3-12-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74 74 59]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

English Bayou, La.

This amendment revokes the regulations for the drawbridge across English Bayou, mile 0.9 near Lake Charles, because this bridge has been replaced by a fixed bridge.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (25) of paragraph (j) of § 117.245.

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

Effective date. This revision shall become effective March 13, 1974.

Dated: March 6, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5777 Filed 3-12-74;8:45 am]

[CGD 74 65]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Onancock River (Warrington Branch), Va.

This amendment revokes the regulations for the drawbridge across the Onancock River (Warrington Branch) at Onancock, Virginia because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.245(f)(18).

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

Effective date. This revision shall become effective March 13, 1974.

Dated: March 6, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5723 Filed 3-12-74;8:45 am]

[CGD 73-111R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Scuppernong River, N.C.

This amendment changes the regulations for the North Carolina State Highway Commission drawbridge across the Scuppernong River at Columbia to require at least 24 hours notice before the draw is required to open. This change also revokes the regulations for the bridges at Cross Landing and Creswell because these bridges have been rebuilt as a fixed bridge and a removable span bridge respectively. This amendment was circulated as a public notice dated June 4, 1973 by the Commander, Fifth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 73-111P) on May 29, 1973 (38 FR 14111). Three replies were received. One supported the proposal and two requested that no change be made to the existing regulations. The Coast Guard feels that the proposed change will provide for the reasonable needs of navigation and therefore this change is adopted. If navigation requirements in this reach of the Scuppernong River increase or decrease, these regulations may be changed at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

(1) Revising subparagraph (3) of paragraph (g) of § 117.245 to read as follows:

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

* * * * *

(g) * * *

(3) Scuppernong River; North Carolina State Highway Commission bridge at Columbia.

(i) The draw shall open on signal if at least 24 hours notice is given. However, the draw shall open as soon as possible in case of an emergency involving danger to life or property and for commercial fishing vessels unable to pass under the closed draw.

(ii) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in such a manner that they can easily be read at anytime from an approaching vessel, a resumé of these regulations, together with a notice stating exactly how and to whom requests for draw openings shall be made.

(iii) The draw of the bridge shall be returned to unrestricted operation within 6 months after notification to the owners by the Commandant to take such action.

* * * * *

(2) Revoking subparagraph (3-a) of paragraph (g) of § 117.245.

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

Effective date. This revision shall become effective on April 15, 1974.

Dated: March 6, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5780 Filed 3-12-74;8:45 am]

[CGD 74 66]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wicomico River (South Prong), Md.

This amendment revokes the regulations for the two drawbridges across the Wicomico River (South Prong) at Salisbury, Maryland, because these bridges have been replaced by fixed bridges.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.245(f)(16-b) and (16-c).

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

Effective date. This revision shall become effective March 13, 1974.

Dated: March 6, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5779 Filed 3-12-74;8:45 am]

[CGD 3-74-2R]

PART 127—SECURITY ZONES

Establishment of Security Zone; Delaware River, Chester, Pennsylvania

This amendment to the Coast Guard's Security Zone Regulations, establishes the Delaware River, Chester, Pennsylvania as a security zone. This security zone is established due to the launching of Hull No. 666 from No. 1 Shipway of Sun Building and Drydock Company.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because good cause exists and public procedures on this amendment are impracticable because of lack of advance notice on the launch date.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.312, to read as follows:

§ 127.312 Delaware River, Chester, Pennsylvania.

The area within the following boundary is a security zone: A line beginning at 39-50-36N, 075-21-22W; thence SE to 39-50-16N, 075-21-07W; thence NE to 39-50-45N, 075-19-29W; thence N to 39-51-22N, 075-19-32W; thence to the beginning point.

(46 Stat. 220, as amended, 6(b), 80 Stat. 937; (50 U.S.C. 191, 49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR,

1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date: This amendment is effective from 12:00 Noon, e.d.t. to 2:00 p.m. e.d.t. on Thursday, 21 March 1974.

Dated: February 26, 1974.

B. F. ENGEL,
Vice-Admiral, U.S. Coast Guard Commander, Third Coast Guard District, Governors Island, N.Y.

[FR Doc.74-5781 Filed 3-12-74;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 221—TIMBER

Export and Substitution Restrictions

On October 26, 1973, the FEDERAL REGISTER (38 FR 29604) contained a notice that the Department of Agriculture proposed to amend Part 221 of Title 36, Code of Federal Regulations, by revising § 221.25, Timber Export and Substitution Restrictions.

Interested parties were given 60 days to submit written data, views, or objections pertaining to the proposed amendment.

Sixty-three written submissions were received within the 60-day limit. Based upon the information available, the proposed amendment will contain the following changes:

1. In paragraphs (b), (g), and (h) the reference to timber which can be declared surplus is expanded to include grades.

2. Paragraph (b) is changed to exempt from restrictions timber on sales having an appraised value of less than $2,000 and to define private lands.

3. Paragraph (c) is changed to make it clear that logs less than ⅓ sound and logs not meeting industry grading rules for sawmill or peeler logs and blocks are not subject to export or substitution restrictions. Utility (pulp) logs and Douglas-fir special cull logs are specifically exempted.

4. Paragraph (d) is changed to remove joint venture partner from the list of affiliates and to clarify the definition of indirect exporting.

5. Paragraph (e) is changed to define substitution as the increase above historic levels of volumes of timber either purchased from the National Forest System or exported by the purchaser from private lands.

6. Paragraph (f) is changed to permit purchasers to change or add to their lists of plants or locations to which National Forest timber is to be delivered.

7. Paragraph (g) is changed to delete reference to substitution by parties buying timber from National Forest timber purchasers.

Accordingly, with these changes and additions, the proposed amendment is adopted as set forth below.

§ 221.25 Timber export and substitution restrictions.

(a) Unless restricted as provided in this section or unless it is determined by the Secretary of Agriculture that the supply of timber for local use is endangered, timber lawfully cut on any National Forest may be exported from the State where grown to any other State for processing. As used in this paragraph, "supply of timber for local use" means the supply of timber necessary for consumption by local users.

(b) Unprocessed timber as defined in paragraph (c), purchased after the effective date of this section from National Forest System lands located west of the 100th meridian in the contiguous 48 States, may not be exported from the United States nor used as a substitute for timber from private lands exported by the purchaser. The above limitations on export and substitution do not apply to species of timber previously found to be surplus to domestic needs; additional species, grades, or quantities of timber found by the Secretary of Agriculture after public hearing to be surplus to domestic needs; or to sales having an appraised value of less than $2,000. As used in this section and as further defined in paragraph (d) of this section, "export" means either direct or indirect export and "purchaser" means the purchaser or his affiliates. "Private lands" means lands held or owned by a private person (individual, partnership, corporation, association, or other legal entity). Nonprivate lands include, but are not limited to, lands held or owned by the United States, a State or political subdivision thereof, or other public agency, or lands held in trust by the United States for Indians.

(c) As used in this section, the term "unprocessed timber" shall mean any logs of species, quantities, or grades which have not been found surplus to domestic needs and having a net scale content not less than 33⅓ percent of the gross volume in material meeting the peeler or sawmill grade requirements published in the July 1, 1972, official Log Scaling and Grading Rules used by West Coast Log Scaling and Grading Bureaus; cants to be subsequently remanufactured exceeding 8¾ inches in thickness; cants of any thickness reassembled into logs; and split or round bolts, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean pulp (utility) grade logs and Douglas-fir special cull logs or timber processed into the following:

(1) Lumber and construction timbers, regardless of size, sawn on four sides;

(2) Chips, pulp and pulp products (except that, in Alaska, chips from logging and milling wastes only shall be considered to be processed);

(3) Green veneer and plywood;

(4) Poles and piling cut or treated for use as such;

(5) Cants cut for remanufacture, 8¾ inches in thickness or less.

(d) As used in this section, unprocessed timber, either from National Forest System lands or from private lands, is exported directly when exported by the National Forest timber purchaser, his subsidiary, subcontractor, parent company, or any other affiliate. Business entities are considered to be affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third entity. Timber is exported indirectly when export occurs as a result of a sale to another person or as a consequence of any subsequent transaction.

(e) As used in this section, substitution is the purchase of timber from National Forest System lands to be used as replacement for timber exported from private lands. Such replacement occurs when with respect to historic levels, (1) the purchaser continues to export and increases his purchase of National Forest timber, or (2) the purchase of National Forest timber continues while the purchaser increases his export of unprocessed timber from private lands tributary to the plant for which National Forest timber covered by a specific contract is expected to be delivered. Historic level is defined as the purchase or export during 1974 or any subsequent calendar year of not to exceed 110 percent of the average annual volume purchased or exported in calendar years 1971, 1972, and 1973.

(f) To be eligible to bid on a sale of timber from National Forest System lands west of the 100th meridian in the 48 contiguous States, a bidder must:

(1) Certify that purchase of the timber will not constitute substitution as defined in paragraph (e) of this section;

(2) Agree to furnish to the Forest Service, prior to beginning operations under the contract: the names and addresses of processing plants or other locations to which the timber is expected to be delivered; the names and advertised volumes of timber sales purchased by the purchaser for delivery to each such location in calendar years 1971, 1972, and 1973; the volumes of timber from private lands tributary to each location listed, exported by the purchaser in calendar years 1971, 1972, and 1973.

(3) Agree to furnish the information required by item (2) to the Forest Service prior to log hauling to any location not included in the list required by item (2).

(4) Agree to make available to the Forest Service, upon request, all of his records dealing with origin and destination of exported timber.

For false certification the Forest Service may cancel the contract, debar the purchaser from bidding on Federal timber, and impose such other penalties as may be provided by law or regulation.

(g) Contracts for sales of unprocessed timber from National Forest System lands as described in paragraph (b) of

this section, entered into after the effective date of this section shall, with respect to the timber covered by said contracts, prohibit the purchaser from exporting said timber or selling it for export and from substituting said timber for timber which the purchaser has exported or sold for export from private lands, except that these limitations will not apply to species of timber previously found surplus to domestic needs and additional species, grades, or quantities of timber found by the Secretary of Agriculture, after public hearing, to be surplus to domestic needs.

Where appropriate, contracts shall include:

(1) Restrictions on the export of unprocessed timber or the use of said timber in substitution of timber exported from private land, including a provision that before the purchaser sells, exchanges, or otherwise disposes of the included timber restricted from export, the purchaser shall require his buyer, exchangee, or other recipient to enter into an agreement not to export unprocessed timber as defined in this section.

(2) Requirements for showing compliance with the timber export restrictions and exemptions and the restrictions against the purchaser using said timber in substitution for timber exported from private land.

(3) The quantities and species of unprocessed timber, if any, which may be exported.

(h) No additional species not previously determined to be surplus, specified quantities or grades of unprocessed timber may be sold for export as surplus to domestic needs unless: a public hearing is authorized by the Secretary of Agriculture and is held to seek advice and counsel as to the quantities, grades, and species of unprocessed timber, if any, surplus to the needs of domestic users and processors, and a determination is made by the Secretary of Agriculture that the specific quantities, grades, and species of unprocessed timber are surplus to the needs of domestic users and processors. The Secretary of Agriculture shall give notice in the FEDERAL REGISTER of the quantities, grades, and species of unprocessed timber which are determined to be surplus. Hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in a newspaper of general circulation within the area of the specific quantities, grades, and species under consideration at least 15 days prior to the hearings, and known parties or organizations with special interest in the quantities, grades, and species should be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and held at a convenient, centralized location within the area of the specific quantities, grades, and species under consideration.

(3) The hearing record shall remain open for at least 5 calendar days following the hearing for receipt of additional written statements.

(i) Subject to the other provisions of this section, timber cut from the National Forests in the State of Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester. This requirement is determined to be necessary in order to assure the development and continued existence of adequate wood processing capacity in that State essential to the sustained utilization of timber from the National Forests located therein which is geographically isolated from other processing capacity. In determining whether consent will be given to the export of such timber, consideration will be given, among other things, to whether such export will (*a*) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (*b*) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market, (*c*) permit the salvage of timber damaged by wind, insects, or fire, (*d*) bring into use a minor species of little importance to local industrial development, or (*e*) provide material required to meet national emergencies or to meet urgent and unusual needs of the Nation.

(30 Stat. 34, 35 as amended (16 U.S.C. 476, 551; Pub. L. 93-120, October 4, 1973.))

Effective date. This regulation is effective on March 8, 1974.

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

MARCH 8, 1974.

[FR Doc.74-5742 Filed 3-12-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 14—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Procedures

Pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243), the Environmental Protection Agency (EPA) is amending Title 40 CFR by the addition of a new Part 14, Employees' Personal Property Claims.

These regulations establish the means whereby EPA employees who believe they have a valid personal property claim against EPA can present that claim to EPA, and the procedures under which the Agency will process that claim, compromise the claim, or reject the claim. The regulations indicate the evidence that may have to be submitted in support of a claim, and the time limits that must be obeyed. The regulations are very similar to those of several other agencies, and are designed to conform to and supplement the requirements of the Act.

Dated: March 6, 1974.

JOHN QUARLES,
Acting Administrator.

Sec.

AUTHORITY: Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243).

§ 14.1 Scope of regulations.

This part prescribes regulations under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, for the settlement of a claim against the United States made by an officer or employee of the Environmental Protection Agency (EPA) for damage to, or loss of, personal property incident to service.

§ 14.2 Definitions.

As used in this part:

(a) "Act" means the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243).

(b) "Employee" means an officer or employee of EPA.

(c) "Settle" means consider, ascertain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance.

§ 14.3 Investigation, examination, and determination of claim.

Employees shall present claims filed under this part through their supervisors and/or safety officers to the EPA Claims Officer, Facilities and Support Services Division, Washington, D.C. 20460, who will settle such claims.

§ 14.4 Who may file claim.

A claim may be filed by an employee, by his spouse in his name as authorized agent, or by any other authorized agent or legal representative of the employee. If the employee is dead, his (a) spouse, (b) child, (c) father or mother, or both, or (d) brother or sister, or both, may file the claim and is entitled to payment in that order.

§ 14.5 Time limits for filing.

(a) A claim under this part may be considered only if:

(1) Except as provided in paragraph (b) of this section, the claim is filed in writing within 2 years after accrual.

(b) A claim that cannot be filed within the time limits of paragraph (a) of this section because of circumstances attendant on a war or armed conflict involving one of the armed forces of the United States that exists at the time the claim accrues, or within the 2-year period after the claim accrued, may be considered if filed in writing within 2 years after the circumstances permit filing or within 2 years after the end of the war or armed conflict, whichever is earlier.

§ 14.6 Principal types of claims allowable.

(a) In general, a claim may be allowed only for tangible personal property of a

type and quantity that was reasonable, useful, or proper for the employee to possess under the circumstances at the time of the loss or damage.

(b) Claims that will ordinarily be allowed include, but are not limited to, cases in which the loss or damage occurred:

(1) In quarters assigned or provided in kind, by the Government, wherever situated;

(2) In quarters outside the 50 States and the District of Columbia whether or not assigned or provided in kind by the Government, unless the claimant is a local or native resident;

(3) In a place officially designated for storage of property such as a warehouse, office, garage, or other storage place;

(4) In a marine, rail, aircraft, or other common disaster or a natural disaster such as a fire, flood, hurricane;

(5) When the property, including personal clothing and vehicles, was subjected to extraordinary risks in the employee's performance of duty, such as in connection with civil disturbance, public disorder, common or natural disaster, or effects to save Government property or human life;

(6) When the property was used for the benefit of the Government at the direction of a superior; and

(7) When the property was money or other valuables deposited with an authorized Government agent for safekeeping.

§ 14.7 Principal types of claims not allowable.

(a) Claims that will ordinarily not be allowed include, but are not limited to, claims for:

(1) Losses or damages totaling less than $10 or more than $6,500;

(2) Money or currency except when deposited with an authorized Government agent for safekeeping or except when lost incident to a marine, rail, aircraft, or other common disaster or a natural disaster such as a fire, flood, or hurricane;

(3) Transportation losses involving baggage, household goods, or other shipments which could have been insured;

(4) Articles of extraordinary value;

(5) Articles being worn (unless allowable under § 14.6);

(6) Intangible property such as bank books, checks, notes, stock certificates, money orders, or travelers checks;

(7) Property owned by the United States unless the employee is financially responsible for it to another Government agency;

(8) Claims for loss or damage to motor vehicles or trailers (unless allowable under § 14.6);

(9) Losses of insurers and subrogees;

(10) Losses recoverable from insurer and carriers;

(11) Losses in quarters within the United States not assigned or otherwise provided in kind by the Government;

(12) Losses recovered or recoverable pursuant to contract;

(13) Claims for damage or loss caused, in whole or in part, by the negligent or wrongful act of the employee or his agent;

(14) Property used for business or profit;

(15) Theft from the possession of the employee unless due care was used to protect possession; or

(16) Property acquired, possessed or transported in violation of law, or regulations.

§ 14.8 Computation of award and finality of settlement.

(a) *Some computation principles.* The amount awarded or any items or property may not exceed the adjusted cost, based either on the price paid or value at the time of acquisition. The amount normally payable for property damaged beyond economical repair is found by determining its depreciated value immediately before loss or damage, less any salvage value. If the cost of repair is less than the depreciated value, it will be considered to be economically repairable and only the cost of repair will be allowable.

(b) *Attorney's fee.* Under the terms of the Act, no more than 10 percent of the amount paid in settlement of a claim submitted and settled under this part may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding; any person violating this or any other provision of the Act is guilty of a misdemeanor and on conviction shall be fined not to exceed $1,000.00.

§ 14.9 Relationship to other Agency regulations.

Each of the four pre-existing agencies that contributed parts of its organization to the Environmental Protection Agency had published regulations or policy issuance governing the administrative disposition of claims under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, at the time Reorganization Plan No. 3 of 1970 became effective; namely, Department of the Interior; Department of Health, Education, and Welfare; Department of Agriculture; and Atomic Energy Commission. The regulations and policy issuances that are currently applicable to the various constituent units of the Environmental Protection Agency are hereby superseded upon publication of the Agency's regulations with respect to employees' claims asserted under the Act involving employees of the Agency.

[FR Doc.74-5813 Filed 3-12-74;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Plan Revisions: New York

Background. On November 13, 1973 (38 FR 31295), and on January 9, 1974 (39 FR 1437), the Administrator approved revisions to the applicable New York State Implementation Plan. The revisions provided for temporary exceptions to the requirements of Part 225, Subchapter A, Chapter III, Title 6 of New York State Official Compilation of Codes, Rules and Regulations (hereafter referred to as 6 NYCRR 225) as it pertains to fuel marketed and used in the New York portion of the New Jersey-New York-Connecticut Air Quality Control Region (AQCR).

Proposed revision. On January 17, 1974 New York State submitted a proposal to modify the control strategy for sulfur oxides in the New Jersey-New York-Connecticut AQCR by granting the Orange and Rockland Utilities, Inc. (hereafter Orange and Rockland) a temporary exception to the requirements of 6 NYCRR 225 through April 30, 1974. New York State's action was taken pursuant to 6 NYCRR section 225.3(d) which provides that if a person shows to the satisfaction of the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) that there is an insufficient supply of conforming fuel, the Commissioner may exempt such person from the fuel quality limitations of 6 NYCRR 225.

Orange and Rockland has specifically requested that the State: (1) Promptly grant permission to use residual oil with a higher sulfur content whenever sufficient supplies of low sulfur residual oil are not available; and (2) grant permission to burn coal of whatever sulfur content is available at the company's Lovett generating station (units 1–5).

NYSDEC has proposed that Orange and Rockland be granted a variance to 6 NYCRR 225 to permit the immediate use of fuel oil containing up to 1.5 percent sulfur, and coal with a sulfur content as low as is currently available. The maximum average allowable sulfur contents could be raised to 3.0 percent sulfur for fuel oil and up to 2.0 lbs. sulfur per million BTU for coal if Orange and Rockland establishes to the State's satisfaction that adequate supplies of fuel oil and coal of a lower sulfur content cannot be obtained.

Reasons for Administrator's approval. New York State's proposal to grant the temporary exception to the requirements of 6 NYCRR 225 pertaining to fuel purchased and used by Orange and Rockland in the New York Metropolitan Area is hereby approved for the following reasons:

1. The proposed revision was adopted by the State after adequate notice and public hearings using expedited procedures approved by the Administrator in matters relating to fuel supply;

2. It satisfies the substantive requirements of 40 CFR Part 51 that pertain to revisions of applicable state implementation plans;

3. It has been determined that the approved portions are consistent with Federal fuel and energy policies;

4. Being temporary in nature, it will not prevent the achievement and maintenance of national ambient air quality standards for sulfur oxides and particulate matter in the New York Metropolitan area by 1975; and,

5. This variance, which includes the partial use of coal, is being granted in order to allow the use of more polluting fuels in areas where such action will minimally jeopardize primary ambient air quality standards and to release lower polluting residual fuel oil to those areas where the danger of contravention of primary standards is greater.

Orange and Rockland's application to NYSDEC for relief from fuel quality requirements was based primarily on the inability of its two major suppliers of fuel oil to provide contract amounts of low sulfur residual fuel oil. According to Orange and Rockland, its suppliers have been unable to meet all of the provisions of their contracts and it has been unable to secure adequate amounts of conforming oil on a spot market basis because of the actions of Middle East and North African oil producing countries in reducing the quantities of fuel oil normally exported to the United States. A determination has been made that given the current fuel oil supply situation the utility will not be able to provide adequate amounts of electric power and steam unless the use of non-conforming oil is allowed.

The Administrator's approval also takes into consideration that, by granting relief to Orange and Rockland from the sulfur in fuel limitations of 6 NYCRR 225, a greater portion of the supply of low sulfur fuel oil will remain available to sources in more urban and heavily polluted areas where the potential risk of exceeding the primary ambient air quality standards is greater. This consideration formed the basis for the guidelines established by the Federal Energy Office regarding the temporary conversion of power plants to coal with EPA concurrence.

Furthermore, by moving promptly on this application, EPA and the State have acted to limit competition within the New York Metropolitan Area for available conforming fuel, and prompt action may mitigate the possible spread of coal usage in an emergency to other facilities where the environmental impact would be considerably more severe.

The Administrator's approval of this variance as it relates to fuel oil provides for the use of residual fuel oil with a sulfur content of up to 3.0 percent. The Administrator's approval of this variance as it relates to coal provides for the use of coal at units four and five of the Lovett plant. The coal burned must have a sulfur content less than 2.0 lbs per million Btu with a maximum ash content of 10 percent.

Joint hearing. On December 7, 1973 a joint hearing was held by NYSDEC, and the New York State Public Service Commission to determine the status of Orange and Rockland's fuel supply situation. Sworn testimony was presented by Orange and Rockland and one of its major suppliers of fuel oil concerning the insufficiency of No. 6 residual fuel oil conforming to 6 NYCRR 225. The testimony was consistent with that made in earlier hearings held by the New Jersey State Department of Environmental Protection and NYSDEC at which other major suppliers testified to the general insufficiency of conforming residual fuel oil.

Potential impacts. The New Jersey-New York-Connecticut Interstate AQCR is classified Priority I for both sulfur dioxide and particulate matter. This classification is based mainly upon the relatively high ambient concentration of these two pollutants within that region. Since 1969, substantial reductions have been achieved in ambient concentrations of sulfur oxides throughout the area and moderate improvements were made in ambient concentrations of particulate matter. These improvements have been associated primarily with improvements in the quality of fuels used in the region.

Both the Lovett and Bowline generating stations are poorly situated with respect to minimizing ground level pollutant concentrations of sulfur dioxide and particulate matter due to the relatively low heights at which pollutants are emitted, the relatively elevated terrain surrounding the plants, and the existence of building wake effects. A series of studies conducted by NYSDEC and by consultants retained by Orange and Rockland have indicated that the use of low sulfur fuel oil is necessary at the Bowline and Lovett plants to prevent the contravention of the 24-hour SO_2 primary ambient air quality standards. In addition, the use of coal at the Lovett plant will endanger the 24-hour primary ambient air quality standard for particulates. In an attempt to minimize the potential for contravention of particulate standards, coal use has been limited to units four and five at the Lovett plant, which have control equipment of a design efficiency which more nearly approaches current state-of-the-art particulate control technology.

In approving the request to burn non-conforming fuel, it is appropriate to bring to the attention of Orange and Rockland and other owners and operators of large boilers that in considering long-term fuel use practices the implementation of control technology should be considered in those situations where conforming fuel oil cannot be utilized. While the status with regard to obtaining acceptable amounts of conforming fuel has yet to be determined, the Environmental Protection Agency feels it is crucial for Orange and Rockland, as well as other significant users of fuel oil, to address themselves immediately to the requirement that control technology be employed in all cases where the long-range expectation of obtaining conforming fuel oil is questionable.

After a comprehensive review of the state of the art of SO_2 scrubbing technology, EPA believes that, subject to the constraints of the physical characteristics of the plant site, the majority of power plants can commit themselves to a full scale program of stack gas cleaning. while many plants might not be able to achieve full scale implementation for a few years they should begin as soon as possible to implement pilot plant or module operation for the purpose of determining the engineering needs of a full scale system. State of the art technology is capable of achieving 80–90 percent sulfur removal.

For this reason, it is the intention of the Environmental Protection Agency to make any extension of permission to burn non-conforming fuel beyond April 30, 1974 contingent upon obtaining an enforceable compliance schedule from Orange and Rockland. The schedule must specify immediate steps to be taken toward implementing control technology sufficient for long-range protection of the environment, while at the same time meeting the energy demands of consumers within its service area. Any compliance schedule submitted would be subject to public notice/public hearing procedures.

This Agency finds that good cause exists for making this variance effective upon publication because absence of this fuel supply would adversely impact on the health and safety of the people in the New York Metropolitan area who depend on the services supplied by Orange and Rockland, and who would be unlikely to obtain adequate alternate sources of electric power during this period.

Immediate effectiveness of this approval will enable the source involved to proceed with certainty in conducting its affairs, and persons wishing to seek judicial review of the approval may do so without delay.

AUTHORITY: (42 U.S.C. 1857c-5).

Dated: March 7, 1974.

JOHN QUARLES,
Acting Administrator,
Environmental Protection Agency.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding subparagraph (3) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

(3) October 26, 1973, November 27, 1973.

2. In § 52.1675, paragraph (f) is revised as follows:

§ 52.1675 Control strategy and regulations: sulfur oxides.

* * * * *

(f) *Temporary Fuel Variances.*

Source	Location	Regulation involved	Date of adoption	Effective date	Termination date
(i) Fuel Oil					
Northville Industries Corp.	Suffolk County	Part 225	Oct. 26, 1973	Immediately	Jan. 15, 1974
Consolidated Edison Plants	New York City	Part 225	Nov. 27, 1973	do	Mar. 31, 1974
Orange & Rockland Utilities Inc.	Rockland County	Part 225	Jan. 31, 1974	do	Apr. 30, 1974
(ii) Coal					
Arthur Kill Plant, Consolidated Edison.	New York City	Part 225	Nov. 27, 1973	do	Mar. 31, 1974
Lovett Plant (Units 4 & 5), Orange & Rockland Utilities.	Rockland County	Part 225	Jan. 31, 1974	do	Apr. 30, 1974

[FR Doc.74-5811 Filed 3-12-74;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Plan Revisions; Tennessee

On May 31, 1972 (37 FR 10812), October 28, 1972 (37 FR 32805), and August 23, 1973 (38 FR 22748), the Administrator approved the Tennessee plan to attain and maintain the national ambient air quality standards.

CHATTANOOGA-HAMILTON COUNTY REVISION

The State subsequently proposed to revise its approved plan by substituting in it a revised and updated version of the Chattanooga-Hamilton County air pollution control regulations. This proposed plan revision was submitted to the Administrator on July 18, 1973, after receiving public hearing.

The most significant changes contained in the proposed revision are as follows:

1. Emission limiting regulations are added for the control of nitrogen oxides.

2. Emission limiting regulations for the control of particulate matter are made more stringent in case of incinerators, process sources, and fuel burning equipment.

3. Regulations designed to control sulfur oxide concentrations at ground level are deleted, but fixed limits on stack emissions of SO_2 remain unchanged.

4. Regulations are added, on the basis of legal authority newly assumed by the local governments involved, which require sources to monitor and report emissions, and which provide for the release of emissions data to the public.

Also included in the proposed revision were minor changes in wording which clarify the procedures and operational methods of the Chattanooga-Hamilton County Air Pollution Control Board and Air Pollution Control Bureau, but do not, in the Administrator's judgment, alter the meaning of the old regulations contained in the existing Tennessee plan.

This proposed revision was announced in the FEDERAL REGISTER of October 26, 1973 (38 FR 29609). Copies were made available to the public at EPA's regional office in Atlanta, Georgia, at the office of the Tennessee Department of Public Health in Nashville, Tennessee, and at the office of the Chattanooga-Hamilton County Air Pollution Control Bureau in Chattanooga, Tennessee. Written comments were solicited from the public, but none were received.

After careful review of the abovementioned features of the proposed plan revision, the Administrator has determined that their approval is consistent with the attainment and maintenance of the national ambient air quality standards. Therefore, the revision is hereby approved, with the exceptions noted below, and the Tennessee implementation plan is revised accordingly.

This action is effective on March 13, 1974. The Administrator finds that good cause exists for not deferring the date of approval, viz., in that the revised regulations, which were submitted to EPA's Region IV office on July 18, 1973, have been in effect in Chattanooga and Hamilton County, Tennessee since late 1972.

Also submitted as part of the proposed plan revision were regulations governing emissions of asbestos and beryllium. After careful review of this regulation, the Administrator has determined that it would be improper for him to approve or disapprove them since they have no direct relation to the requirements of section 110 of the Clean Air Act.

NASHVILLE-DAVIDSON COUNTY REVISION

Tennessee has also proposed to revise its plan by making changes in the "Air Pollution Control Ordinance" of the Metropolitan Government of Nashville and Davidson County, which makes up a portion of the plan. This proposed plan revision was submitted to the Administrator on July 30, 1973, after receiving public hearing. Its purpose is to bring these local regulations into accord with the requirements of Environmental Protection Agency and of the State.

The most significant changes contained in the proposed revision are as follows:

1. Addition of regulations, on the basis of legal authority newly assumed by the local government, which require sources to monitor and report emission data, which provide for the release of emission data to the public, and which provide for pre-construction review of proposed new facilities to assure attainment and maintenance of the national ambient air quality standards.

2. Revision of regulations dealing with visible emissions, open burning, particulate emissions from fuel combustion and industrial processes, fugitive dust, and incinerators.

3. Clarification of administrative procedures, of ambient and source testing methods, and of some terms and definitions.

This proposed revision was announced in the FEDERAL REGISTER on October 26, 1973 (38 FR 29609). Copies were made available to the public at EPA's regional office in Atlanta, Georgia, at the office of the Tennessee Department of Public Health in Nashville, Tennessee, and at the office of the Metropolitan Health Department of Nashville and Davidson County in Nashville, Tennessee. Written comments were solicited from the public, but none were received.

After careful review of the abovementioned features of the proposed plan revision, the Administrator has determined that their approval is consistent with the attainment and maintenance of the national ambient air quality standards. Therefore, the revision is hereby approved, with the exception noted below, and the Tennessee plan is revised accordingly.

This action is effective on March 13, 1974. The Administrator finds that good cause exists for not deferring the date of approval, viz., in that the revised regulations, which were submitted to the Agency on July 30, 1973, have been in effect in Nashville and Davidson County, Tennessee since September 28, 1972.

Also submitted as part of the proposed plan revision was a change in the regulations dealing with the sale, use, and consumption of solid and liquid fuels. The previously approved limit of 2 percent sulfur by weight has been tightened to 1 percent. The change was made in order to bring the regulation into conformity with the intent and effect of State emission limits set forth in the original implementation plan. Because of the energy crisis, however, the State has revised its emission limiting regulations, and submitted the changes to the Agency as a proposed plan revision, as announced in the FEDERAL REGISTER on December 14, 1973 (38 FR 34477). Since action on the latter proposal is now pending, the Administrator has determined that it would be inappropriate for him to take any action now on the change in the Nashville-Davidson County sulfur-in-fuel regulation, and this feature of the present proposed plan revision is being returned to the State for further consideration.

(42 U.S.C. 1857c-5)

Dated: March 6, 1974.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart RR—Tennessee

In § 52.2220, paragraph (c) is amended as follows: Subparagraphs (1) through (4) are revised, and new subparagraphs (5) and (6) are added. As amended, § 52.2220 (c) reads as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 27, 1972, by the Division of Air Pollution Control of the Tennessee Department of Public Health and the Memphis and Shelby County Health Department;

(2) February 3 and 10, April 13, May 3, 8, and 12, August 17, 1972, and March 23, 1973, by the Division of Air Pollution Control of the Tennessee Department of Public Health;

(3) April 16, 1973, by the Division of Air Pollution Control of the Tennessee Department of Public Health and the Knox County Air Pollution Control Department;

(4) June 27, 1973, by the Division of Air Pollution Control of the Tennessee Department of Public Health;

(5) July 18, 1973, by the Division of Air Pollution Control of the Tennessee Department of Public Health and the Chattanooga-Hamilton County Air Pollution Control Bureau; and

(6) July 30, 1973, by the Division of Air Pollution Control of the Tennessee Department of Public Health and the Metropolitan Health Department of Nashville and Davidson County.

[FR Doc.74-5812 Filed 3-12-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 114-26.5—GSA Procurement Programs

Pursuant to the authority of the Secretary of the Interior contained in (5 U.S.C. 301) and Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)), Subpart 114-26.5 of Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

Since this amendment reflects a policy change promulgated by Federal Management Circular 74-1 which was published in the FEDERAL REGISTER, the public rulemaking procedure is unnecessary and this amendment shall become effective March 13, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MARCH 5, 1974.

Section 114-26.501-52 is amended to read as follows:

§ 114-26.501-52 Acquisition, utilization, and assignment of limousines, heavy sedans, and medium sedans.

Federal Management Circular (FMC) 74-1 superseded OMB Circular No. A-22, Revised, and required that use of Federal limousines, and heavy and medium sedans, shall be eliminated. Exceptions shall be made only for the President, Vice President, and security and highly essential needs. Any request for exception shall be submitted to the Assistant Secretary—Management, accompanied by a justification showing the specific program need for a larger type vehicle.

[FR Doc.74-5718 Filed 3-12-74;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-160R]

PART 160—LIFESAVING EQUIPMENT

Inflatable Liferafts; Miscellaneous Amendments

The purpose of these amendments is to outline more explicitly the conditions under which inflatable liferafts are tested to verify their inflation capabilities after exposure to various temperatures. A notice of this proposed rulemaking was published on September 27, 1973 in the FEDERAL REGISTER (38 FR 26938), proposing adoption of these amendments.

One comment was received requesting that prior to acceptance of a person as being qualified to service rafts, a letter from the manufacturer as well as the servicing facility be sent to the Coast Guard. This request is in the best interest of safety as the manufacturer is ultimately responsible for the correct servicing of the raft and should, therefore, participate in choosing servicing personnel. This comment was not directed toward the specific changes proposed, therefore, it will be held for future regulatory changes.

A total of eight written communications related to the proposed amendments were received, the contents of which are summarized as follows:

Section 160.051-5(c)(4). Comments were received on this section from the U.S. Navy, a raft manufacturer, and a manufacturer or inflation systems. Two of the parties opined that the words carbon dioxide as used in the proposal would exclude the employment of other gases as inflation media, and the third recommended adoption of the same criteria for working pressure and canopy erection as are given in the raft specifications published by the European Free Trade Association.

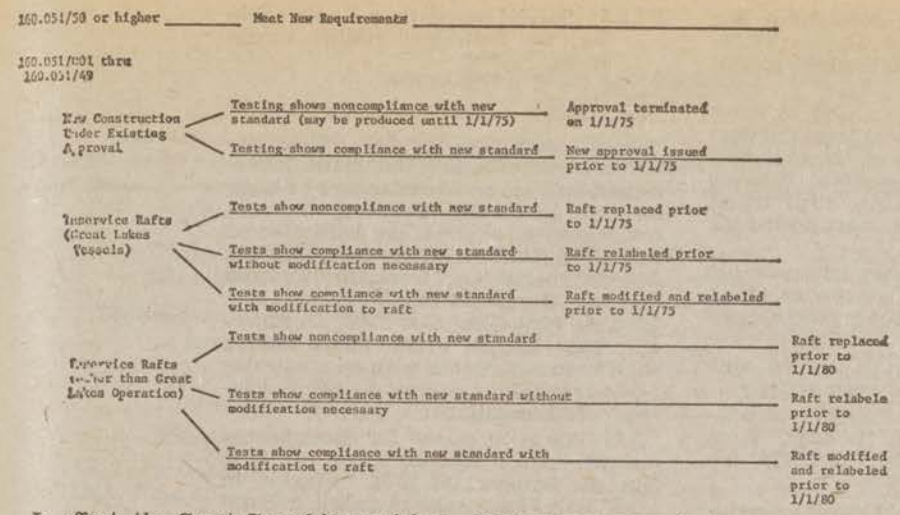
The term carbon dioxide in the proposal was employed in a generic sense and not intended to prohibit the deveolpment of inflation systems employing other gases. In addition, for the inflation performance given in the proposal, the European specification referred to above is not considered superior in the inflation to be attained at a temperature of 70 degrees Fahrenheit. Therefore, with the words carbon dioxide deleted, the amendment proposed in this section can stand as presently written.

Section 160.051-5(e)(11)(i). The U.S. Navy and a servicing facility for inflatable liferafts forwarded comments on the procedural aspects outlined in this section. The suggestions are not adopted since a general indication of the objectives to be achieved by the tests is considered sufficient: the proposed amendment is not intended to replace the manufacturer's servicing manual but to provide test requirements.

Section 160.051-5(e)(11)(ii). Two raft manufacturers, a servicing facility for inflatable liferafts, and the U.S. Navy raised technical points concerning the procedures and interpretation of the proposed requirements for testing the rafts at both low and elevated temperatures. One of the commentators believed that the warning effect of sea water on a compressed gas cylinder should be incorporated in the proposed low temperature test requirements. Although the influence of this factor is not questioned, its inclusion in the confines of a chamber for a low temperature test would prove overly complex. And further, since the proposed low temperature test applies to rafts intended for inflation on the water as well as those that would be inflated at deck level or in the air and lowered to the water by davits, it is believed that a single test for both kinds of rafts is more representative of actual usage. Therefore, in acknowledgement of the completeness desired in the proposed testing procedure, it has been decided to let the proposed section stand as written.

Section 160.051-5(e)(11)(iii). Seven written comments were received on this section: Two from raft manufacturers and the remainder from a petroleum producing corporation, a servicing facility for inflatable liferafts, a manufacturer of inflation systems, an institute representing steamship vessel operators, and the U.S. Navy. Three of these parties argued that high-performance inflation systems, those that would enable the present rafts to fulfill the proposed low temperature inflation test, are not readily available at a reasonable expense. The institute representing the steamship vessel operators opined that the rafts of present design are adequate for vessels not operating in polar regions, so that it should be possible to resolve the rafts' inflation difficulties at low temperatures by establishing "* * * two categories of inflatables which recognize the temperature service requirements." The U.S. Navy offered a resolution of the same problem by the use of a less vigorous criterion for determining when a raft would be boardable after inflation at low temperature. The remaining comments were addressed to the application of the three-minute inflation period at low temperature, a clarification of the condition required of a raft's fabric and seams after testing, davit-launched rafts versus those inflated on the surface of the water and a miscellany of procedural items. In addition, although not the subject of a written comment, a misspelling of the word respects was noted in the last sentence of this section.

Therefore, in consideration of the comments addressed to this section, the Coast Guard has established effective dates shown on the chart below.



In effect, the Coast Guard is requiring that vessels known to be operating in very cold regions for extended periods of time carry rafts meeting the new regulations by 1 January 1975. All other vessels will have the liberty of phasing over to the new rafts before 1 January 1980. By the year 1980, all Coast Guard approved rafts will meet a more strict interpretation of the Safety of Life at Sea Treaty.

The Great Lakes constitute a defined area where temperatures below 15° F exist for extended periods of time. Other areas of the world find vessels venturing in and out of similar cold regions to the degree that a cold soak of the raft is a rarity. This is why the Coast Guard has permitted vessels operating outside of the Great Lakes a phasing over period ending on 1 January 1980.

In addition, the requirements defining the condition to be shown by fabrics following testing of the rafts has been clarified.

As a result of comments received a new paragraph has been added to allow raft manufacturers to continue manufacturing under existing approval numbers while retesting is in progress. In paragraph (c)(4) of § 160.051–5, the words carbon dioxide are deleted. Paragraph (e)(ii)(iii)(b) of §160.051–5 is changed to read:

> The raft fabric must not show signs of cracking, tackiness, or slipping seams and must be in all respects ready for use after exposure to both low and elevated temperature inflation tests.

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

1. Section 160.051–1 is amended by adding a new paragraph (c) to read as follows:

§ 160.051–1 Applicable Specifications.

* * * * *

(c) Permissible extension. Manufacturers of inflatable liferafts having approval numbers 160.051/49 or lower may continue to manufacture rafts under the terms of that approval until 1 January 1975. Those manufacturers having approval numbers 160.051/50 or higher shall comply with the requirements of this subpart.

2. Section 160.051–5(c)(4) is amended by revising the sixth sentence which follows the sentence ending with the words "required to be fully erect" and Section 160.051–5 is amended by revising subparagraph (e)(11) to read as follows:

§ 160.051–5 Inspections and tests.

* * * * *

(c) * * *

(4) *Inflation Test.* * * * required to be fully erect. The specimen shall reach its designed working pressure with the canopy fully erect in not more than 1 minute 30 seconds after the first inflation valve is operated. * * *

* * * * *

(e) * * *

(11) *Temperature Exposure*—(i) *General.* The packed raft must be exposed in a test chamber to a temperature of —22° F, inflated and then repacked and exposed to a temperature of 150° F and inflated.

(ii) *Procedure.* (a) Thermocouples or similar instrumentation must be located at the inflation cylinders and at the center of the packed raft. (b) The packed raft must remain exposed in the chamber until the test temperature has been reached. (c) Inflation must take place in the test chamber. However, for elevated temperature test, raft may be removed from chamber if inflation begins within one minute of its removal.

(iii) *Results.* (a) The raft must achieve design shape with its canopy erect within three minutes after exposure to the low temperature. (b) The raft fabric must not show signs of cracking, tackiness, or slipping seams and must be in all respects ready for use after exposure to both low and elevated temperature inflation tests.

* * * * *

((46 U.S.C. 375, 416, 49 U.S.C. 1655(b)); 49 CFR 1.4(b) and 1.46(b).)

Effective date. These amendments shall become effective on April 12, 1974.

Dated: March 7, 1974.

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

[FR Doc.74–5775 Filed 3–12–74;8:45 am]

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 75, 2d Rev., Amdt. 32]

PART 308—WAR RISK INSURANCE

Miscellaneous Amendments

In FR Doc. 73–21159, appearing in the FEDERAL REGISTER issue of October 4, 1973 (38 FR 27524) Part 308 was amended to reflect the following changes:

Amend § 308.6 Period of interim binders and renewal procedure. § 308.106 Standard form of war risk hull insurance interim binder and optional disbursements insurance endorsement, § 308.206 Standard form of war risk protection and indemnity insurance interim binder, and § 308.305 Standard form of Second Seamen's war risk insurance interim binder, by changing the expiration dates contained therein to read "midnight April 7, 1974, G.m.t."

The same is hereby further amended by changing the expiration dates contained therein to read "midnight October 7, 1974, G.m.t."

(Sec. 204, 49 Stat. 1987, as amended; (46 U.S.C. 1114))

Dated: March 7, 1974.

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

AARON SILVERMAN,
Assistant Secretary.

[FR Doc.74–5830 Filed 3–12–74;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 28—PUBLIC ACCESS, USE, AND RECREATION

Salt Plains National Wildlife Refuge, Oklahoma

The following special regulation is issued and is effective March 13, 1974.

§ 28.28 Special regulations; public access, use, and recreation, for individual wildlife refuge areas.

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Portions of the Salt Plains National Wildlife Refuge, Oklahoma, are open to public access, use, and recreation, subject to the provisions of Title 50, Code of Federal Regulations. The public use area is designated on maps available at refuge headquarters, Jet, Oklahoma, and from the Regional Director, Bureau of Sport

Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103, and subject to the following special conditions:

(1) The public is permitted to enter upon the Great Salt Plains from the west along designated routes of travel to collect gypsum (selenite) crystals. Vehicles will be allowed only along such travel lanes and parking areas as are posted for such activity.

(2) Each individual may collect for his personal use up to a maximum of 10 pounds plus one crystal or crystal cluster per day.

(3) Digging for crystals will be confined to areas posted for such activity.

(4) The period of use shall be on Saturdays, Sundays and holidays, from April 1 through October 15, 1974, inclusive.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through October 15, 1974.

RONALD S. SULLIVAN,
Refuge Manager, Salt Plains National Wildlife Refuge, Jet, Oklahoma.

FEBRUARY 28, 1974.

[FR Doc.74-5708 Filed 3-12-74;8:45 am]

PART 33—SPORT FISHING

Salt Plains National Wildlife Refuge, Oklahoma

The following special regulation is issued and is effective on March 13, 1974.

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

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Sport fishing on the Salt Plains National Wildlife Refuge, Oklahoma, is permitted only on areas designated by signs as open to fishing. These open areas, comprising 7,800 acres, are delineated on maps available at refuge headquarters, Jet, Oklahoma, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. 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 April 15 through October 15, 1974, inclusive, in Great Salt Plains Lake as posted, in Sand Creek, the three main channels of Salt Fork River, and north of the right-of-way of Oklahoma State Highway 11 as posted.

(2) It is illegal to take game fish by any means other than hook and line. Trotlines must be removed from waters at the close of the fishing season.

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.

RONALD S. SULLIVAN,
Refuge Manager, Salt Plains National Wildlife Refuge, Jet, Oklahoma.

FEBRUARY 28, 1974.

[FR Doc.74-5709 Filed 3-12-74;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 TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-WE-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Nogales International Airport, Arizona.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 S. Aviation Blvd., P.O. Box 92007, Worldway Postal Center, Lawndale, California 90261. All communications received on or before April 12, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

A VOR (OLS) will be commissioned at Nogales Airport, Arizona on or about July 1, 1974. Three instrument approach procedures are proposed VOR-A, VOR/DME-C and VOR-B. The VOR-A and VOR/DME-C procedures were developed utilizing the Nogales VOR 329° (316° M) radial as the final approach course. The VOR-B procedure is predicated on the Nogales VOR 289° (276° M) radial for the procedure turn and final approach course.

The proposed transition area is required to provide controlled airspace protection for aircraft executing the proposed instrument approach procedures and approved holding at Madera INT (TUS 194° M and OLS 316° M radials).

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (39 FR 440) the following transition area is added:

NOGALES, ARIZ.

That airspace extending upward from 700 feet above the surface within a five-mile radius of Nogales International Airport (latitude 31°25'00" N, longitude 110°50'55" W), within 4.5 miles S and 9.5 miles N of the Nogales VOR 289° radial, extending from the VOR to 18.5 miles W of the VOR and within four miles each side of the Nogales VOR 329° radial, extending from the VOR to 21 miles NW of the VOR, that airspace extending upward from 1,200 feet above the surface bounded on the N by the Tucson, Arizona transition area, on the E by the W boundary of R-2303B, on the S by the United States/Mexican border and on the W by longitude 111°18'00" W.

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

Issued in Los Angeles, California, on March 1, 1974.

ROBERT O. BLANCHARD,
Acting Director,
Western Region.

[FR Doc.74-5694 Filed 3-12-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SO-19]

TRANSITION AREA

Proposed Designation

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

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 12, 1974 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Selmer transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Robert Sibley Airport (latitude 35°12'38" N, longitude 88°30'30" W); within 3 miles each side of the 334° bearing from Sibley RBN (latitude 35°14'15" N, longitude 88°31'03" W), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

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

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

Issued in East Point, Ga., on March 1, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-5688 Filed 3-12-74;8:45 am]

[14 CFR Part 121]

[Docket No. 13572; Notice 74-11]

CARRIAGE OF WEAPONS

Applicability and Prohibition

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation regulations to make the prohibition in § 121.585 against the carriage of weapons apply to persons who are in the process of boarding, as well as those who are on board, an aircraft being operated under that part. These amendments would also apply to air travel clubs certificated under Part 123 and to air taxi operators certificated under Part 135 when conducting operations governed by those parts with large airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: rules docket, AGC-24, 800 Independence Avenue, SW, Washington, D.C. 20591. All communications received on or before April 12, 1974, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of

comments received. All comments submited will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

Section 902(1) of the Federal Aviation Act of 1958, provides that, except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, and except for such other persons as may be so authorized under regulations issued by the Secretary of Transportation, whoever, while aboard an aircraft being operated by an air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon, or whoever attempts to board such an aircraft while having on or about his person a concealed deadly or dangerous weapon, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Section 121.585 currently provides that no person may, while aboard an airplane being operated by a certificate holder, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. Section 121.585 specifically states that it does not apply to officials or employees of a municipality or a state, or of the United States who are authorized to carry arms, and does not apply to crewmembers or other persons authorized by the certificate holder to carry arms.

Section 121.538(b) requires certain air carriers and commercial operators to adopt and put into use a screening system, acceptable to the Administrator, that is designed to prevent or deter the carriage aboard its aircraft of any explosive or incendiary device or weapon in carry-on baggage or on or about the persons of passengers, except as provided in § 121.585. In addition, § 121.538 (c) requires each certificate holder to have an FAA-approved security program which includes the screening system prescribed by paragraph (b) of that section.

On July 23, 1973, the FAA issued Notice No. 73–21 (published in the FEDERAL REGISTER on July 27, 1973; 38 FR 20098), which proposed, among other things, to amend § 121.585 by adding specific rules for the carriage of deadly or dangerous weapons while aboard an aircraft, either on or about the person of a passenger or crewmember, or in checked baggage.

Notice No. 73–21 proposed to add a new subparagraph (4) to § 121.538(c) to require that each certificate holder's security program include procedures, facilities, or a combination thereof designed to assure that only a person authorized under § 121.585 is permitted to carry a deadly or dangerous weapon on or about his person or in carry-on baggage while aboard any of its aircraft.

Neither current § 121.585 nor the amendment proposed in Notice No. 73–21 prohibits a person from attempting to board an aircraft being operated by a certificate holder while carrying on or about his person a deadly or dangerous weapon. Although the purpose of the screening system and security program required by § 121.538 is to frustrate any such attempt, the lack of a prohibition against the carriage of a deadly or dangerous weapon during the boarding process precludes the application of the civil penalty provisions of section 902(a) of the Act in cases where the circumstances indicate that the application of the criminal penalty provisions of section 902(1) is not warranted. Accordingly, it is proposed to amend § 121.585 to prohibit any person not specifically excepted therein from carrying on or about his person a deadly or dangerous weapon while in the process of boarding an aircraft being operated under Part 121.

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

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation regulatiohs as follows:

1. By amending subparagraph (2) of paragraph (c) of § 121.1 to read as follows:

§ 121.1 Applicability.

* * * * *

(c) In addition, this part prescribes rules governing—

* * * * *

(2) Each person who is in the process of boarding, or is aboard, an aircraft being operated under this part.

2. By amending the first sentence in § 121.585 to read as follows:

§ 121.585 Prohibition against carriage of weapons.

No person may, while in the process of boarding, or while aboard, an airplane being operated by a certificate holder, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. * * *

Issued in Washington, D.C., on Mar. 4, 1974.

JAMES M. YOHE,
Acting Director, Office of Air Transportation Security.

[FR Doc.74-5689 Filed 3-12-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Significant Harm and Emergency Action Levels for Photochemical Oxidants (Smog)

Purpose. This notice of proposed rulemaking proposes a revision to both the "significant harm" level for photochemical oxidants (smog) and the "emergency" action level for that pollutant.

Background. Although the national primary ambient air quality standard for photochemical oxidants is set at 160 micrograms per cubic meter ($\mu g/m^3$), one-hour average concentration (also expressed at 0.08 part per million (ppm), one-hour average concentration) "to protect the public health, and "allowing an adequate margin of safety" (section 109(b)(1) of the Act, 42 U.S.C. 1857c–4(b)(1)), and implementation plans have been developed by the States and the Environmental Protection Agency (EPA) to attain this standard by 1975 (or 1977 at the latest), neither current nor future regulations can give certainty that special conditions will not occur endangering health. Accordingly, the Act gives the Administrator additional emergency powers to stop pollution if it "is presenting an imminent and substantial endangerment to the health of persons" (section 303 of the Act, 42 U.S.C. 1857h–1)—that is, if there is a danger that the concentrations will rise to the point where they could cause significant harm to the health of persons. State implementation plans are required to have "comparable" emergency authority and adequate contingency plans (section 110 (a)(2)(F) of the Act, 42 U.S.C. 1857c–5 (a)(2)(F)).

Significant Harm. On October 23, 1971, the Administrator promulgated regulations setting forth the levels of air pollutant concentrations which could cause "significant harm to the health of persons" (36 FR 20513). These were recodified as 40 Code of Federal Regulations (CFR) § 51.16 on December 17, 1971 (36 FR 24002).

Section 51.16 currently lists three different concentrations of photochemical oxidants as constituting significant harm:

800 micrograms/cubic meter (0.40 part per million), 4-hour average.
1,200 micrograms/cubic meter (0.60 part per million), 2-hour average.
1,400 micrograms/cubic meter (0.70 part per million), 1-hour average.

The Administrator has reviewed the relevant literature bearing on the subject of acute human health effects of photochemical oxidants (often expressed as ozone), including both the studies summarized in AP–63, "Air Quality Criteria for Photochemical Oxidants," U.S. Department of Health, Education, and Welfare, National Air Pollution Control Administration (March 1970), Chapters 8–10 (including Errata Sheet), and more recent studies, including some being currently conducted. He is of the opinion that the three-level approach to defining "significant harm" is needlessly confusing for the implementation of air pollution episode plans, and that the relevant medical and scientific literature more properly supports a single concentration of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average.

The three concentrations in § 51.16 were not set on the basis of independent evidence supporting each concentration, but because the nature of oxidant buildup indicated that these concentrations were associated with each other; therefore, it was felt that the three-concentration approach would provide for action sufficiently far in advance to prevent the occurrence of significant harm. However, the three stage approach of Appendix L to 40 CFR Part 51 (discussed below) can adequately provide for such

action, and to leave the three-concentration approach in § 51.16 would perpetuate an anachronism.

Medical and scientific studies to date clearly support the establishment of a single concentration of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average as the "significant harm" level, but it should be noted that current and future studies may well reveal similar adverse health effects at even lower levels, causing the need for a downward revision of the significant harm level at a later date.

The level of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average proposed by the Administrator is based upon studies which are summarized only briefly below. A more complete summary, entitled "Evaluation of Significant Harm Levels of Photochemical Oxidants," is published at the end of this preamble. Complete citations of the references cited only by last name in this preamble are available in that study and in AP–63, mentioned above.

Exposure to ozone appears to cause noticeable symptoms and measurable effects at 1000 $\mu g/m^3$ (0.50 ppm) with light exercise (preliminary results from tests being conducted by Kerr and associates) including statistically significant decreases in specific airway conductance and chest pains, definite symptoms and measurable effects at about 1200 $\mu g/m^3$ (0.60 ppm) with subjects at rest (Young) including probable transitory outpouring of pulmonary edema fluid, and strong symptoms and significant physiological changes at 1500 $\mu g/m^3$ (0.75 ppm) (characterized by the author as "much too high") after 15 minutes of light exercise (Bates) including symptoms similar to those found by Young at 1200 $\mu g/m^3$ (0.60 ppm).

It should be stressed that these studies were performed on normally healthy individuals, and that more susceptible individuals (such as the elderly, debilitated persons, persons with asthma, heart or lung disease, young children, and pregnant females) are likely to have even more serious adverse effects at the same levels or to be equally affected at lower levels. The Clean Air Act requires the protection of these more susceptible persons, who are numerous.

In addition, it is the opinion of EPA that although the studies involved time periods ranging from 15 minutes to several hours, the significant adverse effects occur as readily during the shorter periods of exposure as during the longer periods. Since one hour averages have been widely used for planning purposes, a one-hour average is used in assessing many monitoring results, and a one-hour average allows more certainty than instantaneous readings, it is felt to be realistic to base the chosen level on time periods of one hour.

Upon reviewing the above data and in light of the above considerations, the Administrator is proposing the level of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average as the significant harm level for oxidants.

Action Stages—Appendix L. State implementation plans for Priority 1 regions (most urban areas) approved or promulgated pursuant to section 110 of the Clean Air Act (42 U.S.C. 1857c–5) are required to include contingency plans "which shall, as a minimum, provide for taking any emission control actions necessary to prevent ambient pollution concentrations at any location in such region from reaching levels which could cause significant harm to the health of persons." 40 CFR § 51.16(a). Example plans are set forth in Appendix L to 40 CFR Part 51, including suggested "Alert," "Warning," and "Emergency" levels of air pollutant concentrations, and including suggested actions to be taken at each of these levels to prevent both "the excessive buildup of air pollutants during air pollution episodes" and the reaching of levels which could cause significant harm. Appendix L was originally promulgated on August 14, 1971 (36 FR 15486, 15503), with recodification on November 25, 1971 (36 FR 22369, 22398), and revisions on December 17, 1971 (36 FR 24002) and on December 9, 1972 (37 FR 26310).

Since some adverse health effects occur at levels much lower than the significant harm level of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average, the use of "Alert" and "Warning" levels can have an independent justification for taking abatement action even though there be no indication that the episode is likely to result in reaching the significant harm level in the absence of such action. When the "Emergency" level is reached, there is almost an *ipso facto* condition of "imminent and substantial endangerment," since there is likely to be a very real possibility that the level will escalate to the significant harm level. Of course, a condition of "imminent and substantial endangerment" can occur at levels lower than the "Emergency" level if conditions suggest that the episode might escalate to the significant harm level.

Because the Administrator is proposing a level of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average be set as the sole "significant harm" level, it is necessary that the "Emergency" level in Appendix L be set lower in order to allow time for emergency actions to be implemented. Accordingly, it is proposed that the present emergency level of 1200 $\mu g/m^3$ (0.60 ppm), one-hour average be revised to 1000 $\mu g/m^3$ (0.50 ppm), one-hour average.

Appendix L states that an emergency will be declared if the emergency level is reached at any monitoring site—

> * * * and metrological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of oxidants, the situation is likely to reoccur within the next 24 hours unless control actions are taken. (37 FR 26310. December 9, 1972.

The significance of this emergency level is twofold: on the one hand, if the level is set too high, significant harm may occur to persons; on the other hand, if the level is too low, individual citizens as well as business and industry may have to take actions that are more stringent than necessary to prevent the harm. It should be noted that noticeable adverse health effects have been observed at 1000 $\mu g/m^3$ (0.50 ppm), including diminished lung function and respiratory tract irritation.

Appendix L sets forth the kinds of actions which may have to be taken at the emergency level, including a shutdown of operations at many or most offices, businesses, and industries, and prohibition on the use of motor vehicles except in emergencies. The public is referred to Appendix L, published in 40 Code of Federal Regulations, Part 51. In addition, the Administrator will be publishing, in the next few weeks, a proposed emergency episode plan for the Los Angeles area, where no plan has been approved. This proposed plan will give further indications of the types of actions that may be necessary at the emergency level, as well as at "Alert" and "Warning" levels.

It should be noted that most urban areas have never had reported oxidant concentrations approaching the proposed emergency level of 1000 $\mu g/m^3$ (0.50 ppm), one-hour average, but hourly averages of 1120 $\mu g/m^3$ (0.56 ppm) and 1260 $\mu g/m^3$ (0.63 ppm) were reported in an air pollution episode in the Los Angeles area on July 25, 1973. It also should be noted that the present significant harm levels for photochemical oxidants were exceeded from January 1970 to June 1973 eighteen times in the Los Angeles area.

Available Documents. Copies of the document AP–63 and of each study cited in "Evaluation of Significant Harm Levels of Photochemical Oxidants" are available for public inspection during normal business hours at the EPA Freedom of Information Center, Room 232, West Tower, 401 M Street SW., Washington, D.C. 20460, and at the EPA Regional Office, 100 California Street, San Francisco, California 94111.

Public Comments. Interested persons are encouraged to participate in this rulemaking by submitting written comments, preferably in triplicate, to the Mobile Source Enforcement Division (EG–340), 401 M Street SW., Washington, D.C. 20460, Attention: Mr. Richard Kozlowski. All relevant comments received within 45 days of this notice will be considered.

AUTHORITY: Section 301 of the Clean Air Act, 42 U.S.C. § 1857g

Dated: March 7, 1974.

RUSSELL E. TRAIN,
Administrator.

It is proposed to mend part 51 of chapter I, title 40 of the Code of Federal Regulations as follows:

1. Section 51.16(a) is revised to read as follows:

§ 51.16 Prevention of air pollution emergency episodes.

(a) * * *

Photochemical oxidents:

1,200 micrograms/cubic meter (0.6 part per million), 1-hour average.

* * * * *

2. Appendix L, section 1.5.1(d) is revised to read as follows:

(d) "Emergency": * * * An emergency will be declared when any one of the following levels is reached at any monitoring site:

* * * * *

Oxidant (O_3)—1,000 μg./m.³ (0.50 p.p.m.), 1-hour average.

* * * * *

EVALUATION OF SIGNIFICANT HARM LEVELS OF PHOTOCHEMICAL OXIDANTS

A. *Introduction.* Life-threatening or permanently disabling exposures are clearly serious threats to health. Reversible but acutely incapacitating health effects also would be sufficiently disturbing to the general public to require remedial action. It is our opinion that both of these do, in fact, constitute "significant harm." Medical opinion may be less consistent as to whether more subtle acute health effects alone, such as depression of lung function or disturbances in metabolism, without overt clinical symptoms, would constitute a serious threat to the public health.

B. *Review of Literature.* With these definitions in mind, the literature bearing on acute health effects of short-term ozone exposures was reviewed. Results will be discussed from the viewpoint of the Federal significant harm levels for photochemical oxidants as stated in the FEDERAL REGISTER, Vol. 36, No. 206, p. 20513, October 23, 1971:

800 μg/m³ (0.4 ppm) 4-hour average
or
1200 μg/m³ (0.6 ppm) 2-hour average
or
1400 μg/m³ (0.7 ppm) 1-hour average

Ozone, the principal component of photochemical oxidants, is an extremely irritating gas and cannot be tolerated by some subjects at concentrations in excess of 2000 μg/m³ (1.0 ppm) for more than a few minutes.[1] Flurry [2] noted that human exposure to 1840 μg/m³ (0.94 ppm) cause coughing, irritation and exhaustion within 1.5 hours. Thus, ozone concentrations of 2000 μg/m³ (1.0 ppm) are immediately irritating to the respiratory system, as manifested by coughing and eventual exhaustion.

Inert gas-shielded metal arc welding causes formation of ozone by the action of ultraviolet radiation on the oxygen of room air. Kleinfeld [3] reported that symptoms of chest constriction or throat irritation were experienced by three of six welders working in an inadequately ventilated room in which ozone concentrations at the breathing zone of the operator varied from 600 μg/m³ (0.3 ppm) to 1600 μg/m³ (0.8 ppm). However, in a plant employing more adequate exhaust ventilation, ozone concentrations did not exceed 500 μg/m³ (0.25 ppm) and failed to produce acute subjective complaints in any of the welders. Similarly, Challen [4] and Young [5] reported complete elimination of acute symptoms of upper respiratory tract irritation by reduction of ozone levels in the working environment from 1600 μg/m³ and above to levels in the range of 400 to 600 μg/m³ (0.2 to 0.3 ppm). Hammer, et al.[6] studied over 100 non-occupationally exposed student nurses in Los Angeles prospectively for three years. On highest oxident days (0.40–0.50 ppm), student nurses reported 48% more cough and 100% more chest discomfort when compared to days when ambient oxidant levels were at or below the present U.S. National Primary Standard (0.08 ppm). Likewise, reporting of eye discomfort was increased 393% and headache without fever, 148%, during the same high ambient exposure periods. The calculated maximum daily 1 hour thresholds for cough and chest discomfort in relation to photochemical oxidants were 510 μg/m³ (0.26 ppm) and 580 μg/m³ (0.30 ppm) respectively, levels within the same range observed by Challen [4] and Young.[5]

Under well-controlled laboratory conditions, eleven subjects (10 men, 1 woman ages 20 to 45 years) were exposed by Young and associates [7] to ozone at concentrations of 1200 to 1600 μg/m³ (0.6 to 0.8 ppm) for 2-hour periods. Measurements of pulmonary function were made before and after each exposure. Each subject also performed a control experiment in which all conditions were identical except that room air was substituted for ozone. Ozone was generated by ultraviolet radiation of a stream of dry filtered air and analyzed by the potassium iodide method. Ozone exposure produced a statistically significant reduction in steady state diffusing capacity in all subjects. Although breathing of room air under the test conditions caused a fall in steady state diffusing capacity in some subjects, the reduction associated with 2-hour ozone exposure was 4 times greater than with room air. Tests of forced expiratory volume were unaffected by breathing of room air but fell by 10 percent after ozone exposure. The difference between room air and ozone was statistically significant ($P<.5$). The maximal midexpiratory flow rate fell by 15 percent but the difference from room air did not quite attain statistical significance ($P<.10$). Clinically, substernal soreness and tracheal irritation were present in 10 of the 11 subjects for 6 to 12 hours after breathing ozone. These symptoms were accompanied by a slight dry cough, which in two subjects became productive of a small amount of sputum the following day. All symptoms disappeared within 12 to 24 hours after ozone exposure, and the steady state diffusing capacity returned to pre-exposure levels within four hours. The authors speculated that a slight transitory ozone-induced pulmonary edema (outpouring of fluid in the lung tissue) could account for the observed fall in diffusing capacity, and that the speed of recovery would suggest edema rather than inflammatory reaction.

Goldsmith and Nadel [8] experimentally exposed four subjects (males, ages 28–44 years) for one hour to ozone concentrations of 200, 800, 1200 and 2000 μg/m³ (0.1, 0.4, 0.6 and 1.0 ppm). The effect on airway resistance (at functional residual capacity) was measured by the body plethysmographic method. Tests were not repeated when subjects breathed room air. Two of the four subjects had significantly increased airway resistance with 200 μg/m³ (0.1 ppm) ozone, one with 800 μg/m³ (0.4 ppm), one with 1200 μg/m³ (0.6 ppm) and all four with 2000 μg/m³ (1.0 ppm) ozone exposure. When each subject was compared with his own mean airway resistance before and after exposure and the proportional change for all subjects was calculated as a percent of the mean, the relative increase in airway resistance resulting from one hour of ozone exposure was 3.3 percent after 200 μg/m³ (0.1 ppm) ozone, 3.7 percent after 800 μg/m³ (0.4 ppm), 5.8 percent after 1200 μg/m³ (0.6 ppm and 19.3 percent after 2000 μg/m³ (1.0 ppm). Clinically, one subject reported throat irritation and cough; the symptoms occurred after the 2000 μg/m³ exposure. Another subject reported a "scratchy" sensation in the anterior part of the chest and 48 hours later he expectorated blood-streaked sputum.

Bates and associates [9] studied ten normal male subjects who were exposed to 1500 μg/m³ (0.75 ppm) ozone for two hours while seated in a large environmental chamber. Three of the same subjects were also studied in the chamber while breathing the same ozone level for two hours and intermittently exercising on a bicycle ergometer sufficient to double minute ventilation (in liters/min). Subjects alternately exercised for 15 minutes and rested for 15 minutes. Most subjects exposed to the ozone concentration experienced cough (8 of 10) and substernal soreness (6 of 10) during rest; exercise caused all three subjects so tested to develop cough and substernal soreness, usually during the first 15 minutes of exercise. One of the exercising subjects developed progressive respiratory discomfort with each exercise period, and at the end of the fourth 15-minute period of exercise complained of marked shortness of breath, increase substernal soreness and coughing with each deep breath. Among the ten subjects at rest, a significant reduction of the maximum static elastic recoil pressure of the lung was demonstrated by comparison between a 2-hour control run and the 2-hour ozone exposure period. The authors commented that since this functional change was not accompanied by a change in static lung compliance, the effect represents an involuntary inhibition of maximal inspiratory effort after ozone exposure. Other functional disturbances observed included increased pulmonary resistance and decreased expiratory airflow, indicating increased resistance in both large and small airways. Exercise accentuated these functional disturbances after one hour and more so after two hours of exposure. The authors concluded that an ozone concentration of 1500 μg/m³ (0.75 ppm) produces serious adverse effects when subjects undertake mild exercise and "therefore represents a concentration level for the general population much too high to be acceptable."

Very recently, Kerr and associates [10] have been conducting a series of studies involving exposure of human volunteers to low-level ozone concentrations in a controlled environmental laboratory. Ten subjects (four smokers and six non-smokers, all in good health) were exposed to 1000 μg/m³ (0.5 ppm) ozone for six hours. In each case the exposure day was preceded by a pre-exposure control day and a post-exposure recovery day. Intermittent light exercise on a bicycle ergometer was used to simulate normal light activity. On each day, physiologic measurements of lung function were made at two hour intervals. Preliminary results reveal that decreases in specific airway conductance (the reciprocal of airway resistance divided by the lung volume at which measurements were made) occurred within two hours after ozone exposure and that these decreases were statistically significant for the ten subjects after four and six hours of exposure. Five of the ten subjects reported "burning" or "tightness" in the chest especially upon exercise. All of those experiencing chest symptoms were non-smokers, and the one non-smoker who experienced no symptoms was the only one of the ten subjects who did not intermittently exercise during ozone exposure. Differences between control and recovery days, and between exposure and recovery days have not yet been analyzed.

C. *Summary and Interpretation.* Ozone gas is immediately and overtly irritating to the respiratory tract. At concentrations of 2000 μg/m³ (1.0 ppm) and higher, ozone is intolerable for more than a few minutes exposure. At concentrations of 400 to 600 μg/m³ (0.2 to 0.3 ppm), acutely irritating symptoms do not generally occur, as reported from observations of the working environment of welders. Experimental exposures of human subjects to ozone concentrations of 1500 μg/m³ (0.75 ppm) caused significant deterioration of lung function, including increased resistance of large and small airways, decreased airflow rates within respiratory passages and apparent inhibition of the ability to make a maximal inspiratory effort. At this level, light exercise accentuates

the functional changes; subjective symptoms including cough upon deep breathing and substernal soreness appear soon after exercise and progress with the duration of exercise. At ozone exposures of 1200 to 1600 $\mu g/m^3$ (0.6 to 0.8 ppm) for two hours in a resting state, significant decreases in steady state diffusing capacity were measured and were attributed to a slight transitory outpouring of edema fluid in the deep tissues of the lung. Substernal soreness persisted for 6 to 12 hours after these exposures. Intermittent light exercise at 1000 $\mu g/m^3$ (0.5 ppm) ozone exposure also caused substernal soreness soon after the start of the exercise period, but cough and shortness of breath were less prominent symptoms than at the 1500 $\mu g/m^3$ exposure level. After four hours of exposure to 1000 $\mu g/m^3$, significant decreases in specific airway conductance were measured.

An important feature of these studies is that respiratory tract irritation, an acutely incapacitating condition, together with diminished lung function, became clinically manifest at ozone levels between 1000 and 1500 $\mu g/m^3$ (0.5 to 0.75 ppm). The duration of exposure associated with onset of symptoms and functional changes is a function of pulmonary minute ventilation (liters/min). Light exercise sufficient to merely double minute ventilation brings on respiratory symptoms earlier (often after exercising for only 15 minutes) and accentuates the functional disturbances. Therefore, it is more appropriate to determine the ozone concentration at which symptoms and functional changes occur than to decide what averaging time is associated with these responses, since the time will vary depending upon the amount of physical exertion persons engage in at each ozone level. Further, a one-hour averaging time is sufficiently long to assure accuracy of measurement under conditions of varying atmospheric levels of ozone, and is also long enough to ensure, for all practical purposes, that overt clinical symptoms of respiratory tract irritation will occur in subjects engaging in continuous light exercise (a very normal situation in the urban environment of workers, children, and pedestrians). Thus one hour is an appropriate averaging time for establishing a significant harm level for ozone in the urban environment.

With intermittent exercise, mild respiratory tract irritation is observed at 1000 $\mu g/m^3$ (0.5 ppm) while quite severe symptoms occur at 1500 $\mu g/m^3$ (0.75 ppm). These two levels represent reasonable bounds, given existing data, for a significant harm level. Since transitory outpouring of plumonary edema fluid probably occurred at resting ozone exposures of 1200 to 1600 $\mu g/m^3$ (0.6 to 0.8 ppm), it is reasonably certain that this response would occur with exercise of 1200 $\mu g/m^3$ (0.6 ppm). While a transitory and slight pulmonary edema may not represent a serious threat to health individuals, persons with compromised cardiopulmonary status, such as individuals with chronic bronchitis or borderline congestive heart failure, would be clearly placed in jeopardy by such an event. The possibility that such an event may occur at ozone levels of 1000 $\mu g/m^3$ (0.5 ppm) cannot be discounted, but the fact that only mild symptoms occurred in exercising subjects at the latter concentration gives some reassurance that 1000 $\mu g/m^3$ is minimally irritating and thus less of an immediate threat.

In conclusion, a review of available literature on the subject of acute effects of ozone at various concentrations, and a medical interpretation of these data leads to a best judgment estimate that the significant harm level for ozone should be appropriately established at 1200 $\mu g/m^3$ (0.6 ppm) with a one hour averaging time. At this exposure-time combination, it is judged that acutely incapacitating symptoms will be experienced by significant portions of the population, especially those engaged in light to moderate activity, and that the health status of particularly vulnerable cardiopulmonary subjects may be seriously compromised.

REFERENCES

[1] Hallett, W. Y. Effect of ozone and cigarette smoke on lung function. Arch. Environ. Health 10:295, 1965.

[2] Flury, F. and Zernik, F. Schadlicke Gase Dampfe, Nebel, Rauch-und Staubarten. Berlin, Julius Springer, 1931, pp. 637.

[3] Kleinfeld, M., Giel, C. and Tabershaw, I. Health hazards associated with inert gas shielded metal arc welding. Arch. Indus. Health 15:27, 1957.

[4] Challen, P. Hickish, D. and Bedford, J. An investigation of some health hazards in an inert-gas tungsten-arc welding shop. Brit. J. Indus. Med. 15:276, 1958.

[5] Young, W. A., Shaw, D. B. and Bates, D. V. Pulmonary function in welders exposed to ozone. Arch. Environ. Health 7:337, 1963.

[6] Hammer, D. I., Hasselblad, V., Portnoy, B. and Wehrle, P. F. The Los Angeles Student Nurse Study: Daily Symptom Reporting and Photochemical Oxidants. Arch. Environ. Health, 1974 (in press).

[7] Young, W. A., Shaw, D. B. and Bates, D. V. Effect of low concentrations of ozone on pulmonary function in man. J. Applied Physiol. 19:765, 1964.

[8] Goldsmith, J. R. and Nadel, J. A. Experimental exposure of human subjects to ozone. J. Air Pollution Control Assoc. 19:329, 1969.

[9] Bates, D. V., Bell, D. M., Burnham, C. D., Hazucha, M., Mantha, J., Pangelly, L. D. and Silverman, S. F. Short-term effects of ozone on the lung. J. Applied Physiol. 32:176, 1972.

[10] Kerr, D. and Associates. Dr. Kerr reported his work, performed at the University of Maryland Medical Center, in a personal communication to Dr. John Knelson, Chief Clinical Studies Branch, Human Studies Laboratory (EPA) on August 9, 1973. This work is still in progress and subject to further evaluation by the investigators.

[FR Doc.74-5685 Filed 3-12-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19958 RM-2128]

FM BROADCAST STATIONS IN JACKSON, TENNESSEE

Proposed Table of Assignments

1. Notice of proposed rule making is given with respect to the petition of J. A. Baxter, Jr. and Gordon Bostic requesting amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) to assign Channel 276A as a third FM assignment to Jackson, Tennessee.

2. Jackson, population 39,964,[1] is the seat of Madison County, population 65,727. Jackson, located on U.S. Highway 40, 69 miles northeast of Memphis and 123 miles west-southwest of Nashville, is described as a trading center for the western part of Tennessee. In support of the petition, information and data is adduced about local industry (Proctor & Gamble, Owens-Corning Fiber Glass, Quaker Oats, Rockwell Manufacturing, various cotton mills, and dress manufacturers); the type of city government and municipal facilities, cultural, civic, and recreational activities, and we are told that four colleges are located at Jackson. Local media consists of a daily newspaper, one television station, three AM stations (one daytime only), and FM Station WTJS-FM, Channel 281. Channel 222, assigned to Jackson, is occupied by Station WKBJ-FM, at Milan about 20 miles to the north.

3. From a technical viewpoint, petitioners have adduced information showing that Channel 276A might be assigned without any change in the FM Table of Assignments if a transmitter is sited a short distance southwest of the city, and it is claimed that several sites are available in the area. Petitioners also indicate their interest in a Class C channel but the only channel available is Channel 276A. The proposed assignment to Jackson has a preclusion effect on Henderson, Tennessee, population 3,581, which is served by daytime-only AM Station WHHM and 10-watt Class D non-commercial educational FM Station WFMC, Channel 218, licensed to Freed-Hardeman College.

4. It would appear that the petitioners have made an adequate showing that the assignment of Channel 276A to Jackson might serve the public interest, convenience, and necessity, at least to the extent of our putting the matter out for proposed rule making. In this respect, however, we should like additional information as to whether any other FM channel is available for assignment at Henderson, to which Channel 276A would be precluded if it is assigned to Jackson. We also believe that consideration should be given to reassigning Channel 222 from Jackson to Milan to reflect actual use, and West Tennessee Broadcasting Co., licensee of Station WKBJ-FM, will be served a copy of this Notice in order that it may comment on this question. Petitioner, West Tennessee Broadcasting Co., or anvone else interested in this rule making are expected to file comments expressing views as to the questions raised. Failure to make these showings or to respond in any way may result in denial of either or both proposals.

5. *Cut-off procedures.* The following procedures will govern consideration in this proceeding.

(a) Counter proposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

[1] All population data is from the 1970 Census unless otherwise indicated.

6. In view of the foregoing, and pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b), of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, it is proposed to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, as concerns the named communities as follows:

City	Channel No.	
	Present	Proposed
Jackson, Tenn.	222, 281	276A, 281
Milan, Tenn.		222

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 19, 1974, and reply comments on or before April 29, 1974. All submissions must be made in written comments, reply comments, or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

9. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: March 4, 1974.

Released: March 7, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-5772 Filed 3-12-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19959 RM-2129]

FM BROADCAST STATIONS, HORNELL, NEW YORK

Proposed Table of Assignments

1. Notice of proposed rule making is given with respect to the petition of Patricus Enterprises, Inc. (Patricus), the licensee of daytime AM Station WLEA, Hornell, New York, requesting amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) to assign Channel 221A as a second FM assignment to Hornell, New York.

2. Hornell, population 12,144,[1] is the second largest city in Steuben County, population 99,546. Because of size and location, at the extreme western portion of the county,[2] it is the economic and trade center for the surrounding area of farm land and small communities (both incorporated and unincorporated). In support of the petition, Patricus adduced information and data about the history of Hornell, population, education, recreation, public organizations, medical and religious facilities, transportation, the form of government, and a profile of the local economy. We need not detail this information. Patricus refers to our population criteria which permits a second FM channel assignment to a city the size of Hornell.[3] There are two daytime-only AM stations (WHHO and WLEA) and an FM station WHHO-FM, Channel 287.

3. Petitioner states further aural service at night is needed; note is made that during the then recent flood (petition was filed in early 1973) in the southern part of New York and the northern part of Pennsylvania, the AM stations at Hornell were required to suspend commercial operation and operate on a 24 hour emergency basis. From a technical viewpoint, the petitioner has adduced information showing that Channel 221A may be assigned without any change in the FM Table of Assignments. A preclusion study shows that the only channel which would be foreclosed by future assignment is on Channel 221A, located in the preclusion area is Wayland Village, population 2,021, also in Steuben County, 15 miles north of Hornell which has no local broadcast facility.

4. It would appear that the petitioner has made an adequate showing that the assignment of Channel 221A to Hornell might serve the public interest, convenience, and necessity, at least to the extent of our putting the matter out for rule making. In this respect, we should like further information as to whether another FM channel is available for assignment at Wayland. Inasmuch as the proposed assignment is within 250 miles of the common border with Canada, it will have to be coordinated with the Canadian officials, as required by the Canada-United States FM Agreement of 1947 and the Working Agreement of 1963.

5. In view of the foregoing, pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, it is proposed to amend § 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments, as concerns Hornell, New York, as follows:

City	Channel No.	
	Present	Proposed
Hornell, N.Y.	287	221A, 287

6. *Showings required.* Comments are invited on the proposal discussed above. Petitioner is expected to answer whatever questions are raised in the Notice. Patricus should also specifically state an intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to the denial of the request.

7. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 22, 1974, and reply comments on or before May 1, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

10. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

Adopted: March 5, 1974.

Released: March 7, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-5773 Filed 3-12-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19960; RM-2135]

FM BROADCAST STATIONS, NEWPORT, OREGON

Proposed Table of Assignments

1. The Commission has before it a petition for rule making filed by Yaquina Radio, Inc., (Yaquina) on February 7, 1973, proposing the substitution of Channel 273 for Channel 274 at Newport, Oregon. The substitution of the channel could be made in full compliance with the Commission's minimum mileage separation rule and without affecting the other assignments in the present FM Table if the station is located at least four miles north of Newport. Newport (population 5,280), in Lincoln County (population 25,755), is located about 90 miles southwest of Portland, Oregon. It has one Class C FM channel assignment (274) which is unoccupied.

[1] All population data is from the 1970 Census unless otherwise indicated.

[2] The largest—Corning, population 15,792—is located in the eastern part.

[3] See Further Notice of Proposed Rule Making, Docket No. 14185, adopted July 1962 (FCC 62-867), and incorporated by reference in para. 25 of the Third Report, Memorandum Opinion and Order, adopted July 25, 1963, 23 R.R. 1859, 1871.

2. Petitioner states that on June 5, 1972, it tendered for filing with the Commission an application for authority to construct on Channel 274 at Newport but the application was returned because the proposed operation from a specified site did not meet a required minimum mileage separation (150 miles). It adds that a diligent search was made for an alternative site at least 150 miles from the transmitter site of Station KELA-FM, Centralia, Washington (Channel 275), but was unable to find a suitable site in the Newport area.

3. Petitioner's proposal is supported by an engineering statement which includes a study on the availability of a substitute Class C channel for Newport. This statement asserts that Channel 273 at Newport, Oregon, would meet all of the requirements of the Commission's minimum mileage separation rule since petitioner wishes to operate from a site eight miles north of Newport. A site located at least four miles north of Newport is required to meet the spacing requirement (105 miles) to Channel 272A at Coquille, Oregon. Petitioner states that the assignment of Channel 273 to Newport would permit a maximum utilization of the said channel, providing service to an extended area of the Central Oregon Coast. For these reasons we believe consideration of the proposal for the substitution of Channel 273 for 274 in Newport, Oregon, is warranted.

4. In view of the foregoing and pursuant to authority found in section 4(i), 303(g) and (r) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as follows:

City	Channel No.	
	Present	Proposed
Newport, Oreg	274	273

5. *Showings required.* Comments are invited on the proposal discussed above. Proponent will be expected to answer whatever questions are raised in the notice and other questions that may be presented in initial comments. The proponent of the proposed assignment is expected to file comments even if he only resubmits or incorporates by reference his former pleading. He should also restate his present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

6. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with this decision in this docket.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 22, 1974, and reply comments on or before May 1, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

9. All filings made in this proceeding will be available for examination by interested parties during business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M St. NW.).

Adopted: March 5, 1974.

Released: March 7, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-5771 Filed 3-12-74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 526]

[No. 74-179]

FEDERAL HOME LOAN BANK SYSTEM

Governmental Unit NOW Accounts

MARCH 7, 1974.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to Part 526 of the rules and regulations for the Federal Home Loan Bank System (12 CFR Part 526), for the purposes described below. Accordingly, the Board hereby proposes to amend said Part 526 by revising § 526.1(l) thereof to read as set forth below.

Section 2(a) of Pub. L. No. 93-100 of August 16, 1973, provides that "No depository institution (as defined in section 2(b)) shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire".

By Resolution No. 73-1808, of December 7, 1973, the Board adopted final amendments to Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) relating to the issuance and payment of interest or dividends on transaction accounts (NOW accounts) by member institutions having their home offices in New Hampshire and Massachusetts. Present § 526.8(d) contains a limitation on owners of transaction accounts as follows: "Transaction accounts, or the entire beneficial interest therein, issued by such a member institution may not be owned by a corporation or business trust which is operated for profit." The Board proposes to revise this limitation by revoking said § 526.8(d) and revising the definition of transaction account as set forth in present § 526.1(l) to read as set forth below. A principal effect of this redefinition is to prohibit such member institutions from permitting certain governmental units to own transaction accounts. The language of the proposal corresponds to similar restrictions imposed by the Federal Reserve Board and the Federal Deposit Insurance Corporation on ownership of NOW accounts. (Cf., 12 CFR Parts 217, 329). The Board views this proposal as one involving present public policy considerations rather than any question as to the Board's legal authority to permit the ownership of transaction accounts by governmental units.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, NW., Washington, D.C. 20552, by April 15, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 526.1 Definitions.

As used in this Part 526—

* * * * *

(l) *Transaction account.* The term "transaction account" means a "regular acount", as that term is defined in paragraph (d) of this section, of a member institution upon which the owner is allowed to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties and which consists of funds deposited to the credit of, or the entire beneficial interest is held by, one or more individuals or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit.

§ 526.8 Transaction accounts.

* * * * *

(d) [Revoked]

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(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Pub. L. 91-151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b, 1437). Sec. 2, Pub.

L. 93-100. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.
Assistant Secretary.

[FR Doc.74-5800 Filed 3-12-74;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 210]

FEDERAL RESERVE BANKS

Transfer of Funds; Extension of Comment Period

On November 27, 1973, the Board of Governors published in the FEDERAL REGISTER (38 FR 32952) its order of November 15, 1973, regarding consideration by the Board of proposed amendments to Regulation J relating to electronic funds transfer arrangements and basic questions concerning ownership, operation and cost distribution of an electronic payments mechanism.

The Board's notice invited interested persons to submit relevant data, views or arguments on its proposal to be received by the Board no later than March 8, 1974. The Board has received several requests for an extension of the time within which comments may be submitted on the issues raised in its proposal. The Board has considered these requests and has extended the comment period on its proposal for a period of 30 days.

Any material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than April 8, 1974. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, March 1, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-5713 Filed 3-12-74;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 435]

UNDELIVERED MAIL ORDER MERCHANDISE AND SERVICES

Opportunity to Submit Data, Views or Arguments

Correction

In FR Doc. 74-5411 appearing at page 9201 in the issue of Friday, March 8, 1974, the material which appears immediately after paragraph (4) and before the last incomplete paragraph in column one on page 9202 was inadvertently misplaced. This material should be inserted immediately after § 435.2(c)(4).

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 270, 275]

[Release Nos. IA-402, IC-8244, File No. 4-149]

REVISED SCHEDULE OF HEARINGS ON PROPOSED AMENDMENTS TO RULE 3C-4

Extension of Time for Comment

In the matter of extension of period for comment in response to Investment Company Act Release No. 8216 (January 31, 1974), and revised schedule of hearings on proposed amendments to rule 3c-4 under the Investment Company Act of 1940 and Rule 202-1 under the Investment Advisers Act of 1940 and on the Model Variable Life Insurance Regulation adopted by the National Association of Insurance Commissioners.

On January 31, 1974, the Commission announced (Investment Company Act Release No. 8216) (39 FR 5209) that it would hold a public hearing to commence March 4, 1974 in order to receive further oral and written comments on proposed amendments to Rule 3c-4 (17 CFR 270.3 c-4) under the Investment Company Act and to Rule 202-1 (17 CFR 275.202-1) under the Investment Advisers Act[1] (hereinafter collectively referred to as "Rules"), and to receive comments on the Model Variable Life Insurance Regulation ("Model Regulation") adopted by the National Association of Insurance Commissioners so that, in the event the amendments are adopted, the Commission may determine whether the Model Regulation provides investor protections substantially equivalent to those relevant protections provided by the Investment Company and Advisers Acts (15 U.S.C. 80 2-1 et seq., 80 b-1 et seq.).

The National Association of Insurance Commissioners and the American Life Insurance Association ("ALIA") have requested an extension of time for submission of comments and a delay in the commencement of public hearings with respect to the proposed Rules amendments and the Model Regulation. A group of mutual fund management companies also expected to participate has joined in the ALIA request.

Because of the importance of receiving the comments and views of these and other participants the Commission has determined (1) to extend to March 11, 1974 the period for submitting written comments and written texts of oral statements; (2) to extend to March 20, 1974 the time for submission of questions which may be asked by the staff; and (3) to set March 25, 1974 at 10:00 a.m. e.d.t. for commencement of the public hearings. Such hearings will be held at the Headquarters Office of the Commission, 500 North Capitol Street N.W., Washington, D.C. 20549.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 22, 1974.

[FR Doc.74-5698 Filed 3-12-74;8:45 am]

[1] The amendments were originally proposed on September 20, 1973 (Investment Company Act Release No. 8000) (38 FR 26816).

Notices

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

DEPARTMENT OF STATE

[Public Notice CM–118]

OVERSEAS SCHOOLS ADVISORY COUNCIL

Notice of Meeting

The Executive Committee of the Overseas Schools Advisory Council, Department of State, will meet Wednesday, March 27, 1974, 9:30 AM in the Twelfth Floor Conference Room at the U.S. Mission to the United Nations, 799 United Nations Plaza, New York, New York 10017.

Topics scheduled for discussion are:

I. Status of 1973/1974 Presentation and Support for Administrative Expenses of /I/D/E/A/.

II. What Can Be Done to Increase Participation of U.S. Corporations in "Fair Share" Program?

III. How Can We Increase Local Fund-Raising Activities Conducted by the Schools?

IV. Continuation with /I/D/E/A/ in the Future if Administrative Funds Are Not Available.

V. Additional Assistance Which OSAC May Provide for Schools.

VI. Next Presentation of the Council.

VII. Selection of Date for Full Council Meeting.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703–235–9601, prior to March 27.

Dated: March 5, 1974.

ERNEST N. MANNINO,
Executive Secretary, Overseas Schools Advisory Council.

[FR Doc.74–5873 Filed 3–12–74;8:45 am]

DEPARTMENT OF THE TREASURY

U.S. Customs Service

[T.D. 74–84]

FOREIGN CURRENCIES

Certification of Rates

MARCH 5, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74–40 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Italy lira:	
Feb. 25, 1974	$0.001539
Feb. 26, 1974	[1] .001624
Feb. 27, 1974	[1] .001624
Feb. 28, 1974	.001542
Mar. 1, 1974	.001525
Switzerland franc:	
Feb. 25, 1974	.3204
Feb. 26, 1974	.3231
Feb. 27, 1974	.3184
Feb. 28, 1974	.3192
Mar. 1, 1974	.3174

J. D. COLEMAN,
Acting Director, Duty Assessment Division.

[FR Doc.74–5803 Filed 3–12–74;8:45 am]

[T.D. 74–83]

LIBERTY BELL CHRISTMAS, INC.

Notice of Recordation of Trade Name

MARCH 7, 1974.

On January 18, 1974, there was published in the FEDERAL REGISTER (39 FR 2280) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name LIBERTY BELL CHRISTMAS, INC. The notice advised that prior to final action on the application, filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice. No responses were received in opposition to the application.

The name "LIBERTY BELL CHRISTMAS, INC." is hereby recorded as the trade name of Liberty Bell Christmas, Inc., a corporation organized under the laws of the State of New York, located at 910 South Oyster Bay Road, Hicksville, New York 11771, when used in the advertising and sale of Christmas ornaments.

[SEAL] LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.74–5802 Filed 3–12–74;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1973 Rev., Supp. No. 12]

CONTINENTAL WESTERN INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $562,000.00 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

Continental Western Insurance Company
Des Moines, Iowa
Iowa

Certicates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Government Fnancial Operations, Audit Staff, Washington, D.C. 20226.

Dated: March 6, 1974.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74–5801 Filed 3–12–74;8:45 am]

[1] Quarterly rate—rate did not vary.

Office of the Secretary

OFFICE OF REVENUE SHARING

Procedure for Improvement of Entitlement Data

The data used by the Office of Revenue Sharing in calculating revenue sharing allocations for State governments pursuant to the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512, 31 U.S.C. Chapter 24) for the fifth entitlement period (July 1, 1974 through June 30, 1975) have been provided to each State government. For purposes of the revenue sharing program, the District of Columbia is treated as a State. Collective data for all State governments and units of local government will be available in final form from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, on May 15, 1974.

These data have been compiled by the Bureau of the Census and Internal Revenue Service, and definitions of each data element are provided in this notice. If State governments believe that there are errors in this data, relative to these definitions and effective dates, they should so inform the Office of Revenue Sharing in writing and provide evidence and documentation justifying the basis for their view. This may be accomplished by writing to the Office of Revenue Sharing (Symbols SDD) with full justification to support proposed corrections of data. The

form and justification must be received by the Office of Revenue Sharing on or before March 25, 1974. If the Office of Revenue Sharing has not been advised, in writing, of proposed corrections of data on or before March 25, 1974, the data elements published will be determined to be correct and, as such, will constitute a final determination by the Department of the Treasury. All data elements which were the subject of an earlier data appeal procedure, or which were the result of such procedure, are not eligible for further review under this procedure since a final determination with respect to them has been made by the Department.

Upon receipt of any written response from State governments, the Office of Revenue Sharing will, as timely as practicable, work with the Bureau of the Census to substantiate or correct all data questioned and advise the State governments of its findings. Those findings will constitute a final determination of the State government's revenue sharing data elements.

In order to assure equitable treatment of each recipient, the books will be kept open until all evidence and documentation received on or before March 25, 1974, have been reviewed, and data determined to be erroneous have been corrected.

[SEAL] GRAHAM W. WATT,
Director, Office of Revenue Sharing.

I. POPULATION

Population shall be determined on the same basis as resident population as determined by the Bureau of the Census for general statistical purposes.

The population of States used for revenue sharing purposes in Entitlement Period 5 is the *1973 population of States*. The 1973 population data for States are the provisional estimates of the total resident populations of States as of July 1, 1973. These population estimates are those which were published by the Bureau of the Census in a report entitled *Estimates of the Population of States, July 1, 1972 and 1973* (*Current Population Reports*, Series P–25, No. 508) dated November 1973. Incorporated in these population totals for the year ending July 1, 1973, are estimates of population change, including migration, based on vital statistics, key population indicators and extrapolations of past trends. For a complete description of the methodology used, please consult the full report in the Bureau of the Census' Series P–25.

II. URBANIZED POPULATION

Urbanized population means the population of any area consisting of a central city or cities of 50,000 or more inhabitants (and of the surrounding closely settled territory for such city or cities) which is treated as an urbanized area by the Bureau of the Census for general statistical purposes.

The urbanized population of States used for revenue sharing purposes in Entitlement Period 5 is the *1970 urbanized population of States*. A State's urbanized 1970 population is the amount of that State's 1970 population which was classified as an urbanized area according to Bureau of the Census 1973 Urbanized Area Criteria. The Bureau of the Census revised its definitional criteria in 1973 for urbanized areas to make them more consistent with the criteria for Standard Metropolitan Statistical Areas (SMSAs). The revised criteria enable an urbanized area to be defined for each SMSA which is defined in terms of 1970 Census population.

An urbanized area must include a central city or cities that qualify under one of the criteria listed below. *All population criteria refer to 1970 census population counts (except as specified in item 1a).*

1a. A city of 50,000 inhabitants or more according to the 1970 census, a special census taken between 1960 and 1970 or the 1960 census provided that the city is located in an SMSA and is not included in an existing urbanized area.

1b. A city having a population of at least 25,000 which, with the addition of the population of contiguous places (incorporated or unincorporated) each of which has a population density of at least 1,000 persons per square mile, and which together constitute for general economic and social purposes a single community with a combined population of at least 50,000, provided that the city is located within an SMSA and is not included in an existing urbanized area.

2. In addition to a central city or cities, a UA includes contiguous territory meeting the following criteria:

a. Incorporated places of 2,500 inhabitants or more but excluding the rural portions of extended cities.

b. Incorporated places with fewer than 2,500 inhabitants, provided that each has a closely settled area of 100 housing units or more; and all unincorporated places recognized in the 1970 census.

c. Contiguous small parcels of unincorporated land (delineated as either enumeration districts or block parcels prior to the 1970 census) determined to have a 1970 census population density of 1,000 inhabitants or more per square mile. (In this instance the areas of large nonresidential tracts devoted to such urban land uses as railroad yards, airports, factories, parks, golf courses, and cemeteries are excluded in computing the population density.)

d. Other similar small areas in unincorporated territory without regard to population density provided that they serve

To eliminate enclaves, or

To close indentations of one mile or less in width across the open end of the urbanized areas in order to eliminate narrow fingers of "rural" area, or

To link outlying areas of qualifying density provided that these are not more than 1½ miles from the main body of the urbanized area.

III. INCOME

Income means total money income received from all sources, as determined by the Bureau of the Census for general statistical purposes.

The per capita income of States used for revenue sharing purposes in Entitlement Period 5 is the *1969 per capita income of States*. The per capita income is the mean or "average" income of all persons in a State, as determined by the Bureau of the Census in the 1970 Census of Population and Housing. Unlike the population in which everyone was counted, the per capita income was measured through a questionnaire which went to 20 percent of the households on a random sampling basis.

Per capita income was computed from calendar year 1969 money income data which were collected during the 1970 Census. Total money income is the sum of:

Wage or salary income.

Net nonfarm self-employment income.

Net farm self-employment income.

Social Security or railroad retirement income.

Public Assistance income.

All other income such as interest, dividends, veteran's payments, pensions, unemployment insurance, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, Social Security, bond purchases, union dues, medicare deduction, etc.

Receipts from the following sources are not included as income: Money received from the sale of personal property; capital gains; the value of income "in kind," such as food produced and consumed in the home or free living quarters; withdrawal of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

IV. STATE INDIVIDUAL INCOME TAX

The individual income tax of any State is the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954.

The State individual income tax data for Entitlement Period 5 are *calendar year 1973 State Individual Income tax collections*. Actual calendar year 1973 State individual income tax collections were obtained from the Bureau of the Census publication entitled *Quarterly Summary of State and Local Tax Revenue October–December 1973*. These are collections of taxes on individuals measured by net income and taxes distinctively on special types of income (e.g., interest, dividends, income from intangibles, etc.). Taxes measured by income from intangible property are reported here even though locally designated as "property" taxes.

The calendar year 1973 State individual income tax collections data may not agree exactly with the figures in Census' *Quarterly Summary of State and Local Tax Revenue*, if corrections to these data were made subsequent to its publication.

V. FEDERAL INDIVIDUAL INCOME TAX LIABILITIES

Federal individual income tax liabilities attributed to any State for any period shall be determined on the same basis as such liabilities are determined for such period by the Internal Revenue Service for general statistical purposes.

In general, the Federal individual income tax liability of a State means the total annual Federal individual income taxes after credits attributed to the residents of the State by the Internal Revenue Service. Income tax after credits is determined by subtracting statutory credits from the total of income tax before credits and the tax surcharge. It does not include self-employment tax or tax from recomputing prior year investment credit, nor does it take into account refundable credits.

Income tax before credits is the tax liability computed on taxable income based on:

1. The regular combined normal tax and surcharge including tax from the optional tax tables,
2. Alternative tax or
3. Tax computed using the income averaging provisions.

Examples of credits which are applied against income taxes are:

1. Retirment income credit,
2. Investment credit,
3. Foreign tax credit, and
4. Other tax credits.

The State and Local Fiscal Assistance Act of 1972 (Revenue Sharing) specifies that, if available, data on Federal individual income tax liabilities should be "for taxable years ending . . . during the last calendar year ending before the beginning of such entitlement period."

The most recent Federal individual income tax liabilities available for revenue sharing use in Entitlement Period 5 are the *1972 IRS estimates of Federal individual income tax liabilities of States*. These estimated tax amounts for calendar year 1972 are the preliminary 1972 estimates from the Internal Revenue Service's *Statistics of Income*.

VI. STATE AND LOCAL TAXES

The State and local taxes are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

State and local taxes data used for revenue sharing purposes in Entitlement Period 5 are the *fiscal year 1971–72 State and local taxes*, as reported by the Bureau of the Census in Table 17 of *Governmental Finances 1971–72* (GF 72, No. 5). Fiscal year 1971–72 is a government's 12-month accounting period that *ended* between July 1, 1971 and June 30, 1972 except for the State governments of Alabama and Texas (as well as school districts in those states). These latter governments have fiscal years which end at the end of September and August, respectively, and are treated as though they were part of the group with fiscal years ending June 30.

Tax revenue comprises amounts collected from all taxes which are imposed by a government and collected by that government or which are collected for it by another government acting as its agent. This includes interest and penalties but does not include amounts paid under protest and amounts refunded. For purposes of this definition, local governments and political subdivisions include counties (parishes in Louisiana and boroughs in Alaska), municipalities, townships, school districts, and special districts. A unit of government also includes, in addition to the central authority of the unit, any semi-autonomous boards, commissions, or other agencies dependent on it that do not in themselves meet requirements as to fiscal and administrative independence even though as to accounting records and other specific administrative aspects such agencies may operate outside the central accounting and administrative pattern of the unit.

The State government information contained in State and local taxes is based on the annual Bureau of the Census survey of State finances. State finances statistics are compiled by representatives of the Bureau of the Census from official records and reports of the various States. The local government portion of the State and local taxes data are estimates based on information received from a sample of such governments. The sample consisted of approximately 16,000 local governments. Survey coverage applied to all counties having a 1970 population of 50,000 or more, all cities having 1970 population of 25,000 or more, all other governments whose relative importance in their State based on expenditure or debt was above a specified size, and a random sample of remaining units.

The fiscal year 1971–72 State and local taxes data may not agree exactly with the figures in *Governmental Finances 1971–72*, because corrections to these data have been made subsequent to its publication.

VII. GENERAL TAX EFFORT FACTOR

The general tax effort factor of any State for any entitlement period is (i) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by (ii) the aggregate personal income attributed to such State for the same period. Personal income means the income of individuals, as determined by the Department of Commerce for national income accounts purposes.

The general tax effort factor of any State used for Entitlement Period 5 is the amount of fiscal year 1971–72 State and local taxes of the State divided by the aggregate personal income of the State for 1971 as reported by the Bureau of the Census in Table 24 of *Governmental Finances 1971–72* (GF 72, No. 5).

Aggregate personal income for States in calendar year 1971 is estimated by the Bureau of Economic Analysis of the Department of Commerce for national income accounting purposes. Aggregate personal income figures are published periodically in the *Survey of Current Business*.

Aggregate personal income represents the total current income received by persons residing in the State from all sources, including transfers from government and business but excluding transfers among "persons". Not only individuals (including owners of unincorporated enterprises), but also nonprofit institutions, private trust funds, and private pension, health, and welfare funds are classified as "persons." Personal income is measured on a before-tax basis, as the sum of wages and salary disbursements, other labor income, proprietors' and rental income, interest and dividends, and transfer payments, minus personal contributions for social insurance, etc.

[FR Doc.74–5147 Filed 3–12–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

O&C ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Bureau of Land Management's O&C Advisory Board will meet on March 28, 1974, commencing at 8:30 a.m., in the Oregon State Office conference room, 729 NE Oregon Street, Portland, Oregon. The agenda for the meeting includes consideration of proposed log export substitution rules, shall business timber sale set-aside program, storm damage problems, effects of petroleum shortages on resource management programs, status of BLM reforestation program, recreation management, road management, and the composition of advisory boards.

The meeting will be open to the public. In addition to discussions by board members, there will be opportunity for brief statements relating to agenda topics by non-members. Persons wishing to make oral statements should so advise the chairman or co-chairman prior to the meeting, to aid in scheduling the time available. Any person may file a written statement for consideration by the board by sending it to the chairman, in care of the co-chairman: Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, OR 97208.

ARCHIE D. CRAFT,
Oregon State Director.

MARCH 6, 1974.

[FR Doc.74–5702 Filed 3–12–74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74–50]

DIAMOND FORK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 861(c)) (1970), Diamond Fork Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 1 Surface Mine.

30 CFR 77.1605(k) reads:

Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner feels that its roads are safe and that the installation of guardrails or berms would result in a diminution of safety to the miners at the mine.

In support of its petition, Petitioner states that berms and guardrails would create a drainage hazard. It would be impossible to maintain proper drainage, and washouts could occur during wet weather. Petitioner believes that berms and guardrails would hamper snow removal during the winter months. Petitioner states that it could no longer use its grader for road maintenance if berms or guardrails were installed.

Petitioner alleges that additional man hours and equipment would be needed for road maintenance during the winter months and that such activity could result in an increased potential for accidents.

Petitioner states that the roads are not wide enough to build berms without having to blast solid rock which would create a highwall and result in a new hazard. Also, guardrails would have to be built on fill material.

For the above reasons Petitioner feels its roads are safer without berms or guardrails.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 28, 1974.

[FR Doc.74–5733 Filed 3–12–74;8:45 am]

[Docket No. M 74–55]

EAGLE COAL & DOCK CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, (30 U.S.C. 861(c)) (1970), Eagle Coal & Dock Co., Inc., has

filed a petition to modify the application of 30 CFR 75.313 to its Mine No. 7.

30 CFR 75.313 reads in pertinent part, as follows:

The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after March 30, 1970, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under §§ 75.500, 75.501, and 75.504. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. * * *

Petitioner seeks a waiver of 30 CFR 75.313 as it applies to Petitioner's Mine No. 7. As an alternative, Petitioner requests that it not be required to use methane monitors and that it be allowed to continue to use other instruments for methane detection.

In support of its petition, Petitioner states:

(1) Methane monitors are required as an additional device for methane detection.

(2) Methane monitors are very sensitive and delicate instruments, and Petitioner has had much difficulty maintaining the monitors in an operative condition.

(3) It is physically impossible to keep the monitors in continuous operation due to the conditions underground, the equipment presently used, and the mistreatment of both the equipment and the monitors themselves.

(4) There is a present shortage of supplies, parts and material.

(5) Mine No. 7 is located 300 feet above the water table and within 1200 feet of the outcrop. No methane has ever been detected in the mine by any method that is presently in use.

(6) Each machine operator is equipped with one or more instruments for methane detection. Tests are made in each working face every 20 minutes, and before work is commenced in each working place.

(7) Each miner employed at Mine No. 7 has been trained and certified in the use of the Flame Safety Lamp, G–70 Methane Detector, and the M.S.A. Spotter Methane Detector.

(8) Petitioner's No. 7 Mine has been classified as "non-gassy" by the West Virginia Department of Mines.

(9) Petitioner runs a small, marginal operation and, as a result, is finding it increasingly difficult to maintain its methane monitors in working condition.

(10) Petitioner's present methods of methane detection guarantee no less than the same measure of protection afforded the miners at the affected mine by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

MARCH 1, 1974.

[FR Doc.74–5731 Filed 3–12–74;8:45 am]

[Docket No. M 74–56]

MILBURN COLLIERY CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 861(c)) (1970), Milburn Colliery Company has filed a petition to modify the application of 30 CFR 75.1600–1 to its Milburn No. 4 Mine.

30 CFR 75.1600–1 reads as follows:

A telephone or equivalent two-way communication facility shall be located on the surface within 500 feet of all main portals, and shall be installed either in a building or in a box-like structure designed to protect the facilities from damage by inclement weather. At least one of these communication facilities shall be at a location where a responsible person who is always on duty when men are underground can hear the facility and respond immediately in the event of an emergency.

Petitioner seeks a waiver of the requirement that a telephone or equivalent two-way communication facility be located on the surface within 500 feet of all main portals. As an alternative, Petitioner would continue to use its current communications system which provides for a night watchman to be stationed at a communications facility two miles from the subject mine.

In support of its petition, petitioner states:

(1) The purpose of 30 CFR 75.1600–1 is to provide immediate notification and response in the event of an emergency. This purpose can be accomplished by one person on the surface, regardless of whether he is 500 feet or several miles away.

(2) A two-way communication system is deployed within 500 feet of the portal in question, and is manned during the day and evening shifts.

(3) On the midnight shift, which consists of only five men, it is impractical and burdensome to provide one man for the sole purpose of overseeing the communication system.

(4) Petitioner currently employs a night watchman who oversees the preparation plant located two miles from the portal in question. The night watchman's home is located next to the preparation plant.

(5) Petitioner maintains at the preparation plant a two-way communication system connected with all areas of the underground mine. In addition, a telephone for outside communication is also available at the plant in the event of an emergency.

(6) Petitioner submits that if it were allowed to use the night watchman to meet the requirement of 30 CFR 75.1600–1, it would place its present preparation plant communications system in the night watchman's home.

(7) Petitioner's alternate method will at all times guarantee no less than the same measure of protection afforded the miners at the affected mine by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 28, 1974.

[FR Doc.74–5732 Filed 3–12–74;8:45 am]

[Docket No. M 74–54]

POWELLTON CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 961(c) (1970), the Powellton Company has filed a petition to modify the application of 30 CFR 75.1600–1 to its Jane Ann Mines Nos. 7–B, 11, 15–A, 17, and 25.

30 CFR 75.1600–1 reads as follows:

A telephone or equivalent two-way communication facility shall be located on the surface within 500 feet of all main portals, and shall be installed either in a building or in a box-like structure designed to protect the facilities from damage by inclement weather. At least one of these communication facilities shall be at a location where a responsible person who is always on duty when men are underground can hear the facility and respond immediately in the event of an emergency.

Petitioner seeks a waiver of the section 75.1600–1 requirement that a two-way communications facility be located within 500 feet of all main portals. As an alternative, Petitioner requests that it be allowed to continue to use its present communications system.

In support of its petition, Petitioner states:

(1) In August 1972, Petitioner installed a central monitoring system in its main supply house where men are stationed twenty-four hours a day.

(2) The communication facilities were installed with the direction and approval of the Bureau of Mines.

(3) Petitioner spent several thousand dollars in effecting the installation of its present system.

(4) Petitioner is a small company, operating four mines located within two miles of the central monitoring facility. Two of the mines are one unit mines, and two of the mines are two unit mines. Petitioner is presently opening another one unit mine.

(5) To establish a two-way communication facility at each mine portal would require adding 15 men to Petitioner's payroll thereby creating an undue hardship for the petitioner.

(6) Petitioner's present system will at all times guarantee no less than the same measure of protection afforded the miners at the affected mine by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 28, 1974.

[FR Doc.74-5730 Filed 3-12-74;8:45 am]

Office of the Secretary

[Secretarial Order 2963]

INTERIOR ENERGY PROCUREMENT COORDINATOR

Delegation of Authority

This notice is issued in accordance with the provisions of (5 U.S.C. 552(a)(1)). The Secretary of the Interior has issued Order No. 2963 dated February 22, 1974, establishing an Interior Energy Procurement Coordinator, and delegated pertinent contracting authority thereto. The Order is published in its entirety below. Further information regarding the Order may be obtained from the Office of the Assistant Secretary—Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4701.

Dated: March 6, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

SEC. 1 *Purpose.* The purpose of this order is to establish the position of Interior Energy Procurement Coordinator and to delegate thereto certain authority.

SEC. 2 *Authority.* This order is issued in accordance with the authority provided by section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

SEC. 3 *Interior Energy Procurement Coordinator.* There is hereby established, in the Office of the Assistant Secretary—Management, an Interior Energy Procurement Coordinator. The Coordinator shall be responsible, as outlined in the Memorandum of Agreement between the Secretary of the Interior and the Administrator, Federal Energy Office, dated January 10, 1974, as amended, for the processing, approval, issuance, execution, and administration of all contracts and related actions and documents for the Office of Oil and Gas, the Office of Petroleum Allocation, the Office of Energy Data and Analysis, and the Office of Energy Conservation in furtherance of the programs of the Federal Energy Office.

SEC. 4 *Delegation.* Mr. Richard Beans, the designated Interior Energy Procurement Coordinator, is delegated the authority, subject to the limitations contained in Part 205, Chapter 11, of the Department Manual, to enter into procurement contracts and amendments and modifications thereto. The Interior Energy Procurement Coordinator is responsible to the Secretary of the Interior for assuring that all monies appropriated to the Department of the Interior which are to be contractually obligated in furtherance of the programs and policies of the Federal Energy Office are handled and obligated in accordance with all statutory and regulatory requirements, provided further that in addition to approvals or concurrences which may be required by Part 205, Chapter 11, of the Departmental Manual, the Coordinator shall, prior to the formal execution of any such contracts or amendments or modifications thereto which will directly or indirectly increase the costs thereof, obtain the concurrence of the Associate Solicitor—General Law, and the Chief, Division of Fiscal Services, Office of the Assistant Secretary—Management.

SEC. 5 *Termination.* This Order shall terminate, if not previously revoked or superseded, upon the transfer of the Offices referred to in Sec. 3 of this Order from the Department of the Interior to the Federal Energy Agency or any equivalent organization, by statute or reorganization plan.

ROGERS C. B. MORTON,
Secretary of the Interior.

FEBRUARY 22, 1974.

[FR Doc.74-5703 Filed 3-12-74;8:45 am]

[Order No. 2508, Amdt. 100]

COMMISSIONER OF INDIAN AFFAIRS

Revocation of Authority

CORRECTION

In FR Doc. 25383, appearing at page 33108 in the issue of Friday, November 30, 1973, the reference to "section 14 (b) (2)" in the seventeenth line of paragraph (a) (53) on page 33109 should read "section 14(h) (2)".

[INT FES 74-11]

JACKSON HOLE AIRPORT, GRAND TETON NATIONAL PARK, WYOMING

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement concerning actions under consideration related to the Jackson Hole Airport within Grand Teton National Park, Wyoming.

The final environmental statement considers improvements in safety and reliability of air service. Proposed recommendations are widening and strengthening the runway at its present length, construction of a taxiway and turnouts, extension and improvements of plane parking aprons, construction of a new parking area and access road, provision of a new sewage disposal system and other minor improvements. Interrelated projects proposed are the installation of an instrument landing system, medium approach and a runway lighting system, and an air traffic control tower. Studies recommended are a regional transportation study, Jackson Hole Airport master plan and a Grand Teton National Park transportation system study.

Copies are available for inspection or from the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Rocky Mountain Region
National Park Service
655 Parfet Street
Lakewood, Colorado 80215

Superintendent
Grand Teton National Park
P.O. Box 67
Moose, Wyoming 83012

Dated: March 1, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.74-5905 Filed 3-12-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories Authorized To Receive Interstate and Foreign Shipments for Processing, Testing, or Analysis

Correction

In FR Doc. 74-5055, appearing at page 8362 in the issue of Tuesday, March 5, 1974, the following corrections should be made:

1. On page 8362, 3rd column, the 17th entry, the footnote reference should be "2."

2. On page 8363, 3rd column, 11th entry, the city should be "Houma".

3. On page 8364, 2d column, 5th entry, the city should be "Paris".

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

The Computer Systems Technical Advisory Committee of the U.S. Department of Commerce will meet Thursday, March 28, 1974, at 9:30 a.m. in Room 6705 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of

export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Report on the work program.
4. Executive Session: Discussion of, and preparation of working papers on, the work program:
   a. Foreign availability
   b. Performance characteristics
   c. Safeguards
5. Adjournment.

The Computer Systems Technical Advisory Committee was established January 3, 1973, and consists of technical experts from a representative cross-section of the industry in the United States and officials representing various agencies of the U.S. Government. The industry members are appointed by the Assistant Secretary for Domestic and International Business to serve a two-year term.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats—approximately 10—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive Session," the Assistant Secretary of Commerce for Administration, on December 20, 1973, determined, pursuant to section 10(d) of Pub. L. 92–463, that this agenda item should be exempt from the provision of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Administration, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202+967—4293).

Minutes of those portions of the meeting which are open to the public will be available April 29, 1974, upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: March 7, 1974.

LEWIS W. BOWDEN,
Acting Deputy Assistant Secretary for East-West Trade.

[FR Doc.74–5793 Filed 3–12–74;8:45 am]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

The Telecommunications Equipment Technical Advisory Committee of the U.S. Department of Commerce will meet Tuesday, March 19, 1974 at 9:30 a.m. in Room 3817 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of Volume I—Findings of The Annual Report of the Committee.
4. Program for continuing investigation.
5. Executive Session: Review of Volume II—Conclusions and Recommendations of The Annual Report of the Committee.

The public will be permitted to attend the discussion of agenda items 1–4, and a limited number of seats—approximately 15—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (5), "Executive session," the Assistant Secretary of Commerce for Administration, on November 28, 1973, determined, pursuant to section 10(d) of Pub. L. 92–463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Administration, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202+967–4293).

Minutes of those portions of the meeting which are open to the public will be available April 18, 1974, upon written request addressed to: Central Reference and Records Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: March 8, 1974.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.74–5792 Filed 3–12–74;8:45 am]

National Oceanic and Atmospheric Administration

DIRECTOR, NATIONAL MARINE FISHERIES SERVICE

Delegation of Authority

MARCH 7, 1974.

By amendment to Department Organization Order 25–5A, on February 4, 1974, the Secretary of Commerce duly delegated to the Administrator of the National Oceanic and Atmospheric Administration the authority to exercise the Secretary's functions and responsibilities under the Offshore Shrimp Fisheries Act of 1973 (87 Stat. 1061) and the Endangered Species Act of 1973 (87 Stat. 884). This authority includes, but is not limited to, the adoption of regulations and the preparation or signing of all necessary forms, permits, agreements, and exemptions.

This authority is hereby redelegated to the Director, National Marine Fisheries Service. In his absence, this authority may be exercised by the Acting Director, National Marine Fisheries Service.

Issued at Washington, D.C., and dated March 11, 1974.

ROBERT M. WHITE,
Administrator.

[FR Doc.74–5843 Filed 3–12–74;8:45 am]

INCIDENTAL TAKING OF MARINE MAMMALS IN THE COURSE OF TUNA PURSE-SEINING OPERATIONS

Enforcement of Regulations

Regulations were promulgated on January 22, 1974 (39 FR 2481), and corrected on February 14, 1974 (39 FR 5635), relating to incidental taking of marine mammals in the course of tuna purse-seining operations. Such regulations provide, among other things, that commercial tuna fishing vessels commencing voyages after April 1, 1974, and utilizing purse-seine nets to catch and land yellowfin tuna shall be required to equip the purse-seine nets with a porpoise safety panel prior to utilizing the nets in actual fishing operations.

As a result of the petroleum shortage, it has been determined that nylon netting, a petroleum based product which is required for the safety panel, is not readily available to all persons and vessels affected by these regulations.

Therefore, in order to allow those commercial fishing vessels, which have been unable to obtain porpoise safety panels, to commence commercial tuna fishing voyages after April 1, 1974, and to use purse-seine nets not equipped with a porpoise safety panel, the provisions of the regulations which require purse-seine nets utilized by such vessels to be equipped with porpoise safety panels (specifically, §§ 16.24(b)(1), (2), and (3) and 216.24(d)(1)(i) are hereby waived until June 1, 1974; provided, That prior to commencing a commercial fishing voyage the owner or master of any such vessel must satisfy the Regional Director that an order was placed for a porpoise safety panel prior to April 1, 1974, and that such order could not be filled prior to April 1, 1974; and provided, further, That in the area of the purse-seine net in which the porpoise safety panel would be located, hand hold openings must be secured in the manner prescribed in § 216.24(b)(4). Failure to satisfy the Regional Director of the foregoing will subject the owner, the master and the vessel to the penalties of the Marine Mammal Protection Act in the event the vessel attempts to engage in commercial tuna fishing operations using purse-seine nets not equipped with a porpoise safety panel.

Except as specifically provided herein, the requirements of the regulations referred to in this notice shall remain in full force and effect.

Dated: March 8, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-5769 Filed 3-12-74;8:45 am]

CAPTURE, KILLING, INJURY OR OTHER TAKING OF MARINE MAMMALS

Notice of Intent To Prescribe Regulation

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et. seq., "the Act") allows the taking of marine mammals without a permit incidental to the course of commercial fishing operations during the twenty-four months initially following the date of enactment of the Act. However, takings during that period must conform to any regulations which the Director, National Marine Fisheries Service ("the Director"), may issue pursuant to section 111 of the Act to insure that those techniques and equipment are used which will produce the least practicable hazard to marine mammals in such fishing operations. Subsequent to such twenty-four months, after October 21, 1974, permits will be required for the taking of marine mammals incidental to the course of commercial fishing operations, such permits to be subject to regulations prescribed in accordance with section 103 of the Act.

Pursuant to section 111 of the Act, proposed interim regulations to govern the incidental taking of marine mammals in the course of tuna purse seine fishing operations were published by the Director in the FEDERAL REGISTER on November 12, 1973 (38 FR 31180). Final interim regulations, to be in full force and effect by April 1, 1974, were published on January 22, 1974 (39 FR 2481). These regulations will remain in effect until October 20, 1974, unless earlier amended or superseded.

The Director hereby publishes notice of intent to prescribe regulations pursuant to section 101(a)(2) and section 103 of the Act, after consultation with the Marine Mammal Commission, to govern the incidental taking of marine mammals in connection with all commercial fishing operations. These regulations will provide, among other things, for the issuance of general permits in accordance with section 104(h) of the Act to allow the incidental taking of certain marine mammals in connection with commercial fishing operations after October 20, 1974.

The goal of these regulations will be that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate as required by section 101(a)(2) of the Act. Consistent with this goal, every effort will be made to minimize disruption to commercial fishing operations.

Section 103(d) of the Act requires that before or concurrent with the publication of notice in the FEDERAL REGISTER by the Director of his intention to prescribe regulations under section 103, the Director shall publish and make available to the public:

(1) A statement of the estimated existing levels of the species and population stocks of the marine mammal concerned;

(2) A Statement of the expected impact of the proposed regulations on the optimum sustainable population of such species or population stock;

(3) A statement describing the evidence before the Secretary upon which he proposes to base such regulations; and

(4) Any studies made by or for the Secretary of any recommendations made by or for the Secretary or the Marine Mammal Commission which relate to the establishment of such regulations."

The following information is published in fulfillment of the above stated requirements of section 103(d) of the Act. It represents all of the information on the above subjects available to NMFS at this time:

"(1) A statement of the estimated existing levels of the species and population stocks of the marine mammal concerned."

Of approximately 104 species of marine mammals throughout the world, 66 are of primary concern to the United States and are the responsibility of the Secretary of Commerce under the terms of the Marine Mammal Protection Act. Of these 66 species, 18, plus the sea otter, have a reported incidence of taking by commercial fishermen or are in direct competition with commercial fishermen resulting in damage to gear or depredation of captured fish. These 19 species with estimated population levels are as follows:

1. California sea lion (*Zalophus californianus californianus*)	60,000.
2. Northern (Stellar) sea lion (*Eumetopias jubatus*)	200,000.
3. South African fur seal (*Arctocephalus pusillus*)	1,000,000.
4. Northern fur seal (*Callorhinus ursinus*)	1,200,000.
5. Harbor seal (*Phoca vitulina*)	900,000.
6. Gray seal (*Halichoerus grypus*)	60,000.
7. Southern elephant seal (*Mirounga leonina*)	600,000.
8. Bottle-nose dolphin (*Tursiops truncatus*)	Unknown—believed stable.
9. Sarawak dolphin (*Lagenodelphis hosei*)	Unknown—rare.
10. Spotted dolphin (*Stenella attenuata*, s. *frontalis*, s. *graffmani*, s. *dubia*)	Unknown—rare.
11. Spinner dolphin (*Stenella longirostris*)	Unknown.
12. Striped dolphin (*Stenella caeruleoalba*)	Unknown.
13. Common dolphin (*Delphinus delphis*)	Unknown.
14. Pygmy killer whale (*Feresa attenuata*)	Unknown.
15. False killer whale (*Pseudorca crassidens*)	Unknown—uncommon.
16. Killer whale (*Orcinus orca*)	Unknown.
17. Beluga whale (*Delphinapterus leucas*)	Unknown (1,000 Bristol Bay, Alaska).
18. Dall porpoise (*Phocoenoides dalli*)	Unknown.
19. Sea otter (*Enhydra lutris*)	Unknown (126,500—Alaska and California).

"(2) A statement of the expected impact of the proposed regulations on the optimum sustainable population of each species or population stock."

The greatest incidence of take of marine mammals involves dolphins (porpoises) and pygmy killer whales in the eastern tropical Pacific purse-seine fishery for yellowfin tuna. Estimates of porpoise kills by U.S. fishermen were 214,000 in 1970, 167,000 in 1971, and 228,000 in 1972. The importance of these kills in relation to optimum sustainable populations is not known due to lack of knowledge of the sizes of porpoise populations and other population dynamics factors. Population modeling studies underway are scheduled to provide information on population sizes by October, 1974. Data being gathered by observers aboard tuna fishing vessels are designed to provide accurate data on the composition (numbers, age, sex, size) of the porpoise kill.

Sea lions and seals directly interfere with commercial salmon and halibut fishing operations by damaging gear and preying on captured fish. Entanglement in gear at times results in death and injury of these mammals. However, based on available information, the incidence of death or serious injury is considered minor. More often the gear is damaged by the escape efforts of the animal. Some are deliberately killed by rifle fire, usually after efforts to deter the interference by the sea lions and seals have failed.

The South African fur seal and Southern elephant seal are not of immediate direct concern since American Fishermen are not known to take these species, nor are fish caught in association with these mammals known to be imported into the United States. Dall porpoise sometimes become entangled in gill nets and drown, however, the frequency of incidence is unknown.

Killer whales and beluga whales are seldom taken incidentally by commercial fishermen even though they are major competitors for salmon and tuna. Sea otters are infrequently taken incidentally by commercial fishermen, although they are competitors.

The expected impact of the proposed regulations is that mortality and serious injuries to marine mammals in connection with commercial fishing operations

will be minimized, thereby allowing the maintenance of optimum sustainable populations of marine mammals. Optimum sustainable populations of marine mammal stocks are considered in terms of the carrying capacity of the habitat and the health of the ecosystem.

The regulations will recognize, insofar as is possible consistent with the provisions and policies of the Act, the right of a commercial fisherman to protect his gear and/or catch from damage or depredation by marine mammals.

"(3) A statement describing the evidence before the Secretary upon which he proposes to base such regulations."

Information available upon which to base regulations is very limited for many population stocks. The permit system required by the Act provides a mechanism by which data can be gathered. As the permit system is implemented, improved management information will become available.

Information that is available upon which to base regulations consists of:

1. Scientific and general files of the National Marine Fisheries Service, the Bureau of Sport Fisheries and Wildlife (Department of the Interior), the individual States, and personal knowledge of Federal and State biologists and law enforcement personnel.

2. Scientific publications on marine mammals by all sources worldwide.

3. Reports of the Inter-American Tropical Tuna Commission (IATTC), and other international fisheries organizations.

4. Records made at the following public hearings:

a. "Methods and devices for reducing marine mammal mortality incidental to commercial fishing," National Marine Fisheries Service, Washington, D.C., July 31, 1973 and San Diego, California, August 3, 1973.

b. "Oversight Hearings on Marine Mammal Protection Act," Subcommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, La Jolla, California, August 21, 1973, Anchorage, Alaska, August 31, 1973, and Washington, D.C., January 16, 1974.

c. Fourteen public hearing records regarding applications for economic hardship exemptions from the Marine Mammal Protection Act, National Marine Fisheries Service, February 21, 1973, through June 20, 1973.

d. Public hearing regarding application by the U.S. Navy Undersea Center for a scientific research permit, Washington, D.C., December 13, 1973.

5. Legislative history and hearings on the Marine Mammal Protection Act of 1972.

6. Report of the Secretary of Commerce, "Administration of the Marine Mammal Protection Act of 1972, December 21, 1972 through June 21, 1973" (38 FR 20564).

7. Report of the Secretary of the Interior, "Administrative and Status Report"on marine mammals, current as of June 21, 1973 (38 FR 21506).

8. Report of the NOAA Tuna-Porpoise Review Committee, September 8, 1972.

9. Environmental Impact Statement prepared by the National Marine Fisheries Service and associated information submitted by the South African government relating to South African fur seals.

"(4) Any studies made by or for the Secretary or any recommendations made by or for the Secretary or the Marine Mammal Commission which relate to the establishment of such regulations":

Several studies are in progress at the Southwest Fisheries Center, La Jolla, California, and the Northwest Fisheries Center, Seattle, Washington, regarding the tuna fishery and its historical incidence of porpoise mortality. Results of these studies will be considered in regulations and future modifications of regulations. No reports or conclusions are available at this time, other than as reported in hearing records and other referenced reports.

Section 102(c)(3) of the Act prohibits the importation of any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of such fish. Section 101(a)(2) directs the Secretary of the Treasury to ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. This section requires that reasonable proof be obtained from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.

These provisions will be implemented by regulations requiring appropriate certification by the countries of origin, and documentation to accompany all fish and fish products to be imported into the United States.

Dated: March 7, 1974.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.74-5744 Filed 3-12-74;8:45 am]

MARINE MAMMALS

Issuance of Permit for

On November 13, 1973, a notice was published in the FEDERAL REGISTER (38 FR 31327), stating that an application had been filed with the National Marine Fisheries Service by the United States Navy Naval Undersea Center, Biosystems Research Department, Code 40, San Diego, California 92132, for a Permit:

1. To tag with radiosonic tags seven (7) Pacific White-sided dolphin (*Legenorhynchus obliquidens*), ten (10) common dolphin (*Delphinus delphis*) and five (5) Pacific pilot whales (*Globicephala macrorhyncha*);

2. To tag with visual tags, without capture, ninety (90) Pacific White sided dolphin (*Lagenorhynchus obliquidens*), one hundred (100) common dolphin (*Delphinus delphis*) and fifteen (15) Pacific pilot whales (*Globicephala macrorhyncha*);

3. To capture and maintain in captivity forty-three (43) Atlantic bottlenosed dolphin (*Tursiops truncatus*), two of which are currently held in captivity, two (2) rough-toothed dolphin (*Steno bredanensis*), three (3) common dolphin (*Delphinus delphis*), sixteen (16) California sea lions (*Zalophus californianus*), and twenty (20) grey seals (*Halichoerus grypus*);

4. And to collect, nurse back to health, and release or maintain in captivity, as appropriate, all available stranded, beached, sick and injured cetaceans and California sea lions (*Zalophus californianus*).

All animals will be tagged or captured during the period from the date of issuance to June 30, 1975.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), after having considered the application and all other pertinent information and facts, with regard thereto, the National Marine Fisheries Service issued a Permit on March 7, 1974, to the United States Navy Naval Undersea Center, subject to certain conditions set forth in the Permit, which is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C.

Dated: March 7, 1974.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.74-5743 Filed 3-12-74;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 licensing policy of each Agency-sponsor.

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.

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. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent application 327,982: Formaldehyde Based Disinfectants; filed 30 January 1973; PC $3.00/MF $1.45.

Patent application 388,305: Solder Leveling; filed 14 August 1973; PC $3.00/MF $1.45.

Patent 3,742,720: Quantitative Recovery of Krypton from Gas Mixtures Mainly Comprising Carbon Dioxide; filed 25 July 1972, patented 3 July 1973; not available NTIS.

Patent 3,742,757: Cell for Measuring Stresses in Prestressed Concrete; filed 18 October 1972, patented 3 July 1973; not available NTIS.

Patent 3,743,569: Armor of Cermet with Metal Therein Increasing with Depth; filed 2 April 1970, patented 3 July 1973; not available NTIS.

Patent 3.743,696: Separation of Americium and Curium; filed 4 February 1971, patented 3 July 1973; not available NTIS.

Patent 3,743,986: Improved Resistive Envelope for a Multifilament Superconductor Wire; filed 8 February 1972, patented 3 July 1973; not available NTIS.

Patent 3,744,975: Rotor for Multistation Photometric Analyzer; filed 9 December 1971, patented 10 July 1973; not available NTIS.

Patent 3,745,401: Filament Support Structure for Large Electron Guns; filed 15 February 1972, patented 10 July 1973; not available NTIS.

Patent 3,745,481: Electrodes for Obtaining Uniform Discharges in Electrically Pumped Gas Lasers; filed 13 June 1972, patented 10 July 1973; not available NTIS.

Patent 3,746,175: Compact Dialyzer; filed 14 September 1971, patented 17 July 1973; not available NTIS.

Patent 3,746,616: Stabilized Uranium or Uranium-Plutonium Nitride Fuel; filed 20 July 1971, patented 17 July 1973; not available NTIS.

Patent 3,746,859: High Intensity Neutron Source; filed 22 April 1970, patented 17 July 1973; not available NTIS.

Patent 3,747,001: Pulse Processing System; filed 17 February 1972, patented 17 July 1973; not available NTIS.

Patent 3,747,410: Indium-Sesquioxide Vacuum Gauge; filed 5 July 1972, patented 24 July 1973; not available NTIS.

Patent 3,749,915: Solid State Radiation Detector; filed 11 April 1972, patented 31 July 1973; not available NTIS.

U.S. Department of Agriculture, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 276,064: Method for Reducing Pulp Chip Deterioration with Aqueous Solutions of Sodium N-Methyldithiocarbamate; 28 July 1972, PC $4.00/MF $1.45.

Patent 3,717,067: Underlayment Fastening Device: filed 7 January 1971, patented 20 February 1973; not available NTIS.

Patent 3,718,262: Two Cable Tension-Controlled Carriage; filed 24 February 1971, patented 27 February 1973; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent 3,776,909: 4,6-Diamono-1 (p-Benzyloxyphenyl - 1,2 - Dihydro-2,2-Dimethyl-s-Triazines; filed 19 April 1972, patented 4 December 1973; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, DC 20240.

Patent application 407,389: Non-Plugging Pressure Tap; filed 17 October 1973, PC $3.00/MF $1.45.

Patent application 414,832: MHD Power Generation; filed 12 November 1973; PC $3.00/MF $1.45.

Patent 3,320,591: Metering System Responsive to Interrogations from a Central Station; filed 13 December 1962, patented 16 May 1967; not available NTIS.

Patent 3,327,396: Extensometer; filed 10 March 1965, patented 27 June 1967; not available NTIS.

Patent 3,347,370: process for Washing and Removing Organic Heavy Liquids from Mineral Particles; filed 31 October 1963, patented 17 October 1967; not available NTIS.

Patent 3,412,184: Process for the Preparation of Cellulosic Ester Reverse Osmosis Membranes; filed 17 February 1966, patented 19 November 1968; not available NTIS.

Patent 3,500,934: Fly Ash Injection Method and Apparatus; filed 9 September 1968, patented 17 March 1970; not available NTIS.

Patent 3,508,431: System for Calibration of a Differential Pressure Transducer; filed 5 September 1968, patented 28 April 1970; not available NTIS.

Patent 3,509,325: Bidirectional Counter Apparatus with Separate Detectors; filed 15 November 1966, patented 28 April 1970; not available NTIS.

Patent 3,513,813: Dilute Phase Particulate Matter Reactor-Heat Exchanger; filed 31 December 1968, patented 26 May 1970; not available NTIS.

Patent 3,525,589: Production of Boron Carbide Whiskers; filed 17 May 1968, patented 25 August 1970; not available NTIS.

Patent 3,532,330: Seal and Trommel for a Rotary Kiln; filed 20 December 1968, patented 6 October 1970; not available NTIS.

Patent 3,533,779: Method for Smelting Low-Sulfur Copper Ores; filed 28 May 1968, patented 13 October 1970; not available NTIS.

Patent 3,542,908: Method of Manufacturing a Reverse Osmosis Membrane; filed 22 March 1968, patented 24 November 1970; not available NTIS.

Patent 3,565,766: Copyrolysis of Coal and Heavy Carbonaceous Residue; filed 24 January 1969, patented 23 February 1971; not available NTIS.

Patent 3,567,412: Gasification of Carbonaceous Fuels; filed 12 August 1968, patented 2 March 1971; not available NTIS.

Patent 3,567,427: Chemical Disaggregation of Rock; filed 7 November 1968, patented 2 March 1971; not available NTIS.

Patent 3,573,182: Process for Separating Zinc and Copper, filed 11 January 1968, patented 30 March 1971; not available NTIS.

Patent 3,594,329: Regeneration of Zinc Chloride Catalyst; filed 23 July 1969, patented 20 July 1971; not available NTIS.

Patent 3,594,860: Method for Shucking and Eviscerating Bivalve Mollusks; filed 12 November 1969, patented 27 July 1971; not available NTIS.

Patent 3,632,990: Data Readout and Recording Apparatus; filed 18 February 1970, patented 4 January 1972; not available NTIS.

Patent 3,639,810: Power System Monitoring Relay; filed 18 February 1971, patented 1 February 1972; not available NTIS.

Patent 3,650,931: Purification of Reactive Metals; filed 5 June 1969, patented 21 March 1972; not available NTIS.

Patent 3,656,048: Non-Linear Exciter Controller for Power System Damping; filed 16 July 1970, patented 11 April 1972; not available NTIS.

Patent 3,775,308: Method for Preparation of Composite Semipermeable Membrane; filed 18 May 1972, patented 27 November 1973; not available NTIS.

Patent 3,776,718: Recovery of Copper and Steel from Scrap; filed 13 July 1973, patented 4 December 1973; not available NTIS.

Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent 3,561,346: Blast Actuated Module Valve; filed 26 February 1969, patented 9 February 1971; not available NTIS.

Patent 3,562,451: Microphone and Headset for Under Water Swimmer; filed 11 June 1968, patented 9 February 1971; not available NTIS.

Patent 3,563,499: Mechanism to Transfer Engine Torque and Control Motion Across Helicopter Rotor Vibration Isolator; filed 15 January 1969, patented 16 February 1971; not available NTIS.

Patent 3,563,858: Aeration and Foam Control in Sparged Fermentation; filed 27 September 1967, patented 16 February 1971; not available NTIS.

Patent 3,564,304: Electrode Configuration for Tubular Piezoelectric High-Strain Driver; filed 22 September 1969, patented 16 February 1971; not available NTIS.

Patent 3,564,445: Circuit for Eliminating Crossover Distortion in Solid State Amplifiers; filed 9 October 1968, patented 16 February 1971; not available NTIS.

Patent 3,564,481: Electrical Connector; filed 13 January 1969, patented 16 February 1971; not available NTIS.

Patent 3,565,060: Biopotential Sensor Employing Integrated Circuitry; filed 21 August 1968, patented 23 February 1971; not available NTIS.

Patent 3,565,516: Extended Range Underwater Optics System; filed 25 July 1969, patented 23 February 1971; not available NTIS.

Patent 3,565,700: Method for Preparing and Purifying Pure Dry Fluoride Materials; filed 10 December 1968, patented 23 February 1971; not available NTIS.

Patent 3,566,068: Apparatus for Aligning and Arc-Removing Turbine Nozzle Vanes; filed 29 August 1968, patented 23 February 1971; not available NTIS.

Patent 3,566,106: Nonmicrophonic Infrared Gas Analyzer; filed 2 January 1969, patented 23 February 1971; not available NTIS.

Patent 3,566,118: An Axially Aligned Gamma Ray-Neutron Detector; filed 14 November 1968, patented 23 February 1971; not available NTIS.

Patent 3,567,698: Thermally Stable Silarylene-1,3,4-oxadiazole Polymers Soluble in Organic Solvents; filed 2 September 1969, patented 2 March 1971; not available NTIS.

Patent 3,568,079: Acoustic Signal Amplifier; filed 24 April 1969, patented 2 March 1971; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA—Code GP-2, Washington, DC 20546.

Patent application 412,379: Anti-Multipath Digital Signal Detector; filed 2 November 1973, PC $3.00/MF $1.45.

[FR Doc.74-5645 Filed 3-12-74;8:45 am]

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 licensing policy of each Agency-sponsor.

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.

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. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, DC. 20545.

Patent 3,743,569: Armor of Cermet with Metal Therein Increasing with Depth; Filed 2 April 1970, patented 3 July 1973; not available NTIS.

Patent 3,745,481: Electrodes for Obtaining Uniform Discharges in Electrically Pumped Gas Lasers; filed 13 June 1972, patented 10 July 1973; not available NTIS.

Patent 3,748,273: Preparation of Sols by Hydrogen Reduction of Nitrate Solutions; filed 4 May 1971, patented 24 July 1973; not available NTIS.

Patent 3,750,266: Flow Control of Filler Alloy; filed 25 August 1972, patented 7 August 1973; not available NTIS.

Patent 3,752,709: Corrosion Resistant Metastable Austenitic Steel; filed 12 October 1970, patented 14 August 1973; not available NTIS.

Patent 3,753,152: Electrical Wave Pumped Pulsed Laser; filed 2 February 1972, patented 14 August 1973; not available NTIS.

Patent 3,758,663: Separation of Lead–210 from Polonium–210 and Bismuth–210; filed 18 May 1972, patented 11 September 1973; not available NTIS.

Patent 3,758,669: Process for the Preparation of Uranium Nitride Powder; filed 23 November 1971, patented 11 September 1973; not available NTIS.

Patent 3,758,780: Optical-Binary Coded Position-Sensitive Radiation Detector; filed 8 November 1972, patented 11 September 1973; not available NTIS.

Patent 3,759,083: Sensing Element Response Time Measuring System; filed 19 April 1972, patented 18 September 1973; not available NTIS.

Patent 3,760,057: Separation of Mercury from Aqueous Solution; filed 2 August 1971, patented 18 September 1973; not available NTIS.

Patent 3,761,564: Separation of Californium from Other Actinides; filed 24 January 1972, patented 25 September 1973; Not available NTIS.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, DC. 20314.

Patent 3,604,406: Preparation of Polyoxazolidones; filed 31 July 1970, patented 26 September 1972; not available NTIS.

Patent 3,695,761: Photomultiplier for a Laser Velocimeter; filed 31 July 1970, patented 3 October 1972; not available NTIS.

Patent 3,698,234: Process for Nondestructive Inspection; filed 18 November 1970, patented 17 October 1972; not available NTIS.

Patent 3,699,570: TACAN Ground Station Track and Display System; filed 10 September 1970, patented 17 October 1972; not available NTIS.

Patent 3,700,800: Drum-Display Synchronizer; filed 18 May 1971, patented 24 October 1972; not available NTIS.

Patent 3,701,157: Helicopter UHF Antenna System for Satellite Communications; filed 3 June 1971, patented 24 October 1972; not available NTIS.

Patent 3,730,625: Laser Velocimeter Employing Reference Beam Detection; filed 26 February 1971, patented 1 May 1973; not available NTIS.

Patent 3,730,687: Spectral Separation and Analysis of Isomeric Azoxybenzenes; filed 28 September 1971, patented 1 May 1973; not available NTIS.

Patent 3,730,832: Nuclear Reactor Fuel Charging and Discharging System; filed 23 June 1971, patented 1 May 1973; not available NTIS.

Patent 3,730,834: Gas Injection System for Dust Core Reactor; filed 4 May 1971, patented 1 May 1973; not available NTIS.

Patent 3,731,119: State Retention Circuit for Radiation Hardened Flip Flop; filed 10 November 1971, patented 1 May 1973; not available NTIS.

Patent 3,731,139: Interface Amplifier; filed 16 November 1970, patented 1 May 1973; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 395,196: Reducing Defects in Kiln Drying Lumber; 7 September 1973, PC $4.00/MF $1.45.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent application 405,532: Synthesis of 1-(Tetrahydro-2-Furanyl) 5-Fluorouracil (Ftorafur) VIA Direct Fluorination; filed 9 October 1973; PC $4.00/MF $1.45.

Patent 3,765,412: Inflatable Cervical Collar for Prevention of Head and Neck Injury; filed 23 December 1971, patented 16 October 1973; not available NTIS.

Patent 3,766,383: Techniques and Apparatus for Calibrating the Kilovoltage Indicator on Diagnostic X-Ray Generators; filed 26 November 1971, patented 16 October 1973; not available NTIS.

Patent 3,766,923: Device for Treating Sub-Unqual Hematoma; filed 3 April 1972, patented 23 October 1973; not available NTIS.

Patent 3,773,426: Bacterial Growth Detector; filed 22 February 1972, patented 20 November 1973; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, DC 20240.

Patent Application 405,603: Paging Visual Signaller; 11 October 1973; PC $3.00/MF $1.45.

Patent 3,309,292: Method for Obtaining Thick Adherent Coatings of Platinum Metals on Refactory Metals; filed 28 February 1964, patented 14 March 1967; not available NTIS.

Patent 3,330,646: Method for Producing Molybdenum from Molybdenite (MoS_2); filed 3 February 1964, patented 11 July 1967; not available NTIS.

Patent 3,343,655: Undulatory Conveyor; filed 12 December 1966, patented 26 September 1967; not available NTIS.

Patent 3,352,991: Method and Apparatus for Melting Metals by Induction Heating; filed 9 March 1965, patented 14 November 1967; not available NTIS.

Patent 3,357,896: Decaking of Caking Coals; filed 25 January 1966, patented 12 December 1967; not available NTIS.

Patent 3,424,675: Vapor Compression Solvent Extractor Desalination; filed 25 August 1965, patented 28 January 1969; not available NTIS.

Patent 3,429,710: Pressure Cooking Process to Produce Fish Cakes for Animal Use; filed 20 October 1965, patented 25 February 1969; not available NTIS.

Patent 3,466,094: Blasting Arrangement for Oil Shale Mining; filed 5 February 1968, patented 9 September 1969; not available NTIS.

Patent 3,501,267: Reaction of Coal and Ammonia to Make Hydrogen Cyanide; filed 13 March 1968, patented 17 March 1970; not available NTIS.

Patent 3,507,629: Extraction of Aluminum from Silicate Rocks and Minerals Containing Aluminum; filed 10 February 1966, patented 21 April 1970; not available NTIS.

Patent 3,508,240: Annunciator System; filed 24 October 1968, patented 21 April 1970; not available NTIS.

Patent 3,508,613: Chemical Disaggregation of Rock Containing Clay Minerals; filed 7 November 1968, patented 28 April 1970; not available NTIS.

Patent 3,508,659: Cantilevered Traveling Screen; filed 2 April 1969, patented 28 April 1970; not available NTIS.

Patent 3,514,266: Separation of Aluminum, Calcium, and Magnesium from the Alkali Metals by Solvent Extraction; filed 27 October 1966, patented 26 May 1970; not available NTIS.

Patent 3,514,629: Two-Conductor Remote Switching and Transmitting Control System; filed 23 January 1969, patented 26 May 1970; not available NTIS.

Patent 3,517,521: Method and Apparatus for Separating Neon from a Mixture of Gases; filed 24 January 1968, patented 30 June 1970; not available NTIS.

Patent 3,520,960: Method of Making Microporous Cellulose Nitrate Films; filed 22 March 1967, patented 21 July 1970; not available NTIS.

Patent 3,523,886: Process for Making Liquid Fuels from Coal; filed 24 February 1969, patented 11 August 1970; not available NTIS.

Patent 3,526,549: Solid Electrolyte Stacked Disc Fuel Cells; filed 9 April 1968, patented 1 September 1970; not available NTIS.

Patent 3,536,795: Prevention of Swelling Salt Precipitation in Reverse Osmosis Fabrication; filed 6 November 1967, patented 27 October 1970; not available NTIS.

Patent 3,542,540: Carbanion Leaching of Heavy Metal Ores; filed 30 October 1968, patented 24 November 1970; not available NTIS.

Patent 3,545,920: Process for Extracting Aluminum from Solutions; filed 26 February 1968, patented 8 December 1970; not available NTIS.

Patent 3,547,185: Method for Promoting Dropwise Condensation on Copper and Copper Alloy Condensing Surfaces; filed 20 June 1969, patented 15 December 1970; not available NTIS.

Patent 3,547,579: Removal of Sulfates from Brines; filed 19 December 1967, patented 15 December 1970; not available NTIS.

Patent 3,551,093: Alkalized Alumina Absorbent and Method of Making Same; filed 21 October 1968, patented 29 December 1970; not available NTIS.

Patent 3,551,123: System Employing Coal as Fuel in a Steam Reformer; filed 18 October 1968, patented 29 December 1970; not available NTIS.

Patent 3,553,879: Seine Tow Bar; filed 18 June 1969, patented 12 January 1971; not available NTIS.

Patent 3,558,986: Tieline Swing Relay; filed 2 December 1968, patented 26 January 1971; not available NTIS.

Patent 3,565,022: Method for Regulating Heat Output from an Oxidizing Fluidized Bed; filed 24 September 1969, patented 23 February 1971; not available NTIS.

Patent 3,565,593: Converging-Diverging Type Gas-Solids Fluidizer and Method of Use; filed 14 October 1968, patented 23 February 1971; not available NTIS.

Patent 3,567,377: Recovery of Sulfur Values from Sulfur Bearing Materials; filed 12 August 1968, patented 2 March 1971; not available NTIS.

Patent 3,571,682: Servocontrol with Time Delay and Ramp Motor Start; filed 29 April 1969, patented 23 March 1971; not available NTIS.

Patent 3,573,940: Fly Ash Based Preformed Support Structures; filed 31 January 1969, patented 6 April 1971; not available NTIS.

Patent 3, 574,595: Method for Producing Prereduced Iron Ore Pellets; filed 6 January 1969, patented 13 April 1971; not available NTIS.

Patent 3,576,621: Vanadium-Base Alloy; filed 23 April 1969, patented 27 April 1971; not available NTIS.

Patent 3,577,232: Removing Nickel from Cadmium; filed 29 May 1969, patented 4 May 1971; not available NTIS.

Patent 3,577,331: Apparatus and Process for Effecting Changes in Solution Concentrations; filed 8 June 1967, patented 4 May 1971; not available NTIS.

Patent 3,579,293: Removal of Hydrogen Sulfide from Gaseous Mixtures; filed 10 October 1969, patented 18 May 1971; not available NTIS.

Patent 3,580,702: Method of Removing Sulfur Oxides from Gases; filed 10 September 1968, patented 25 May 1971; not available NTIS.

Patent 3,580,841: Ultrathin Semipermeable Membrane; filed 31 July 1969, patented 25 May 1971; not available NTIS.

Patent 3,585,676: Microwave Process for Shucking Bivalve Mollusks; filed 17 July 1969, patented 22 June 1971; not available NTIS.

Patent 3,587,111: Digital Correlation Recorder; filed 19 March 1970, patented 22 June 1971; not available NTIS.

Patent 3,589,987: Method for the Electrolytic Preparation of Tungsten Carbide; filed 6 May 1969, patented 29 June 1971; not available NTIS.

Patent 3,591,332: Process for recovery of Sulfur from Gypsum; filed 19 August 1968, patented 6 July 1971; not available NTIS.

Patent 3,593,335: Partial-Range Tracking Indicator; filed 16 May 1969, patented 13 July 1971; not available NTIS.

Patent 3,594,860: Method for Shucking and Eviscerating Bivalve Mollusks; filed 12 November 1969, patented 27 July 1971; not available NTIS.

Patent 3,595,484: Reclamation of Refractory Carbides from Carbide Materials; filed 28 February 1969, patented 27 July 1971; not available NTIS.

Patent 3,598,606: Preparation of Fish Protein Concentrate and Fish Meal; filed 13 February 1969, patented 10 August 1971; not available NTIS.

Patent 3,599,090: Apparatus for Detecting and Measuring Crevice Corrosion; filed 30 June 1969, patented 10 August 1971; not available NTIS.

Patent 3,599,438: Crude Helium Enrichment Process; filed 7 October 1968, patented 17 August 1971; not available NTIS.

Patent 3,600,284: Method of Adding Refractory Metal Halides to Molten Salt Electrolytes; filed 18 February 1969, patented 17 August 1971; not available NTIS.

Patent 3,600,938: Stress Relaxation Gage; filed 16 September 1969, patented 24 August 1971; not available NTIS.

Patent 3,601,159: Tubular Membrane and Membrane Support Manufacturing Process; filed 7 February 1968, patented 24 August 1971; not available NTIS.

Patent 3,602,194: Method of Fish Culture; filed 6 February 1970, patented 31 August 1971; not available NTIS.

Patent 3,608,072: Fish Toxicant Compositions and Method of Using Them; filed 21 March 1969, patented 21 September 1971; not available NTIS.

Patent 3,615,173: Separation of Rare Earth Elements by Ion Exchange; filed 3 April 1969, patented 26 October 1971; not available NTIS.

Patent 3,617,579: Process for the Partial Denitrification of a Dilute Nitrate Ion Solution; filed 31 December 1969, patented 2 November 1971; not available NTIS.

Patent 3,622,491: Electrolytic Apparatus for Molten Salt Electrolysis; filed 23 April 1969, patented 23 November 1971; not available NTIS.

Patent 3,624,685: Mechanical Strain or Displacement Gage; filed 16 December 1969, patented 30 November 1971; not available NTIS.

Patent 3,630,675: Selective Oxidation of Ferrous Scrap; filed 10 February 1969, patented 28 December 1971; not available NTIS.

Patent 3,670,754: Vacuum Controlled Fluidic Regulator; filed 29 September 1970, patented 20 June 1972; not available NTIS.

Patent 3,773,889: Ion Exchange Process; filed 13 December 1968, patented 20 November 1973; not available NTIS.

DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent 3,555,663: Method of Making an Annular Glass-to-Metal Joint; filed 9 December 1968, patented 19 January 1971; not available NTIS.

Patent 3,555,885: Fire-Fighting Foam Portable Test Kit; filed 14 July 1969, patented 19 January 1971; not available NTIS.

Patent 3,557,603: Shock Machine; filed 26 March 1968, patented 26 January 1971; not available NTIS.

Patent 3,557,630: Antibacklash Driving Mechanism; filed 24 March 1969, patented 26 January 1971; not available NTIS.

Patent 3,557,743: Ship's Propulsion Control System; filed 27 November 1963, patented 26 January 1971; not available NTIS.

Patent 3,558,369: Method of Treating Variable Transition Temperature Alloys; filed 12 June 1969, patented 26 January 1971; not available NTIS.

Patent 3,558,892: Constant Light Intensity Servo Control Unit; filed 29 November 1968, patented 26 January 1971; not available NTIS.

Patent 3,559,402: Closed Cycle Diesel Engine; filed 24 April 1969, patented 2 February 1971; not available NTIS.

Patent 3,559,607: Multiple Retrieval System for Objects in Submarine Environment; filed 28 January 1969, patented 2 February 1971; not available NTIS.

Patent 3,565,516: Extended Range Underwater Optics System; filed 25 July 1969, patented 23 February 1971; not available, NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA—Code GP–2, Washington, DC 20546.

Patent 3,771,959: Catalyst Cartridge for Carbon Dioxide Reduction Unit; patented 13 November 1973; not available NTIS.

Patent 3,772,220: Flexible Fire Retardant Polyisocyanate Modified Neoprene Foam; patented 13 November 1973; not available NTIS.

Patent 3,772,418: Molding Process for Imidazopyrrolone polymers; patented 13 November 1973; not available NTIS.

Patent 3,773,038: Digital Computing Cardiotachometer; patented 20 November 1973; not available NTIS.

Patent 3,773,913: Method for Obtaining Oxygen from Lunar or Similar Soil; patented 20 November 1973; not available NTIS.

Patent 3,775,101: Method of Forming Articles of Manufacture from Superalloy Powders; patented 27 November 1973; not available NTIS.

Patent 3,776,028: Three-Axis Adjustable Loading Structure; Patented 4 December 1973; not available NTIS.

Patent 3,776,455: Terminal Guidance System; Patented 4 December 1973; not available NTIS.

Patent 3,777,490: Supersonic-Combustion Rocket; Patented 11 December 1973; not available NTIS.

Patent 3,777,942: Potable Water Dispenser; Patented 11 December 1973; not available NTIS.

Patent 3,778,685: Integrated Circuit Package with Lead Structure and Method of Preparing the Same; Patented 11 December 1973; not available NTIS.

Patent 3,778,786: Data Storage, Image Tube Type; Patented 11 December 1973; not available NTIS.

Patent 3,779,788: Transmitting and Reflecting Diffuser; Patented 18 December 1973; not available NTIS.

Patent 3,772,216: Polyimide Foam for the Thermal Insulation and Fire Protection; patented 13 November 1973; not available NTIS.

[FR Doc.74–5646 Filed 3–12–74;9:17 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

FIELD INITIATED STUDIES

Notice of Closing Dates for Receipt of Applications

Pursuant to the authority contained in sections 641 and 642 of the Education of the Handicapped Act (84 Stat. 175, 184, 185, 20 U.S.C. 1441, 1442), the U.S. Office of Education, through the Division of Research, Bureau of Education for the Handicapped, hereby gives notice it will provide approximately $1,500,000 for support of field initiated, applied research and research related activities concerned with the education of handicapped children.

1. Attention will be concentrated on research relating to four of the objectives of the Bureau of Education for the Handicapped as they appear in proposed form in the FEDERAL REGISTER of October 11, 1973, at 38 FR 28231:

(1) To assure that every handicapped child is receiving an appropriately designed education.

(2) To assure that every handicapped child who leaves school has had career educational training that is relevant to the job market, meaningful to his career aspirations, and realistic to his fullest potential.

(3) To assure that all handicapped children served in the schools have a trained teacher or other resource person competent in the skills required to aid the child in reaching his full potential.

(4) To secure the enrollment of preschool aged handicapped children in

Federal, State, and local educational day care programs.

The Commissioner is particularly interested in receiving applications for projects which would address the problem of enabling the most severely handicapped children and youth to become as independent as possible, thereby reducing their requirements for institutional care and providing opportunity for self-development.

2. Consideration for support will be given to applications from all fields of study that can contribute significantly to the improvement of educational opportunities for the handicapped. These include applied research on cognitive functions and processes—memory, information processing, learning theories, etc.; on improved teaching and learning environments; on communication media and teaching systems; on effective teaching and the condtions that facilitate it; on ancillary educational components such as counseling, pupil personnel services; etc.

3. No priorities among the five categories listed above have been established. Proposals which do not relate directly to one or more of the overall objective areas will not be accepted. The following specific references within each objective area are intended as examples, not as firm limitations.

a. *Full School Services (Objective (1))—Curriculum, methods, and materials.* The long term goal is to assure availability of programs suitable for all handicapped populations, in all subject matter areas, and in all appropriate educational settings. Emphasis should be given to research on instructional systems which can be used with handicapped students in a variety of settings.

Ecology of Education of the Handicapped. The Office will consider research activities designed to facilitate the creation of an environment which will optimize development of full special education opportunities. This may include studies of public attitude, legal responsibilities, educational finance and community participation as related to the educational problems of the handicapped.

Delivery of Special Education Services. Particular attention should be given to organization of services, backup resources for teachers, coordination and integration of paraeducational systems.

b. *Career Education (Objective (2))—Prevocational Preparation.* Activities here involve identity and awareness such as career and learning potential, social interaction, and motor and sensory training.

Vocational Programming. Research activities in this area may include attitudinal development, career-exploration and preparation, job training and placement. The various environments may include schools, transitional facilities as well as traditional work stations.

Post Secondary Programs. Activities in this area may include specific occupational preparation, adult and continuing education, and personal development.

c. *Manpower (Objective (3))—Curriculum for the training of personnel.* Research may emphasize the study of innovative personnel training models.

Teacher Behavior. Research into the malleability of desired behaviors and the effects of specific teacher behaviors on pupil performance are of interest.

Personnel utilization. Interest should center on validation of new staff roles related to special education, and on optimal staff organization, and utilization.

d. *Preschool Education (Objective (4))—Curriculum, methods, and materials.* Within this area of programming it is suggested that research be directed to the adaptation of existing regular pre-school programs and curricula to the needs of the handicapped; and the evaluation of curricula, methods, and materials.

Identification and diagnosis. The program would be concerned with the identification and diagnosis of pre-school children with handicapping conditions. This may include research studies into predictive behaviors, potentially handicapping conditions, and the identification of cognitive, social and emotional behavior expectations. The research program may devote its resources to test selection and/or development, and to research into systems and/or models for the identification and diagnosis of preschoolers with handicapping conditions.

Integration and organization of services. The Office will consider studies of program and system organization (integration vs. segregation, categorical programs, personnel utilization, etc.) related to providing appropriate preschool educational services for the handicapped. Of particular interest is investigation of the integration of educational services with other services for the preschool handicapped, and the investigation of alternatives and adjuncts to traditional preschool programming. This may include validation and standardization of promising treatment programs.

e. *Severely Handicapped.* Superimposed on the overall strategies indicated previously, is an overriding interest in emphasizing, in all areas, activities addressed to the educational problems of severely handicapped children. In particular we feel that curriculum studies at all levels, organization of early childhood education programs, career education programs generally, and personnel development research may be highly focused on the needs of the severely handicapped.

4. Applications for grants must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and 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) or before April 16, 1974.

5. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) 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 prior 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

(b) 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.

6. The regulations which govern assistance under these programs appeared in the May 25, 1973 issue of the FEDERAL REGISTER at 38 FR 13739. A notice of proposed rulemaking which would revise these regulations was published in the FEDERAL REGISTER on October 11, 1973 at 38 FR 28230. These programs are also subject to the applicable sections of the Office of Education General Provisions Regulations, published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654.

7. Applications must be made on OE Form 9037, 6/73 (OMB Circular A–102) available from the Division of Innovation and Development, BEH, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 1441, 1442)

(Catalog of Federal Domestic Assistance, No. 13.443 Handicapped Research and Demonstration; No. 13.447 Handicapped Physical Education and Recreation Research)

Dated: March 7, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–5819 Filed 3–12–74;8:45 am]

HIGHER EDUCATION PERSONNEL FELLOWSHIPS

Criteria for Funding of Applications for Fiscal Year 1974

On page 32962 of the FEDERAL REGISTER of November 29, 1973, (38 FR 32962) there was published a Notice of Proposed Criteria for funding of applications for Fiscal Year 1974 and a notice of the cut-off date for filing applications. Interested persons were given 15 days in which to submit written comments, suggestions, or objections regarding the proposed criteria.

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

Effective date. These criteria shall be effective on March 13, 1974.

(Catalog of Federal Domestic Assistance Program Number 13.462; Higher Education Personnel Fellowships)

Dated: February 13, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: March 4, 1974.

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

The Commissioner will select applications to be funded under title V, Part E of the Higher Education Act of 1965 on the basis of the following criteria:

(1) The extent to which the proposed training program is concerned with the following national priorities:

(i) Training higher education personnel who are concerned with the needs of low-income and minority students, including personnel who will serve in developing institutions;

(ii) Training educational personnel for two-year junior and community colleges, particularly in urban areas, or

(iii) Preparing women and minority students entering or reentering graduate education for careers in higher education.

(2) The extent to which the application contains concrete data and other information evidencing need in higher education to which the program is addressed.

(3) The extent to which the objectives of the training program are stated clearly and are sharply focused to meet the need.

(4) The extent to which the application contains a clear and detailed description of training procedures which will effectively achieve the objectives.

(5) The extent to which the proposed program includes effective procedures for evaluation of the impact of the training in meeting the need.

(6) The extent to which the proposed staff of the program is qualified to achieve its specific objectives.

(7) The extent to which the applicant has established effective communication with target groups who will receive the impact of the training, such as college administrators and faculty, students, the local community, and parents.

(8) The extent to which the application provides evidence that the institution and groups involved in the training program are committed to its objectives.

(9) The ability of the applying institution to offer a high quality graduate higher education personnel preparation program.

(10) The amount and extent of previous planning and development of the program.

(11) The extent to which a carefully conceived and effectively supervised internship experience is included as an integral feature of the training proposal.

(20 U.S.C. 11196–11196–1)

[FR Doc.74–5791 Filed 3–12–74;8:45 am]

STUDENT RESEARCH

Notice of Closing Dates for Receipt of Applications

Pursuant to the authority contained in Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of applications for support of student research under sections 641 and 642 of the Act (research in education, physical education and recreation for the handicapped).

1. The purpose for this special program of financial support for student research is multifold: (a) To stimulate new personnel to enter the field of research in education of the handicapped; (b) to assist students in obtaining a viable research product; (c) to motivate research in the education of handicapped children; (d) to encourage coordination and communication between university disciplines and departments.

2. Attention will be concentrated on research relating to four of the objectives of the Bureau of Education for the Handicapped as they appear in proposed form in the FEDERAL REGISTER of October 11, 1973, at 38 FR 28231:

(1) To assure that every handicapped child is receiving an appropriately designed education.

(2) To assure that every handicapped child who leaves school has had career educational training that is relevant to the job market, meaningful to his career aspirations, and realistic to his fullest potential.

(3) To assure that all handicapped children served in the schools have a trained teacher or other resource person competent in the skills required to aid the child in reaching his full potential.

(4) To secure the enrollment of preschool aged handicapped children in Federal, State, and local educational day care programs.

Proposals which cannot be shown to have some bearing on these objectives will not be considered.

The Commissioner is particularly interested in receiving applications for projects which would address the problem of enabling the most severely handicapped children and youth to become as independent as possible, thereby reducing their requirements for institutional care and providing opportunity for self-development.

3. Applications for grants must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and 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) on or before April 15, 1974.

4. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) 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 prior 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

(b) 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.)

5. The regulations which govern assistance under these programs appear in the May 25, 1973 issue of the FEDERAL REGISTER at 38 FR 13739. A notice of proposed rulemaking which would revise these regulations was published in the FEDERAL REGISTER on October 11, 1973 at 38 FR 28230. These programs are also subject to the applicable sections of the Office of Education General Provisions Regulations, published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654.

6. Applications must be made on OE Form 9037, 6/73 (OMB Circular A–102) available from the Division of Innovation and Development, BEH, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(20 U.S.C. 1441, 1442)

(Catalog of Federal Domestic Assistance, No. 13.443 Handicapped Research and Demonstration, No. 13.447 Handicapped Physical Education and Recreation Research)

JOHN OTTINA,
U.S. Commissioner of Education.

MARCH 7, 1974.

[FR Doc.74–5820 Filed 3–12–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGO–74 64]

NEW YORK HARBOR VESSEL TRAFFIC SYSTEM ADVISORY COMMITTEE

Notice of Open Meeting

This is to give notice pursuant to Pub. L. 92–463, Sec. 10(a), approved October 6, 1972, that the New York Harbor Vessel Traffic System Advisory Committee will conduct an open meeting on Wednesday, April 3, 1974, in the Auditorium of Building 108, Governors Island, New York beginning at 10:30 a.m.

Members of the Committee and their industry positions are:

Admiral John W. Will, USN (Ret.), State of New York, Board of Commissioners of Pilots.
Captain H. C. Breitenfeld, United New York Sandy Hook Pilots' Benevolent Association.
Captain W. H. Burrill, State of New Jersey, Board of Commissioners of Pilots.
Mr. Richard Dewling, U.S. Environmental Protection Agency.
Mr. A. Giallorenzi, American Institute of Merchant Shipping—Petroleum Industry Representative.
Mr. A. Hammon, Port Authority of New York and New Jersey.
Captain T. A. King, U.S. Department of Commerce Maritime Administration.
Commodore F. Lindner, Long Island Sound Commodores Association.
Colonel H. W. Lombard, USA, Department of the Army, Corps of Engineers.

Captain T. J. McGovern, United New Jersey Sandy Hook Pilot's Benevolent Association.
Mr. Robert W. Sanders, New York Harbor Panel, Marine Towing and Transportation Industry.
Captain R. D. Sante, USN, U.S. Navy, Military Sealift Command.
Captain S. M. Seledee, American Institute of Marine Underwriters.
Captain J. G. Stillwaggon, Interport Pilots' Associates, Inc.
Catpain K. C. Torrens, American Institute of Merchant Shipping.

The Agenda for the April 3, 1974 meeting consists of:

1. Report of the Executive Committee given by Captain K. C. Torrens, Chairman of the Executive Committee.
2. Report from the Long Island Sound Sub-Committee given by Captain D. M. Kennedy, Chairman of the Long Island Sound Sub-Committee.
3. Report from the Hudson River Sub-Committee given by Captain H. C. Breitenfeld, Chairman of the Hudson River Sub-Committee.
4. Report from the New York Vessel Traffic System Staff on:
a. The results of the Communications equipment Questionnaire.
b. The results of the Hudson River Traffic Survey.
c. Interim report on radar surveillance completed by the R&D Radar Van.
d. Results of the Traffic Surveys.
5. Comments from the floor.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District on April 1, 1973, to advise on the need for, and development, installation and operation of a Vessel Traffic System for the New York Harbor. Public members of the Committtee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing Commander H. A. Pledger, Project Officer, Vessel Traffic System, Third Coast Guard District, Governors Island, New York 10004, or by calling 212-264-0409.

Dated: February 26, 1974.

B. F. ENGEL,
Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc.74-5776 Filed 3-12-74;8:45 am]

ADVISORY COUNCIL FOR MINORITY ENTERPRISE

EXECUTIVE COMMITTEE MEETING

Public Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) notice is hereby given that a public meeting of the Executive Committee of the Advisory Council for Minority Enterprise will be held at 9:00 a.m., Tuesday, March 19, 1974 at the Mayflower Hotel at 1127 Connecticut Avenue NW., Washington, D.C.

The purpose of the meeting is to review the present state of minority business and to consider Council activity.

W. V. WISHARD,
Executive Director.

[FR Doc.74-5770 Filed 3-12-74;8:45 am]

ATOMIC ENERGY COMMISSION

LIQUID METAL FAST BREEDER REACTOR PROGRAM

Notice of Availability of Draft Environmental Impact Statement and Intent To Conduct Public Hearing

Notice is hereby given that the General Manager of the Atomic Energy Commission (AEC) will issue on March 14, 1974 a draft environmental impact statement, "Liquid Metal Fast Breeder Reactor Program," WASH-1535, pursuant to 10 CFR Part 11—AEC regulations implementing the National Environmental Policy Act of 1969 (NEPA). Copies of the draft statement will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, as well as in the Commission's Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico, 87115; Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois 60439; Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401; Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee 37830; Richland Operations Office, Federal Building, Richland, Washington 99352; San Francisco Operations Office, 1333 Broadway, Oakland, California 94612; and Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina 29801.

Comments on the draft statement from members of the public and others will be considered in the preparation of the final environmental impact statement if received by the Atomic Energy Commission by April 29, 1974. Single copies of the draft statement will be furnished for review and comment upon request addressed to the Office of the Assistant General Manager for Biomedical and Environmental Research and Safety Programs, U.S. Atomic Energy Commission, Washington, D.C. 20545 and comments should be sent to the same address.

Notice is hereby given also that AEC plans to hold a legislative-type public hearing in connection with the Liquid Metal Fast Breeder Reactor Program (LMFBR) starting at 10:00 a.m. on April 24, 1974 in the AEC Auditorium, Germantown, Maryland.

The purpose of the hearing is to afford further opportunity for public comment regarding the draft statement and for the furnishing of any additional information which will assist the Commission in determining whether to continue the LMFBR program. The Commission has decided as a matter of discretion to hold this public hearing as there is no requirement for such a hearing under NEPA or any other law.

Information on the procedures and other pertinent aspects of the public hearing will be published in the FEDERAL REGISTER in the near future.

Dated at Germantown, Md., this 11th day of March 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-5980 Filed 3-12-74;10:35 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 26489, 22859; Order 74-3-37]

CONTINENTAL AIR LINES, INC.

Order of Suspension Regarding Increased Air Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1974.

By tariff revisions filed February 8, 1974, and marked to become effective March 10, 1974, Continental Air Lines, Inc. (Continental) proposes to increase its domestic air freight rates as follows:

1. Bulk rates in each direction (general and specific commodity by 6 percent of the westbound 100-pound general commodity rates between points on the Mainland, and 6 percent of the 500-pound rate between the Mainland and Hawaii, with a maximum increase on any rate of 10 percent;

2. Container rates by 6 percent except for rates on pineapples from Hawaii, for which no increase is proposed; and

3. Minimum charges for bulk shipments from $10 to $11.

In support of its proposal, Continental contends, inter alia, that these increases are cost justified and are necessary to offset recent cost escalations, particularly in fuel. The carrier states that the proposal will generate $2.1 million additional annual revenue, a net revenue increase of approximately 7.3 percent.[1]

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

Continental has made a showing of increased costs. The Board has been aware of the unprecedented spiralling of fuel prices in recent months and believes that some adjustment in rates and charges is warranted to help offset these increased costs.

Upon consideration of all relevant factors, however, the Board finds that the proposal, to the extent it applies to certain rates between the Mainland and Hawaii, may be unjust, unreasonable,

[1] The Hawaii Air Cargo Shippers Association (HACSA) filed an untimely request for suspension. Since the rates are automatically within the scope of Docket 22859, Domestic Air Freight Rate Investigation, the protest will be inserted in the correspondence file in that Docket.

unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be suspended. These rates, which are indicated in Appendix A, apply to certain westbound and eastbound general and specific commodity bulk rates and a number of container rates.

Although, as indicated, Continental presents justification indicating additional expenses, the carrier has made no showing that the rates proposed are in line with its costs; the rates indicated in Appendix A appear excessive in relation to costs as indicated by data available to the Board. The remaining portion of the proposal, including all proposed Mainland rate increases, as well as some Mainland-Hawaii rates and charges, appear sufficiently related to costs that the Board will permit them to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A hereto [2] are suspended and their use deferred to and including June 7, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs and served upon Continental Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-5823 Filed 3-12-74;8:45 am]

[Docket No. 26479]

DELTA AIR LINES, INC. AND TRANS WORLD AIRLINES, INC.

Route Transfer Agreement

In order to facilitate the conduct of this proceeding, all motions for consolidation or consideration of issues which enlarge, expand and change the nature of the above-entitled proceeding shall be filed with the Board on or before March 19, 1974, and answers thereto shall be due on or before March 26, 1974.

This notice will be published in the FEDERAL REGISTER.

[SEAL] HARRY H. SCHNEIDER,
Administrative Law Judge.

MARCH 8, 1974.

[FR Doc.74-5828 Filed 3-12-74;8:45 am]

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[2] Filed as part of the original document.

[Docket Nos. 25513, 25661; C.A.B. 24262; Order 74-3-38]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Proposed Passenger Fare Increase

MARCH 8, 1974.

An agreement has been filed with the Board, pursuant to section 512(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

The agreement would provide for increases of a uniform seven percent to be applied to all passenger fares intended for application on or after April 1, 1974, over the North Atlantic. Within the Western Hemisphere a uniform seven percent increase is proposed on all fares [1] intended for application on or after April 15, 1974. The proposed increases would expire March 31, 1975.

The purpose of this order is to establish procedures for the receipt of justification by the carriers and comments of third parties in the interest of a prompt disposition of the agreement. Accordingly all U.S. carrier members of IATA are directed to file within seven days of the date of this order full economic justification in support of the agreement, including past, present and future identifiable contractual fuel costs. We also expect the carriers to provide profit and loss statements, both with and without the proposed increase, based on the present fares and those proposed for 1974.

The Board would welcome comments from the foreign-flag carriers as well, which, along with those of other interested parties, should be submitted within 14 days from the date of this order.

Accordingly, it is ordered. 1. All United States air carrier members of the International Air Transport Association shall file within seven calendar days of this order full documentation and economic justification in support of the proposed fare increases embodied in the subject agreement.

2. Comments and/or objections from interested persons shall be submitted within 14 days after the date of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-5824 Filed 3-12-74;8:45 am]

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[1] The proposed increases would not apply to U.S./Canada-Mexico fares.

[Docket No. 25280, 25513, Order 74-2-91; Agreement C.A.B. 24209, R-1 through R-3; Agreement C.A.B. 24210, R-1 through R-5]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Increased Fuel Costs

Correction

In FR Doc. 74-4758, appearing at page 7832 of the issue of Thursday, February 28, 1974, the heading should read as above.

[Docket No. 26486; Order 74-3-39]

TRANS INTERNATIONAL AIRLINES

Order of Suspension and Investigation Regarding Charter Cancellation Penalty Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1974.

By tariff revisions [1] marked to become effective March 10, 1974, Trans International Airlines Corp. (TIA) proposes to add rules imposing charter cancellation penalty charges. When the charterer cancels at least 30 days but less than 89 days before the charter is to commence, the charge would be 25 percent. However, if the cancellation occurs less than 30 days prior to departure the entire amount would be forfeited as liquidated damages. TIA would also impose a 100 percent penalty if the charterer cancels in order to charter with another carrier, regardless of when the cancellation takes place.

In support of its proposal, TIA states that the charges are necessary to prevent last-minute cancellations which would result in ferry legs detrimental to it and the traveling public; and that most groups make their plans well in advance due to the amount of lead time necessary to promote a trip among their members and very few wait until 90 days prior to the desired departure date. Therefore, late cancellations could deny transportation to other groups which might wish to charter but find the lead time too short by the time the aircraft becomes available; and ferry legs should be kept to a minimum in view of the fuel shortage so as to accommodate the traveling public and utilize the available fuel most efficiently. The carrier has presented no factual data in support of its proposal.

No complaints have been filed.

Upon consideration of the tariff proposal and all relevant matters, the Board finds that the proposed revision may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board fur-

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[1] Revisions to Trans International Airlines Corp.'s Tariff, C.A.B. No. 3, filed February 8, 1974.

ther concludes that the proposal should be suspended pending investigation.[2]

The Board has previously stated that penalty provisions should be no greater than necessary to deter frivolous reservations and cancellations and protect the carrier from losses, and that they are not to be considered a source of revenue for the carriers. TIA's proposal represents a significant departure from cancellation charges now in effect for other carriers, and its justification provides no specific basis for the particular forfeiture provisions proposed. In our opinion, the proposed cancellation charges appear prima facie unnecessarily severe, and should not be permitted to become effective prior to investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions of Rule No. 65 on 5th Revised Page 12 of Trans International Airlines Corp.'s Tariff C.A.B. No. 3 (Trans International Airlines, Corp. Series) and on Original Page 15 of Trans International Airlines, Inc.'s C.A.B. No. 2, and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions of Rule No. 65 on 5th Revised Page 12 of Trans International Airlines Corp.'s Tariff C.A.B. No. 3 (Trans International Airlines Corp. Series) and on Original Page 15 of Trans International Airlines, Inc.'s C.A.B. No. 2 are suspended, (insofar as they apply to interstate and overseas air transportation), and their use deferred to and including June 7, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

3. Copies of this order be filed in the aforesaid tariff and be served upon Trans International Airlines Corp.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-5821 Filed 3-12-74;8:45 am]

[Docket No. 26487, etc.; Order 74-3-40]

TRANSATLANTIC, TRANSPACIFIC, AND LATIN AMERICAN MAIL RATES, ET AL.

Order Instituting Investigation and Order of Consolidation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1974.

By this order the Board is reopening as of March 8, 1974, the existing final service mail rates [1] and instituting an investigation to determine and fix the fair and reasonable final service rates for the transportation by air of mail in the Transatlantic, Transpacific, and Latin American areas including the transportation of military ordinary mail (MOM) [2] and consolidating into this proceeding the investigation of Space Available Mail ordered in the above captioned docket.

On February 1, 1974, Pan American World Airways, Inc. (Pan Am) petitioned the Board to institute a general investigation for establishment of new service mail rates for the transportation of mail in the Transatlantic, Transpacific and Latin American areas including the transportation of military ordinary mail, for those carriers and between those points for which such service mail rates are presently in effect.

Pan Am requests that, on and after the date on which the Board issues an order to show cause or other order instituting an investigation, the Board establish final rates set at levels above existing rates by: 16.7 percent in the Transatlantic area; 50.7 percent in the Transpacific area; 39.3 percent in the Latin American area; and, 33.7 percent for military ordinary mail.

In support of its petition, the carrier states that the current service rates are based on cost data for the years ended September 30, 1967 and 1968 for the various rates and such data are now five to six years old; that the intervening years have been ones of general cost escalation; and, that within the past year fuel costs have increased at extraordinary rates and even greater increases are currently being incurred. Pan Am supports the requested percentage increases in existing rate levels by comparing base-year costs on which these rates were established with those costs experienced in fiscal year 1973, adjusted to reflect fuel prices which Pan Am forecasts it will be required to pay in 1974 over fiscal year 1973.

An answer to Pan Am's petition was filed by the Postal Service on February 21, 1974, which challenges Pan Am's justification for an investigation and the requested increased rates based on the following: (1) The carrier applied 1974 fuel cost increases to 1973 fuel consumption; (2) Pan Am's estimates do not reflect the slow-down in growth of available ton-miles and increased revenue ton-miles which began to appear in the last quarter of 1973; (3) conflicting public statements of Pan Am as to projected fuel cost increases in 1974 over 1973; (4) various errors of omission and commission by the carrier in its support appendixes; and, (5) that any revised rates should be based on refined costing techniques as developed in other mail rate proceedings rather than allocation by revenue ton-miles which overstate mail costs.

The Department of Defense (DOD) filed on February 19, 1974, a petition for leave to intervene and answer to Pan Am's petition requesting the Board to dismiss on the basis that the Petition is so generalized that it cannot be used in a serious effort to determine the reasonableness of the rates proposed and does not satisfy the economic justification criteria required by the Board's Procedural Rule 302.303(a).

We have carefully reviewed Pan Am's petition and conclude that the petition adequately meets the standards of section 406 of the Act and Rule 303(a) of the Board's Procedural Regulations. Accordingly, we will deny the motion to dismiss and accept the petition.

Timely answers in support of Pan Am's petition were filed by Trans World Airlines, Inc. and The Flying Tiger Line Inc.

Based on the pleadings, we have determined to institute this investigation and include all carriers of international service air mail, including military ordinary mail, in the Transatlantic, Transpacific and Latin American areas, the Postal Service and the Department of Defense as parties thereto.

Our action in reopening and investigating the present international service mail rates is based upon analysis which discloses overall significant increases in ton-mile costs subsequent to the years 1966–1968, the latest periods examined when the current rates were fixed. The situation today is the inverse of the earlier 1966–1968 periods which enjoyed declining ton-mile costs, when compared to the 1964–1965 periods (the base years used in establishing prior international rates) and prompted rate reductions based upon a finding of overall declining costs. As shown in the Appendix,[3] unit costs for the year ended September 30, 1973, have increased substantially above the levels experienced for the same period in 1968. The increases in cost per revenue ton-mile for these periods were 7.75 percent in the Transatlantic area, 36.54 percent in the Transpacific area and 33.93 percent in the Latin American area. Similar results, 12.02 percent in the Atlantic, 28.98 percent in the Pacific and 30.66 percent in Latin America, are indicated when overall expenses are refined to eliminate obvious nonmail costs and to reflect a return on investment [4] after income taxes. While overall avail-

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[1] Established by Order 68-9-9, September 4, 1968, as amended, for the Transatlantic and Transpacific; Order 69-10-149, October 30, 1969, as amended, for Latin America; and, Order 68-9-8, September 4, 1968, as amended, for military ordinary mail.

[2] The current service mail rates per revenue ton-mile of 32 cents in the Transatlantic, 28.8 cents in the Transpacific, 32.5 cents in Latin America and 21.84 cents for military ordinary mail were established by orders set out in footnote one. By Order 73-4-16, April 3, 1973, the Board revised these mail rates to provide for use of nonstop great-circle mileages as the basis for mail compensation. In so doing, the rates were proportionately revised with the change in the mileage base so as to maintain approximately the same level of total service mail payments which would have resulted under the amended rates.

[2] The suspension ordered herein does not apply to the foreign applicability of the proposed rule.

[3] Filed as part of the original document.

[4] Computed at 10 percent for 1968 and 12 percent for 1973.

able ton-mile costs have increased at a lesser rate than revenue ton-mile costs, they are, nonetheless, significant and are indicative of the inflationary cost spiral the carriers have been sustaining over the last several years. Furthermore, the analysis in the Appendix does not disclose the sharp increases which have taken place in fuel costs in the last five to six months.

The reopening and investigation of MOM service mail rates is based upon the same overall increasing cost considerations which warrant reopening the air mail rates. In addition, the Board last year instituted an investigation and reopened the rates for space available mail (SAM).[5] Thus, with this order all international service rates[6] will be under investigation. To enable the Board to examine all factors affecting international service rates in one proceeding, we are consolidating the SAM rate investigation[7] with the investigation ordered herein.

The Postal Service in its answer to Pan Am's petition challenges the basis of reflecting mail rates on a method of allocation by revenue ton-mile indicating that this approach grossly overstates mail costs when compared to refined capacity costing developed in Dockets 16349 and 18381.[8] In addition, the Postal Service states that if a complete rate review is sought the parties thereto should fully understand that they will be undertaking a fully-contested proceeding involving refined costing techniques which have not, in the past, been applied to international mail rates because of intervening settlements.

The Board's reliance upon reported ton-mile cost increases in reopening and investigating the international rates is not intended to imply favorable treatment to one costing approach versus another. Instead, the Board tends to view the increases in ton-mile costs only as an indication that the present rates are too low and that the investigation and reopening are required to determine the proper basis for establishing new rates. It is not necessary to decide at this time what costing methodology is appropriate, since that is an issue best left to be decided in the evidentiary proceeding ordered herein.

In view of the substantial increase in unit costs above the levels prevailing when the current service mail rates were set, the Board concludes that the current service mail rates for the Transatlantic, Transpacific, and Latin America areas including military ordinary mail, may no longer be fair and reasonable and an investigation of these rates is warranted.

Pan Am has requested that, pending our investigation of current service rates, the Board establish increased temporary rates at the same levels as requested by the carrier as final rates. We will deny the carrier's request. While Pan Am's petition supports the reopening of the present rates, we do not believe that the evidence is sufficient to determine the proper rate level for temporary rate purposes without additional data and analysis on fuel price changes and consumption. The Board is now examining such data regarding requests for increased rates by the International Air Transport Association (IATA) and carriers performing services for the Military Airlift Command (MAC). At the conclusion of our review of these matters and on the basis of information developed therein and from other data sources, we intend to propose, in this proceeding, a fuel surcharge to reflect any necessary increase in the existing temporary rates as the facts may warrant. During the pendency of this investigation, we will continue to monitor, on a current basis, reported prices and utilization of fuel and make necessary adjustments to the temporary surcharge as required.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), and 406 thereof,

It is ordered, that:

1. An investigation be, and it hereby is, instituted to determine and prescribe the final service mail rates for the transportation by air of mail in the Transatlantic, Transpacific, and Latin American areas including the transportation of military ordinary mail on and after March 8, 1974;[9]

2. The investigation ordered in Paragraph 1 and the investigation in Docket 25297 are hereby consolidated into an investigation entitled "Transatlantic, Transpacific, and Latin American Mail Rates," which is assigned Docket 26487;

3. Except to the extent granted herein, the petition of Pan American World Airways, Inc. in Docket 26379 is dismissed;

4. The petition filed by the Department of Defense for leave to intervene is granted;

5. The motion by the Department of Defense, in its answer filed February 19, 1974, to dismiss Pan American World Airways, Inc.'s petition, is denied;

6. This Order will be served upon Airlift International, Inc., Alaska Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Hughes Air Corp. d/b/a Airwest, National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the Postmaster General, and the Department of Defense, who are hereby made parties to this investigation; and

7. The investigation in Docket 26487 be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-5822 Filed 3-12-74;8:45 am]

[5] Order 73-5-113, May 23, 1973.

[6] Does not apply to specific mail matter for which rates are elsewhere established.

[7] Docket 25297.

[8] Domestic Service Mail Rate and Nonpriority Mail Rate Investigations.

[9] Except as ordered herein, this order is not intended to disturb the other service mail rates established, or to be established, under separate orders of the Board.

[Order No. 74-3-29]

TRANSPORT OF HOUSEHOLD GOODS FOR DEFENSE DEPARTMENT

Order Granting Extension of Temporary Relief

MARCH 7, 1974.

From time to time, at the request of the Department of Defense (DOD), the Board has granted relief from provisions of the Federal Aviation Act of 1958 (the Act) to permit 40 unauthorized indirect air carriers to transport used household goods[1] of Department of Defense personnel. A condition for obtaining such relief was that the firm seeking it have on file with the Board an application for air freight forwarder authority. The relief was to expire 180 days after the Board's decision in the Houshold Goods Air Freight Forwarder Investigation, Docket 20812, became final[2] or, as to each individual company, upon Board disposition of such company's application for interstate and/or international air freight forwarder authority, whichever event shall occur first.[3]

Since the processing of a number of the applications could not be concluded prior to the expiration of the temporary relief, the Department of the Army, acting in behalf of DOD, requested extension of such relief. The Board initially extended the temporary relief for 90 days and subsequently granted further extensions.[4] Such relief is to expire on March 18, 1974.

Delays have been encountered in resolving control and/or interlocking relationship matters, some of which are

[1] The term "used household goods" means personal effects (including unaccompanied baggage) and property used or to be used in a dwelling, when a part of the equipment or the supply of such dwelling, but specifically excludes (1) furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, and (2) objects of art (other than personal effects), displays and exhibits.

[2] Order on reconsideration issued October 16, 1972. Temporary relief was to expire April 16, 1973.

[3] Order 71-10-56, dated October 13, 1971.

[4] Order 73-4-57, dated April 12, 1973, as supplemented by Order 73-7-56, dated July 13, 1973, Order 73-9-53, dated September 13, 1973, and Order 73-12-13, dated December 4, 1973.

complex. As a result, the applications of the three applicants named in the appendix will not be completed prior to expiration of the extended deadline. Furthermore, by letter dated July 6, 1973, the Department of the Army requested an extension of the temporary relief for a reasonable period in those cases where processing could not be completed by the time limit previously set. We construe that letter to be a request for whatever additional extension of the temporary relief is necessary to complete the processing.

In view of these circumstances and DOD's request, it is found, pursuant to authority delegated by the Board, that further extension of the temporary relief to those carriers named in the appendix below is in the public interest, and that such relief should be extended to June 18, 1974.

Accordingly, it is ordered. 1. That pursuant to sections 101(3) and 204 of the Federal Aviation Act of 1958, as amended, the carriers listed in the appendix below are hereby relieved from the provisions of Title IV of the Act to the extent necessary to transport by air used household goods of personnel of DOD upon tender by the Department;

2. That the relief granted herein shall become effective March 19, 1974, and terminate on June 18, 1974, or as to each individual company named in the appendix below, upon Board disposition of such company's application for interstate and/or international air freight forwarder authority, whichever event shall occur first;

3. That this order may be amended or revoked at any time in the discretion of the Board without hearing; and

4. That copies of this order shall be served on the Military Traffic Management and Terminal Service, U.S. Army, and the companies listed in the appendix hereto.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file their petitions within five days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX

Garrett Forwarding Company
2055 Garrett Way
P.O. Box 4048
Pocatello, Idaho 83201

Pyramid Van Lines, Inc.
479 South Airport Boulevard
South San Francisco, California 94080

Smyth Worldwide Movers, Inc.
11616 Aurora Avenue, North
Seattle, Washington 98133

[FR Doc.74-5829 Filed 3-12-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PEDAL-POWERED VEHICLES

Cancellation of Public Hearing

In the FEDERAL REGISTER of February 22, 1974 (39 FR 6771), the Consumer Product Safety Commission gave notice of a public hearing to be held March 21, 1974, to discuss a petition submitted by Consumers Union of United States, Inc., requesting the Commission to promulgate regulations for the safety of pedal-powered vehicles and other similar vehicles.

The Commission has since learned that the principal manufacturer of pedal-powered vehicles will be unable to supply all necessary data in time for the scheduled hearing. To date no other party has requested an opportunity to make a presentation at the hearing. Further, the petitioner reports that it has no relevant information in addition to that presented in the petition and its attachments.

Accordingly, having determined such action to be in the best interest of all concerned, the Commission hereby cancels the hearing on pedal-powered vehicles.

The operations staff of the Commission, however, will conduct a field survey of users, distributors, and public safety officials in regard to pedal-powered vehicles. After all necessary information has been obtained, interested parties will be given the opportunity to participate in discussion of the product at a Commission meeting. Following completion of a staff analysis, the Commission will decide whether to grant or deny Consumer Union's petition.

Dated: March 11, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74-5860 Filed 3-12-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

FUEL VENTING AND SMOKE RETROFIT OF TURBINE ENGINE AIRCRAFT

Notice of Grant of Exemption

In accordance with § 87.101 of the Agency's regulations governing Temporary Exemptions from Aircraft Emission Standards (40 CFR Part 87, as revised; 38 FR 35000 dated December 21, 1973), notice is hereby given of the granting of temporary exemptions from fuel venting and smoke retrofit requirements.

The following operators have been exempted from the aircraft fuel venting standard as defined in 40 CFR Part 87 Subpart B, 38 FR 19091 dated July 17, 1973:

Operator	Duration of Exemption
All Grumman Gulfstream II operators.	Aug. 1, 1974.
Norair	Apr. 1, 1974.
Varig	Do.
Modern Air Transport	May 1, 1974.
KLM Royal Dutch Airlines	July 1, 1974.

The following operators have been exempted from the JT8-D aircraft engine smoke retrofit standard as defined in 40 CFR Part 87 Subpart D, 38 FR 19092 dated July 17, 1973:

Operator	Duration of Exemption
Avianca	Jan. 1, 1975.
Lan Chile	Mar. 1, 1974.
ALM	Jan. 1, 1975.
Transair	June 1, 1974.

For the most part, these exemptions were granted due to the unavailability of parts at the level of the aircraft engine manufacturers and their distributors. The action involving the Grumman aircraft is taken due to an operational safety problem which has resulted from the installation of fuel venting modifications on the Gulfstream II and in recognition of the delay inherent in the perfection of an alternative modification. The effective date of these exemptions shall be February 1, 1974.

Dated: March 6, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-5903 Filed 3-12-74;8:45 am]

NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE OF THE SCIENCE ADVISORY BOARD

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee of the Science Advisory Board will be held at 9:00 a.m. on March 21, 1974 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to consult the committee on the determination and documentation of adverse effects on the public health and welfare of vanadium as an atmospheric pollutant and (2) to continue consultation on pollutants to be referred to the National Academy of Sciences for comprehensive reviews and reports. The agenda will also include (3) a report on the evaluation and review by the National Academy of Sciences, for the Committee on Public Works of the United States Senate, of current data on the health effects of major air pollutants, (4) a report on problems of and prospects for the economic analysis of pollution control benefits, and (5) a tentative timetable for the review of evaluative reports on pollutants scheduled for completion in 1974.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde,

Scientist Administrator, National Environmental Research Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The telephone number is (919) 549-8411, extension 2266.

L. D. ATTAWAY,
Acting Assistant Administrator for Research and Development.

[FR Doc.74-5682 Filed 3-12-74;8:45 am]

[OPP-32000/23]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

Within 60 days following the date of publication of this notice, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after this 60-day period.

APPLICATIONS RECEIVED

EPA File Symbol 10807-UL. Aero Mist, Inc., 990 Industrial Park Drive, Marietta, Georgia 30062. *Misty Menthol Spray Decongestant air Air Sanitizer.* Active Ingredients: Oil of Peppermint 0.60%; Oil of Eucalyptus 0.65%; Menthol 0.30%; Triethylene Glycol 7.00%; Isopropanol 16.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 264-EIA. Amchem Products, Inc., Brookside Ave., Ambler, Pennsylvania 19002. *Amchem 2,4,5-T Woody Plant Herbicide Odor Inhibited.* Active Ingredients: 2,4,5-Trichlorophenoxyacetic acid, butoxypropyl ester 62.7%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 264-EIT. Amchem Products, Inc., Brookside Ave., Ambler, Pennsylvania 19002. *Weedone 2,4,5-T Woody Plant Herbicide Odor Inhibited.* Active Ingredients: 2,4,5-Trichlorophenoxyacetic acid, butoxyethanol ester 59.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5481-RAI. Amvac Chemical Corporation, 4100 E. Washington Blvd., Los Angeles, California 90023. *Ronnel Granules 5.* Active Ingredients: Ronnel [0,0-Dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate] 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33959-R. Hot Shot Repellents, 3459 Piedmont Ave., Oakland, California 94611. *Hot Shot Repellent.* Active Ingredients: Capsaicin 0.35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33948-R. Rid-O-Ray, Inc., Park Avenue, Hudson, New Hampshire 03051. *Rid-O-Ray Muscatract Fly Lure.* Active Ingredients: Z-9 Tricosene 85%; E-9 Tricosene 15%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9779-ERL. Riverside Chemical Company, P.O. Box 16902, Memphis, Tennessee 38116. *Riverside 20% Heptachlor Granules.* Active Ingredients: Heptachlor 20.0%; Related Compounds 7.4%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEM

The following item represents a correction and/or change in the list of Applications Received previously published in the FEDERAL REGISTER.

EPA File Symbol 33722-U. Tex-Ag Company, Inc., P.O. Box 633, Mission, Texas 78572. *Parathion 4 LB Emulsifiable Concentrate.* Correction: Originally published incorrectly as EPA File Symbol 3372-U in the Federal Register of March 5, 1974 (39 FR 8381).

Dated: March 7, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-5684 Filed 3-12-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 690]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

MARCH 4, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) Within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20981-C2-R-74, Bell Telephone Company of Nevada (KD9271). Renewal of Developmental station expiring April 1, 1974. TERM: April 1, 1974 to April 1, 1975.

20982-C2-P-74, Edward C. Smith d/b as Answerite Professional Telephone Service (KIY581). C.P. to change antenna location and antenna system operating on 152.18 MHz at Loc. #1 to Route 526, 6 miles West of Orlando, Florida.

20983-C2-P-(3)-74, Edward C. Smith d/b as Answerite Professional Telephone Service (KIY581). C.P. to change antenna location and antenna system and replace transmitter operating on 454.075, 454.175, and 454.225 MHz at Loc #1 to Route 526, 6 miles West of Orlando, Florida.

20984-C2-P-74, Edward C. Smith d/b as Answerite Professional Telephone Service (KQZ713). C.P. to change antenna location operating on 152.24 MHz to Route 526, 6 miles West of Orlando, Florida.

20985-C2-P-74, Edward C. Smith d/b as Answerite Professional Telephone Service (KLF658). C.P. to change antenna location at control station operating on 454.100 MHz to be located at 63 East Pine Street, Orlando, Florida.

20986-C2-P-74, Bay Springs Telephone Company (New). C.P. for a new 2-way station to operate on 158.04 MHz to be located 1.5 mile SSW. of Soso, Mississippi.

20987-C2-P-(2)-74, The Pacific Telephone and Telegraph Company (KMB302). C.P. to replace transmitter operating on 152.51 and 152.63 MHz located at 763 State Street, El Centro, California.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

20988–C2–MP–74, South Shore Radio-Telephone, Inc. (KSB591). C.P. to change antenna location and antenna system operating on 454.200 MHz to be located at WYCA (FM) Tower, 150 Marble, Burnham, Illinois.

20989–C2–P–74, Yell County Telephone Company (New). C.P. for a new 2-way station to operate on 152.72 MHz to be located 1.6 miles SSE. of Danville, Arkansas.

20991–C2–P–74, Rochester Telephone Corporation (KEK284). C.P. for additional facilities to operate on 152.78 MHz located at 95 North Fitzhugh Street, Rochester, New York.

20992–C2–P–74, Patricia A. Burgdorff d/b as Conroe-Willis Paging System (New). C.P. for a new 2-way station to operate on 454.-275 MHz to be located at Eastern End of Avenue M, Conroe, Texas.

20993–C2–P–74, John A. Bearden d/b as Mobilphone of Clarksville (New). C.P. for a new 2-way station to operate on 152.09 MHz to be located 1.38 miles West, Highway 82, Clarksville, Texas.

20995–C2–P–74, Charles F. Mefford d/b as Southern Ohio Radio Telephone and Paging (KSV960). C.P. to replace transmitter operating on 454.300 MHz at 3747 Warsaw Street, Cincinatti, Ohio.

Renewal of Licenses expiring April 1, 1974. Term: April 1, 1974 to April 1, 1979.

ALABAMA

Licensee	*Call Sign*
Anniston Communication Co	KIY532
Baymore Communications	KLF565
Charles E. Escue	KSV947
Gulf Mobilphone Alabama, Inc	KRS664
Do	KTS206
McCord's Communications Service	KIG303
Mayfair Answering Service	KLF535
Ozark Mobile Phone Co	KTS274
Paresco, Inc	KQZ743
Do	KLF653
Do	KIY757
Southeastern Electronics	KIY721
Do	KIY720
Talton Communications Corp	KTS209
Telpage, Inc	KUC851

CALIFORNIA

Auto-Phone Co	KME439
Do	KMM626
Do	KLF482
City Answering Service	KSV990
Hanford Mobile Radio, Inc	KMD988
Intrastate Radio Telephone, Inc. of Los Angeles	KMA200
Kidd's Communications, Inc	KMA257
Do	KMD349
Do	KLF641
Victor Valley Radio-Telephone Co	KLF557
Contact of Farmintgon, Inc	KKO346
Page Boy, Inc	KCI299

DISTRICT OF COLUMBIA

Contact of Washington, Inc	KGA806

FLORIDA

Anserfone of St. Lucie County, Inc	KIG838
Do	KUC847
Answerite Professional Telephone Service	KTR989
Do	KFL873
Do	KQZ720
Do	KLF658
Do	KIY581
Do	KQZ713
Canaveral Communications	KIY516
Do	KFL876
Do	KUO561
Jacksonville Radio Dispatch Service	KTS253
Do	KLF632
Do	KIB388
Do	KIQ510

FLORIDA—Continued

Licensee	*Call Sign*
Marathon Mobile Phone	KTS248
Howard A. Maddox, Inc	KTS277
Paul & Teressa Stark	KFL957
James T. Whitaker	KIM899

GEORGIA

Airphone Co	KIR205
Do	KSV932

IOWA

Econocom, Inc	KRS670
Do	KRS683
Farnsworth Radiofone	KAA896
Quad City Dispatch	KAF642

INDIANA

Mobile Radio Communications of Gary	KSD315
Do	KSD311

IDAHO

Tel-Car, Inc	KRM969
Do	KSV981
Do	KSV957
Do	KLF594
Do	KUA224

KANSAS

Allied Cos., Inc	KAL873
Do	KTS271
Ward H. Thompson	KLF660

KENTUCKY

Louisville 2-way Radio Service, Inc	KIF656
Do	KIG855

LOUISIANA

Mobilfone of Baton Rouge	KSV898
Do	KKX707

MAINE

Comex, Inc	KRS665

MARYLAND

Contact, Inc	KGA807

MASSACHUSETTS

A.F. & L Telephone	KCC480
Airphone Co	KCC266
Chayce 'N You	KRS638
Colonial Mobiletelephone & Paging	KUO607

MISSISSIPPI

Ace Commercial Services, Inc	KQZ741
Gulf Mobilphone	KFL885
Do	KQZ734

MISSOURI

Mid-Missouri Mobilfone	KTS223
Do	KTS224

MONTANA

Big Sky Radio Paging	KOP294
Capital Answering Service	KON921
West Montana Mobile Telephone	KLF587
Do	KRS657
Answering by Birken, Inc	KOP295
Telco Answering Service	KFL921

NEBRASKA

Midtown Business Center & Answering Service	KRM970

NEVADA

Vegas Instant Page	KRH634

NEW HAMPSHIRE

Comex, Inc	KCC797
Do	KCI295
Haverhill Answering Service	KCC790
Valcom, Inc	KUC842

NEW JERSEY

Licensee	*Call Sign*
Answering Service of Trenton, Inc	KED352
Ira Magod	KEC928
N.J. Mobile Telephone Co., Inc	KEK290
Shaw-Rose Communications, Inc	KED360
Telephone Secretarial Service	KEA263

NEW MEXICO

Contact of New Mexico	KLB668
Do	KUC840

NEW YORK

Air Call of Kingston	KEJ887
Aircall New York Corp	KEA627
Air Page	KEC515
Beep Communications Systems, Inc	KEA255
Do	KEA855
Do	KEC739
Do	KEK287
Do	KUC889
Messages By Radio, Inc	KEA200
Mobile Radio Message Service, Inc	KEA260
Page Boy, Inc	KEA860
Polito Communications, Inc	KSV916
Professional Answering Service	KED362
Radio Telephone Answering Service, Inc	KEJ891

NORTH CAROLINA

Ans-A-Phone Communications, Inc	KRH659
Do	KIY774
Do	KIY775
Carteret Radio Telephone Services	KUC900
Communication Specialists Co	KIY749
Radio Paging & Telephone Answering	KIM905
Service of Charlotte, Inc	KRH656
Services Unlimited, Inc	KRH656
Do	KIY449

NORTH DAKOTA

Fargo Telephone Answering Service	KLF485
Jamestown Paging	KTS210

OHIO

Central Mobile Radio Phone Service	KQD599
Do	KQD597
Do	KQA770
Do	KQK595
Do	KQC875
Central Ohio Radiotelephone, Inc	KQK584
Cuyahoga County Communications Co	KLF508
Euclid Telecommunications, Inc	KQC880
Metrotec, Inc	KTS283
Mobile Telephone Service of Wheeling, W. Va	KSV893
Southern Ohio Radio Telephone & Paging	KSV960

OKLAHOMA

Muskogee Two-Way Dispatching	KLB314

OREGON

Empire Mobilcomm Systems, Inc	KOP329
Do	KOP312
Do	KOP306
Do	KON919
Do	KOK331
Do	KFL955
Do	KLF595
Do	KLF534
Do	KFQ921
Do	KOK419
Do	KRM972
Pacific Union	KOP256
Do	KSV964
Do	KUA287

PENNSYLVANIA

Licensee	Call Sign
Allegheny Mobile Telephone Co., Inc	KWB370
Do	KGA252
A. F. Kimmel	KGA802
Lebanon MobileFone	KSV940
A. F. Kimmel	KGA589

SOUTH CAROLINA

Able Answering Service	KFL907
All Services, Inc	KLF484
Evans Radio Co., Inc	KIY760
Do	KSV889
Do	KTS235
Parker Electronics	KUC855
Do	KUC856

SOUTH DAKOTA

Pierre Radio Paging	KTS221
Dakota Radio Paging, Inc	KQZ709

TENNESSEE

Mahaffey Message Relay, Inc	KDT223
Do	KRS656
Pat's Mobilephone, Inc	KTS226

TEXAS

Am-Tex Dispatch Service	KLB564
Auto-Phone Dispatch of Levelland	KLB674
Bee Mobilradio	KFL912
No'Mis Paging Service	KRS640
Pampa Communications Center	KLB497
Radiofone	KQZ791
Western Communications Service	KUC855

VIRGINIA

Radio Phone Communications, Inc	KFJ888
Do	KIG297
Do	KLF630
Do	KMM684

WASHINGTON

Mobile Dispatch Service	KQZ705
Do	KOA734
Tim G. Burgman	KQZ757
Collins Communications Co	KLF606
Do	KON918

WEST VIRGINIA

Mobile Telephone Service of Wheeling	KQK775

WISCONSIN

All City Telephone Answering Service, Inc	KSC373
Do	KRS716
Do	KSA266

WYOMING

Custom Radio	KOK342
Worland Services	KOP254

RURAL RADIO SERVICE

60204–C6–P/L–74, RCA Alaska Communications, Inc. (WOG23). C.P. for additional facilities to operate on 454.450 MHz and change antenna system operating on 454.65 MHz located at 190 miles ESE. of Barrow, Frontier Camp, Alaska.

60205–C6–P/L–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice fixed station to operate on 459.450 MHz located 190 miles ESE. of Barrow, Alaska General, Alaska.

60206–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.450 MHz to be located at Alyeska pipeline construction site near Hill 961, 360 miles North of Fairbanks, Franklin Bluff Camp, Alaska.

60207–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 454.450 MHz to be located at Remote repeater site at Hill 961 on Alyeska pipeline route, 362 miles North of Fairbanks, Franklin Bluff Repeater, Alaska.

60208–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.375 MHz to be located at Alyeska pipeline construction site near Sagwon Airport, 325 miles North of Fairbanks, Happy Valley Camp, Alaska.

60209–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 454.375 MHz to be located at Remote repeater site at Hill 4010 on Alyeska pipeline route, 283 miles North of Fairbanks, Slope, Alaska.

60210–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 454.575 MHz to be located at Remote repeater site at Hill 7700 on Alyeska pipeline route, 252 miles North of Fairbanks, Twin Glacier, Alaska.

60211–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.450 MHz to be located at Alyeska pipeline construction site near Hill 6545, 235 miles North of Fairbanks, Chandalar Camp, Alaska.

60212–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.600 MHz to be located at Alyeska pipeline construction site near Hill 5090, 198 miles NNW. of Fairbanks, Dietrich Camp, Alaska.

60213–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.575 MHz to be located at Alyeska pipeline construction site near Hill 7485, 242 miles North of Fairbanks, Atigun Camp, Alaska.

60214–C6–P–(2)74–RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 454.450 and 454.600 MHz to be located at Remote repeater site near Hill 6545 on Alyeska pipeline route, 230 miles North of Fairbanks, Table Mountain, Alaska.

60215–C6–P–74, RCA Alaska Communications, Inc. (New). C.P. for a new interoffice station to operate on 459.650 MHz to be located at Alyeska pipeline construction site near Hill 4917, 264 miles North of Fairbanks, Toolik Camp, Alaska.

60216–C6–P/L–74, Duratronics Inc., d/b as Team Electronics (WOG53). C.P. to reinstate expired CP to operate on 152.78 and 152.81 MHz located 3 miles North of Grand Marais, near Maple Hill Church, Grand Marais, Minnesota.

60217–C6–P/L–74, Howell Pomeroy Skoglund (WOG55). C.P. to reinstate expired CP to operate on 158.04 MHz located at Southern Tip of Greenwood Lake, Minnesota.

60218–C6–P/L–74, Sawbill Canoe Outfitters, Inc. (WOG54). C.P. to reinstate expired CP operating on 158.07 MHz located at Southern Tip of Sawbill Lake, Minnesota.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3227–C1–P–74, Pacific Telatronics, Inc. (KPQ90). Vineyard Hill, 6.0 Miles North of Corvallis, Oregon. Lat. 44°38'45" N., Long. 123°16'13" W. C.P. to (a) relocate station to foregoing coordinates; (b) to change frequencies to 6197.2V, 6315.9V MHz toward Blanton (KPQ91), Oregon on new azimuth 169°31'; and (c) replace transmitters. (NOTE): Special Temporary Authority is requested by PTI.).

3230–C1–P–74, RCA Alaska Communications, Inc. (New). Put River, 394 Miles North of Fairbanks, Alaska. Lat. 70°14'56" N., Long. 148°37'17" W. C.P. for a new station on freq. 2122.0H MHz toward Deadhorse, Alaska on azimuth 133°07'.

3231–C1–P–74, Same (KXQ75). Deadhorse, 390 Miles North of Fairbanks, Alaska. Lat. 70°11'56" N., Long. 148°27'57" W. C.P. to add freq. 2162.0V MHz toward a new point of communication at Franklin Bluff, Alaska on azimuth 181°09'; freq. 2172.0H MHz toward a new point of communication at Put River on azimuth 313°44'; change antenna system and location, alarm center location on freq. 2178.0H MHz toward Frontier Camp, Alaska on a new azimuth 320°44'.

3232–C1–P–74, Same (New). Franklin Bluff, 362 Miles North of Fairbanks, Alaska. Lat. 69°47'24" N., Long. 148°29'22" W. C.P. for a new station on freq. 2128.0H MHz toward Slope, Alaska on azimuth 191°18'; freq. 2112.0V MHz toward Deadhorse, Alaska, on azimuth 1°17'.

3233–C1–P–74, Same (New). Slope, 283 Miles North of Fairbanks, Alaska. Lat. 68°44'37" N., Long. 149°03'53" W. C.P. for a new station on freq. 2167.2V MHz toward Twin Glacier, Alaska on azimuth 203°02'; freq. 2178.0H MHz toward Franklin Bluff, Alaska, on azimuth 10°45'.

3234–C1–P–74, Same (New). Galbraith Camp, 261 Miles North of Fairbanks, Alaska. Lat. 68°27'21" N., Long. 149°28'28" W. C.P. for a new station on freq. 2162.4V MHz toward Twin Glacier, Alaska, on azimuth 190°43'.

3235–C1–P–74, Same (New). Twin Glacier, 252 Miles North of Fairbanks, Alaska. Lat. 68°19'52" N., Long. 149°32'18" W. C.P. for a new station on freq. 2122.0H MHz toward Table Mtn., Alaska, on azimuth 185°19'; freq. 2117.2V MHz toward Slope, Alaska, on azimuth 22°35'; freq. 2112.4V MHz toward Galbraith Camp, Alaska, on azimuth 10°40'.

3236–C1–P–74, Same (New). Table Mountain, 230 Miles North of Fairbanks, Alaska. Lat. 67°59'17" N., Long. 149°37'24" W. C.P. for a new station on freq. 2172.0H MHz toward Twin Glacier, Alaska, on azimuth 5°14'.

3238–C1–P–74, General Telephone Company of Florida (KIY21), 830 Arlington Avenue, St. Petersburg, Florida. Lat. 27°46'19" N., Long. 82°38'44" W. C.P. to add freq. 3730H MHz toward Clearwater, Fla., on azimuth 327°42'.

3239–C1–P–74, Same (KIN50), Cleveland Avenue and Betty Lane, Clearwater, Florida. Lat. 27°57'59" N., Long. 82°47'02" W. C.P. to add freq. 3770H MHz toward St. Petersburg, Fla. on azimuth 147°40'; freqs. 3990H, 4070H MHz toward Odessa, Fla., on azimuth 36°23'.

3240–C1–P–74, Same (KYJ43), Two blocks west of intersection of Gunn Hwy. and Florida Hwy. 54, Odessa, Florida. Lat. 25°11'35" N., Long. 82°35'43" W. C.P. to add freqs. 3950T, 4030H MHz toward Clearwater, Fla., on azimuth 216°28'; freqs. 3950H, 4030H MHz toward Zephyrhills, Fla., on azimuth 84°34'.

3241–C1–P–74, Same (KYJ44), 201 South Gall Blvd., Zephyrhills, Florida. Lat. 28°13'39" N., Long. 82°10'46" W. C.P. to add freqs. 3990H, 4070H MHz toward Odessa, Fla., on azimuth 264°45'; freqs. 5945.2H, 5974.8V MHz toward Eva, Fla., on azimuth 77°46'.

3242–C1–P–74, Same (KGP53), on Florida Hwy. 33, 2.3 Miles South of Eva, Florida. Lat. 28°17'37" N., Long. 81°49'57" W. C.P. to add freqs. 6197.2H, 6226.9V MHz toward Zephyrhills, Fla., on azimuth 257°56'.

3243–C1–P–74, American Telephone and Telegraph Company (KQG41), 2.5 Miles NW of Rainelle, West Virginia. Lat. 37°58'52" N., Long. 80°49'20" W. C.P. to add freq. 4070V MHz toward Clintonville, W. Va., on azimuth 121°27'.

3244–C1–P–74, Same (KQH34), 1.4 Miles SW of Clintonville, West Virginia. Lat 37°52'-54'' N., Long. 80°37'03'' W. C.P. to add freq. 3950V MHz toward Rainelle, W. Va., on azimuth 301°35'; freq. 3870H MHz toward Paint Bank, Va., on azimuth 136°42'.

3245–C1–P–74, Same (KIR20), 3.0 Miles SE of Paint Bank, Virginia. Lat. 37°32'34'' N., Long. 80°13'02'' W. C.P. to add freq. 3910H MHz toward Clintonville, W. Va., on azimuth 316°57'; freq. 4070V MHz toward Airpoint, Va., on azimuth 162°33'.

3246–C1–P–74, Same (KIR21), 2.7 Miles ESE of Airpoint, Virginia. Lat. 37°09'46'' N., Long. 80°04'05'' W. C.P. to add freq. 3950V MHz toward Paint Bank, Va., on azimuth 342°39'.

3247–C1–P–74, Same (KIR22), 3.8 Miles East of Spencer, Virginia. Lat. 36°37'34'' N., Long. 79°56'30'' W. C.P. to add freq. 3950V MHz toward Meadows, N.C., on azimuth 218°47'.

3248–C1–P–74, American Telephone and Telegraph Company (KJH97), 3.3 Miles SW. of Meadows, North Carolina. Lat. 36°20'21'' N., Long. 80°13'35'' W. C.P. to add freq. 3950V MHz toward Spencer, Va., on azimuth 38°37'.

3249–C1–P–74, American Telephone and Telegraph Company (KIN43), 325 Gerdenia St., West Palm Beach, Florida. Lat. 26°42'34'' N., Long. 80°03'11'' W. C.P. to add freq. 3990V MHz toward Boynton Beach, Fla., on azimuth 198°00'.

3250–C1–P–74, Same (KJJ69), 4.0 Miles WSW, of Boynton Beach, Florida. Lat. 26°30'45'' N., Long. 80°07'27'' W. C.P. to add freq. 3710V MHz toward West Palm Beach, Fla., on azimuth 17°58'; 3950V MHz toward Margate, Fla.

3251–C1–P–74, Same (KJJ70), Margate, 0.5 Mile NE. of Hammondville, Florida. Lat. 26°14'56'' N., Long. 80°11'55'' W. C.P. to add freq. 3750V MHz toward Boynton Beach, Fla., on azimuth 14°15'; freq. 3990V MHz toward Ojus, Fla., on azimuth 179°10'.

3252–C1–P–74, Same (KJJ68), 3.5 Miles NW. of Ojus, Florida. Lat 25°58'19'' N., Long. Beach, Fla., on azimuth 17°58'; 3950V MHz toward Margate, Fla., on azimuth 359°10'.

3253–C1–P–74, New York Telephone Company (KEK93), 2.4 Miles NW. of Colton, New York. Lat. 44°33'50'' N., Long. 74°59'10'' W. C.P. to change antenna system and power on freqs. 6197.2V, 6315.9V MHz toward Potsdam, N.Y., on azimuth 359°16'.

3254–C1–P–74, Same (KEE88), 73 Market Street, Potsdam, New York. Lat. 44°40'20'' N., Long. 74°59'17'' W. C.P. to change antenna system and power on freqs. 5945.2V, 6063.8V MHz toward Colton, N.Y., on azimuth 179°16'; change freqs. 6175V, 6415V MHz to 5945.2V, 6063.8V MHz toward Massena, N.Y., on azimuth 14°51'.

3255–C1–P–74, Same (KEE89), 37 Glen Street, Massena, New York. Lat. 44°55'52'' N., Long. 74°53'29'' W. C.P. to change antenna system, power, replace transmitter and change freqs. 6055, 6295 MHz to 6197.2V, 6315.9V MHz toward Potsdam, N.Y., on azimuth 194°55'.

3256–C1–P–74, American Telephone and Telegraph Company (KAH89), 420 Third Avenue South, Minneapolis, Minnesota. Lat. 44°58'41'' N., Long. 93°15'52'' W. C.P. to add freq. 4110H MHz toward Lonsdale, Minn., on azimuth 192°47'.

3257–C1–P–74, American Telephone and Telegraph Company (KAS69), 2.5 Miles NNE. of Lonsdale, Minnesota. Lat. 44°31'43'' N., Long. 93°24'25'' W. C.P. to add freq. 4150V MHz toward Medford, Minn., on azimuth 165°41'.

3258–C1–P–74, Same (KAS68), 1.5 Miles WSW. of Medford, Minnesota. Lat. 44°10'03'' N., Long. 93°16'44'' W. C.P. to add freq. 4110V MHz toward Lonsdale, Minn., on azimuth 345°46'; freq. 4110V MHz toward Hartland, Minn., on azimuth 197°59'.

3259–C1–P–74, Same (KAS67), 3.2 Miles ENE. of Hartland, Minnesota. Lat. 43°49'31'' N., Long. 93°25'56'' W. C.P. to add freq. 4150V MHz toward Medford, Minn., on azimuth 17°52'; freq. 4150V MHz toward Glenville, Minn., on azimuth 153°30'.

3260–C1–P–74, Same (KAS46), 3.0 Miles SE. of Glenville, Minnesota. Lat. 43°32'35'' N., Long. 93°14'20'' W. C.P. to add freq. 4110V MHz toward Hartland, Minn., on azimuth 333°38'; freq. 4110V MHz toward Nora Springs, Iowa, on azimuth 167°21'.

3261–C1–P–74, Same (KAS45), Nora Springs, 3.5 Miles ENE. of Mason City, Iowa. Lat. 43°10'08'' N., Long. 93°07'27'' W. C.P. to add freq. 4150V MHz toward Glenville, Iowa, on azimuth 347°26'; freq. 4150V MHz toward Hampton, Iowa, on azimuth 195°10'.

3262–C1–P–74, Same (KAS44), 5.0 Miles WSW. of Hampton, Iowa. Lat. 42°42'55'' N., Long. 93°17'27'' W. C.P. to add freq. 4110H MHz toward Nora Springs, Iowa, on azimuth 15°03'; freq. 4110H MHz toward Radcliffe, Iowa, on azimuth 193°19'.

3263–C1–P–74, Same (KAS43), 1.0 Mile SSE. of Radcliffe, Iowa. Lat. 42°18'06'' N., Long. 93°25'22'' W. C.P. to add freq. 4150H MHz toward Hampton, Iowa, on azimuth 13°14'; freq. 4150H MHz toward Boone, Iowa, on azimuth 243°48'.

3264–C1–P–74, Same (KYN90), 9.5 miles NNE. of Boone, Iowa. Lat. 42°09'55'' N., Long. 93°47'37'' W. C.P. to add freq. 4110H MHz toward Ames, Iowa, on azimuth 157°56'.

3265–C1–P–74, Same (KAS42), 6.0 Miles SW. of Ames, Iowa. Lat 41°57'07'' N., Long. 93°40'40'' W. C.P. to add freq. 4150V MHz toward Boone, Iowa, on azimuth 338°01'; freq. 4150V MHz toward Des Moines, Iowa, on azimuth 174°18'.

246–C1–ML–74, American Telephone and Telegraph Company (WAY29), Coopers Rock, West Virginia. Mod. of License to change polarization from Vertical to Horizontal on freq. 10715 MHz toward Arthurdale, W. Va.

247–C1–ML–74, American Telephone and Telegraph Company (WBO70), Arthurdale, West Virginia. Mod. of License to change polarization from Horizontal to Vertical on freq. 11405 MHz toward Coopers Rock, W. Va., and freq. 11445 MHz toward Laurel Mtn., W. Va.

248–C1–ML–74, Same (WBO69), Laurel Mountain, West Virginia. Mod. of License to change polarization from Vertical to Horizontal on freq. 10755 MHz toward Arthurdale, W. Va., and freq. 10715 MHz toward Etam, W. Va.

249–C1–ML–74, Same (KZA81), Etam, West Virginia. Mod. of License to change polarization from Horizontal to Vertical on freq. 11405 MHz toward Laurel Mountain, W. Va.

3266–C1–P–74, Midwestern Relay Company (WKR94), 3.5 Miles NW. of Sparta, Wisconsin. Lat. 43°58'29'' N., Long. 90°51'53'' W. C.P. to add point of communication on freq. 6315. 9H MHz (via power split) toward Tomah, Wisc., on azimuth 86°12'.

3267–C1–P–74, United Video, Inc. (New), Bloomington, Illinois. Lat. 40°28'59'' N., Long. 88°59'32'' W. C.P. for a new station on freqs. 11425V, 11385V MHz toward Ellsworth, Ill., on azimuth 108°51'.

3268–C1–P–74, Eastern Microwave, Inc. (KEM58), Helderberg Mountain, 1.75 Miles NW. of New Salem, New York. Lat. 42°38'12'' N., Long. 73°59'45'' W. C.P. to add point of communication on freq. 6212.0V MHz (via power split) toward Albany, N.Y., on azimuth 75°55'.

3269–C1–P–74, Same (KEM58), Helderberg Mountain, 1.75 Miles NW. of New Salem, New York. Lat. 42°39'17'' N., Long. 73°59'45'' W. C.P. to add point of communication on freq. 6212.0V MHz (via power split) toward Schenectady, N.Y., on azimuth 19°54'.

3270–C1–P–74, Same (New), Wood Hill, 2.2 Miles SW. of Lawrence, Massachusetts. Lat. 42°39'17'' N., Long. 71°13'05'' W. C.P. for a new station on freqs. 11305H and 11265V MHz toward Lawrence, Mass., on azimuth 84°51'.

3271–C1–P–74, Same (KYZ75), High Knob, 1.5 Miles West of Peck's Pond, Pennsylvania. Lat 41°18'00'' N., Long. 75°07'31'' W. C.P. to add freq. 6049.0H MHz (via power split) toward Ransom, Pa., on azimuth 285°19'.

3272–C1–P–74, Same (WQR41), Ransom, 1.85 Miles West of Scranton, Pennsylvania. Lat. 41°25'36'' N., Long. 75°44'52'' W. C.P. to add point of communication on freq. 11545V MHz toward Swoyerville, Pa., on azimuth 215°27'.

3273–C1–P–74, Eastern Microwave, Inc. (KEA64), 4 Miles SE. of Cherry Hill, New York. Lat. 42°46'31'' N., Long. 74°40'56'' W. C.P. to add freq. 5960.OH MHz (via power split) toward Gloversville, N.Y., on azimuth 40°40'.

3274–C1–P–74, American Television & Communications Corp. (New), Pine Log Mountain, 4.6 Miles West of Waleska, Georgia. Lat. 34°19'13'' N., Long. 84°38'04'' W. C.P. for a new station on freq. 5945.2H MHz toward Collegedale, Tenn, on azimuth 332°-41'.

3275–C1–P–74, Same (New), 2.6 Miles SW. of Collegedale, Tennessee. Lat 35°01'20'' N., Long. 85°04'32'' W. C.P. for a new station on freq. 11665V MHz toward Cleveland, Tenn., on azimuth 52°58'.

3276–C1–P–74, Same (New), 0.5 Mile East of Cleveland, Tennessee. Lat. 35°09'46'' N., Long. 84°50'54'' W. C.P. for a new station on freq. 5945.2H MHz toward Niota, Tenn., on azimuth 31°59'.

3277–C1–P–74, Same (New), 1.6 Miles NW. of Niota, Tennessee. Lat. 35°31'59.5'' N., Long. 84°33'55.5'' W. C.P. for a new station on freq. 6197.2H MHz toward Dixie Lee Junction, Tenn., on azimuth 42°25'.

(NOTE.—A waiver of Section 21.701(i) is requested by American Television & Communications Corp.)

3278–C1–P–74, Same (New), 1.5 Miles South of Dixie Lee Junction, Tennessee. Lat. 35°50'15'' N., Long. 84°13''23'' W. C.P. for a new station on freq. 11385V MHz toward Oak Ridge, Tenn., on azimuth 352°38'.

3279–C1–P–74, N-Triple-C Inc. (WOH43), 18th and Farnam Street, Omaha, Nebraska. Lat. 41°15'28'' N., Long. 95°56'24'' W. C.P. to add freq. 2124.8V MHz on azimuth 223°37' toward a new point of communication at Greenwood, Nebr., as a replacement for freq. 11365H MHz toward Gretna, Nebr.

3280–C1–P–74, Same (WOH62), 4.0 Miles SE. of Greenwood, Nebraska, Lat. 40°54'54'' N., Long. 96°22'10'' W. C.P. to add freq. 2174.8V MHz on azimuth 43°20' toward a new point of comunication at Omaha, Nebr., as a replacement for freq. 10775V MHz toward Gretna, Nebr., and to change freq. on azimuth 242°11' toward Lincoln, Nebr., to 2178.OH MHz.

3281–C1–P–74, Same (WOH63), 3240 South 10th Street, Lincoln, Nebraska. Lat. 40°46'-47'' N., Long. 96°42'20'' W. C.P. to change freq. on azimuth 61°58' toward Greenwood, Nebr., to 2128.OH MHz and to add freq. 2124.8V MHz on azimuth 273°43' toward a new point of communication at Beaver Crossing, Nebr.

3282–C1–P–74, N-Triple-C Inc. (New), 6 Miles East of Beaver Crossing, Nebraska. Lat. 40°48'08'' N., Long. 97°10'46'' W. C.P. for a new station on freq. 2178.0V MHz on azimuth 277°48' toward Grand Island, Nebr., and 2174.8H MHz on azimuth 93°25' toward Lincoln, Nebr.

3283–C1–P–74, Same (New), 0.5 Mile West of Grand Island, Nebraska. Lat. 40°55'15'' N., Long. 98°22'50'' W. C.P. for a new station on freq. 2128.0V MHz on azimuth 97°1' toward Beaver Crossing, Nebr.

3284–C1–P–74, Southern Pacific Communications Company (KEU95), Southern Pacific Miller Yard near Central Expressway and Ledbetter Drive, Dallas, Texas. Lat. 32°42'-30'' N., Long. 96°44'56'' W. C.P. to add freq. 10755V MHz on azimuth 333°13' toward Southland Life Building, Dallas, Texas.

3285–C1–P–74, Same (New), Southland Life Building, Dallas, Texas. Lat. 32°47'06'' N., Long. 96°47'41'' W. C.P. for a new station on freq. 11685V MHz on azimuth 153°11' toward Southern Pacific Miller Yard, Dallas, Tex.

3286–C1–P–74, Midwestern Relay Company (WIV43), Foshay Tower, South 9th Street, Minneapolis, Minnesota. Lat. 44°58'28'' N., Long. 93°16'17'' W. C.P. to change point of communication from Minneapolis (Studios of WTCN) to Golden Valley (Studios of WTCN), Minnesota. Frequencies 11265V and 11505V MHz on azimuth 276°01'.

[FR Doc.74–5647 Filed 3–11–74;9:17 am]

[Docket Nos. 19932, 19933; File Nos. BPH–8199, BPH–8242]

RAAD BROADCASTING CORP. AND BAYAMON BROADCASTERS

Application for Construction Permits

In regard applications of Raad Broadcasting Corp., Bayamon, Puerto Rico, requests: 100.7 MHz, #264; 50 kW; -45 feet; Andres R. Nevares and Francisco J. Nevares, d/b as Bayamon Broadcasters, Bayamon, Puerto Rico, requests 100.7 MHz, #264; 50 kW (H & V); 524 feet, for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has before it: (i) The captioned applications which are mutually exclusive and thus must be designated for comparative hearing; (ii) an informal complaint against Bayamon Broadcasters, filed by the President of RAAD Broadcasting Corporation (RAAD); (iii) a petition to deny RAAD's application filed by Bayamon Broadcasters; and (iv) related pleadings in opposition and reply thereto.

2. These applications were originally mutually exclusive with Radio San Juan, Inc.'s application for renewal of the license of station WRSJ–FM, Bayamon, Puerto Rico, on FM channel 264 (100.7 MHz). On February 25, 1974, however, Radio San Juan, Inc., surrendered its authorization to operate station WRSJ–FM. Thus, FM channel 264 assigned to Bayamon, Puerto Rico, is currently vacant and the above applications are the only remaining applications for that channel.

3. By letter of February 7, 1973, Mr. Roberto Davila, President of RAAD, informed the Commission's Puerto Rico field office that the public file of Bayamon Broadcasters' application was unavailable for inspection at the address listed in the local newspaper notice, namely the Caparra Dairy, Inc., and that he had been referred to the law offices of one of the partners of Bayamon Broadcasters, where the application was also denied to us. The Commission requested Bayamon Broadcasters to comment on this complaint by letter dated July 12, 1973. Subsequently, on November 12, 1973, Bayamon Broadcasters filed an untimely petition to deny RAAD's application, claiming that RAAD's complaint of February 7, 1973, contained false allegations, which raised a serious question as to whether RAAD had made a false representation to the Commission. Since the allegations in the petition were not supported by an affidavit of a person or persons with personal knowledge thereof, as required by § 1.580(i) of the rules, it is procedurally defective. Nevertheless, we will consider the petition as an informal objection pursuant to § 1.587 of the rules.

4. In response to RAAD's complaint that it was denied access to Bayamon Broadcasters' public file on February 7, 1973, Mr. Francisco J. Nevares, one of the two partners in Bayamon Broadcasters, asserts, by affidavit, that when Mr. Davila and two other persons visited the offices of the Caparra Dairy, Inc., where the public file was located, on February 7, 1973, and spoke with him, the visitors discussed the radio industry in general and the fact that they had also filed an application for an FM frequency in Bayamon, but they did not ask him to see a copy of Bayamon Broadcasters' public file. Mr. Nevares also states that he referred the visitors to his brother, Andres Nevares, who had been in charge of the filing of Bayamon Broadcasters' application. RAAD's consulting engineer, Mr. Jorge Arroyo, asserts, by affidavit, that when he, Mr. Davila, and Mr. Arzuaga visited the Caparra Dairy, they were informed by Mr. Nevares that the application of Bayamon Broadcasters was not available to them there and that the application could be found in the law offices of his brother, Mr. Andres Nevares. Both applicants agree that the RAAD group was referred to the law offices of Mr. Andres R. Nevares and that at least two men visited those law offices together. Further, affiants for both applicants assert that Mr. Nevares was not present when the men visited, but that his secretary refused to let them see the application and associated documents which were located at the office. Mr. Andres Nevares' secretary claims, by affidavit, that some of those documents were of a confidential nature. Mr. Andres Nevares avers that when he returned to his office after some morning appointments, he was informed of the visit from the RAAD group and that he then telephoned his brother, Francisco Nevares. Both Nevares brothers state that Mr. Francisco Nevares subsequently telephoned Mr. Davila's home and since Mr. Davila was not in, Mr. Nevares explained to Mrs. Davila that her husband was welcome to inspect the public file located at the Caparra Dairy. Finally, Mr. Nevares asserts that Mr. Davila never returned this call nor did he revisit the offices of Caparra Dairy, Inc.

5. In light of the foregoing, it is clear that RAAD has not established that, despite Mr. Davila's difficulty in gaining access to Bayamon Broadcasters' public file during the morning of February 7, 1973, the public file was not where it should have been and that representatives of RAAD would not have been able to inspect the file that same afternoon. Furthermore, the Commission has not received any information that Mr. Davila or anyone else has had difficulty in gaining access to that file since February 7, 1973. Thus, no issue concerning the availability of Bayamon Broadcasters' public file is warranted. See Southern Broadcasting Co., 38 FCC 2d 943, 26 R.R. 2d 458 (Rev. Bd., 1973), and California Stereo, Inc., 38 FCC 2d 1003, 26 R.R. 2d 556 (Rev. Bd., 1973). In addition, there is no significant evidence that RAAD has attempted to deceive the Commission by misrepresenting the availability of Bayamon Broadcasters' public file. Accordingly, although there appears to have been some confusion, we do not believe that further exploration of the matter in hearing would be productive.

6. The financial portion of RAAD's application indicates that it will require $113,950 to procure its construction permit, construct its proposed station and operate it for one year.[1] To meet this requirement, RAAD relies on $8,000 in existing capital, a $90,000 loan from Mr. Ramon Rios Roure, $6,700 in stock subscriptions from Mr. Roberto Davila Rodriguez, and $15,300 in stock subscriptions from Mr. Ramon Rios Roure. Of these amounts, RAAD has demonstrated the availability of $8,000 in existing capital, an $89,806 loan from Mr. Ramon Rios Roure, and $6,700 in stock subscriptions from Mr. Roberto Davila Rodriguez, for a total of $104,506. Thus RAAD appears to have $104,506 available to meet its total pre-construction, construction, and first-year operating costs of $113,950. Accordingly, financial issues must be specified to determine RAAD's source(s) of the additional $9,444 required to meet its total estimated costs.

7. 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

[1] RAAD's costs are itemized as follows: down payment on equipment, $9,400; first-year payments on equipment, including interest, $10,700; building expenses, $5,000; miscellaneous expenses, including legal expenses of $50,000, $55,650; and first-year operating expenses, $33,200.

populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary (1 mV/m or better for FM) aural services 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.

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

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

1. To determine, with respect to the application of RAAD Broadcasting Corporation:

(a) The source(s) of the additional $9,444 needed to meet RAAD Broadcasting Corporation's total costs of constructing its proposed station and operating it for one year;

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

10. *It is further ordered*, That the petition to deny the application of Bayamon Broadcasters, filed by RAAD Broadcasting Corporation, is hereby dismissed, and when considered as an informal objection, is denied.

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

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

Adopted: March 5, 1974.

Released: March 7, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-5774 Filed 3-12-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

CORPS OF ENGINEERS; WINTER NAVIGATION BOARD ON GREAT LAKES AND ST. LAWRENCE SEAWAY

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given of a meeting of the Winter Navigation Board to be held on March 28, 1974 at the Sheraton Metro Inn, Romulus, Michigan. The meeting will be in session from 8:30 a.m. to 5:30 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes and St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Pub. L. 91-611.

The primary purpose of the meeting is to discuss the Interim Survey Report for extending the navigation season on the Great Lakes—St. Lawrence Seaway System. The agenda will include discussion of the proposed public meetings to be held in June 1974 in conjunction with the Interim Survey Report and the costs and benefits of extended navigation. The agenda will also include discussion of next year's approved program, winter navigation problems in the St. Marys River, and a sociological study of the impact of extended season on the lives of vessel crews.

The meeting will be open to the public subject to the following limitations: a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants. b. Written statements may be submitted prior to, or up to 10 days following the meeting, but oral participation by the public is precluded because of the time schedule.

Inquiries may be addressed to Mr. Jim Beirs, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231. Telephone (313) 226-6770.

By authority of the Secretary of the Army:

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.74-5717 Filed 3-12-74;8:45 am]

Office of the Secretary of Defense

ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Notification of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held April 21-25, 1974 at the Pentagon and the Hotel Washington, Washington, D.C. Sessions will be conducted 8:00 a.m. to 4:00 p.m. daily and will be open to the public.

Composed of 40 civilian women, DACOWITS meets twice each year to provide the Department of Defense with assistance and advise on matters relating to women in the Armed Forces, to interpret to the public the role of and the need for servicewomen, and to encourage the acceptance of military service as a career opportunity.

The agenda for this meeting will include briefings by Department of Defense officials on procurement of uniform clothing, recruitment for Reserve forces, current military manpower programs; briefings by the Directors of the women's components on current plans and policies affecting servicewomen.

Additional subjects to be discussed by the Committee will include:

Effect of HR 12405 (the Defense Officer Personnel Management Act—proposed legislation to revise the system of appointment, promotion, separation and retirement of members of the armed forces) on servicewomen.

Effect of HR 3418 (proposed legislation to equalize the enlistment age for men and women) on the recruitment of women.

Educational programs for service personnel and veterans.

Construction criteria for and availability of quarters.

Recruitment of nurses and enlisted personnel in non-clerical fields.

Recognition of military personnel for community service.

Any other subject introduced at the meeting.

The sessions scheduled for Monday, April 22, 1974 will be held in the Pentagon. Inasmuch as the Pentagon is closed to the general public, it is necessary for persons desiring to attend these sessions to contact the DACOWITS Secretariat, (202) OXford 7-6385, no later than April 17, 1974 so that proper escorts to and from the meeting room can be arranged.

Due to the limited time available for this purpose, public participation in the meeting will be limited to brief oral presentations and/or written statements for consideration by the Committee. Persons desiring to submit a written statement or make an oral presentation to the Committee must so notify the DACOWITS Executive Secretary no later than April 5, 1974. Length and number of oral presentations will be governed by the number of requests received.

Additional information regarding the Committee and/or this meeting may be obtained by contacting LtCol. Martha A. Cox, DACOWITS Executive Secretary, OASD (Manpower and Reserve Affairs), Room 2B257, The Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller)

MARCH 11, 1974.

[FR Doc.74-6036 Filed 3-12-74;11:39 am]

FEDERAL MARITIME COMMISSION

BLUE FUNNEL LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreement, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 2, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Jerome F. Matedero, Esq.
16 Court Street
Brooklyn, New York 11241

Agreement No. 7568–3 entered into by The Ocean Steam Ship Company, Ltd. and The China Mutual Steam Navigation Co., Ltd. (operating as the Blue Funnel Line) is a modification of the approved Joint Service Agreement No. 7568 of said carriers to reflect the change in name of one of the parties "The Ocean Steam Ship Company, Ltd." to "Ocean Transport & Trading Limited" wherever it appears in the agreement. Agreement No. 7568, as amended, covers the trades between ports of the United States and Hawaiian Islands (not including transportation within the purview of the Coastwise Laws of the United States) and ports in British North America, West Indies, Central America, South America, Africa, Asia, Japan, Australasia, Philippine Islands, Europe and all ports in islands or groups of islands adjacent thereto.

Dated: March 8, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 74–5795 Filed 3–12–74;8:45 am]

NORTH ATLANTIC POOL AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 2, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Modification Filed by:

Richard W. Kurrus, Esq.
Kurrus and Jacobi
2000 K Street, N.W.
Washington, D.C. 20006

Agreement No. 10000–1 among the Member Lines of the above-named Agreement amends Subarticle 15.3 of that Agreement to provide that the Pool Lines shall have a period of six months from the date of the Commission's approval of the basic Pool Agreement to develop an overall rationalization plan reflecting the sailing and service obligations of each Member Line. During that period, any Member Line may withdraw from the Agreement without prejudice or liability by giving two weeks' notice to the Pool Coordinator. The amended subarticle further provides that it shall be considered a basic part of the Pool Agreement and any approval by the Federal Maritime Commission which shall not include approval of the amended subarticle shall be considered unacceptable to the Member Lines and will therefore vitiate the basic Pool Agreement. The balance of Subarticle 15.3 remains unchanged.

Dated: March 7, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–5797 Filed 3–12–74;8:45 am]

PORT OF SEATTLE AND BLACK BALL TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 2, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Ms. E. Odell
Department of Real Estate
P.O. Box 1209
Seattle, Washington 98111

Agreement No. T–2906, between the Port of Seattle (Port) and Black Ball Transport, Inc. (Black Ball), provides for the month-to-month lease of approximately 10,000 square feet of transit shed area at Pier 30, Seattle, Washington, for the storage of paper and related warehouse purposes. As compensation, Black Ball shall pay Port a fixed monthly rental in lieu of Port tariff charges.

Dated: March 8, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–5799 Filed 3–12–74;8:45 am]

PORT OF SEATTLE AND BLACK BALL TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan,

Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 2, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Alvin L. Sklow, Director of Real Estate
Port of Seattle
P.O. Box 1209
Seattle, Washington 98111

Agreement No. T–40–3, between the Port of Seattle (Port) and Black Ball Transport, Inc. (Black Ball) modifies the parties' basic agreement providing for the 20-year lease to Black Ball of Pier 30, Seattle, Washington, for operation as a public terminal for the loading and discharging of Black Ball's vessels only. The purpose of the modification is to increase the monthly rental for the facility from $4,250 to $4,675 for the remaining term of the basic lease.

Dated: March 8, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–5798 Filed 3–12–74;8:45 am]

[Docket No. 73–12]

SEA-LAND SERVICE, INC., ET AL

Second Supplemental Order Regarding Proposed General Rate Increase for U.S. Atlantic Coast/Puerto Rico Trade

By an order dated March 16, 1973, this Commission instituted an investigation and hearing to determine the lawfulness of a 15.2 percent surcharge proposed by Sea-Land Service, Inc. (Sea-Land), Seatrain Lines, Inc. (Seatrain), and Transamerican Trailer Transport, Inc. (TTT), allegedly to offset increased labor costs which resulted from a contract between the above-mentioned carriers and the International Longshoremen's Association (ILA). The Commission suspended the proposed surcharges but allowed the carriers to file an interim surcharge of 5.2 percent. Pursuant to Executive Order 11723 of June 13, 1973, the imposition of the full amount of the surcharge was postponed until August 13, 1973.

On August 7, 1973, the carriers proposed a general rate increase for the U.S. Atlantic Coast/Puerto Rico Trade. The proposed increases cancelled and replaced the earlier proposed surcharges. On August 10, 1973, the Commission issued the First Supplemental Order of Investigation and Suspension in this proceeding. By the terms of that Order the proposed increases of August 7, 1973, were suspended and made the subject of a public investigation. Because the proposed increases were projected to generate approximately the same amount of additional revenues as the proposed surcharges which were the original focus of investigation in Docket No. 73–12, and the fact that the original surcharges (the need for which had been attributed to increased labor costs) were being cancelled without any change in the labor contract which allegedly prompted them, the Commission included the investigation of the new proposed general rate increases in Docket No. 73–12.

Seatrain Lines, Inc. and Sea-Land Service, Inc. have now proposed increased minimum rates effective March 6, 1974, and March 14, 1974, respectively. The proposed increases of both lines apply to shipper-loaded southbound containers. The two carriers also propose additional charges for container cargo which exceed 45,000 pounds.

Seatrain has advised the staff that:

1. The existing minimum charges per trailer no longer cover out-of-pocket costs.

2. The proposed charges represent the implementation of a management decision to insure that trailers which generate less than the revenue figures in the proposed minimum are not handled.

3. The estimated effect of the proposed charges on overall Puerto Rican revenues will be an increase of slightly less than 3 percent.

An analysis submitted by Seatrain of revenue on two recent Seatrain voyages (January 1974) shows that the combined northbound and southbound average revenue per trailer was $720.00. Had the proposed increased minima been in effect the average revenue per trailer would have been $754.00. This amounts to an increase of 4.7 percent. The Seatrain data also show that the proposed increased minima would have affected 38.7 percent of the southbound trailers on the two January voyages. The carrier's projections indicate that the increased minima will increase gross revenues by 2.9 percent. The figure for optimum revenue gain (assuming no loss of traffic) is 4.5 percent.

Sea-Land's data is based on one southbound leg on which 34.9 percent of the containers would have been affected by the proposed per container minima. Sea-Land computed the impact of the minima as 3.3 percent increase of gross revenue.

The proposed charges appear to affect only low-rated commodities. Among these commodities are building materials, dry chemicals, foodstuffs, and raw products used in manufacturing.

The Commonwealth of Puerto Rico filed a Petition for Investigation and Suspension on February 21, 1974. The Petition alleges that the proposed minimum per container charges are unjust and unreasonable in violation of section 18(a) of the Shipping Act, 1916, and section 4 of the Intercoastal Shipping Act, 1933. The Commonwealth also alleges that the imposition of the proposed charges will adversely affect the Puerto Rican economy, particularly those sectors in which low-rated commodities are of great importance.

The Commission has historically maintained the principle that high-rated commodities may be carried at rates which offset the cost of carrying essential low-rated commodities. However, staff analysis of the carriers' justification data reveals that there is simply an inadequate volume of high-rated traffic to enable the carriers to subsidize low-rated traffic. Seatrain's fully distributed costs[1] per container are approximately $833.74.[2] This is somewhat more than Seatrain's proposed per container dry measurement minimum. Sea-Land's budgeted fully distributed costs per container are $798.00,[3] nearly one hundred dollars more than its proposed minima.

The issue thus presented to the Commission is whether it should depart from the principle that high-rated commodities may subsidize low-rated commodities in circumstances in which the average revenue per container/trailer fails to meet the carrier's cost.

Upon consideration of the data submitted and the petition for investigation and suspension filed by the Commonwealth of Puerto Rico, the Commission is of the opinion that the proposed increases in minimum per container charges should be made the subject of a public investigation to determine whether they are unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and section 4 of the Intercoastal Shipping Act of 1933.

However, in view of the fact that the proposed increases in minimum per container/trailer charges do not appear to exceed the fully-distributed costs of either carrier, the Commission is of the opinion that the exercise of its suspension authority would not be warranted. Docket No. 73–12, by First Supplemental Order of Investigation and Suspension, considers changed tariff matters in the U.S. Atlantic/Puerto Rico trade. The instant proposed minimum charges are appropriate for consideration in Docket No. 73–12, "Sea-Land Service, Inc., Seatrain Lines, Inc. and Transamerican Trailer Transport, Inc., Proposed ILA Surcharges in the U.S. Atlantic and Gulf/Puerto Rico Trade." Good cause appearing, therefore,

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the

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[1] As used herein "fully distributed costs" are defined as total expenses (excluding interest) divided by total revenue units.

[2] This figure is for the period of July 1, 1973 through June 30, 1974. See Exhibit 9, Appendix D, Docket 73–12.

[3] Per Mr. John F. Moynihan, Comptroller, Sea-Land Service, Inc., transmitted to the Commission on February 25, 1974.

Intercoastal Shipping Act, of 1933, an investigation is hereby instituted into the lawfulness of the proposed increases in minimum container charges listed in Appendix A to make such findings and orders as the facts and circumstances warrant. In the event that the matter hereby placed under investigation is further changed, amended, or reissued, such matter is hereby ordered to be made a part of this investigation;

It is further ordered, That pursuant to section 18(a) of the Shipping Act, 1916, and section 4 of the Intercoastal Shipping Act of 1933, a determination shall be made as to whether the proposed increases in minimum per container charges are just, reasonable, and otherwise lawful within the meaning of those statutes;

It is further ordered, That this matter be joined with the matters previously set for investigation and hearing in Docket No. 73–12, "Sea-Land Service, Inc., Seatrain Lines, Inc., Transamerican Trailer Transport, Inc. Proposed ILA Surcharges in the U.S. Atlantic and Gulf/Puerto Rico Trade," and their lawfulness be determined in the same proceeding by the same Administrative Law Judge of the Commission's Office of Administrative Law Judge;

It is further ordered, That copies of this order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That, in accordance with the Commission's rules of practice and procedure, the Commonwealth of Puerto Rico be designated as Complainant.

It is further ordered, That these proceedings be scheduled for public hearing to be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, That (I) a copy of this order be forthwith served upon respondents and complainant herein and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER; and (II) the respondents, complainant, and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 5(l) of the Commission's rules and practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Seatrain Lines, Inc., Tariff FMC–F No. 1, 9th Revised Page 73–A, Item 350.
Sea-Land Service, Inc., Tariff FMC–F No. 21, Original Page 118–A, Item 495.

[FR Doc.74–5794 Filed 3–12–74;8:45 am]

STATES STEAMSHIP CO. AND SHUN CHEONG STEAM NAVIGATION CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 2, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

J. J. McGowan, Manager
Rates & Conferences Department
States Steamship Company
320 California Street
San Francisco, California 94104.

Agreement No. 10119, between the above named carriers, covers a through billing arrangement on cargo movements from ports in Singapore and/or Malaysia to United States and Canadian ports in Hawaii, Washington, Oregon, California and British Columbia, with transshipment at Hong Kong, under terms and conditions set forth in the agreement.

Dated: March 8, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–5796 Filed 3–12–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI74–379]

AMERADA HESS CORP.

Notice of Application; Correction

MARCH 1, 1974.

In the notice of application issued February 6, 1974, and published in the FEDERAL REGISTER February 12, 1974 39 FR 5370; in paragraph 2, line 18: change "1974" to "1973".

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–5760 Filed 3–12–74;8:45 am]

[Docket No. CI73–510]

BURMONT CO.

Amendment Regarding Sale for Resale and Delivery of Natural Gas

MARCH 6, 1974.

Take notice that on February 22, 1974, Burmont Company (Petitioner), 1121 Americana Building, Houston, Texas 77002, filed in Docket No. CI73–510 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) for an additional year from the Ragsdale Field Area, Lavaca County, Texas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued March 21, 1973, in the instant docket petitioner was authorized to sell natural gas to Texas Eastern for one year at 35 cents per Mcf at 14.65 psia within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Petitioner proposes to continue said sale for one year at 45.0 cents per Mcf, subject to downward Btu adjustment, within the contemplation of § 2.70.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 29, 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 herein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5754 Filed 3–12–74;8:45 am]

[Docket No. CI74–434]

C & K OFFSHORE CO.

Notice of Application

MARCH 6, 1974.

Take notice that on February 14, 1974, C & K Offshore Company (Operator) (Applicant), 611 First City National Bank Building, Houston, Texas 77002,

filed in Docket No. CI74–434 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, with pregranted abandonment authorization, to Transcontinental Gas Pipeline Corporation (Transco) from Block 40, West Cameron Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Transco at an initial rate of 45.0 cents per Mcf at 15.025 psia, subject to downward Btu adjustment. The contract for the subject sale, dated December 27, 1957, as amended on November 8, 1973, provides for a yearly price escalation of 1.0 cent per Mcf, 75 percent reimbursement for any increased taxes, and a term of 32 years from the date of initial delivery (the 22-year term of the original contract was replaced by the 32-year term in the amendment).

Applicant states that the contract contains an "area rate" pricing clause proscribed by § 2.75(f) of the Commission's general policy and interpretations, but said clause will not operate to change the rate charged if Applicant receives the certificate as requested, absent a change in the Commission's regulations of the Natural Gas Act.

Applicant states further that none of the wells covered by the instant application were spudded prior to April 6, 1972 and that there have been no sales or deliveries from Block 40.

Applicant asserts that the contract price is lower than prices in recently executed and certificated interstate contracts and that in comparison to recent intrastate contract prices the 45.0-cent rate is very low and represents a bargain for the interstate market. Applicant alleges that Transco and its customers, without this gas, would be forced to pay considerably more for alternative or substitute fuels.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 29, 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.74–5755 Filed 3–12–74;8:45 am]

[Project 1639]

CAROLINA POWER & LIGHT CO.

Notice of Application for Surrender of Transmission Line License

MARCH 7, 1974.

Public notice is hereby given that application for approval of surrender of Transmission Line License Project No. 1639 was filed December 3, 1973, under the Federal Power Act (16 U.S.C. 791a–825r), by the Carolina Power & Light Company. (Correspondence to: Raymond S. Talton, Vice President, System Engineering & Construction, Carolina Power & Light Company, Raleigh, North Carolina 27602), located in Berkeley County, South Carolina, and affecting lands of the United States within the Francis Marion National Forest.

The project consists of a 115–kV transmission line, extending from the vicinity of Greeleyville, South Carolina, to the Pinopolis Dam of the South Carolina Public Service Authority in Berkeley County, South Carolina, and occupying a 70 foot right-of-way for a distance of 5.125 miles across lands of the United States; together with all other structures, equipment, or facilities used or useful in the maintenance and operation of the transmission line. The transmission line has not been in operation for a number of years.

During its operation the line served as an interconnection between Licensee and South Carolina Public Service Authority. Licensee proposes to dismantle the line and relinquish its right to the land to Central Electric Power Cooperative, Inc. Central Electric Power Cooperative, Inc. proposes to use most of the right-of-way south of the Santee River for its own transmission facilities. Licensee will use the right-of-way north of the Santee River for supplying local power needs as required.

Any person desiring to be heard or to make protest with reference to said application should on or before April 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5759 Filed 3–12–74;8:45 am]

[Docket Nos. RP72–155, RP73–104]

EL PASO NATURAL GAS CO.

Notice of Proposed Change in Rate Pursuant to Purchased Gas Cost Adjustment Provision

MARCH 7, 1974.

Take notice that El Paso Natural Gas Company ("El Paso"), on February 14, 1974, tendered for filing a notice of change in rates under its FPC Gas Tariff, Original Volume No. 1, applicable to service rendered to its customers. Such change in rates is proposed to become effective on April 1, 1974, and is submitted for the purpose of compensating El Paso for increases in its cost of purchased gas and is filed in accordance with the provisions of El Paso's Purchased Gas Adjustment Clause ("PGAC") in effect in El Paso's said tariff.

El Paso states that the instant notice of change in rates is premised upon El Paso's system as it now exists after divestiture of the Northwest Division System properties and is occasioned solely by, and will compensate only for, increases in its cost of purchased gas which will become effective on or before March 31, 1974, which have not heretofore been utilized by El Paso in previous PGAC adjustments.

According to El Paso the annualized increase in El Paso's purchased gas costs aggregates $11,081,025 based upon adjusted purchased gas volumes for the twelve (12) month period ending December 31, 1973. When applied to El Paso's system total sales volumes for the same period, the purchased gas cost increase equates to 0.83¢ per Mcf.

In addition, El Paso states it has accrued in Account 191, Unrecovered Purchased Gas Cost, $23,803,099 applicable to increases in its purchased gas costs which have occurred during the period July 1, 1973, through December 31, 1973. Such costs, when applied to El Paso's jurisdictional sales volumes for the same period, produce an additional increase in rates of 4.00¢ per Mcf to be applied as a surcharge to all rate schedules identified in the subject filing.

The proposed effective date of the total 4.83¢ per Mcf current adjustment reflected in the notice of change is April 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 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. El Paso's proposed tariff sheet and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5758 Filed 3-12-74;8:45 am]

[Docket No. E-8008]

FLORIDA POWER AND LIGHT CO.

Notice of Amendment to Service Agreement

MARCH 6, 1974.

Take notice that on February 21, 1974 Florida Power and Light Company (FPL) tendered for filing Exhibit A to FPL's FPC Electric Tariff Original Volume No. 1. FPL states this exhibit reflects the combination of five points of delivery from FPL to Lee County Electric Cooperative into one point of delivery known as the "Lee Switching Station". FPL requests the exhibit be made effective as soon as possible.

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 March 14, 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.74-5746 Filed 3-12-74;8:45 am]

[Docket No. E-7760]

IOWA PUBLIC SERVICE CO.

Notice of Service Agreement

MARCH 6, 1974.

Take notice that on February 21, 1974 Iowa Public Service Company (Iowa) tendered for filing a Service Agreement between the Company and the City of Dunkerton, Iowa.

Iowa states that this Agreement supersedes a previous Agreement between the parties which terminated on February 7, 1974.

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 March 14, 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.74-5745 Filed 3-12-74;8:45 am]

[Docket No. RI74-167]

J-W OPERATING CO.

Notice of Petition for Special Relief

MARCH 6, 1974.

Take notice that on January 10, 1974, J-W Operating Company (Petitioner), Suite 542, 10303 NW. Freeway, Houston, Texas 77018, filed a petition for special relief in Docket No. RI74-167, pursuant to Order No. 481, petitioner requests that it be granted special relief to increase its rate from 25.0 cents per Mcf to 45.0 cents per Mcf for the sale of natural gas to Texas Eastern Transmission Corporation from two wells in Lavaca County, Texas. Petitioner proposes to perform recompletion and workover procedures on these wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 28, 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.

[FR Doc.74-5756 Filed 3-12-74;8:45 am]

[Docket No. RP73-91]

McCULLOCH INTERSTATE GAS CORP.

Notice of Filing of Tariff Sheet

MARCH 6, 1974.

Take notice that on February 14, 1974, McCulloch Interstate Gas Corporation (McCulloch) tendered for filing First Revised Sheet No. 32 to McCulloch Interstate Gas Corporation's FPC Gas Tariff Original Volume No. 1. According to McCulloch, the filing provides for a Purchased Gas Adjustment rate increase of 5.59¢/Mcf, effective April 1, 1974, in accordance with the terms of the Purchased Gas Adjustment Cost Provision set forth in Original Sheet Nos. 28-31 of McCulloch's currently effective FPC Gas Tariff Original Volume No. 1, as approved by FPC order issued January 7, 1974. McCulloch states that the filing will enable McCulloch: (1) To recover the balance in McCulloch's Unrecovered Purchased Gas Cost Account as of December 31, 1974 and (2) to provide for a current Gas Cost Adjustment in order to permit McCulloch to recover the higher cost of gas purchases which McCulloch is currently incurring.

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, N.E., 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 March 22, 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.74-5757 Filed 3-12-74;8:45 am]

[Docket No. E-8637]

NORTHERN STATES POWER CO.

Notice of Municipal Resale Electric Service Agreement

MARCH 6, 1974.

Take notice that Northern States Power Company (NSPC), on February 25, 1974, tendered for filing, an Agreement, dated February 8, 1972, with the City of East Grand Forks. The Agreement has an effective date of February 20, 1974.

NSPC states that the Agreement provides for a second Point of Delivery to the City of East Grand Forks and an effective date when said Second Point of Delivery goes into commercial service. The date of commercial service is February 20, 1974. NSPC asserts that the services and rates are the same as those contained in the Municipal Resale Electric Service Agreement, dated December 8, 1964, as supplemented, except that the 0.7 mill per kilowatt-hour for transformation service is to be eliminated.

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 March 18, 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.74-5750 Filed 3-12-74;8:45 am]

[Docket No. E-8252]

NORTHERN STATES POWER CO. (MINNESOTA)

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

MARCH 6, 1974.

On February 11, 1974, The Municipal intervenors[1] filed a motion for a change in the procedural dates fixed by notice issued January 11, 1974, in the above-designated matter. The motion states that neither Northern States Power Company (Minnesota) (NSP), nor Staff object to the request.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Intervener's, Testimony, March 8, 1974.
Service of NSP's rebuttal, Testimony, March 26, 1974.
Prehearing Conference, April 22, 1974 (10:00 a.m. e.d.t.).
Hearing, April 23, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5751 Filed 3-12-74;8:45 am]

[Project 67]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Issuance of Annual License

MARCH 6, 1974.

On February 12, 1970, Southern California Edison Company, Licensee for Big Creek No. 2A & No. 8 Project No. 67 located in Fresno County, California, on the San Joaquin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on August 21, 1970.

The License for Project No. 67 was issued effective March 3, 1921, for a period ending March 2, 1971. An annual license was issued from the original date of expiration until March 2, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of the licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Southern California Edison Company for continued operation and maintenance of Project No. 67.

Take notice that an annual license is issued to Southern California Edison Company (Licensee) under section 15 of the Federal Power Act for the period March 3, 1974, to March 2, 1975, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Big Creek No. 2A & No. 8 Project No. 67, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5749 Filed 3-12-74;8:45 am]

[Docket No. RP74-65-1]

SOUTH GEORGIA NATURAL GAS CO.

Order Granting Temporary Relief, Providing for Hearing and Establishing Procedures

MARCH 5, 1974.

On January 30, 1974, Occidental Chemical Company (Occidental) filed in Docket No. RP74-65-1 a petition for emergency relief pursuant to § 1.7 of the Commission's rules of practice and procedure. Occidental requests relief from the effective curtailment plan of its sole supplier of natural gas, South Georgia Natural Gas Company (South Georgia). Specifically, Occidental seeks an emergency allocation of 2,000 Mcf of natural gas per day, to be supplied when its normal supplies are interrupted, to operate the feed phosphate unit of its Hamilton County, Florida chemicals plant complex at maximum capacity.

Occidental purchases all of its natural gas on an interruptible basis pursuant to a 1965 service agreement with South Georgia. Occidental asserts that all of its operations are able to convert from the use of natural gas to fuel oil as an energy source. However, it is alleged that the conversion to fuel oil would result in a 30 percent decrease in feed phosphate productivity because of the lower BTU content of fuel oil and that such conversion would further pose the danger of appreciably increased down time on the production line.

Occidental states that there is a serious shortage of phosphorus required for meat, poultry, milk and egg production and estimates that the demand for feed phosphate this year in the United States will be 1.6 million tons, but less than 1.3 million tons will be available to meet this demand. Occidental has been forced to ask its distributors to ration customers because of the high demand for feed phosphate and the limited supply. Occidental states that its request for an emergency allocation of 2,000 Mcf per day, to be supplied at those times when its normal supplies are interrupted, will allow it to produce feed phosphate at mixmum capacity during the remainder of this calendar year.

Upon the filing by South Georgia of an Order 467-B curtailment plan effective November 1, 1973, Occidental estimated complete interruption of natural gas service for approximately 75 days during calendar year 1974. Occidental's normal annual natural gas requirements for feed phosphate production based upon 300 days of operation are 900,000 Mcf for which oil could be substituted for 300,000 Mcf without loss of production. Occidental's emergency requirements to maintain efficient high-volume production of feed phosphate amount to 2,000 Mcf per day on those days when service is otherwise interrupted. Thus the emergency requirements can be expected to total approximately 150,000 Mcf during the current calendar year.

Under the circumstances as alleged in Occidental's petition, the request for relief should be granted on a temporary basis pending hearing and decision. The temporary relief granted shall be on the following condition:

Occidental may be required to pay back the gas obtained under the temporary grant, if the evidentiary record establishes that the public interest requires such action.

The Commission finds. (1) The granting of Occidental's petition, filed on January 30, 1974, as hereinafter ordered, 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 this docket for hearing and to establish the procedures for that hearing as hereinafter ordered.

The Commission orders. (A) The relief sought by Occidental is hereby granted on a temporary basis pending hearing and decision on whether the relief should be made permanent and is granted upon the following condition:

Occidental may be required to pay back the gas obtained under the temporary grant, if the evidentiary record establishes that the public interest requires such action.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on April 10, 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 Occidental petition.

(C) On or before March 22, 1974, Occidental and those parties supporting its petition 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

[1] City of Anoka, City of Arlington, Village of Brownton, Village of Buffalo, City of Chaska, City of Granite Falls, Village of Kasota, Village of Kasson, City of Lake City, Village of North Saint Paul, City of Saint Peter, City of Shakopee, City of Waseca, and City of Winthrop.

and shall prescribe relevant procedural matters not herein provided.

(E) Any person desiring to be heard or to make protest with reference to said motion should on or before March 18, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-5762 Filed 3-12-74;8:45 am]

[Docket No. CP71-260]

TENNESSEE GAS PIPELINE CO.

Notice of Application

MARCH 6, 1974.

Take notice that on February 25, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP71-260 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the exchange of natural gas with Michigan Wisconsin Pipe Line Company (Mich Wisc), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the exchange of gas with Mich Wisc in south Louisiana which was authorized in the instant docket by an order of the Commission issued July 16, 1971 in Docket Nos. CP71-249, et al. Applicant states that the exchange of natural gas ceased on November 1, 1972, at the request of Mich Wisc, pursuant to the terms and provisions of the exchange agreement between said parties dated March 31, 1971.

The application states that during the term of the subject exchange agreement, Mich Wisc delivered quantities of gas to Applicant in Cameron Parish on a daily basis, and Applicant concurrently redelivered equivalent volumes to Mich Wisc at an existing point of interconnection in St. Mary's Parish, Louisiana. Applicant states that inasmuch as Mich Wisc was able to effectuate delivery of exchange gas with Applicant during the term of the exchange agreement at a point adjacent to Trans Ocean Oil, Inc.'s Grand Cheniere Dehydration and Separation Facility, the side valve assembly Applicant proposed to install at an estimated cost of $7,290 was not installed.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 29, 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 procedures (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 permission and approval for the proposed abandonment are 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.74-5753 Filed 3-12-74;8:45 am]

[Docket No. CP73-339]

TENNESSEE GAS PIPELINE CO. AND TENNECO INC.

Notice of Amendment to Application

MARCH 6, 1974.

Take notice that on February 28, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), PO Box 2511, Houston, Texas 77001, filed in Docket No. CP73-339 an amendment to its application pending in said docket requesting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operation of certain pipeline facilities in the East Cameron Block 33, offshore Louisiana, and from East Cameron Block 16 to a point onshore Louisiana and the transportation of natural gas for Continental Oil Company (Continental) and Cities Service Oil Company (Cities) so as to delete from the original application Applicant's request for authorization to construct 14.42 miles of 16-inch gathering line, as well as to request consideration of the application in two phases, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

In its original application filed with the Commission June 21, 1973, as supplemented November 1, 1973, Applicant proposed to construct and operate approximately 0.4 mile of 16-inch pipeline extending from a Cities-Continental production platform to the end of Applicant's existing 16-inch pipeline in the East Cameron Block 33 and approximately 14.42 miles of 16-inch pipeline extending from Applicant's pipeline in East Cameron Block 16 to a point of interconnection on Applicant's 26-inch line near the Grand Chenier Processing Plant in Cameron Parish.

The application states that this original request for facilities was based on Applicant's estimate that some 70 million Mcf of recoverable natural gas would initially become available to it from Block 33 and that future development would yield additional reserves. Applicant anticipated transportation requirements of some 50,000 Mcf per day for its own use and an additional 50,000 Mcf proposed for Cities and Continental. Applicant states that as of the date of the instant amendment such development of reserves has not materialized and Applicant now anticipates that total recoverable reserves will not exceed 140 million Mcf. Based on this later estimate of recoverable reserves Applicant states that such reserves can be accommodated by constructing only the 0.4-mile connecting line and that the additional 14.42 miles of 16-inch gathering lines are not now needed. Applicant therefore amends its application so as to delete the requested authorization for construction and operation of said 14.42 miles of pipeline.

In its original application Applicant also requested authorization to transport natural gas for Cities and Continental. Pursuant to certain gas purchase contracts between Applicant and Cities and Continental, the latter two parties dedicated one-half of the natural gas produced from their respective interests in Block 33 to Applicant for 20 years or until depleted. Applicant contracted with Cities and Continental to transport the other half of natural gas produced from said area to a point onshore adjacent to Applicant's Sabine-Kinder pipeline.

Applicant states that Cities and Continental will be ready to commence delivery in the immediate future and therefore Applicant proposes that its application, as amended herein, be considered and disposed of in two phases: Phase I to concern the proposed construction and operation of the 0.4 mile of 16-inch connecting line and Phase II to concern the proposed transportation of natural gas by Applicant for Cities and Continental. Applicant contends that such a procedure will allow Applicant to attach the needed gas reserves of Cities and Continental in Block 33 at the earliest possible date without prejudicing the interests of any parties with respect to the issue of the transportation of equivalent volumes of natural gas by Applicant for Cities and Continental.

Applicant asserts in support of such a phasing plan that none of the parties

who have heretofore intervened have voiced any opposition to the construction and operation of the proposed facilities nor to the proposed purchase of gas by Applicant of Cities' and Continental's reserves.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 25, 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. Persons who have heretofore filed protests and petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5761 Filed 3-12-74;8:45 am]

[Docket No. RP72-98]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Proposed Changes in FPC Gas Tariff

MARCH 7, 1974.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 22, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, the following sheets:

Sixth Revised Sheet No. 13.
Sixth Revised Sheet No. 13A.
Sixth Revised Sheet No. 13B.
Sixth Revised Sheet No. 13C.
Sixth Revised Sheet No. 13D.

Texas Eastern asserts that these sheets are issued pursuant to the Purchased Gas Cost Adjustment provision contained in Section 23 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Third Revised Volume No. 1. This provision was made effective by Federal Power Commission order dated November 26, 1973 approving Texas Eastern's Stipulation and Agreement dated July 25, 1973 in Docket No. RP72-98.

Texas Eastern states that the change in Texas Eastern's rates proposed by this filing reflects a cost of gas adjustment to track rate increases filed by two Texas Eastern's pipeline suppliers: Texas Gas Transmission Corporation and United Gas Pipe Line Company.

The proposed effective date of the above tariff sheets is April 6, 1974.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (1 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 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.74-5748 Filed 3-12-74;8:45 am]

[Docket No. E-8215]

UNION ELECTRIC CO.

Notice of Filing of Interim Tariff Sheet

MARCH 7, 1974.

Take notice that on January 29, 1974, Union Electric Company (Union) tendered for filing an Interim Revised Sheet No. 5 of Union's FPC Electric Tariff W-2. Union requests that the proposed Interim Revised Sheet No. 5 become effective February 1, 1974, to decrease the rate increase presently being collected by Union subject to refund from its W-2 customers from approximately 43.6 percent to 30 percent. Union states that this reduction will be for the billing periods of February, March and April, 1974, to allow Union and its customers to consumate a settlement in the above-referenced docket. Union states that in the event the settlement is not consummated by May 1, 1974, Union will resume collecting the 43.6 percent increase effective on that date. Union states that the customers have agreed to this reduction in rate for the three billing periods mentioned above.

Union stated that the Interim rate sheet will temporarily supersede the Third Revised Sheet No. 5 which contains the rates presently being charged to customers subject to refund. As cost support for the change in rates, Union incorporates by reference all of the cost data submitted with its filing in this matter on May 18, 1973.

Union states that in order to make the reduction effective for the February billing period, in compliance with the settlement terms, it needs an effective date prior to the normal 30-day waiting period provided by Commission rules. Therefore, Union asks that it be authorized to make the enclosed Interim Revised Sheet No. 5 effective February 1, 1974.

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 1.10, 1.10). All such petitions or protests should be filed on or before March 18, 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.74-5747 Filed 3-12-74;8:45 am]

[Docket Nos. RP71-29 and RP71-120]

UNITED GAS PIPE LINE CO.

Notice of Extension of Time and Postponement of Hearing

MARCH 6, 1974.

On March 4, 1974, Louisiana Power & Light Company filed a motion for an extension of time to file its testimony as required by the notice issued February 1, 1974, in the above-designated matter.

Due to the unavailability of the Presiding Administrative Law Judge on the date the hearing is presently scheduled, the hearing should be postponed.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are further modified as follows:

Service of prepared direct testimony, by Staff and Interveners, March 15, 1974.
Service of simultaneous rebuttal testimony by all parties, March 27, 1974.
Commencement of Hearing, April 16, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5752 Filed 3-12-74;8:45 am]

FEDERAL RESERVE SYSTEM

BAYSTATE CORP.

Order Approving Acquisition of Bank

Baystate Corporation, Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Easthampton, Easthampton, Massachusetts (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls eleven banks with aggregate deposits of about $1.5 billion, representing 11.2 percent of the total commercial bank deposits in the State, and is the third largest banking organization in Massachusetts. (All banking data are as of June 30, 1973, adjusted to reflect bank holding company formations and acquisitions approved by the Board through January 31, 1974.) The acquisition of Bank (deposits of $8.6 million) would increase Applicant's share of the total commercial bank deposits in the State by less than one-tenth of one percentage point, and Applicant would remain the third largest banking organization in Massachusetts.

Bank, which maintains its only office in the town of Easthampton, is the smallest of the thirteen commercial banking organizations in the relevant market (the Springfield-Chicopee-Holyoke SMSA). Bank controls 1.2 percent of the total deposits held by commercial banks in the market. Applicant has one subsidiary bank, Valley Bank and Trust Company, Springfield (Valley Bank), located in this market. Valley Bank has deposits of about $202 million, representing 28.7 percent of total market deposits, and ranks second of the thirteen banking organizations therein. Applicant will not gain a dominant position in the market in which are located bank subsidiaries of five other of Massachusetts' ten largest bank holding companies. While the proposed transaction will eliminate some existing competition between Valley Bank and Bank, the amount that will be eliminated is deemed insignificant. No overlap exists between the service area of Valley Bank and that of Bank, and natural boundaries separate the respective service areas.

In addition, Massachusetts law restricts each bank to branching within its own county. Since Bank and Valley Bank are headquartered in different counties, neither can branch into the other's service area. The Board concludes that consummation of the proposed acquisition will not eliminate significant future competition between Valley Bank and Bank.

While Applicant has the resources to enter the Hampshire County portion of the market de novo, this possibility is not considered likely due to the relatively static economy of the area. Furthermore, Bank is the fifth largest of the six banks in Hampshire County and the smallest bank in the relevant market, making it one of the least anticompetitive acquisitions available. The Board concludes that consummation of the proposed acquisition would have no adverse effects on potential competition.

The financial and managerial resources of Applicant, its subsidiary banks and Bank are satisfactory and consistent with approval of the application. Although there is no evidence in the record to indicate that the major banking needs of the community to be served are not presently being met, affiliation with Applicant would enable Bank to expand its services and thereby compete more effectively with other banks affiliated with holding companies in the market area. Applicant indicates that Bank will offer trust services as well as a new driveup teller facility. Therefore, considerations relating to the convenience and needs of the community to be served lend slight weight to approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 6, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-5716 Filed 3-12-74;8:45 am]

CAPITAL EQUIPMENT LEASING CORP.

Retention of Bank Shares

Capital Equipment Leasing Corporation, Philadelphia, Pennsylvania, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to continue to be a bank holding company through retention of 64 percent or more of the voting shares of State National Bank of Maryland, Rockville, Maryland, which were obtained without prior Board approval. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Capital Equipment Leasing Corporation has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y for permission to continue to engage in full-payout leasing of personal property and equipment. Notice of the application was published in the following newspapers on the following dates: December 19, 1973: The Evening Bulletin, Philadelphia, Pennsylvania; Macomb Daily, Macomb County, Michigan; the Sentinel Star, Orange County, Florida; The Miami News, Miami, Florida; and The Marietta Daily Journal, Cobb County, Georgia. The Tampa Tribune, Tampa, Florida, December 17, 1973; The Columbus Dispatch, Franklin County, Ohio, December 18, 1973; and The Morning Call, Allentown, Pennsylvania, December 15, 1973.

Applicant states that it would continue to engage in the activity of leasing personal property and equipment on a full-payout basis, whereby it recovers the acquisition cost of leased property during the initial term of the lease from rentals, tax benefits and estimated salvage value. Such activity has been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can:

"Reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 5, 1974.

Board of Governors of the Federal Reserve System, March 5, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5710 Filed 3-12-74;8:45 am]

FSB CORP.

Formation of Bank Holding Company

FSB Corporation, Ionia, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of the successor by merger to First Security Bank, Ionia, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 28, 1974.

Board of Governors of the Federal Reserve System, March 5, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5711 Filed 3-12-74;8:45 am]

FIRST INTERNATIONAL BANCSHARES

Order Denying Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, a bank holding company

[1] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Waco, Waco, Texas (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the largest banking organization and bank holding company in Texas and controls 15 banks with aggregate deposits of $2.8 billion, representing approximately 8 percent of the total deposits in commercial banks in Texas.[1] The acquisition of Bank (deposits of $142.3 million) would increase Applicant's control of commercial bank deposits in Texas from 7.98 percent to 8.39 percent.

Bank is the largest bank located in the Waco SMSA banking market. Applicant's banking subsidiary closest to Bank is located 35 miles away in Temple. The Board concludes that no existing competition would be eliminated between Bank and any of Applicant's subsidiary banks upon consummation of this proposal. The respective service areas of Bank's data processing subsidiary and Applicant's data processing subsidiary located in Dallas overlap. However, Applicant's data processing subsidiary derives an insignificant amount of its business from the service area of Bank's subsidiary, and Bank's data processing subsidiary derives no business from the service area of Applicant's data processing subsidiary. The Board concludes that no significant existing competition would be eliminated between the two data processing subsidiaries upon consummation of the proposed acquisition.

The Board is concerned, however, about the effect this proposed acquisition would have on potential competition with respect to the Waco SMSA banking market and throughout the State. In a recent order denying Applicant's application to acquire the largest bank in the Tyler SMSA banking market,[2] the Board noted an increase in the concentration of the State's commercial bank deposits held by the five largest banking organizations in Texas. The Board expressed concern over the present size disparity among the State's bank holding companies and the likelihood that this disparity may become greater in the future by virtue of Applicant's present acquisition policy, which involves entry into a number of the secondary SMSA banking markets[3] in Texas through acquisition of a leading bank in each market it enters. The Board stated that it would guard against the tendency toward undue concentration not only in the local banking market but at the Statewide level as well when viewing the probable effect of an acquisition upon potential competition.

The Waco SMSA banking market is highly concentrated with the two largest of 15 banking organizations controlling 65 percent of the market's total commercial bank deposits, and about 56 percent of the market's total IPC deposits in accounts of $100,000 or less. Bank, the largest of the 15 banks in the market, controls 34.6 percent of the total commercial bank deposits in the market. The second largest bank controls 30.4 percent of market deposits, while the third largest controls only 7.3 percent of such deposits.

It is clear that Applicant possesses the resources for de novo entry into the Waco SMSA banking market. There is evidence that suggests that successful de novo entry could occur; both deposits per banking office and population per banking office ratios are slightly above comparable State averages. In addition, there appear to be smaller banks in the market available for acquisition. The Board concludes that acquisition of one of the smaller banks in the area or de novo entry would be clearly preferable from a competitive standpoint to the proposal herein. As the Board has previously noted, these secondary SMSA banking markets will become less concentrated only if the major holding companies enter de novo or via foothold acquisitions, thereby creating additional competition in the markets.

On the basis of the foregoing and all other facts in the record,[4] the Board concludes that this proposal, in light of Applicant's previous acquisition policy, would have significantly adverse effects on potential competition with respect to the Waco SMSA banking market and throughout Texas. Unless such anticompetitive effects are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served, the application must be denied.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are satisfactory and consistent with approval. The financial resources of Bank are regarded as generally satisfactory in view of recent increases in Bank's deposits and capital and the improvement in Bank's earnings since the discontinuation of a large monthly management fee which Bank was paying to an affiliate. Applicant has stated its willingness to strengthen Bank's capital by an injection of equity capital. The Board believes that affiliation with Applicant is not the only means by which Bank's financial resources could be further strengthened. The acquisition of Bank by a smaller bank holding company would not result in the same anticompetitive effects as the acquisition by Applicant and could effectuate similar assistance. Affiliation with Applicant would provide Bank with access to Applicant's managerial resources and expertise, thereby lending weight toward approval of the application. However, the Board concludes that banking factors do not outweigh the substantially anticompetitive effects the proposal would have upon potential competition.

Although there is no evidence in the record that banking needs of the residents of the Waco area are not presently being met, affiliation with Applicant would enable Bank to expand its services to include factoring, economic forecasts, petroleum engineering consultation and industrial development advice. In addition, by providing Bank with access to its financial and managerial resources and expertise, Applicant would strengthen Bank's ability to provide banking services to the Waco area. However, although considerations relating to the convenience and needs of the communities to be served lend weight toward approval of the application, they do not clearly outweigh the substantially adverse effects this proposed acquisition would have upon competition in the Waco SMSA banking market and throughout Texas. It is the Board's judgment that consummation of the proposed acquisition would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[5] effective March 1, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74—5712 Filed 3-12-74;8:45 am]

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[1] All banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through November 15, 1973.

[2] See Board's Order dated December 28, 1973, denying the application of First International Bancshares, Inc., Dallas, Texas, to acquire Citizens First National Bank of Tyler, Tyler, Texas.

[3] A secondary SMSA market in Texas is defined as an SMSA market other than Texas' four largest SMSA markets, i.e., other than the Dallas, Fort Worth, Houston, and San Antonio SMSA markets.

[4] Dissenting Statement of Governor Mitchell and Dissenting Statement of Governors Daane and Sheehan filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Dallas.

[5] Voting for this action: Chairman Burns and Governors Brimmer, Bucher, and Holland. Voting against this action: Governors Mitchell, Daane, and Sheehan.

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, a bank holding company within

the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of City National Bank of Cocoa, Cocoa, Florida ("Cocoa Bank").

Notice of receipt of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 29 banks with aggregate deposits of $1.8 billion, representing 8.6 percent of the total commercial bank deposits held by Florida banks, and is the largest banking organization in the State. (All banking data are as of June 30, 1973, and reflect acquisitions and formations approved through January 31, 1974.) The acquisition of Cocoa Bank ($12 million deposits) would increase Applicant's share of State deposits by less than 1 percent, and would not significantly increase the concentration of banking resources on a local or Statewide basis.

Cocoa Bank, with 7.4 percent of total market deposits, is the sixth largest of seven banks operating in the Central Brevard banking market, which includes the towns of Cocoa, Rockledge, and Cocoa Beach. Two of the competing banks are subsidiaries of Florida's second and third largest bank holding companies, and hold 31 and 19 percent, respectively, of total market deposits. It appears that consummation of the proposed affiliation would not adversely affect the other area banks.

Applicant has no subsidiary banking office in the Central Brevard banking market but has two subsidiary offices located approximately 20 miles south of Cocoa Bank. Cocoa Bank and Applicant's subsidiary banking offices derive only a nominal amount of business from the other's respective service area. In addition, no competition exists between Applicant's nonbanking subsidiaries and Cocoa Bank. It further appears that no significant potential competition would be eliminated by the proposed acquisition in view of the wide separation of the banks, the presence of numerous intervening banking offices and Florida's restrictive branching laws.

Applicant is increasing the capital of its present subsidiaries in accordance with a projected plan. It appears, therefore, that the financial conditions and managerial resources of Applicant and its banks are generally satisfactory. Applicant has also agreed to supplement the capital and managerial needs of Cocoa Bank if approval of the acquisition is granted. Therefore, banking factors lend weight toward approval of the application. Consummation of the proposed acquisition will make available to Cocoa Bank the resources and expertise of Applicant and it would especially benefit from the affiliation in the areas of lending and investments. Applicant does not propose to introduce any new services for Cocoa Bank at the present time; however, it will consider and may establish a trust service office at a future date. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta, pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 5, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-5714 Filed 3-12-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

CONTRACT ADMINISTRATION PLANT COGNIZANCE

Notice for Comment

The purpose of this notice is to make known an Interagency Task Group proposal on Recommendation A-40 of the Commission on Government Procurement (COGP) concerning the Department of Defense contract administration plant cognizance program and to offer an opportunity for public comment thereon. Interested persons should submit their comments to the General Services Administration (AMC); Washington, D.C. 20405. To be given consideration, written comments must be submitted on or before May 13, 1974.

Background. The Office of Management and Budget, in memorandums to Heads of Executive Departments and Agencies on December 7, 1972, and on March 19, 1973, established and outlined plans for coordination of executive branch efforts in response to the COGP report. Interagency Task Groups, made up of assigned lead and participating agencies, were formed to examine and recommend an executive branch position on each of the 149 COGP recommendations. Direction of executive branch efforts on COGP matters is a function which was transferred to the General Services Administration (GSA) by Executive Order 11717 on May 9, 1973. The following concerns COGP Recommendation A-40 and the Task Group's position thereon.

Task Group Report. Set forth below is the Task Group's Report on COGP Recommendation A-40 which is self-explanatory. Related COGP Recommendations dealing with Field Contract Support are contained in Volume I, Part A, Chapter 10, of the Commission's Report.

PROPOSED EXECUTIVE BRANCH POSITION FOR RECOMMENDATION A-40 OF THE REPORT OF THE COMMISSION ON GOVERNMENT PROCUREMENT

DECEMBER 11, 1973.

I. SUMMATION

a. *Statement of COGP Recommendation—Vol. 1, Chap. 10, page 104.* "Transfer all plant cognizance now assigned to the Military Departments to the Defense Contract Administration Services with the exception of those plants exempted by the Secretary of Defense (for example, GOCO plants and Navy SUBSHIPS)."

b. *Proposed position.* It is proposed that Recommendation A-40 be modified as follows: "Transfer to Defense Contract Administration Services (DCAS) all plants assigned to the Military Departments by the Secretary of Defense which no longer meet the criteria for such assignment under the DOD plant cognizance program. Continue to assign plants to the Military Departments which meet the criteria."

II. BACKGROUND

a. The Task Group perceived that the objectives of the Commission on Government Procurement (COGP) Recommendation are to improve DOD contract administration and reduce operating costs.

b. The guidelines established by the Task Group for considering this Recommendation: *Provided,* That any action taken to meet the Commission's objectives should:

1. Not adversely affect the present high quality of performance of contract administration services (CAS) within the DOD.

2. Maintain the high level of responsiveness provided by CAS components to purchasing offices, systems managers and other customers.

3. Not significantly disrupt the essential stability of the DOD CAS posture.

4. Be effected at lowest practicable cost and with the minimum of effort to meet the objectives.

5. Not adversely affect contractors.

c. The Task Group considered the following alternative means of satisfying the objectives:

1. *Turn all plants over to DCAS.* This alternative was not supported by any DOD component, including DSA(DCAS). The findings of the COGP do not warrant the drastic changes in DOD CAS posture which would be unnecessarily disruptive to both CAS components and contractors, and would not achieve the Commission's objectives.

2. *Continue the present practice of reviewing cognizance assignments only when requested by a Department.* This would result in essentially the "status quo" with plants being transferred between DCAS and the Departments only when a specific request is made. There was considerable support among Task Group members for this alternative. These members were not simply resisting change, but felt that DOD has an overall good CAS operation which requires little change. The "status quo" proposed by this alternative is inconsistent with DODI 4105.59 which requires that ASD(I&L) review plant assignments periodically to determine whether the assignments should be continued or whether the plant should be administered by DCAS.

3. *Review cognizance assignments.* This would require a periodic review be made of assignments to DOD CAS components in compliance with the modified Recommendation

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

A–40 in paragraph Ib above. All Task Group members support this alternative.

III. FINDINGS

In addition to reviewing the Commission report and the related Commission Study Group findings, the Task Group made an independent evaluation of the policies, procedures and practices relating to assignment and transfers of plants among the Military Departments and DCAS. The findings of the Task Group were that:

a. DOD, in 1964, established policies, procedures and criteria for assignment of plants to DOD components. These are presently contained in Department of Defense Instruction 4105.59, dated August 20, 1970, entitled, "Department of Defense Plant Cognizance Program", a copy of which is enclosed. Although this highly successful program is most pertinent, no mention of it is contained in the Commission findings.

b. Improvements in the effectiveness of overall DOD CAS support have been noted by the Military Departments and DSA in the way of stronger and more uniform contract administration procedures in ASPR, a clearer and more uniform delineation of functions assigned to CAS components and buying activities, and greater appreciation of the one face concept, both in procurement activities and by industry. This finding is consistent with the Commission finding that effectiveness of DOD CAS components has been improved.

c. Improvements in DOD CAS operations since 1964 have had a salutary effect on industry. In fact, contractors are generally in strong support of the program, particularly the feature which provides that there shall be only "one face to the contractor" on CAS matters. This finding is also consistent with the Commission findings on Recommendation 40, as well as Recommendation 41.

d. Duplication of CAS at contractor facilities has virtually been eliminated. This finding again confirms one of the Commission findings.

e. Considerable progress has been made in transferring plants between the four DOD CAS components (Army, Navy, Air Force, and DCAS) since start of the DOD Plant Cognizance Program in 1964. This finding contradicts the Commission finding that "Little progress has been made toward the ultimate goal of transferring all plant cognizance functions to DCAS." However, the Commission report also notes that of the 51 plants assigned to the Army, Navy and Air Force at the inception of DCAS, about 25 percent (12 plants) have since been transferred to DCAS. The Task Group believes that this reflects "considerable" rather than "minimal" progress. The Task Group has been unable to identify documented historical support for the "ultimate goal" indicated in the Commission findings since the Project 60 report did not propose turning all plants over to DCAS; nor has such a goal ever been set by DOD.

f. The DOD Plant Cognizance Program calls for "periodic" reviews of cognizance assignments by ASD(I&L). Cognizance assignments are reviewed, but only when a change is being contemplated by one of the Military Departments involved. This has occurred as the result of the desires of DOD procurement and CAS personnel, program managers and Defense contractors for a stable plant cognizance posture, and the lack of compelling reasons for continuous changes in plant assignments. The Commission Report contains no findings on these matters.

g. While the division of CAS responsibility between the Army, Navy, Air Force and DCAS requires each to establish its own policies and procedures, the inclusion of basic CAS policies and procedures in ASPR, initiated in 1964, has resulted in a minimum of duplication. Neither DOD personnel nor contractors have reported difficulties in coping with Service and DCAS procedures. This finding is inconsistent with the Commission finding in that the Commission found that the division of CAS cognizance "* * * perpetuates the problems of non-uniformity policies and procedures, duplication and overlap. Industry must cope with four sets of instructions ***"

h. The economies of plant transfers is unclear. While transfers of plants to DCAS usually result in fewer CAS personnel, these reductions are the result of changing workload patterns (which is the reason the plant is transferred) that do not permit value judgments as to how much, if any, of the reduction is the direct result of economies. Conversely, transfers from DCAS to the Departments are usually synonymous with major new programs entering the plant, thus there is a normal increase in personnel. The Task Group is unable to confirm the Commission finding that transfer of additional plants to DCAS would result in economies. While transfer of plants among DOD components offers minimal opportunity for economies, improvement in performance in the various CAS functions offers the best potential for savings in both Government and contractor operations.

i. The Commission finding that the DOD plan for centralized management "excludes" certain types of contracts and organizations from DCAS central management contains certain inaccuracies and omissions which require correction and amplification. The "exclusions" referenced above are among others listed in Volume 1 of the Project 60 report of 1963. This volume was not acceptable and was not approved by the Secretary of Defense. The approved DOD three-step plan was the Policy Committee Report (PCR) of Project 60 which was forwarded to SecDef, who approved Steps I and II, but deferred Step III. In implementing Steps I and II of the Project 60 study, all plants and contracts requiring field CAS were examined by OSD in 1964–65 for inclusion in DCAS, and not exclusion. No plants or types of contracts were automatically excluded or exempted from DCAS by SecDef. All plants and types of contracts not under DCAS have been specifically assigned to the Military Departments for sound reasons. A review of proposed exclusions listed on pages 135–139 of Volume 1, of Project 60 clearly indicates that GOCO plants were indeed recommended for DCAS management and not for "exclusion". Most GOCO plants are currently under DCAS. Those outside DCAS are individually assigned to the Services on a basis other than GOCO.

j. DOD policy has always provided that the Military Services would have technical direction and control over their major programs. Normally, this direction and control is exercised by assigned program managers in three ways: (1) They may rely entirely on DOD CAS components, (2) they may assign technical representatives to contractor plants, or (3) they may request CAS cognizance of the contractors' plants. In the latter case, cognizance requests are normally limited to large scale procurements of critical systems involving unusual technical complexity and innovation. The need of the Services to maintain their technical control and direction is essential for program managers to carry out the responsibilities listed in DODD 5000.1. This finding relates to the Commission finding which states that, "The Military Services are wary of the erosion of their technical control and direction over major weapon system programs."

k. The DOD Plant Cognizance Program provides for assignment of major system plants to the Military Departments when they meet the criteria indicated in DODI 4105.59 attached. Generally, the Military Departments cite the following reasons for performance of CAS by the Service responsible for acquiring the major systems:

The responsible Service requires flexibility in applying resources and in quickly shifting these resources to meet priority program requirements.

Problem identification and resolution can be expedited as there is a direct flow of information between the Service plant representative and the program manager.

The determination of priorities with regard to actions required in solving problems must be within the control of the Service.

Service orientation eliminates the interface problems of communications between the program managers and CAS organization which would exist on critical operation systems if a non-service mission oriented agency were involved.

The testing and deployment of the weapon system within the required time frame requires a response which can only be assured if the Service controls all participants.

There was agreement that assignment of major system plants to the Services is in the best interests of DOD and should be continued.

l. Experience indicates that reaction resulting from inplementation of the revised recommendation from private, Congressional, industrial and other sources is unlikely.

IV. CONCLUSIONS

a. In considering the adoption of the Proposed Executive Branch Position, the Task Group has concluded that the objectives of the Commission recommendation (to improve the effectiveness of CAS) will be achieved with the adoption of the proposed position.

b. Impact on industry will not be significant.

c. The objectives of the recommendation can be achieved with minimal operational difficulty.

d. The objectives can be achieved without additional cost or resources. Some nominal cost reductions may be possible.

e. DOD CAS performance, while subject to improvement, is basically sound and without peer in the Federal Government.

f. Responsiveness to DOD Systems Managers, purchasing offices and others will continue at a high level.

g. Implementation is feasible and readily available within existing DOD policies and procedures.

h. To assure maximum economy, efficiency and effectiveness, performance of CAS by both the Military Departments and DCAS is needed. The assignment of major weapons systems plants to the Military Departments has been highly successful.

V. DISCUSSION

a. The Task Group's most vital concern is that DOD CAS performance offers maximum assurance that contractors comply with the contractual provisions and that the government's interests are fully protected. The Task Group has found that the COGP focused largely on improvements of an administrative nature rather than on improvement in the performance of the various CAS functional areas. Experience reveals that changes in organizational responsibility, of the nature indicated in the COGP findings, do not necessarily lead to the improvements intended, especially in improvements in performance.

b. Industry strongly supports the DOD "single face" concept and generally prefers

that plant cognizance not be changed since they rarely benefit from plant transfers. Overall the Task Force foresees little, if any, impact to contractors in fulfilling the Commission objectives.

c. The Task Group sees no adverse operational or technical impact from the modified recommendation. Through good planning plant cognizance transfers have taken place smoothly and without significant disruption to government/contractor operations over the history of such transfers. Transfers have been effected in an orderly time-phased manner to minimize impact on government personnel and on contractor operations.

d. The Task Group foresees no significant impact on CAS costs/resources resulting from implementing the revised recommendation. CAS costs/resources at plant level should remain about the same.

e. Various management reviews of DOD CAS components conducted since 1964 indicate that they are operating economically, effectively, and efficiently. The soundness of the DOD CAS program may be characterized by the fact that NASA and numerous other non-DOD agencies, including those of foreign governments have been satisfied customers of DOD CAS components for years. In terms of size and scope, DOD CAS operations greatly exceed that of all other federal agencies combined.

f. The key to good CAS operations is the type of response they provide to program managers and purchasing offices. Implementation of the modified recommendation would that the present good responsiveness would continue.

g. No new policy or procedures for implementing the revised recommendation are required, since they are contained in DODI 4105.59 attached. A more active application of ASD(I&L) responsibility for review of existing assignments will be undertaken toward achievement of the objectives sought by the Commission.

h. The Task Group considers that the present CAS organizational posture, in which CAS responsibility is assumed by DCAS at all plants except those specifically assigned to the Military Departments, provides the best possible services at reasonable costs. The existence of four DOD CAS components has not created duplication, nor has it posed any serious management problems within DOD or at contractors plants. On the other hand it has fostered a wholesome competitive climate in which to experiment, innovate, and to coordinate their activities to assure responsiveness in supporting the procurement mission. The present DOD plant cognizance program, which provides for assignment to the Military Departments, offers a reasonable balance between the benefits achieved by centralized management under DCAS and Service needs for specialized management tailored to satisfy program objectives on acquisition of major systems. The Task Group has been unable to find evidence in support of the Commission claims that turning all plants over to DCAS would improve economy, effectiveness and efficiency. Therefore, the Task Group, proposes a modified recommendation which will achieve the Commission's objectives.

VI. IMPLEMENTATION

As indicated in paragraph Vg. no new policies and procedures are required since these are already contained in DODI 4105.59. No guidance, direction, assistance, or additional resources are required to undertake implementation of the modified rceommendation of paragraph 1b.

VIII. DISSENTING VIEWS

None.

After careful consideration of the views of interested parties an executive branch position and appropriate implementation will be formulated. Questions on the foregoing may be addressed to Conroy B. Johnson, Office of Procurement Management (202-343-7794). Dated at Washington, D.C., on March 6, 1974.

WILLIAM W. THYBONY,
Acting Associate Administrator for Federal Management Policy.

[FR Doc.74-5701 Filed 3-12-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

DOMESTIC COAL CO. ET AL.

Opportunity for Public Hearing; Correction

In FR Doc. 74-4528 appearing at page 7624, in the issue for Wednesday, February 27, 1974, in the third line of the third docket listing, "Mine ID No. 15 04022 0," should read "Mine ID No. 15 02307 0."

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 7, 1974.

[FR Doc.74-5736 Filed 3-12-74;8:45 am]

INLAND STEEL CO.

Application for Renewal Permit; Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Mandatory Dust Standard (2.0 mg/m^3) has been received as follows:

ICP Docket No. 20257, INLAND STEEL COMPANY, Inland Mine, Mine ID No. 11 00601 0, Sesser, Illinois, Section ID No. 013-0 (#1 Mains East), Section ID No. 023-0 (4 Right, #1 Mains East), Section ID No. 024-0 (9 Right, #1 Mains West), Section ID No. 025-0 (5 Right, #1 Mains East), Section ID No. 026-0 (2 Left, #1 Mains East), Section ID No. 027-0 (10 Left, #1 Mains West), Section ID No. 028-0 (10 Right, #1 Mains West), Section ID No. 029-0 (11 Right, #1 Mains West), Section ID No. 030-0 (3 Left, #1 Mains East).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before March 28, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 7, 1974.

[FR Doc.74-5735 Filed 3-12-74;8:45 am]

STURGILL COAL CO., INC.

Applications for Initial Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard have been received for items of equipment in the underground coal mines listed below.

(1) ICP Docket No. 4315-000, STURGILL COAL COMPANY, INC., Mine No. 2, Mine ID No. 44 03102 0, Dunbar, Virginia.

(2) ICP Docket No. 4358-000, M & M COAL COMPANY, INC., No. 15 B Portal Mine, Mine ID No. 44 01691 0, Pound, Virginia.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 7, 1974.

[FR Doc.74-5734 Filed 3-12-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 8, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an

indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service, Cattle Feedlot Waste Management Survey, Form, Single Time, Lowry, Western Cattle Feedlots.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Departmental, Analysis of Impact of Head Start Fee Schedule. Form OS 13–74, Single Time, HRD/Planchon, Head Start Grantees & Delegate Agencies.

National Institute of Education, Collection Forms for Management Implications of Team Teaching Program, Form NIE 39, 3/74, Semi-annual, Planchon, Teachers, aides and principals.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Monthly Operating Summary for Insured Subsidized Multi-Family Housing Projects, Form HUD–9808, Monthly, Lowry, Owners of subsidized projects with HUD-insured mortgages.

Policy Development and Research, Urban County Government Survey, Form, Single Time, Ellett, County Officials in major urban counties.

City Government Survey, Form, Single Time, Ellett, Municipal officials in major urban counties.

NEW FORMS

U.S. TARIFF COMMISSION

Picker Sticks: Purchasers' Questionnaire; Form, Single Time, Evinger; Textile weaving firms (except wool).

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Regulations—Special Food Service Program, Form, Occasional, Lowry; Public & Nonprofit Private Service Institutions.

Application for Participation and Site Information; (Special Food Service Program for Children), Forms FNS–81 & 81–1; Occasional, Lowry; Service Institutions where the SF SPC is administered directly.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management; Premium Reconcilement, Form FHA 3653, Occasional, Evinger; Mortgagees.

Management Plan Requirements, Form HUD-9405, 9405A, 9405B, Occasional, Evinger; Sponsors, owners, managing agents.

Rental Schedule & Information on Rental Project, Form HUD-92458, Occasional, Evinger; Mortgagors.

Schedule of Charges and Project Information Housing for the Elderly (Nonprofit), Form HUD 92458A, Occasional, Evinger; Mortgagors.

Report on Initial Occupancy, Form HUD 52209, Monthly, Evinger; Elderly & displaced families.

Policy Development and Research, Housing Allowance Supply Experiment Neighborhood Survey, Form, Single Time, Sunderhauf, Officials & real estate professionals in 2 SMSA's.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–5929 Filed 3–12–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5470]

APPALACHIAN POWER CO. AND SOUTHERN APPALACHIAN COAL CO.

Purchase of Capital Stock of Two Coal Mining Companies by Subsidiaries of Registered Holding Company and Cash Capital Contribution

In the matter of Appalachian Power Co., 40 Franklin Road, Roanoke, Va. 24009, Southern Appalachian Coal Co., 301 Virginia Street, Charleston, W. Va. 25327.

Notice is hereby given that Appalachian Power Company, (Appalachian) an electric utility subsidiary company of American Electric Power Company, and Southern Appalachian Coal Company (Southern), a mining subsidiary company of Appalachian, have filed an application-declaration with this Commission designating sections 9, 10 and 12 of the Public Utility Holding Company Act of 1935 as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Appalachian proposes to purchase all the outstanding capital stock of Cedar Coal Company, ("Cedar") a West Virginia corporation, from Agio Coal Sales Co. (AGIO), a Delaware Corporation, for a cash consideration of $5,000,000. It is stated that Cedar's capital stock consists of 2000 shares of common stock, par value $100. It is a condition of Appalachian's obligation to purchase the shares that, at the time of closing, Cedar will own certain specified coal reserves and have (a) current assets (other than receivables from affiliates) having a book value of not less than the amount of its current liabilities; (b) net worth of not less than $1.00, and (c) no liabilities of any kind except current liabilities not exceeding current assets and obligations to perform under coal leases which Cedar is entitled to mine.

Southern proposes to purchase all the outstanding capital stock of AGIO, consisting of 1000 shares of common stock, par value $1.00, from Cenard Oil & Gas Co. ("Cenard") for a cash consideration of $19,000,000. It is represented that at the date of closing of the sale, AGIO will own mining equipment and other tangible assets having an aggregate fair market value of at least $3,500,000. The sale of the AGIO stock is subject to certain conditions, including that AGIO will have certain specified coal reserves and have (a) current assets (other than receivables from affiliates) having a book value of not less than the amount of its current liabilities, (b) a net worth of not less than $1.00, and (c) no liabilities of any kind, except current liabilities not in excess of current assets and obligations to perform under the coal leases which AGIO will be entitled to mine at the time of the closing.

Appalachian further proposes, in connection with the foregoing transactions, to make a cash capital contribution of $19,000,000 to Southern. Southern proposes to apply said cash to the purchase of the AGIO common stock.

It is stated that the proposed transactions represent a step in the development and mining of coal required by Appalachian for its electric power generating stations. Appalachian and Southern estimate that not less than 130,000,000 tons of low sulfur coal are recoverable from the combined reserves of AGIO and Cedar. The stock purchase agreements pursuant to which the AGIO and Cedar stock is to be sold to Southern and Appalachian indicate that the estimated recoverable coal tonnage is calculated prior to washing and final preparation of the coal.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. The application-declaration states that the cash capital contribution by Appalachian to Southern is subject to authorization by the State Corporation Commission of Virginia and the Public Service Commission of West Virginia and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 28, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice

of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5726 Filed 3-12-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendments to Option Plan Filed

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed proposed amendments to its Option Plan pursuant to rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1).

The proposed amendment to rule 401 of its Clearing Corporation would eliminate the requirement that trade cards, with respect to transactions in a market-maker's account, show whether a transaction was an opening or closing transaction.

The proposed amendment to rule 206 of its Clearing Corporation would provide that the Clearing Corporation's fees and charges are due within five business days of the month-end.

The proposed amendment to section 3 of Article VI of the by-laws of its Clearing Corporation would permit banks to obtain a primary lien in connection with loans in respect of market-maker accounts.

The proposed amendments will become effective on April 12, 1974, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 132-37784. The proposed amendments are, and all such comments will be available for public inspection at the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

FEBRUARY 28, 1974.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-5707 Filed 3-12-74;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

MARCH 5, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 6, 1974 through March 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5725 Filed 3-12-74;8:45 am]

[File No. 500-1]

CUSTER CHANNEL WING CORP.

Notice of Suspension of Trading

FEBRUARY 28, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B stock of Custer Channel Wing Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1:30 p.m. (e.d.t.) on February 28, 1974 through midnight (e.d.t.) on March 9, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5706 Filed 3-12-74;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Notice of Suspension of Trading

MARCH 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½ percent debentures due 1990, 5½ percent convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 3, 1974 through March 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5724 Filed 3-12-74;8:45 am]

[File No. 500-1]

GRANBY MINING CO., LTD.

Notice of Suspension of Trading

MARCH 1, 1974.

The common stock of Granby Mining Co., Ltd. being traded on the Pacific Coast Stock Exchange and on the Philadelphia - Baltimore - Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Granby Mining Co., Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 2, 1974 through March 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5729 Filed 3-12-74;8:45 am]

[File No. 500-1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

MARCH 5, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 6, 1974 through March 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-5727 Filed 3-12-74;8:45 am]

[File No. 500-7]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

MARCH 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 3, 1974 through March 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-5704 Filed 3-12-74;8:45 am]

[811-974]

INVESTCO, INC.

Notice of Proposal To Terminate Registration

FEBRUARY 25, 1974.

In the matter of Investco, Inc., c/o Joel M. Carson, 300 American Home Bldg., P.O. Drawer 239, Artesia, New Mexico 88210.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Investco, Inc., registered under the Act as a diversified open-end investment company, has ceased to be an investment company as defined in the Act.

Investco, Inc. was organized under the laws of the State of New Mexico on July 18, 1960. It filed its notification of registration on Form N-8A under the Act and a registration statement under the Securities Act of 1933 on August 19, 1960. The registration statement for the proposed public offering of 5,000,000 shares of its common stock did not become effective, and on January 14, 1963, the Commission consented to its withdrawal.

According to information in the Commission's files, it appears that Investco, Inc. conducted no investment business after January 21, 1964, and presently has nine shareholders and assets consisting of a savings and loan account amounting to about $2,500. It is not anticipated Investco, Inc. will make any public offering.

Section 3(c)(1) of the Act states, among other things, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 25, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Investco, Inc. at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-5705 Filed 3-12-74;8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

MARCH 5, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 6, 1974 through March 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-5728 Filed 3-12-74;8:45 am]

[File No. 500-1]

GEON INDUSTRIES, INC

Notice of Suspension of Trading

MARCH 1, 1974.

The common stock of Geon Industries, Inc. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Geon Industries, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 11:00 a.m. e.d.t. on March 1, 1974 through March 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-5699 Filed 3-12-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05/07-5088]

ASCENDING CITIZEN'S INVESTMENT CO.

Notice of License Surrender

Notice is hereby given that Ascending Citizen's Investment Company, 2000 State Street, East St. Louis, Illinois 62205, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the Small Business Administration's rules and regulations governing small business investment companies (§ 107.105, 38 FR 30836 November 7, 1973).

Ascending Citizen's Investment Company was licensed as a small business investment company on January 31, 1973, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.), and the regulations promulgated thereunder.

Ascending Citizen's Investment Company was dissolved as a corporation by action of the Attorney General of the State of Illinois, effective November 1, 1973.

Under the authority vested by the Act and pursuant to the cited Regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises therefrom are canceled.

Dated: March 5, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc. 74-5721 Filed 3-12-74;8:45 am]

[License No. 02/02-5289]

COALITION SMALL BUSINESS INVESTMENT COMPANY CORP.

Notice of Approval of Conflict of Interest Transaction

On January 17, 1974, the Small Business Administration published a notice in the FEDERAL REGISTER (39 FR 2154) that Coalition Small Business Investment Company Corp. (Coalition SBIC), 800 Second Avenue, New York, New York

10017, a licensee under the Small Business Investment Act of 1958, as amended (the Act), had filed an application, pursuant to § 107.1004 (38 FR 30845, November 7, 1973), for approval of a conflict of interest transaction. The transaction involved an equity investment of $50,000 in F. W. Eversley & Co., Inc. (Eversley).

The principal owner and an officer and director in Eversley was Mr. Frederick W. Eversley, who was an associate of Coalition SBIC by virtue of having been a director of Coalition SBIC and its parent company, Coalition Venture Corporation.

After full consideration of all pertinent facts, including comments received, SBA hereby approves the financing of Eversley by Coalition SBIC.

Dated: March 6, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-5720 Filed 3-12-74;8:45 am]

[License No. 05/05-0098]

DOAN ASSOCIATES, INC.

Notice of Issuance of Small Business Investment Company License

On January 30, 1974, a notice was published in the FEDERAL REGISTER (39 FR 3872) stating that an application had been filed by Doan Associates, Inc., 110 East Grove Street, Midland, Michigan 48640, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (38 FR 30836) for a license as a small business investment company.

Interested parties were given until close of business February 14, 1974, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0098 to Doan Associates, Inc., to operate as a small business investment company.

Dated: March 4, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-5722 Filed 3-7-74;8:45 am]

GLOBE CAPITAL CORP.

Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (38 FR 30836) for the transfer of control of Globe Capital Corporation (Globe), Two Forest Road, Tenafly, New Jersey 07670, a Federal licensee under the Small Business Investment Act of 1958 as amended (the Act), License No. 02/02-0182.

Globe was licensed on August 22, 1962. Its present combined paid-in capital and surplus is $151,000, with 30,000 shares issued and outstanding. This proposed transfer of control is subject to and contingent upon the approval of SBA.

The applicant, Stem Development Corporation, 303 Fifth Avenue, New York, New York 10016, is purchasing 100 percent of the issued and outstanding stock of the licensee, and proposes to increase the private capital by $100,000 on or before July 1, 1974.

The names and addresses of the new officers and directors of the applicant are as follows:

Steven Singer, 303 Fifth Avenue, New York, New York 10016, President and Director.

Samuel Weiss, 303 Fifth Avenue, New York, New York 10016, Director.

Lloyd S. Krull, 309 Fifth Avenue, New York, New York 10016, Secretary and Director.

Mr. Steven Singer owns 48 percent of S.D.C. and is the only shareholder of S.D.C. who owns more than ten percent of that company.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and management, and the probability of successful operations of Globe under their management and control (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is hereby given that any interested person may, on or before March 28, 1974, submit to SBA, in writing, relevant comments on the transfer of control. Any such communication should be addressed to:

Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in a newspaper of general circulation in New York and Tenafly, New Jersey.

Dated: March 5, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment Division.

[FR Doc.74-5719 Filed 3-12-74;8:45 am]

TARIFF COMMISSION

[332-70]

DRAFT CONVERSION OF TARIFF SCHEDULES INTO FORMAT OF THE BRUSSELS TARIFF NOMENCLATURE

Opening of Hearings

The United States Tariff Commission hereby gives notice that on April 8, 1974, public hearings will open on the draft of the Tariff Schedules of the United States (TSUS) converted into the format of the Brussels Tariff Nomenclature (BTN) which is being prepared by the Commission pursuant to a request dated July 6, 1972, by the President, under authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), (37 FR 16139; 38 FR 26777). These hearings will be principally for the purpose of receiving the views and comments of interested persons with respect to the draft schedules, including views regarding the probable effect upon domestic industries concerned of incidental changes in rates of duty.

To conform with the BTN, the converted schedules will be comprised of 21 sections, 99 chapters and approximately 1100 headings. An additional chapter, i.e., chapter 100, will be devoted to special classification provisions now found in schedule 8 of the TSUS. An appendix will be devoted to the additional and temporary classification provisions now found in the appendix to the Tariff Schedules.

TIME, PLACE, AND SUBJECT MATTER OF FIRST PUBLIC HEARING

The hearings will begin on April 8, 1974, in the Hearing Room of the U.S. Tariff Commission Building, 8th and E Sts., NW., Washington, D.C. at 10 a.m. EDT, with a consideration of draft sections IX (chapters 44-46) and X (chapters 47-49) of the converted schedules relating to Wood and Articles of Wood (chapter 44); Cork and Articles of Cork (chapter 45); Manufactures of Straw, of Esparto and of Other Plaiting Materials; Basketware and Wickerwork (chapter 46); Papermaking Material (chapter 47); Paper and Paperboard and Articles Thereof (chapter (48); Printed Books, Newspapers, Pictures and Other Products of the Printing Industry; Manuscripts, Typescripts and Plans (chapter 49).

PURPOSE OF COMMISSION'S STUDY

In his letter of July 6, 1972, the President requested the Commission to prepare a draft revision of the TSUS which would conform with the BTN, and to submit to him, with the converted schedules, a report on the probable effects of their adoption on U.S. industries and trade.

INSPECTION OF DRAFT CONVERTED SCHEDULES AND RELATED DOCUMENTS

As portions of the converted schedules are released, copies thereof will be made available for public inspection at the offices of the Commission in Washington, D.C., and New York, N.Y.; at all field offices of the Department of Commerce, and at the offices of Regional and District Directors of Customs. The locations of these offices are listed at the end of this notice. The Commission will also send copies to trade and other commercial associations whose members are known by the Commission to be interested.

The supply of the converted schedules is necessarily limited and interested parties are urged to refrain from requesting personal copies of these documents and to utilize, wherever practicable, the copies on file in the aforementioned offices and associations. However, if these

copies are not readily accessible to an interested party, an effort will be made to furnish appropriate excerpts, upon receipt of a request therefor, specifically identifying the particular product of interest.

WRITTEN STATEMENTS AND PUBLIC HEARINGS

Information and views may be submitted either in writing or by oral testimony at the public hearings, or both. In order to permit within the limited time and resources available, all interested parties to present information and views on the draft schedules in an orderly manner and with the least possible inconvenience to all concerned, the Commission has established the following procedure for submission of written statements and the conduct of hearings:

1. *Written statements in lieu of appearance at hearings.*—Interested parties may present information and views in writing in lieu of appearances at the hearing. Such statements will be given the same consideration as oral testimony. An original and 19 copies of written statements must be submitted. Each such statement should be submitted as early as possible, and, in order to assure due consideration, must be submitted not later than 30 days following the beginning of the hearings on the schedule to which the statement relates.

2. *Scope of written statements and oral testimony.*—Written statements and oral testimony must be limited to matters pertinent to the accomplishment of the purposes of this study. The submissions should be directed towards whether the draft conversion carries out the President's direction that the Commission—

(a) Should avoid, to the extent practicable and consonant with sound nomenclature principles, changes in rates of duty on individual products;

(b) Should simplify the tariff structure to the extent that can be accomplished without rate changes significant for U.S. industry or trade;

(c) Should, where feasible, convert existing specific and compound rates of duty to equivalent, or approximately equivalent, ad valorem rates of duty.

Submissions aimed primarily at seeking increases or reductions in existing tariff rates are not relevant and will not be entertained by the Commission.

3. *Appearance at public hearings.*—The following information and instructions should be carefully noted by any interested party intending to appear at the public hearings:

(a) Request to appear at the hearings on sections IX and X of the converted schedules must be filed in writing with the Secretary of the Commission not later than April 1, 1974. Any such request must include:

(1) The section, chapter, legal note or heading on which testimony will be presented, together with a description of the article or articles to which the testimony will relate.

(2) The name and represented organization of any witness who will testify, and the name, address, telephone number, and organization of the person filing the request.

(3) A brief indication of the position to be taken concerning any incidental changes in rates of duty may be involved.

(4) A careful estimate of the time desired for presentation of oral testimony by all witnesses for whom the request is filed.

NOTE. The Commission reserves the right to set the time within which a witness must complete his statement. In this connection experience in previous extensive hearings shows that, in most cases, essential information can be effectively presented orally in a period of from 15 to 30 minutes. Because of the limited time available, parties desiring an allowance of time in excess of such an amount should set forth the special circumstances which they believe support a grant of additional time. Witnesses may supplement oral testimony with written statements of any length.

(b) The Secretary of the Commission should be promptly notified of any changes in a request for appearance as originally filed.

(c) It is suggested that parties who have a common interest in one or more of the provisions of the schedules endeavor to arrange a consolidated presentation of information and views.

4. *Conduct of hearings.*—(a) Parties who have properly entered an appearance by April 1, 1974, as indicated under paragraph 3 above, will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after April 1, 1974 (the closing date for requests to appear). Any person who fails to receive such notification by April 4, 1974 should immediately communicate with the office of the Secretary of the Commission.

(b) Questioning of witnesses will be limited to members of the Commission and of the Commission's staff.

5. *Communications to be addressed to Secretary.*—All communications regarding these public hearings, including requests to appear at these hearings, should be addressed to the Secretary, United States Tariff Commission, Washington, D.C. 20436.

PUBLICATION OF REMAINING DRAFT CONVERTED TARIFF SCHEDULES

From time to time the remaining draft tariff schedules will be released and public hearings thereon scheduled as and when they are completed. Appropriate supplementary public notices regarding scheduling of hearings will be issued.

LOCATION OF CUSTOMS AND COMMERCE FIELD OFFICES

Location of U.S. Customs Service and Department of Commerce field offices at which copies of the Tariff Commission's draft converted schedules may be inspected:

CUSTOMS SERVICE

Baltimore, MD	Newark, NJ
Boston, MA	New Orleans, LA
Bridgeport, CT	New York, NY
Buffalo, NY	Nogales, AZ
Champlain, NY	Norfolk, VA
Charleston, SC	Ogdensburg, NY
Charlotte Amalie, VI	Pembina, ND
Chicago, IL	Philadelphia, PA
Cleveland, OH	Port Arthur, TX
Detroit, MI	Portland, ME
Duluth, MN	Portland, OR
El Paso, TX	Providence, RI
Galveston, TX	Rochester, NY
Great Falls, MT	San Diego, CA
Honolulu, HI	San Francisco, CA
Houston, TX	San Juan, PR
Indianapolis, IN	Savannah, GA
Laredo, TX	Seattle, WA
Los Angeles, CA	St. Albans, VT
Miami, FL	St. Louis, MO
Milwaukee, WI	Tampa, FL
Minneapolis, MN	Washington, DC
Mobile, AL	Wilmington, NC

DEPARTMENT OF COMMERCE

Albuquerque, NM	Kansas City, MO
Anchorage, AK	Los Angeles, CA
Atlanta, GA	Memphis, TN
Baltimore, MD	Miami, FL
Birmingham, AL	Milwaukee, WI
Boston, MA	Minneapolis, MN
Buffalo, NY	Newark, NJ
Charleston, SC	New Orleans, LA
Charleston, WV	New York, NY
Cheyenne, WY	Philadelphia, PA
Chicago, IL	Phoenix, AZ
Cincinnati, OH	Pittsburgh, PA
Cleveland, OH	Portland, OR
Dallas, TX	Reno, NV
Denver, CO	Richmond, VA
Des Moines, IA	St. Louis, MO
Detroit, MI	Salt Lake City, UT
Greensboro, NC	San Francisco, CA
Hartford, CT	San Juan, PR
Honolulu, HI	Savannah, GA
Houston, TX	Seattle, WA
Jacksonville, FL	

By order of the Commission:

Issued: March 8, 1974.

KENNETH R. MASON,
Secretary.

[FR Doc.74-5827 Filed 3-12-74;8:45 am]

[TEA-W-222]

UNITED SHOE WORKERS OF AMERICA

Dismissal of Investigation

Notice is hereby given that the U.S. Tariff Commission, on March 4, 1974,

dismissed without prejudice investigation No. TEA-W-222. The investigation was instituted on January 10, 1974, upon petition of the United Shoe Workers of America on behalf of the workers and the former workers of the Westland Shoe Corp., Biddeford, Maine, under section 301(a)(2) of the Trade Expansion Act of 1962.

The investigation was dismissed, without a determination on its merits and without prejudice, because information needed by the Commission to make a determination on the merits was not made available.

Issued: March 8, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-5826 Filed 3-12-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-72-3]

CHURCHILL TRUCK LINES, INC.

Grant of Variance

I. *Background.* Churchill Truck Lines, Inc., 3110 Nicholson Street, Kansas City, Missouri 64120, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11, for a variance, and for an interim order pending a decision on the application for a variance, from the standard prescribed in 29 CFR 1910.24 (i), concerning vertical clearance above any stair tread. Notice of the application, and of the granting of an interim order, was published in the FEDERAL REGISTER on December 7, 1972 (37 FR 26067). The notice invited persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No comments and no request for a hearing have been received.

II. *Facts.* The request for a variance is limited to the Churchill Truck Lines facility at 3110 Nicholson Street, Kansas City, Missouri, which the applicant states is the facility affected by the application.

The stairway, for which the variance is sought, has a minimum vertical clearance of approximately 6 feet 3 inches. § 1910.24(i) requires a vertical clearance above any stair tread to be at least 7 feet measured from the leading edge of the tread. The applicant states that the applicable city code precludes the modification of the present stairway to the maximum rise and minimum tread run prescribed in 29 CFR 1910.24(e). Therefore, in order to gain sufficient distance for a stairway and landing, it would be necessary to cut a doorway through 18 inches of concrete in an exterior wall and cut through a concrete floor inside the building and outside from the loading dock area. Then, an exterior wall would have to be constructed to enclose the entry. The applicant also notes that a new terminal, which would meet the requirements of the Occupational Safety and Health Act, is to be built soon.

The applicant states that the present stairway, which leads to the lunchroom and some of the restroom facilities in the basement, is seldom used by the employees because a majority of the employees prefer to lunch off the premises. However, the applicant proposes to pad the header and install a caution sign to protect and warn employees.

III. *Decision.* The primary purpose of the standard from which the variance is sought is to avoid possible bumping hazards arising from inadequate vertical clearance above stairways. Although the applicant's stairway does not comply with the standard, caution signs should avoid any possible hazard by calling the attention of any employee using the stairs to the vertical clearance. Furthermore, the padding would protect anyone who, despite the warnings, should bump into the header. Under these conditions, it is decided at Churchill Truck Lines' stairway, with the aid of warning signs and padding, would be as safe a place of employment as would prevail if it complied with 29 CFR 1910.24(i). Therefore,

IV. *Order—It is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and in the Secretary of Labor's Order No. 12-71 (36 FR 8754), that Churchill Truck Lines, Inc., be, and it is hereby, authorized to use the present stairway in its facility at 3110 Nicholson Street, Kansas City, Missouri, in lieu of complying with the requirements of 29 CFR 1910.24(i), provided that:

(1) Any overhead obstruction on the stairway, which is not at least 7 feet from the leading edge of the stair tread directly below it, is padded;

(2) Caution signs, which indicate the overhead obstruction, are marked and conspicuously placed; and

(3) Churchill Truck Lines, Inc. gives notice to affected employees of the terms of this order by the same means required to inform them of the application for the variance.

Effective date. This order shall become effective on March 13, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 7th day of March, 1974.

JOHN STENDER, *Assistant Secretary of Labor.*

[FR Doc.74-5739 Filed 3-12-74;8:45 am]

[V-72-3]

DOLE CO. AND DEL MONTE CORP.

Grant of Variances

I. *Background.* Dole Co., Box 3380, Honolulu, Hawaii 96801, and Del Monte Corp., Box 149, Honolulu, Hawaii 96801, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11, for variances, and for interim orders pending decisions on the applications for variances, from the longshoring safety and health standard prescribed in 29 CFR 1918.85 (a) and (b), concerning the marking and weighing of containerized cargo. Notice of the applications, and of the granting of interim orders, was published in the FEDERAL REGISTER on December 7, 1972 (37 FR 26067). The notice invited persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variances requested. In addition, affected employers and employees were permitted to request a hearing on the applications for variances. No comments and no request for a hearing have been received.

II. *Facts.* The requests for variances are limited to the following places of employment, which the applicants state are affected by the applications:

Dole Co., Ports of Kaunakakai, Molokai; Kaumalapau, Lanai; and
Piers 35 and 36
Honolulu, Oahu, Hawaii
Del Monte Corp., Ports of Kaunakakai, Molokai, and Pier 35, Nimitz Highway
Honolulu, Oahu, Hawaii

The applicants presently use bins which are not marked in accordance with the requirements of 29 CFR 1918.85(a), for transporting fresh pineapple from the field to the cannery. These bins are specifically designed for the purpose used. Some of the bins have a maximum load limit of 8,000 pounds, when full to a level top with pineapples. The bins have openings on the sides and are completely open on top.

The bins never leave the control of the employers, and they are never used in foreign commerce or cross-trade. They are used solely in a captive, in-house, non-common carrier operation.

In support of their applications, Dole Co. and Del Monte Corp. argue that random weight checks of fully loaded bins taken from official logs indicate that it is impossible to exceed the maximum gross weight with fresh pineapples. Applicants also state that once a bin is loaded the load remains relatively fixed and stable, and it is not subject to change or consolidation between the field and the cannery. Moreover, due to the singular use of the bins and the random weight checks, they know the approximate weight of the loaded bins without weighing each one. Repetitious weighing in accordance with the requirements of 29 CFR 1918.85(b), would not result in any significantly different information, and scaling each bin would require a completely redesigned system of fruit handling without gaining any additional margin of safety.

Finally, the applicants state that the open top and the side openings permit instant visual inspection to readily ascertain whether a bin is full or empty, overloaded or not. The side openings also allow water or other liquids which might

accumulate in the containers to escape.

III. *Decision.* The primary purpose of the standard from which the variances are sought, is to avoid safety hazards arising from hoisting loads beyond the capacity of their containers or of the hoisting devices. Dole Co. and Del Monte Corp. have demonstrated with information that is credible and uncontroverted that their bins and their system of transporting pineapples will satisfy this purpose as effectively as the cargo container marking and weighing requirements of the standard. Dole Co. and Del Monte Corp. use only two types of bins, one with a 14,000 pound load limit, the other with an 8,000 pound load limit. Since the bin's size correlates with the bin's capacity, and since the bins never leave the employers' control, marking each bin is unnecessary. Since the employees handling the bins can see whether the bins are full or empty and since they can know the approximate weight of a bin loaded with pineapples, scaling each bin would be superfluous. Moreover, because the bins are specifically designed for carrying pineapples and are only used for that purpose, they are not subject to unexpected use or strain.

It is concluded, accordingly, that the pineapple bins, and the system of handling them, used by Dole Co. and Del Monte Corp., will provide employment and places of employment as safe as those which would prevail if they were to comply with the requirements of 29 CFR 1918.85 (a) and (b). Therefore,

IV. *Order.—It is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended, 33 U.S.C. 941), 29 CFR Part 1920, and Secretary of Labor's Order No. 12–71 (36 FR 8754), that Dole Co. and Del Monte Corp. be, and they are hereby, authorized to hoist and transport pineapple bins at the ports listed above in accordance with the following conditions, in lieu of the requirements of 29 CFR 1918.85 (a) and (b):

(1) The bins must be used for carrying fresh pineapples;

(2) No bin shall be overloaded;

(3) Each bin must be inspected at least once a year and maintained in such condition that it could carry the maximum cargo weight that it was designed by its manufacturer to carry;

(4) The bins used in connection with the Lanai operations must measure 16 feet 3½ inches long by 7 feet 6 inches wide by 4 feet 8⅜ inches high, with four horizontal openings of 1 to 4 inches spaced approximately 1 foot apart on the sides of the bin, and with maximum load capacity of 14,000 pounds when full to level. The bins used in the Molokai operations must measure 16 feet long by 7 feet 6 inches wide by 3 feet high, with three horizontal openings of 1 to 4 inches spaced approximately 1 foot apart on the sides and ends of the bin, and with maximum load capacity of 8,000 pounds when full to levels; and

(5) Dole Co. and Del Monte Corp. shall give notice to affected employees of the terms of these variances by the same means required to be used to inform them of the application for the variances.

Effective date. These orders shall become effective on March 13, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 7th day of March, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-5740 Filed 3-12-74;8:45 am]

[V-72-3]

SCOTT PAPER CO.

Grant of Variance

I. *Background.* Scott Paper Co., Scott Plaza, Philadelphia, Pennsylvania 19113, made application pursuant to section 6 (d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11, for a variance, and for an interim order pending a decision on the application for a variance, from the safety standard prescribed in 29 CFR 1918.81(e), concerning the hoisting and slinging of bales of cargo. Notice of the application, and of the granting of an interim order, was published in the FEDERAL REGISTER on December 7, 1972 (37 FR 26068). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No comments and no request for a hearing have been received.

II. *Facts.* The request for a variance is limited to Scott Paper Co.'s Chester Plant on Front and Market Streets in Chester, Pa. 19013, which the applicant states is the facility affected by the application.

The pulp bales presently used by the applicant are supported by three or four wire straps, with one or two of each affixed around the sides of the base, making all sides secure. The wire straps intersect on the top and bottom near each corner of a bale. About 80 percent of the baling wire used has a minimum breaking weight of 862 pounds; and about 20 percent has a minimum breaking weight of 590 pounds. A bale weighs approximately 500 pounds.

Regarding the procedure for hoisting the bales, the applicant states that one spreader bar hook is pounded into the bale, at an angle, until it extends well under the wire strap intersection. The hook is 4 inches to the curve, and at least 3 inches is driven under the crossed straps. Only one hook is used to hoist each bale, while § 1918.81(e) requires that two hooks, each in a separate strap, be used. The applicant contends that its procedure provides greater safety than that that which would result by following the requirements of the standard and simply slipping two hooks under the wires. The hook used in hoisting the bales was designed by Scott engineers and is manufactured especially for Scott. The hook has a working load limit of 1,690 pounds; the chain used for the hook has a working load limit of 2,450 pounds, and the link has a working load limit of 1,800 pounds.

The applicant also notes that any slack in the two wire straps, which the hook catches, is pulled out by the hooker in order to prevent any sudden snap in the wires. When the hooker has completed the hooking operation, he stands clear of the area and then signals the crane operator to lift the bundle enough to take up the slack. The hooker then determines whether there are any weak points or stresses in the bundle and checks the hook. If needed, he sets another hook in the bale to reduce stress. When the hooker has completed all the necessary safety checks, he signals the crane operator from dockside to deposit the bundle at a designated point.

III. *Decision.* The primary purpose of the standard from which the variance is sought, is to avoid injuries resulting from the snapping of hoisting equipment or the drop of a load. Scott Paper Co. has demonstrated with its uncontroverted facts concerning the strength of its baling straps, hooks, and chains, and its description of its hoisting procedure, that its baling straps and hoisting procedure would satisfy this purpose as effectively as if it were to comply with the standard.

The minimum breaking point of the baling straps and the working load limits of the hook, chain, and link are more than adequate to hoist a 500 pound bale. Also, since the hook, which has been designed and manufactured specifically for hoisting bales of wood pulp, is pounded several inches into the bale at the crosspoint of two straps, the stress on the baling straps is less than it would be if the hook were simply slipped under one strap. Finally, in the hoisting procedure, all necessary precautions are taken to avoid a wire snap or overstress on any strap.

It is concluded, accordingly, that Scott Paper Co.'s baling straps and hoisting procedure provide employment and places of employment as safe as those which would prevail if Scott Paper Co. were to comply with the requirements of 29 CFR 1918.81(e). Therefore,

IV. *Order—It is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended, 33 U.S.C. 941), 29 CFR Part 1920, and Secretary of Labor's Order No. 12–71 (36 FR 8754), that Scott Paper Co. be, and it is hereby authorized, to use the baling straps and hoisting procedures as described in its application for a vari-

ance, at its Chester Plant, Front and Market Streets, Chester, Pennsylvania, in accordance with the following conditions, in lieu of complying with the "two-hook" requirement of 29 CFR 1918.81(e):

(1) All straps used for the bales must have a minimum breaking weight of no less than 590 pounds;

(2) No bale to be hoisted is to weigh more than 500 pounds;

(3) All persons must stand clear of the path beneath a raised bale; and

(4) Scott Paper Co. shall give notice to affected employees of the terms of this variance by the same means required to be used to inform them of the application for the variance.

Effective date. This order shall become effective on March 13, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 7th day of March 1974.

Assistant Secretary of Labor.
JOHN STENDER,

[FR Doc.74-5738 Filed 3-12-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 463]

ASSIGNMENT OF HEARINGS

MARCH 8, 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 107515 Sub-869, Refrigerated Transport Co., Inc., now being assigned May 6, 1974 (2 days), at Tampa, Fla., in a hearing room to be later designated.

MC 25798 (Sub-No. 244), Clay Hyder Trucking Lines, Inc., now being assigned May 8, 1974 (3 days), at Tampa, Fla., in a hearing room to be later designated.

MC 107107 Sub-430, Alterman Transport Lines, Inc., now being assigned May 13, 1974 (1 week), at Tampa, Fla., in a hearing room to be later designated.

MC 27356 Sub 6, M-F Express, Inc., now being assigned hearing June 17, 1974 (1 week), at Greenville, Miss., in a hearing room to be later designated.

MC 138512 Sub 1, Roland's Transportation Service, Inc., Dba Wisconsin Provisions Express, now being assigned continued hearing April 16, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138548 Subs 1 and 2, Indianoaks Transportation Co., now being assigned hearing June 3, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 123407 Sub 146, Sawyer Transport, Inc., now being assigned hearing June 5, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 51146 Sub 320, Schneider Transport, Inc., now being assigned hearing June 7, 1974 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-F-11957, Gateway Transportation Co., Inc.—Purchase (Portion)—Courtesy Express, Inc., and MC 80430 Sub 149, Gateway Transportation Co., Inc., now being assigned hearing June 10, 1974 (1 week), at Chicago, Ill., in a hearing room to be later designated.

No. 35967 & Sub 1, Household Goods, Increased Rates Nationwide now being assigned hearing May 13, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138813, Daniel K. Fisk, DBA Dan-A-Way Charter Line, now assigned March 11, 1974, at Peoria, Ill., is cancelled and application dismissed.

MC 79525 Sub-2, The Norris Brothers Company, now assigned March 18, 1974, at Cleveland, Ohio is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-5836 Filed 3-12-74;8:45 am]

[Notice 4]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 8, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 671) (Cancels Deviation No. 614), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed February 21, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Alternate U.S. Highway 17 and South Carolina Highway 63 near Walterboro, S.C., over South Carolina Highway 63 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 17 south of Hardeeville, S.C., with the following access routes: (1) From Yemassee, S.C., over South Carolina Highway 68 to junction Interstate Highway 95, (2) From Pocotaligo, S.C., over U.S. Highway 17 to junction Interstate Highway 95, (3) From Ridgeland, S.C., over U.S. Highway 17 to junction Interstate Highway 95 north of Ridgeland, and (4) From Ridgeland, S.C., over U.S. Highway 17 to junction Interstate Highway 95 south of Ridgeland, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Walterboro, S.C., over Alternate U.S. Highway 17 to Pocotaligo, S.C., thence over U.S. Highway 17 to junction Interstate Highway 95 near Hardeeville, S.C., and return over the same route.

No. MC-1515 (Deviation No. 672) (Cancels Deviation No. 589), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed February 21, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Augusta, Ga., over U.S. Highway 25 to junction Interstate Highway 20, thence over Interstate Highway 20 to junction U.S. Highway 401, thence over U.S. Highway 401 to Darlington, S.C., with the following access routes: (1) From Aiken, S.C., over U.S. Highway 1 to junction Interstate Highway 20, (2) From Columbia, S.C., over Interstate Highway 126 to junction Interstate Highway 20, (3) From Columbia, S.C., over U.S. Highway 21 to junction Interstate Highway 20, (4) From Lugoff, S.C., over U.S. Highway 601 to junction Interstate Highway 20, (5) From Camden, S.C., over U.S. Highway 521 to junction Interstate Highway 20, (6) From Bishopville, S.C., over U.S. Highway 15 to junction Interstate Highway 20, and (7) From Bishopville, S.C., over South Carolina Highway 341 to junction Interstate Highway 20, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Augusta, Ga., over U.S. Highway 1 to Camden, S.C., thence over South Carolina Highway 34 to junction U.S. Highway 15 at Bishopville, S.C., thence over U.S. Highway 15 to Hartsville, S.C., thence over South Carolina Highway 151 to junction South Carolina Highway 34, thence over South Carolina Highway 34 to Darlington, S.C., and return over the same route.

No. MC-8500 (Deviation No. 14) (Cancels Deviation No. 7), TENNESSEE

TRAILWAYS, INC., 710 Sevier Avenue, Knoxville, Tennessee 37920, filed February 27, 1974. Carrier's representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle, with passengers, over a deviation route as follows: From Knoxville, Tenn., over Interstate Highway 75 to junction U.S. Highway 411 at or near Oakland Heights, Ga., with the following access routes: (1) From Lenoir City, Tenn., over Tennessee Highway 95 to junction Interstate Highway 75, (2) From Athens, Tenn., over Tennessee Highway 30 to junction Interstate Highway 75, (3) From Cleveland, Tenn., over Tennessee Highway 60 to junction Interstate Highway 75, (4) From Chattanooga, Tenn., over Interstate Highway 24 to junction Interstate Highway 75, (5) From Dalton, Ga., over U.S. Highway 41 to junction Interstate Highway 75, and (6) From Dalton, Ga., over Georgia Highway 52 to junction Interstate Highway 75, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Knoxville, Tenn., over U.S. Highway 11 to Chattanooga, Tenn., thence over U.S. Highway 27 to junction Georgia Highway 2, thence over Georgia Highway 2 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 76 at Dalton, Ga., thence over U.S. Highway 76 to junction U.S. Highway 411 at Chatsworth, Ga., thence over U.S. Highway 411 to junction Interstate Highway 75 at or near Oakland Heights, Ga., and return over the same route.

By the Commission.

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

[FR Doc.74-5840 Filed 3-12-74;8:45 am]

[Notice 9]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 8, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carrier of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-75320 (Deviation No. 46), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65801, filed February 20, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Tulsa, Okla., over Muskogee Turnpike to Muskogee, Okla., thence over U.S. Highway 69 to Durant, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Tulsa, Okla., over Interstate Highway 44 (Turner Turnpike) to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to Junction U.S. Highway 70, thence over U.S. Highway 70 to Durant, Okla., and return over the same route.

No. MC-75320 (Deviation No. 47), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65801, filed February 20, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pryor, Okla., over U.S. Highway 69 to junction U.S. Highway 75 at or near Atoka, Okla., thence over U.S. Highway 75 to McKinney, Tex., thence over U.S. Highway 380 to Bridgeport, Tex., thence over Texas Highway 114 to junction Texas Highway 51 near Boyd, Tex., thence over Texas Highway 51 to Weatherford, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Pryor, Okla., over Oklahoma Highway 20 to junction U.S. Highway 66, thence over U.S. Highway 66 to Tulsa, Okla., thence over Interstate Highway 44 (Turner Turnpike) to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Tex., thence over U.S. Highway 281 to junction U.S. Highway 180 at or near Mineral Wells, Tex., thence over U.S. Highway 180 to Weatherford, Tex., and return over the same route.

No. MC-59583 (Deviation No. 50), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tennessee 37662, filed February 21, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follow: (1) From Ebensburg, Pa., over U.S. Highway 219 to Buffalo, N.Y., and (2) From junction U.S. Highway 422 and U.S. Highway 119 over U.S. Highway 119 to junction U.S. Highway 219 near DuBois, Pa., thence over U.S. Highway 219 to Buffalo, N.Y., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Highway 422 and U.S. Highway 119 near Ben Avon, Pa., over U.S. Highway 422 to Ebensburg, Pa., thence over U.S. Highway 22 to Holidaysburg, Pa., thence over U.S. Highway 220 to Halls, Pa., thence over Pennsylvania Highway 405 (portion formerly Pennsylvania Highway 14 now Pennsylvania Highway 147) to Muncy, Pa., thence over Pennsylvania Highway 442 to Millville, Pa., thence over Pennsylvania Highway 42 to Bloomsburg, Pa., thence over U.S. Highway 11 to Binghamton, N.Y., thence over New York Highway 17c to Owego, N.Y., thence over New York Highway 17 to Elmira, N.Y., thence over New York Highway 17E to junction New York Highway 17, thence over New York Highway 17 to Painted Post, N.Y., thence over U.S. Highway 15 to Wayland, N.Y., thence over New York Highway 63 to Griegsville, N.Y., thence over New York Highway 36 to junction U.S. Highway 20, thence over U.S. Highway 20 to Depew, N.Y., thence over New York Highway 130 to Buffalo, N.Y., and return over the same route.

No. MC-48958 (Deviation No. 59), ILLINOIS - CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, Texas 79105, filed February 21, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, Ill., over Interstate Highway 55 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction Interstate Highway 70, thence over Interstate Highway 70 to Kansas City, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 34 to Princeton, Ill., thence over U.S. Highway 6 to Omaha, Nebr., thence over U.S. Highway 73 to Victory Junction, Kans., thence over U.S. Highway 40 to Kansas City, Mo., and return over the same route.

No. MC-42405 (Deviation No. 6) MISTLETOE EXPRESS SERVICE, 111 N. Harrison, Oklahoma City, Oklahoma

73104, filed February 26, 1974. Carrier's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Oklahoma 73112. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Siloam Springs, Ark., over Oklahoma Highway 33 to Tulsa, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Siloam Springs, Ark., over U.S. Highway 59 to Westville, Okla., thence over U.S. Highway 62 to Tahlequah, Okla., thence over Oklahoma Highway 51 to Wagoner, Okla., thence over U.S. Highway 69 to Pryor, Okla., thence over Oklahoma Highway 20 to Claremore, Okla., thence over U.S. Highway 66 and Interstate Highway 44 to Tulsa, Okla., and return over the same route.

No. MC–22229 (Deviation No. 18), TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue, S.E., Atlanta, Georgia 30316, filed February 26, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over Indiana Highway 67 to junction U.S. Highway 231, thence over U.S. Highway 231 to junction Indiana Highway 57, thence over Indiana Highway 57 to junction U.S. Highway 41 near Evansville, Ind., thence over U.S. Highway 41 to junction U.S. Highway 60 at Henderson, Ky., thence over U.S. Highway 60 to junction U.S. Highway 45 near Paducah, Ky., thence over U.S. Highway 45 to junction U.S. Highway 51 near Fulton, Ky., thence over U.S. Highway 51 to Memphis, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Indianapolis, Ind., over U.S. Highway 31 to Sellersburg, Ind., thence over U.S. Highway 31 W via Louisville, Ky., to Nashville, Tenn., thence over Interstate Highway 40 to Memphis, Tenn., and return over the same route.

By the Commission.

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

[FR Doc. 74–5839 Filed 3–12–74;8:45 am]

[Notice 19]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 8, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 119285 (Sub-No. 2) (Republication), filed November 22, 1972, and published in the FEDERAL REGISTER issue of December 6, 1972, and republished this issue. Petitioner: YELLOW CAB, INC., Lima, Ohio. Petitioner's representative: Richard C. Pfeiffer, Jr., 88 East Broad Street, Columbus, Ohio 43215. By petition filed November 22, 1972, petitioner sought to modify said permit to (1) increase the weight restriction from 5,000 pounds to 14,000 pounds; (2) add Mississippi (except Koscuisko, Miss.) as a destination state; and (3) correct the name of the contracting shipper, Superior Coach. An Order of the Commission, Review Board Number 2, dated February 22, 1974, and served March 1, 1974, finds that Permit No. MC–119285 (Sub-No. 2) issued March 31, 1969, should be modified to read as follows: (1) *machinery parts and automotive parts* between Lima, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania and Mississippi (except Kosciusko, Miss.); and (2) of *materials and supplies* used in the manufacture and assembly of electric motors between Union City, Ind., and Lima, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania, said operations in (1) and (2) above to be performed under a continuing contract or contracts with Superior Coach Division of Sheller-Globe Corporation and Westinghouse Electric Corporation; that the operations conducted under the modified permit will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to delete the 14,000 pound weight restriction. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138658 (Sub-No. 1) (Republication), filed May 11, 1973, and published in the FEDERAL REGISTER issue of June 28, 1973, and republished this issue. Applicant: CROSS TRANSPORATION, INC., 100 Factory Street, Lewis, Kans. 67552. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. An Order and Report of the Commission, Review Board Number 2, dated February 12, 1974, and served March 4, 1974, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *hydraulic cylinders, fittings, adapters, valves, pumps and hydraulic coupling equipment* from the plantsite and/or storage facilities of Cross Manufacturing, Inc., located at or near Lewis, Hays, Pratt, and Kinsley, Kans., and Lamar, Colo., to points in Alabama, Arkansas, California, Colorado (except Lamar, Colo.), Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin and Logan, Utah; (2) *steel tubes, bars, plates and raw castings*, from points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Utah and Texas to the plantsites and/or storage facilities of Cross Manufacturing, Inc., located at or near Lewis, Hays, Pratt and Kinsley, Kans., and Lamar, Colo.; and (3) *hydraulic cylinders, fittings, adapters, valves, pumps, hydraulic coupling equipment, steel tubes, bars, plates and raw castings*, between the plantsite and/or storage facilities of Cross Manufacturing, Inc., located at or near Lewis, Hays, Pratt, and Kinsley, Kans., on the one hand, and, on the other, the plantsite and/or storage facilities of Cross Manufacturing, Inc., located at or near Lamar, Colo., under a continuing contract or contracts with Cross Manufacturing, Inc., of Lewis, Kans., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to add the shipper's plantsites of Lewis, Hays, Pratt, and Kinsley to part (3) of the application and to add Logan, Utah as a destination point in part (1) of the application. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which

period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138861 (Republication), filed April 16, 1973, and published in the FEDERAL REGISTER issue of May 24, 1973, and republished this issue. Applicant: ROBERT E. KUKURUZA, doing business as BTS, 50 Solano Avenue, Vallejo, Calif. 94590. Applicant's representative: Jack B. Burstein, 1730 Sonoma Boulevard, Vallejo, Calif. 94590. An Order of the Commission, Review Board Number 1, dated February 21, 1974, and served March 1, 1974, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *wrecked driveable automobiles*, in truckaway service, from San Francisco, San Jose, and Vallejo, Calif., to Troutdale, Oreg., under a continuing contract or contracts with Arrow Factors, of Troutdale, Oreg., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and with the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 59655 (CLARIFICATION OF A NOTICE OF FILING OF PETITION FOR PARTIAL MODIFICATION, CLARIFICATION AND AMENDMENT OF CERTIFICATE) filed December 3, 1973, published in the FEDERAL REGISTER issues of January 3, 1974, January 30, 1974, and February 21, 1974, and in fourth publication, as clarified, this issue. Petitioner: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, N.Y. 10901. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J., 07306. Petitioner holds a motor *common carrier* certificate in No. MC 59655 issued June 4, 1971, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, liquor, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Passaic, Bergen, Hudson, Essex, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Rockland, and Orange Counties, N.Y. By the instant petition, petitioner seeks either of the following alternatives: (a) That the Commission issue an appropriate order that the petitioner be empowered and permitted to designate its terminal area of New York, N.Y., as all points within which local operations may be conducted in the New York, N.Y., commercial zone as established by the Commission, or (b) that the Commission amend the territorial description of its certificate to read as follows: "Between points in Passaic, Bergen, Hudson, Essex, and Union Counties, N.J., on the one hand, and, on the other, the New York, N.Y., commercial zone, as defined in "Commercial Zones and Terminal Areas," 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., and points in Westchester, Rockland, and Orange Counties, N.Y.

NOTE.—The purpose of this republication is to clarify petitioner's requested modification. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 73937 (NOTICE OF FILING OF PETITION TO MODIFY COMMODITY DESCRIPTION) filed February 19, 1974. Petitioner: HOGAN STORAGE & TRANSFER COMPANY, a Corporation, 721 East 4th Avenue, P.O. Box 377, Williamson, W. Va. 25661. Petitioner's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Petitioner holds a motor *common carrier* certificate in No. MC 73937 issued October 23, 1967, authorizing as pertinent, transportation, over irregular routes, of *heavy machinery and machinery, materials, supplies* (except blasting supplies and explosives) and *equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, and *scrap metal and used machinery, materials, supplies* (except blasting supplies and explosives) and *equipment* incidental to or used in the construction, development, and production of coal, between points in West Virginia on and south of U.S. Highway 60, those in Buchanan, Dickenson, Lee, and Wise Counties, Va., those in Athens, Gallia, Lawrence, Meigs, and Scioto Counties, Ohio, and those in Kentucky on and east of a line beginning at the Kentucky-Tennessee State boundary line and extending along U.S. Highway 25 to Erlanger, Ky., and thence north to the Kentucky-Indiana State boundary line near Constance, Ky. By the instant petition, petitioner seeks to modify its commodity description to read: "*Commodities* which because of their size or weight require the use of special equipment or special handling, and *machinery, materials, supplies* (except blasting supplies and explosives), and *equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, and *scrap metal and used machinery, materials, supplies* (except blasting supplies and explosives), and *equipment* incidental to or used in the construction, development, and production of coal". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 92410 (NOTICE OF FILING OF PETITION TO MODIFY CONTAINER RESTRICTION), filed February 21, 1974. Petitioner: MALBA TRUCKING, INC., 9–10 38th Avenue, Long Island City, N.Y. 11101. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 94410 issued September 25, 1973, authorizing as pertinent, transportation, over irregular routes, of (1) *new store fixtures, office equipment, and building supplies*, uncrated, from points in the New York, N.Y., Commercial Zone, as defined by the Commission in 1 M.C.C. 665 to points in New York, New Jersey, and Connecticut; and (2) *new uncrated store fixtures, office equipment, and building supplies*, from the above specified destination points to the above described origin points. By the instant petition, petitioner seeks to delete the container restriction specified above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 115093 and Sub-No. 10 (NOTICE OF FILING OF PETITION TO AMEND EXISTING GATEWAY RESTRICTIONS), filed December 20, 1973. Petitioner: MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622. Petitioner's representative: Clayton R. Byrd (same address as petitioner). Petitioner holds motor *common carrier* certificates in No. MC 115093 issued April 11, 1968, and in Sub-No. 10 by Order of the Commission dated November 19, 1973, authorizing the transportation of *general commodities*, with the usual exceptions, (1) over various regular routes between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those points in New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida via either (a) Mt. Olive, N.C., and points within 15 miles thereof or (b) points in Florence County, S.C.; and (2) over irregular routes, between points in North Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, Maryland, Delaware, New Jersey, Rhode Island, Connecticut, Massachusetts, the District of Columbia and those points in New York on and south of New

York Highway 7, on the one hand, and, on the other, points in Florida, Georgia, and South Carolina via either (c) Mt. Olive, N.C., and points within 15 miles thereof or (d) points in Florence County, S.C. By the instant petition, petitioner seeks (1) the elimination of the gateway restrictions for the regular routes as described in (a) and (b) above and (2) the elimination of the existing gateways for the irregular routes as described in (c) and (d) above, and the substitution therefor of the following restriction: "via a point in an area bounded as follows: from the Atlantic Ocean along the North Carolina-Virginia State Boundary line to its junction with U.S. Highway 220, thence along U.S. Highway 220 to its junction with U.S. Highway 1, thence along U.S. Highway 1 to Augusta, Ga., thence along the Georgia-South Carolina State Boundary line to the Atlantic Ocean, and thence along the Atlantic Ocean to the point of Beginning". Any person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127550 (NOTICE OF FILING OF PETITION TO MODIFY PERMIT), filed February 25, 1974. Petitioner: BOSCH TRUCKING COMPANY, INC., 5600 S. Washington St., Bartonville, Ill. 61607. Petitioner's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Petitioner holds a motor *contract carrier* permit in No. MC 127550, issued November 20, 1967, authorizing transportation, over irregular routes, or *iron and steel articles*, from the plantsite of Keystone Steel & Wire Company at or near Peoria, Ill., to points in Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, West Virginia, and Wisconsin, under a continuing contract or contracts with Keystone Steel & Wire Company, of Peoria, Ill. By the instant petition, petitioner seeks to (1) delete all references made to the contracting shipper Keystone Steel & Wire Company and substitute in lieu thereof, the name of Keystone Consolidated Industries, Inc., to reflect a change in name of said shipper; and (2) add the plantsite of Keystone Consolidated Industries, Inc., at Pekin, Ill., as an additional point of origin. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128217 (NOTICE OF FILING OF PETITION TO MODIFY PERMIT BY EXTENSION OF AUTHORITY), filed February 21, 1974. Petitioner: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58102. Petitioner's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Petitioner holds a motor *contract carrier* permit in No. MC 128217 issued September 11, 1973, authorizing transportation, over irregular routes, of (A) *Iron and steel articles* as described in Group III of Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, (1) from Broadview, Chicago, and Chicago Heights, Ill., to points in Montana and North Dakota; (2) from Granite City and Sterling, Ill., and Duluth and Minneapolis, Minn., to points in Montana, North Dakota, and South Dakota; and (3) from Jamestown, N. Dak., to points in Montana and South Dakota; (B) *asphalt, asphalt roof shingles, roofing, and accessories*, from Phillipsburg, Kans., to points in North Dakota, under a continuing contract or contracts with the following shippers: LeFevre Sales, Inc., of Jamestown, N. Dak., Haybuster Manufacturing, Inc., of Jamestown, N. Dak., Joseph T. Ryerson & Sons, Inc., of Chicago, Ill., Pacific Hide and Fur Depot, of Great Falls, Mont., and Williams Steel & Hardware Co., of Minneapolis, Minn., (1) said operations are restricted to the transportation of traffic destined to points in North Dakota on any movements under contract with Haybuster Manufacturing, Inc.; (2) said operations are restricted against the transportation of the traffic destined to points in Montana on movements under contract with Joseph T. Ryerson & Sons, Inc.; and (3) said operations are restricted against the transportation of traffic from Granite City, Ill., to points in Montana on any movements under contract with Pacific Hide and Fur Depot; and (C) *iron and steel articles* as described in Group III of Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, from Broadview, Chicago, and Chicago Heights, Ill., and Minneapolis, Minn., to Gwinner and Cooperstown, N. Dak., under a continuing contract, or contracts with Clark Equipment Co., Melroe Division, of Gwinner, N. Dak. RESTRICTION: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. By the instant petition, petitioner seeks to add to the authority described above the following: "aluminum articles, from Minneapolis, Minn., to points in North Dakota and South Dakota, under a continuing contract or contracts with Joseph T. Ryerson and Sons, Inc." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 134979 (Sub-No. 1) (NOTICE OF FILING OF PETITION TO EXTEND OPERATIONS), filed February 19, 1974. Petitioner: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Petitioner's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 51103. Petitioner holds a motor *contract carrier* permit in No. MC 134979 (Sub-No. 1), issued October 12, 1971, authorizing transportation, over irregular routes, of (1) *pie crusts*, in vehicles equipped with mechanical refrigeration, from the plantsite of Ready Italy, Inc., at or near Fargo, N. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture and distribution of pie crusts (except in bulk), and *flour*, from points in the United States (except Alaska and Hawaii), to the plantsite of Ready Italy, Inc., at or near Fargo, N. Dak., under a continuing contract or contracts with Ready Italy, Inc., of Fargo, N. Dak. By the instant petition, petitioner seeks to extend its existing operations by adding the following authority: "(1) *pet foods* (except commodities in bulk, in tank vehicles) from the plantsite and facilities of Tuffy's—Division of Star-Kist Foods, Inc. at or near Perham, Minn., at points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Nebraska, Montana, Illinois, Indiana, and Missouri; (2) *materials supplies and equipment* used in the packaging and sale of pet foods (except commodities in bulk, in tank vehicles) from points in Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Kansas, Nebraska, North Dakota, and Wisconsin, to the plantsite and facilities of Tuffy's—Division of Star-Kist Foods, Inc. at or near Perham, Minn.; (3) *frozen animal and poultry feed and frozen feed ingredients*, from the origin points named in (2) above, to the destination points named in (2) above; and (4) *ingredients* used in the manufacture of pet foods (except commodities in bulk, in tank vehicles) from points in Minnesota, Wisconsin, Illinois, Indiana, California, Missouri, Nebraska (except those points east of U.S. Highway 81 and north of U.S. Highway 34), Iowa (except those on and west of U.S. Highway 59 and those on and north of U.S. Highway 18), and North Dakota (except those on and east of North Dakota Highway 1), to the destination point named in (2) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 135390 (NOTICE OF FILING OF PETITION TO ADD DESTINATION POINTS), filed February 25, 1974. Petitioner: WM. B. WRIGHT, doing business as B & W TRUCKING CO., P.O. Box 153, Rochelle Park, N.J. 07662. Petitioner's representative: Edward L. Nehez, 10 East 40th Street, New York, N.Y. 10016. Petitioner holds a motor *contract carrier* permit in No. MC 135390 issued July 19, 1972, authorizing transportation, over irregular routes, of *such commodities* as are dealt in by trading stamp redemption

companies, from South Hackensack, N.J., to Bennington and Rutland, Vt., under a continuing contract or contracts with Stop and Save Trading Stamp Corporation, of South Hackensack, N.J. By the instant petition, petitioner seeks to add Morrisville, Springfield, Barre, and South Burlington, Vt., and Greenfield, Mass., as additional destination points to those described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 136030 (NOTICE OF FILING OF PETITION TO CONVERT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO A PERMIT), filed February 20, 1974. Petitioner: CAVALIER TRANSPORTATION CO., INC., P.O. Box 7, Riverside, N.J. 08075. Petitioner's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a *common carrier* certificate in No. MC 136030, issued September 15, 1972, authorizing transportation, over irregular routes, of *gypsum products* (except in bulk) and *building materials* as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities in bulk), from the plant site of the Kaiser Gypsum Company, Inc., at Delanco, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, restricted to shipments originating at the above named plant site and destined to the above named destination points; and *returned* shipments of the above named commodities, from the above named destination points to the plant site of Kaiser Gypsum Company, Inc. at Delanco, N.J. By the instant petition, petitioner seeks to convert the common carrier Certificate of Public Convenience and Necessity in No. MC 136030 to a contract carrier Permit in No. MC 138639. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11329. (Correction of Petition for Modification (ASSOCIATED FREIGHT LINES—PURCHASE—JOE SAIA), published in the February 6, 1974, issue of the FEDERAL REGISTER on page 4702. Prior notice should be corrected to read as follows:

"* * * service to the extent that it includes points in Nevada within the commercial zones of Stateline and Brockway, Calif., as defined by the Commission, shall be restricted to traffic originating at or destined to those Nevada points included within said commercial zones * * *"

No. MC–F–12148. Authority sought for purchase by ANDERSON TRUCKING SERVICE, INC., P.O. Box 377, St. Cloud, MN 56301, of a portion of the operating rights of BAY AND BAY TRANSFER CO., INC., 805 N. 4th St., Minneapolis, MN 55401, and for acquisition by HAROLD E. ANDERSON, also of St. Cloud, MN 56301, of control of such rights through the purchase. Applicants' attorneys: Donald A. Morken, 1000 First National Bank Bldg., Minneapolis, MN 55402, and David T. Bennett, 300 Roanoke Bldg., Minneapolis, MN 55402. Operating rights sought to be transferred: (1) *Contractors' and construction equipment, materials and supplies*, except commodities in bulk, and *cement*, (2) *machinery*, (3) *transformers*, (4) *generators*, (5) *tanks*, (6) *boilers*, (7) *smokestacks*, (8) *telephone poles*, (9) *power plant equipment*, (10) *electrical equipment*, and (11) *commodities* which because of size or weight require the use of special equipment or special handling, between points in Minnesota, on the one hand, and on, the other, points in Iowa, South Dakota, North Dakota, and Wisconsin. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12151. Authority sought for control by GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Arizona 85077, of NEW MEXICO TRANSPORTATION COMPANY, INC., 515 North Main Street—P.O. Box 1494, Roswell, New Mexico 88201, and for acquisition by THE GREYHOUND CORPORATION, The Greyhound Tower, Phoenix, Arizona 85077, of control of NEW MEXICO TRANSPORTATION COMPANY, through the acquisition by GREYHOUND LINES, INC. Applicants' attorney: W. L. McCRACKEN, Greyhound Tower, 17th Floor, Phoenix, Arizona 85077. Operating rights sought to be controlled: *Passengers and their baggage, and express, newspapers, and mail*, in the same vehicle with passengers, as a *common carrier* over regular routes between Pecos, Tex., and Sante Fe, N. Mex., between El Paso, Tex., and Amarillo, Tex., between Clovis, N. Mex., and Vaughn, N. Mex., between Moriarty, N. Mex., and Albuqureque, N. Mex., between Vaughn, N. Mex., and Alamogordo, N. Mex., between Clovis, N. Mex., and Tucumcari, N. Mex. between Willard, N. Mex., and Mountainair, N. Mex., between Roswell, N. Mex., and Las Vegas, N. Mex., between Alamogordo, N. Mex., and Tucumcari, N. Mex., between Clines Corners, N. Mex., and junction U.S. Higwhay 66 and New Mexico Highway 41 (near Moriarty, N. Mex.), between Corona, N. Mex., and Willard, N. Mex., as an alternate route for operating convenience only in connection with carrier's regular route operations, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in all states in the United States except Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12152. Authority sought for purchase by CENTRAL OKLAHOMA FREIGHT LINES, INC., 207 No. Cincinnati Ave., Tulsa, OK 74103, of the operating rights and property of BRUCE BROWN, 2119 Dublin Rd., Oklahoma City, OK 73120, and for acquisition by JACK E. TUCKER, also of Tulsa, OK 74103, of control of such rights and property through the purchase. Applicants' attorney: Rufus H. Lawson, 106 Bixler Bldg., 2400 Northwest 23rd St., Oklahoma City, OK 73107. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–133869 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Oklahoma. Vendee is authorized to operate as a common carrier in Oklahoma. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12153. Authority sought for control by TOLLIE FREIGHTWAYS, INC., 41 Lyons Ave., Kansas City, KS 66118, of S & C TRANSPORT COMPANY, INC., 65 State St., So. Hutchinson, KS 67501, and for acquisition by LESTER L. TOLLIE, JR., 10020 Perry Drive, Overland Park, KS 66212, of control of S & C TRANSPORT COMPANY, INC., through the acquisition by TOLLIE FREIGHTWAYS, INC. Applicants' attorney: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Operating rights sought to be controlled: *Paper* and *paper products*, as a *common carrier* over irregular routes, between Hutchinson, Kans., on the one hand, and, on the other, points in Oklahoma, from Hutchinson, Kans., to St. Joseph, Mo., and points in Nebraska; *paper* and *paper products*, *wooden egg cases*, *nails*, and *excelsior pads*, from Hutchinson, Kans., to certain specified points in Colorado; *canned goods*, from Nebraska City, and Plattsmouth, Nebr., to points in Kansas (except Wichita) on and east of Kansas Highway 14, from Hutchinson and Wichita, Kans., to certain specified points in Oklahoma, from Hutchinson, Kans., to Lincoln, Superior, and Omaha, Nebr.; *dairy products*, from Hillsboro, Kans., to St. Joseph, Mo.; *wooden egg cases*, *nails*, and *excelsior pads*, from Hutchinson, Kans., to St. Joseph, Mo., and points in Nebraska; *salt*, from Hutchinson, Lyons, and Kanopolis, Kans., to points in Oklahoma, and certain specified points in Colorado, from South Hutchinson, Kans., to points in Nebraska, and Oklahoma, and certain specified points in Colorado, from Hutchinson, Kans., to points in Nebraska, from Hutchinson, South Hutchinson, and Lyons, Kans., and points within one mile of each, to points in Minnesota, North Dakota, South Dakota, and Wyoming, from Hutchinson and Lyons, Kans., to points in Arkansas, and certain specified points in Texas and

New Mexico; *grain*, from points in Minnesota, North Dakota, South Dakota, and Wyoming, to points in Kansas; *pepper*, in packages, in mixed shipments with salt, from Hutchinson, Kans., to points in Minnesota, Arkansas, Nebraska, Oklahoma, North Dakota, South Dakota, and Wyoming, and certain specified points in Colorado, New Mexico, and Texas; *flour*, in sacks, from Hutchinson, Kansas, to certain specified points in Oklahoma; *glass containers*, from Okmulgee and Muskogee, Okla., to Hutchinson, Kans.; *products* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries when shipped in mixed shipments with salt or salt products otherwise authorized, from points in the Hutchinson-South Hutchinson, Kans., Commercial Zone as defined by the Commission, to points in Minnesota, Arkansas, Nebraska, Oklahoma, North Dakota, South Dakota, and Wyoming, and certain specified points in Colorado, New Mexico, and Texas; *foodstuffs*, not frozen, except dairy products, from the plant site and storage facilities of Western Food Products Company, Inc., at or near Hutchinson, Kans., to points in Colorado (except Denver), Missouri, Nebraska, North Dakota, and South Dakota; *foodstuffs*, not frozen, except fresh meats and dairy products, from Hutchinson, Kans., to points in Arkansas, Oklahoma, and Texas; *foodstuffs*, not frozen from La Junta, Colo., to Hutchinson, Kans.; *glass, glass containers*, and *glassware*, from Okmulgee and Muskogee, Okla., to the plant site and storage facilities of Western Food Products Company, Inc., at or near Hutchinson, Kans., and the plant site and storage facilities of Wichita Cider and Vinegar Works at or near Wichita, Kans., with restrictions. TOLLIE FREIGHTWAYS, INC., is authorized to operate as a *common carrier* in Missouri, Kansas, Oklahoma, Nebraska, Arizona, Arkansas, California, Colorado, Idaho, Iowa, Louisiana, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12154. Authority sought for purchase by DODDS TRUCK LINE, INC., 623 Lincoln, P.O. Box 438, West Plains, MO 65775, of the operating rights and property of CLINTON TRUCK LINES, INC., 906 South Orchard St., Clinton, MO 64735, and for acquisition by PAUL D. DODDS, also of West Plains, MO 65775, of control of such rights and property through the purchase. Applicants' attorneys: William J. Roberts, South Side of Square, Clinton, MO 64735, and Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Operating rights sought to be transferred: *Livestock*, as a *common carrier* over regular routes, from Clinton, Mo., to St. Louis, Ill., from Clinton, Mo., to Kansas City, Kans., serving intermediate and off-route points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, between Kansas City, Kans., and Windsor, Mo., serving all intermediate points and the off-route points of La Due, Blairstown, and Leeton, Mo. Vendee is authorized to operate as a *common carrier* in Arkansas, Illinois and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12155. Authority sought for purchase by ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223, of a portion of the operating rights of TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, East on Interstate Business Rte. 44, Joplin, MO 64801, and for acquisition by R. J. DORAN, R. E. DORAN, AND C. M. DORAN, all of Cincinnati, OH 45223, of control of such rights through the purchase. Applicants' attorney and representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, and A. N. JACOBS, P.O. Box 113, Joplin, MO 64801. Operating rights sought to be transferred: *Contractors' equipment* and *commodities*, the transportation of which because of their size or weight requires the use of special equipment as a *common carrier* over irregular routes, between points in Texas, on the one hand, and, on the other, points in Ohio and the Lower Peninsula of Michigan; *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between points in Texas, on the one hand, and, on the other, points in Ohio, and those in the Lower Peninsula of Michigan, with restriction. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12157. Authority sought for purchase of MIDWEST REFRIGERATED EXPRESS, INC., P.O. Box 7344, Omaha, NE 68107, of a portion of the operating rights of ROBERT W. GROH, 2610 So. Lakeport Rd., Sioux City, IA 51106, and for acquisition by HOWARD H. HOLDCROFT, P.O. Box 266, Sioux City, IA 51102, of control of such rights through the purchase. Applicants' attorney: Thomas D. Sutherland, P.O. Box 82028, Lincoln, NE 68501. Dual operation problem is involved. Operating rights sought to be transferred: *Edible bakery* supplies, as a contract carrier over irregular routes, from the plantsite of Globe Products Company, Inc., in Clifton, N.J. to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin; *edible bakery supplies* (except commodities in bulk), from the plantsite of Globe Products Company, Inc., at Clifton, N.J., to points in Ohio, Kentucky, and West Virginia, with restrictions. Vendee is authorized to operate as a *common carrier* in Nebraska, Iowa, South Dakota, Colorado, Kansas, Minnesota, Missouri, Wisconsin, Illinois, Michigan, Kentucky, Wyoming, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, North Dakota, Ohio, North Carolina, South Carolina, Indiana, Montana, Oklahoma, Georgia, Florida, Alabama, Oregon, Idaho, Utah Maine New Hampshire, Vermont, Arizona, California, Washington, Nevada, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

NOTICE

Norfolk and Western Railway Company, represented by Mr. John S. Shannon, Vice President—Law, Norfolk and Western Railway Company, Roanoke, Virginia 24011, hereby gives notice that on the 8th day of February 1974, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for authority to acquire trackage rights over the joint tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee) and Chicago, Rock Island and Pacific Railroad Company (Rock Island) extending from Birmingham, Missouri, Station 25041 + 27.9, to Air Line Junction, Missouri, Station 25272 + 78.9, a distance of approximately 4.38 miles, over the track of The Kansas City Southern Railway Company (KCS) extending from Air Line Junction, Missouri, Station 25272 + 78.9, to Station 25302 + 35.7, a distance of approximately 0.56 mile, and over the joint track of Milwaukee and Rock Island and the track of KCS extending from Station 25302 + 35.7 to Station 25308 + 69.3, a point of connection with the tracks of Kansas City Terminal Railway Company, a distance of approximately 0.12 miles, the total distance of all the aforesaid trackage being approximately 5.06 miles, located in Clay and Jackson Counties, Missouri. This application has been assigned Finance Docket No. 27577. In Applicant's opinion, granting the authority sought in this application would not constitute a major Federal action having a significant effect upon the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any

protests submitted shall be filed with the Comission no later than April 12, 1974.

Commission no later than April 12, 1974.

By the Commission.

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

[FR Doc.74-5837 Filed 3-12-74;8:45 am]

[Notice 42]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 2, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74990. By order of March 7, 1974, the Motor Carrier Board approved the transfer to Miller's Moving and Storage, Inc., Hershey, Pa., of the operating rights in Certificate No. MC-129108 issued December 23, 1969, to Richard A. Miller, doing business as Miller's Moving and Storage, Palmyra, Pa., authorizing the transportation of used household goods, between Palmyra, Pa., on the one hand, and, on the other, points in Adams, Berks, Bucks, Carlson, Chester, Columbia, Cumberland, Dauphin, Delaware, Huntingdon, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union, and York Counties, Pa. John W. Purcell, First Floor, Blackstone Building, Harrisburg, Pa. 17101, attorney for applicants.

No. MC-FC-74993. By order entered March 6, 1974 the Motor Carrier Board approved the transfer to H. E. Cohen, Jamaica, N.Y., of the operating rights set forth in Certificate No. MC-129868 (Sub-No. 1), issued March 20, 1969, to Sardo's Delivery Service, Inc., Brooklyn, N.Y., authorizing the transportation of general commodities, with exceptions, between points in Bergen, Hudson, Passaic, Union, and Essex Counties, N.J., on the one hand, and, on the other, New York, N.Y. (except points in Nassau County, N.Y., within the New York, N.Y., Commercial Zone as defined by the Commission). David M. Schwartz, Suite 500, 1025 Connecticut Ave., Washington, D.C., and Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, attorneys for transferee and transferor, respectively.

No. MC-FC-74994. By order of March 6, 1974, the Motor Carrier Board approved the transfer to Transport Equity Corporation, Los Angeles, Calif., of that portion of the Certificate of Registration in No. MC-120097 (Sub-No. 1) issued July 29, 1968, to Sea-Air Container Transport, Inc., Long Beach, Calif., evidencing the right to engage in transportation in interstate or foreign commerce corresponding in scope to that portion of the grant of authority in Decision No. 56440 covering the transportation of general commodities, with certain exceptions, between points and places in the Los Angeles Territory, the said Decision No. 56440 having been issued April 1, 1958, by the Public Utilities Commission of California. Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, Calif. 90010, and William T. Dalessi, 444 West Ocean Boulevard, Long Beach, Calif. 90802, Attorneys for applicants.

No. MC-FC-75002. By order entered March 7, 1974, the Motor Carrier Board approved the transfer to Raymond Storage Warehouse, Inc., of that portion of the operating rights set forth in Certificate No. MC-40023 (Sub-No. 2), issued June 30, 1955, to Lincoln Warehouse Corporation, New York, N.Y., authorizing the transportation of household goods as defined by the Commission, between New York, N.Y., and points in Westchester and Nassau Counties, N.Y., and Fairfiled County, Conn., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Massachusetts, Maryland, New Hampshire, New Jersey (except points in Essex, Union, and Hudson Counties), New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, practioner for applicants.

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

[FR Doc.74-5834 Filed 3-12-74;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 8, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 54670, filed February 19, 1974. Applicant: IMPERIAL DRAYAGE COMPANY, INC., 715 Army Street, San Francisco, Calif. 94124. Applicant's representative: George M. Carr, 351 California Street, Suite 1215, San Francisco, Calif. 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* to, from and between all points and places located in the San Francisco territory described in Appendix I hereto and points and places located within eight (8) miles of the boundaries of said territory. Except that the applicant shall not transport any shipments of the following: (1) Used household goods, personal effects, and office, store, and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B; (2) Automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (4) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Portland or similar cements, in bulk or packages when loaded substantially to capacity of motor vehicle; (8) Logs; (9) Articles of extraordinary value; (10) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; and (11) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. SAN FRANCISCO TERRITORY: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road;

southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54679, filed February 22, 1974. Applicant: SAMJO, INC., doing business as SMISER FREIGHT SERVICE, 8610 S. Atlantic Blvd., South Gate, Calif. 90280. Applicant's representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between the following points, serving all intermediate points on the said routes and all off-route points within ten (10) miles thereof: (1) Williams and the San Diego Territory (as described in Note 1 hereto) on Interstate Highway 5; (2) Marysville and the Los Angeles Basin Territory (as described in Note 2 hereto) on State Highway 65, Interstate Highway 80, State Highway 99, and Interstate Highway 5; (3) Marysville and Sacramento on State Highway 70 and Interstate Highway 5; (4) Yuba City and the San Francisco Territory (as described in Note 3 hereto) on State Highway 20, Interstate Highway 5, Interstate Highway 505 and Interstate Highway 80; (5) Sacramento and the San Francisco Territory (as described in Note 3 hereto) on territories: (a) San Diego Territory (as described in Note 1 hereto); (b) Los Angeles Basin Territory (as described in Note 2 hereto); and (c) San Francisco Territory (as described in Note 3 hereto). In performing the service herein described, the routes and points listed above may be joined and combined, and use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. Except that, pursuant to the authority herein sought, no shipments of the following shall be transported:

(A) Used household goods, personal effects and office store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4–B; (B) Automobiles, trucks and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (C) Livestock, viz: Barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feederpigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (D) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (E) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (F) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (G) Logs; (H) Articles of extraordinary value; (I) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; and (J) Commodities requiring the use of special refrigeration or temperature control in specially-designed and constructed refrigerator equipment.

NOTE 1: The San Diego Territory: Following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning. NOTE 2: The Los Angeles Basin Territory: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa;

Westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60; southwesterly along U.S. Highway 60 and U.S. Highway 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway 74; westerly along State Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

NOTE 3.—The San Francisco Territory: Between points in California (including the

City of San Jose) within an area bounded by a line beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; then easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue.

Easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Aveneu to Marin Avenue; westerly along Main Avnue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54682, filed February 25, 1974. Applicant: ANGELO BOLLA, doing business as BOLLA FREIGHT LINES, 323 South Canal Street, South San Francisco, Calif. 94080. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, Calif. 94102. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* subject to exceptions and restrictions noted, as follows: (I) Between all points and places located in the following areas and along the following routes: (1) U.S. Highway 101 between San Rafael and Salinas inclusive, and points within 10 miles of said route; (2) State Highway 17 between San Rafael and Santa Cruz, inclusive, and points within 10 miles of said route; (3) State Highway 1 between San Francisco and Carmel, inclusive, and points within 10 miles of said route, including the off route point of Carmel Valley; (4) State Highway 9 between Los Gatos and Santa Cruz, inclusive, and points within 5 miles of said route; (5) State Highway 152 between Gilroy and State Highway 1, at Watsonville, inclusive, and points within 5 miles of said route; (6) State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive, and points within 5 miles of said route; (7) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1 at Watsonville, inclusive, and points within 5 miles of said route; (8) State Highway 68 between Salinas and Monterey, inclusive, and points within 5 miles of said route; (9) Interstate Highway 80 between San Francisco and Carmichael, inclusive, and points within 20 miles of said route; (10) Interstate Highways 580, 205, and 5, between San Francisco and Stockton, inclusive, and points within 20 miles of said route; (11) State Highway 4 between Pinole and Stockton, inclusive, and points within 5 miles of said route; (12) State Highway 160 between Antioch and Sacramento, inclusive, and points within 10 miles of said route; (13) State Highway 24 between Oakland and Concord, inclusive, and points within 5 miles of said route; (14) State Highway 84 between Livermore and Redwood City, inclusive, and points within 5 miles of said route.

(15) Interstate Highway 680 between Vallejo and its intersection with State Highway 17 near Milpitas, inclusive, and points within 10 miles of said route; (16) State Highway 99 between Sacramento and Merced, inclusive, and points within 10 miles of said route; and (17) Interstate Highways 580 and 5 between Tracy and its intersection with State Highway 152 near Los Banos, inclusive, and points within 10 miles of said route. (II) Carrier may serve between any two points named in this Appendix whether named in one or more than one of the above numbered paragraphs. (III) Carrier shall not transport any shipments of: (1) Used household goods, personal effects, and office, store, and institution furniture, fixtures, and equipment not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4–B; (2) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (3) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank semitrailers or a combination of such highway vehicles; and (4) Articles of extraordinary value as set forth in Item 780 of National Motor Freight Classification A–11, William Herbold, Issuing Officer, on the issue date hereof. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23190 (Sub-No. 5), filed February 11, 1974. Applicant: OKMULGEE EXPRESS, INC., 8202 East 41st Street, Tulsa, Okla, 74107. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 NW. 23d Street, Oklahoma City, Okla. 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* over regular routes: Between Tulsa and Grove, Okla., serving the intermediate point of Jay, Okla.: From Tulsa, Okla., via State Highway 33 to its junction with U.S. Highway 59, thence via U.S. Highway 59 to Grove, Okla., and return over the same route. Intrastate, interstate, and foreign commerce authority sought. HEARING: April 1, 1974, in the Oklahoma Corporation Commission, Jim Thorpe Office Bldg., Third Floor, Oklahoma City, Okla., at 9:00 A.M. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.74–5838 Filed 3–12–74;8:45 am]

[Amdt. 3 to Special Permission No. 74–1825]

COMMON CARRIERS OF PASSENGERS, EXPRESS AND PROPERTY AND FREIGHT FORWARDERS

Rate Increases Account Increases in Fuel Cost

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 11th day of March, 1974.

It appearing, that the special permission authority granted in Special Permission No. 74–1825 was fixed to expire with March 15, 1974, and that publications filed thereunder were required to be indicated to expire on a definite date but not later than the specified date;

It further appearing, that certain requests for extension of the expiration date have been filed, and that the circumstances of fuel shortages and rising fuel prices which occasioned the entry of that order are continuing at this time; therefore,

It is ordered, That the expiration date shown in paragraphs "5" and "6" of the original order herein be, and it is hereby, extended to expire with March 15, 1975, unless otherwise ordered by the Commission.

It is further ordered, That publications may be filed on not less than one day's notice to extend the expiration date of the surcharges beyond March 15, 1974, to a date not later than March 15, 1975; that if appropriate, the extension may be accomplished by reissue of the publications containing the surcharge; that the necessary rules of the governing tariff circulars are hereby waived to permit effecting the extension by notice directing the change either in individual or in blanket supplements, which shall be considered exempt from the rules of the tariff circulars limiting the number and volume of supplemental matter, and that such publications shall bear the following notation:

Issued on one day's notice to change expiration date; I.C.C. Permission No. 74-1825.

By the Commission.

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

[FR Doc.74-5935 Filed 3-12-74;8:45 am]

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WASHINGTON, D.C.

Volume 39 ■ Number 50

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

NEW DRUGS; ANTIBIOTIC DRUGS

Requirements of Notice of Opportunity for Hearing, Request for Hearing, and Grant or Denial of Hearing

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Requirements of Notice of Opportunity for Hearing, Request for Hearing, and Grant or Denial of Hearing

In the FEDERAL REGISTER of December 21, 1973 (38 FR 35024), the Commissioner of Food and Drugs proposed to revise the present requirements contained in 21 CFR Parts 130 and 146 relating to the contents of a notice of opportunity for hearing and of a request for hearing, and the circumstances under which a hearing will be granted or denied. The major purpose of the proposal was to implement the recent Supreme Court decisions in *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); *CIBA Corp.* v. *Weinberger*, 412 U.S. 640 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); and *USV Pharmaceutical Corp.* v. *Weinberger*, 412 U.S. 655 (1973). Thirty days were provided for comment, and in response to requests for extension of the comment period the Commissioner agreed that all comments received by the Hearing Clerk by close of business on February 1, 1974, would be considered in preparing the final regulations.

Comments were received from a trade association representing the pharmaceutical industry, several pharmaceutical companies, a law school professor, a medical association, and attorneys interested in food and drug law. The comments submitted, and the Commissioner's conclusions with respect to each comment, are as follows:

1. The major contention made by the pharmaceutical industry is that, to satisfy statutory and constitutional requirements, a notice of opportunity for hearing must specify all of the evidence on which the Commissioner relies. It was contended by some that the notice must contain an analysis of all data in the new drug application (NDA), demonstrating why it fails to meet the statutory requirement for safety and/or effectiveness. Others recognized that there is a difference between withdrawal of approval for lack of safety and for lack of effectiveness, and argued that a detailed notice would be required only for post-1962 drugs that had already been approved for effectiveness as well as for any withdrawal on the ground of safety. One comment suggested that it is sufficient for the notice to state that the NDA file contains no studies meeting the statutory requirements for substantial evidence of effectiveness, and recognized that a detailed analysis would not be feasible. Most of the comments relied upon the decisions of the United States Court of Appeals for the District of Columbia Circuit in *USV Pharmaceutical Corp.* v. *Secretary of HEW*, 466 F.2d 455 (D.C. Cir. 1972) and *Hess & Clark* v. *FDA*, No. 73-1581 (D.C. Cir. January 24, 1974) and on Mr. Justice Powell's opinion declining to concur with the majority of the Supreme Court in the *Hynson* decision.

The Commissioner has given very careful consideration to all of these comments. The proposed regulation has been modified to provide more specifically for two types of notice of opportunity for hearing and summary judgment, as described below. The Commissioner concludes that, as modified, the regulations fully conform with statutory and constitutional requirements as currently interpreted by the courts.

Recent case law demonstrates that there are basically two types of notice of opportunity for hearing.

The first type of notice, comparable to a general complaint filed in a court, need only summarize in a general way the information leading the Food and Drug Administration to issue the notice. This type of notice is sufficient to initiate a hearing, but is not sufficient immediately to initiate summary disposition of the case against a person requesting a hearing. In the recent *Hess & Clark* decision, for example, the Court stated that:

> A notice that may be "adequate" for the purpose of scheduling a hearing is not necessarily adequate for the purpose of beginning a summary judgment procedure. The difference is well known to the law. While a broad complaint may be legally adequate for the purpose of initiating a lawsuit and trial, the Federal Rules of Civil Procedure do not permit a summary judgment procedure to be used unless a motion is made which specifically sets forth the uncontested facts that warrant summary disposition. *See* Rule 56.

Use of this general type of notice does not absolutely preclude later summary disposition of the matter. If the request for hearing indicates that there may be a lack of any genuine issue of fact, however, it would not be proper to enter summary judgment at that point. Instead, the proposed denial of the hearing would be required to be furnished to the person requesting the hearing, who would then have an opportunity to demonstrate that a genuine issue of fact does exist. In effect, the proposed denial of the hearing would be comparable to a summary judgment motion filed in a court, would provide the other party with an opportunity to controvert it, and thus would fully comply with the elements for summary judgment set out in the *Hess & Clark* decision.

The second type of notice, comparable to a summary judgment motion filed in a court, specifies with sufficient particularity the precise issue on which the Food and Drug Administration proposes to take action, and informs the affected party that summary judgment may be entered in the case unless that party demonstrates that there is a genuine issue of fact sufficient to justify a hearing. The recent case law also demonstrates that this type of notice can be provided in two quite different ways. First, the notice may itself contain a detailed description and analysis of all of the facts which have led to the proposed action. This type of summary judgment notice was also described in the recent *Hess & Clark* decision:

> An agency may not validly take action against an individual without a hearing unless its notice to the individual of the adverse action proposed to be taken against him specifies the nature of the facts and evidence on which the agency proposes to take action. Such notice enables the affected party to prepare an informed response which places all the relevant data before the agency.

Second, the notice may refer to detailed requirements specified in the controlling statute and regulations, in lieu of analyzing all the facts in detail, and may state that, because those specific requirements have not been met, the action specified is proposed to be taken. This is the type of administrative summary judgment procedure approved by the Supreme Court in the *Hynson* case. Regardless of which of these two types of detailed notice is utilized, the burden of coming forward with sufficient data or information to demonstrate the existence of a genuine issue of fact then falls upon the affected party. If that party fails to come forward with such data or information, summary judgment may be entered in the case at that point. If a genuine issue of fact is shown to exist, summary judgment is improper and the matter must be set for a hearing.

The final regulations have been modified to reflect these different procedures. Some of the comments recognized the distinction between these procedures. Other comments contended that the first type of procedure is the only one permissible under the decisions of the United States Court of Appeals for the District of Columbia Circuit in the *USV* and *Hess & Clark* cases. The Commissioner concludes that these comments misconstrue the recent case law in this respect.

The Food and Drug Administration basically has used a single form of notice of opportunity for hearing to implement the new effectiveness requirements for new drugs enacted by Congress in the Drug Amendments of 1962. In each case, the notice published in the FEDERAL REGISTER states that, based upon the review of the data and information relating to the drug conducted by the National Academy of Sciences-National Research Council (NAS–NRC), and the independent evaluation of the NAS–NRC review by the Commissioner, it has been determined that there is a lack of substantial evidence that the drug is effective in use, as required by the statute. The notice states that approval of the new drug application (NDA) must be withdrawn pursuant to section 505(e) of the Federal Food, Drug, and Cosmetic Act (76 Stat. 781; 21 U.S.C. 355(e)). It then informs all persons affected that summary judgment will be entered unless a request for hearing specifies evidence meeting the statutory criterion of "substantial evidence" (21 U.S.C. 355(d)) as elucidated in the regulations defining adequate and well-controlled clinical investigations, § 130.12(a)(5) (21 CFR 130.12(a)(5)).

This form of notice has been used with respect to every drug reviewed for effectiveness pursuant to the statutory standards. Thus far, no notice has analyzed any of the existing effectiveness data or information except in a few instances involving new studies undertaken after the NAS–NRC review. This procedure has placed the burden upon the drug manufacturer to come forward with sufficient evidence of effectiveness to justify a hearing. Thus, all of the court decisions upholding the Commissioner's use of summary judgment to withdraw an NDA for lack of proof of effectiveness have been initiated by this form of notice of opportunity for hearing, and have involved judicial approval of the summary judgment procedure and agreement that the manufacturer did not have sufficient evidence to justify a hearing. See *Upjohn Co.* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Pfizer, Inc.* v. *Richardson*, 434 F.2d 536 (2d Cir. 1970); *Ciba-Geigy Corp.* v. *Richardson*, 466 F.2d 466 (2d Cir. 1971); *American Cyanamid Co.* v. *Richardson*, 456 F.2d 509 (1st Cir. 1971); *Bristol Laboratories* v. *Richardson*, 456 F.2d 563 (1st Cir. 1971); *Diamond Laboratories, Inc.* v. *Richardson*, 452 F.2d 803 (8th Cir. 1972); *Agri-Tech, Inc.* v. *Richardson*, 482 F.2d 1148 (8th Cir. 1973). See also *Pharmaceutical Manufacturers Association* v. *Richardson*, 318 F. Supp. 301 (D. Del. 1970).

In all but one case, the Commissioner has thoroughly analyzed all of the data and information submitted as part of a request for a hearing, and has justified summary judgment on the basis of detailed findings on the inadequacy of such data and information when held up against the requirements of the statute and regulations. The sole exception to that rule occurred in *USV Pharmaceutical Corp* v. *Secretary of HEW, supra*, in which the Commissioner published a final order withdrawing the NDA and denying a hearing with no analysis or findings whatever with respect to the data and information submitted with the request for a hearing. The Court ruled in that case that this procedure was improper. The government agreed, did not appeal the decision, and has not used this procedure in any subsequent case.

The notice of opportunity for hearing which initiated the proceedings in the *Hynson* case is indistinguishable from the notice which has initiated the proceedings in all of the other NDA withdrawal cases arising under the Drug Amendments of 1962. The adequacy of that notice and the validity of the entire procedure used by the Food and Drug Administration to withdraw approval of an NDA was attacked in briefs filed in the Supreme Court by Hynson and by other members of the pharmaceutical industry. These briefs argued that, to be valid, the notice of opportunity for hearing must specify why all of the existing data and information fails to prove that the drug is effective, relying upon the *USV* decision. The government briefs, in turn, fully described the Food and Drug Administration's summary judgment procedure, and defended the adequacy of the notice and the withdrawal procedure. The government argued that section 505 (e)(3) of the act (21 U.S.C. 355(e)(3)) places the burden on the NDA holder to prove the drug's effectiveness and that, in view of the NAS–NRC reviews and the regulations which spell out the requirements for proof of effectiveness, it was entirely proper for the notice of opportunity for hearing simply to state that there is a lack of substantial evidence of effectiveness, thus imposing upon the NDA holder the burden of coming forward with sufficient evidence to justify a hearing. This issue was considered of such importance that, on oral argument, both government counsel and counsel for the industry argued the issue extensively. The Supreme Court questioned the government counsel particularly closely on the matter. Thus, there is no question that the issue with both briefed and argued, and fully in issue.

In its *Hynson* decision, all but one member of the Supreme Court directly affirmed the validity of the notice of opportunity for hearing which initiated the proceedings involved in the case and the procedure used by the Food and Drug Administration. Mr. Justice Powell concurred in the result but did not concur with the other six Justices that the validity of the notice and the procedure followed by the Food and Drug Administration should be decided in that case.

The *Hynson* decision fully described the procedure by which the Food and Drug Administration has undertaken to implement the Drug Amendments of 1962 and the NAS–NRC conclusion that there exists a lack of substantial evidence that a drug is effective. The opinion related that "FDA promulgated new regulations establishing standards for 'adequate and well-controlled investigations' and limiting the right to a hearing to those applicants who could proffer at least some evidence meeting those standards," citing §§ 130.12(a)(5) and 130.14 (21 CFR 130.12(a)(5) and 130.14), the regulations establishing the present notice and summary judgment procedure. After reviewing the statutory scheme and the implementing regulations, and describing the enormity of the task involved in reviewing thousands of drugs and therapeutic claims, the Supreme Court concluded:

> The drug manufacturers have full and precise notice of the evidence they must present to sustain their NDA's, and under these circumstances we find FDA hearing regulations unexceptionable on any statutory or constitutional ground.

It is thus apparent that the Court upheld the validity of the form of notice used in all of the withdrawal proceedings to date involving a lack of substantial evidence of effectiveness based upon the NAS–NRC review under the Drug Amendments of 1962.

The recent decision of the United States Court of Appeals for the District of Columbia Circuit in *Hess & Clark* places exactly this interpretation upon the *Hynson* decision. The *Hess & Clark* case arose under the safety provisions of the act, not the effectiveness provisions, and did not result from the NAS–NRC review implementing the Drug Amendments of 1962. This was clearly understood by the Court, and the Court's decision explicitly refers to this distinction.

In *Hess & Clark*, the Commissioner issued a notice of opportunity for hearing, bringing into question the safety of the drug involved, and then withdrew the drug and denied a hearing on the basis of completely new information which was not in existence at the time of the notice of opportunity for hearing and thus on which the NADA holders had no opportunity to comment. The Court held that this procedure was improper. The Food and Drug Administration does not contest that decision, has recommended that the case not be appealed, and will not use this procedure in the future.

In arriving at its decision, the Court explicitly discussed its earlier *USV* case and the relationship of that decision to the subsequent *Hynson* decision in the Supreme Court. The Court recognized that

> * * * it may be that in some particulars the application of *USV* must be refined in the light of *Hynson*. In *Hynson* the Supreme Court approved the FDA's summary judgment procedure permitting withdrawal of an NDA without a hearing if the manufacturer failed to produce "substantial evidence" of efficacy.

The Court then went on to state that, under the *Hynson* decision, where the agency has issued regulations defining the "substantial evidence" required by the statute, the present form of notice of opportunity for hearing satisfies the requirements of due process:

> *Hynson* in effect reaffirms the propriety of administrative summary judgment, if taken in a context where the pleadings on their face "conclusively" show that the hearing can serve no useful purpose. It did not overturn *USV's* requirement that the agency make some showing as a predicate for summary adjudication. It rather found that such a showing and predicate was supplied by particularized regulations setting forth precisely what the manufacturer was required to supply and by findings that the study adduced was conclusively deficient.

Finally, the Court recognized that it was "in no way suggesting that the FDA's course must or should be the same regardless whether the ultimate issue is efficacy or safety."

Thus, it is apparent that the United States Court of Appeals for the District of Columbia Circuit has itself recognized that its earlier *USV* opinion must be "refined" in light of *Hynson*, and that the Supreme Court decided in *Hynson* that the form of notice consistently used by the Food and Drug Administration to implement the Drug Amendments of 1962 meets all statutory and constitutional requirements.

Subsequent to the *USV* and *Hynson* decisions, two other cases have upheld the validity of the Food and Drug Administration's NDA withdrawal procedure. *Agri-Tech, Inc.* v. *Richardson, supra; North American Pharmacal, Inc.* v. *Department of HEW*, No. 73–1386 (8th

Cir. December 28, 1973). Both decisions rejected legal challenges to this procedure and upheld the contested orders.

The courts have consistently recognized the enormity of the task involving the implementation of the Drug Amendments of 1962. As the Supreme Court stated in the *Hynson* decision, some 4,000 drugs, involving approximately 16,500 claims, were involved, and only 434 drugs were found effective for all of their claimed uses. For some of these claims, the industry itself has recognized the lack of substantial evidence of effectiveness, and has not sought to contest a notice of opportunity for hearing. For others, there has been a sharp contest. It is impossible to determine, ahead of time, which will be contested, or the exact basis on which they will be contested. If the Food and Drug Administration were required to spend thousands of valuable professional man-hours analyzing every piece of data and information in an old NDA for inclusion in a notice of opportunity for hearing, only to learn later that the claim was being deleted or in any event the company agreed and had no interest in contesting the matter, or that the issue resolved down to one or two studies out of thousands of pages of data and information, there would be a substantial waste of resources. Such a requirement would impose a monumental task upon the Food and Drug Administration that could not be completed for many, many years to come, and that would result in substantial further delay in the implementation of a statute which the Commissioner has already been ordered to complete by October 11, 1976. *American Public Health Association* v. *Veneman*, 349 F. Supp. 1311 (D.D.C. 1972), court order reprinted in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623).

For example, one comment contended that, in each notice of opportunity for hearing, the Food and Drug Administration should be required to include all of the following information:

(a) Specific identification of each report or study, published or unpublished, and any other pertinent information evaluated by the FDA in reaching the decision to issue the "notice."

(b) For each such report, study or other information, a statement of FDA's classification of it as a controlled study, partially controlled study, uncontrolled study, isolated case report, etc. (See § 130.12(a)(5)(c).)

(c) A concise summary of FDA's evaluation of each such report, study, or other information, including uses of the drug "For which there exists substantial clinical experience (as used in this section, this means substantial clinical experience adequately documented in medical literature or by other data * * *), on the basis of which it can fairly and responsibly be concluded by qualified experts that the drug is safe and effective for such uses." Such summary should specifically explain any respects in which such reports, etc. are inadequate individually and considered as a whole to demonstrate the safety or effectiveness of the drug when used as recommended in its labeling. Further, the summary should state the extent to which there was a waiver of some or all of the criteria for clinical investigation as not reasonably applicable. (See §§ 1.105 (e)(4)(iii) (c) and 130.12(a)(5)(ii)(a) (4) and (5).)

(d) Copies of the reports of FDA's medical officers and other FDA scientific or technical staff pertinent to the "Notice of Opportunity for Hearing."

(e) Identification of each expert and each advisory committee that evaluated such reports, studies, or evidence and concluded that there was inadequate evidence of safety or a lack of substantial evidence of effectiveness of the drug product when used as recommended in its labeling. Copies of each report of evaluation by such experts and of the minutes or transcript of each advisory committee session pertinent to the "notice."

(f) Identification of each expert whose opinion has been made available to FDA concluding on the basis of his evaluation of such reports, studies, and other evidence, that there is adequate evidence of safety or that there is substantial evidence of effectiveness of the drug product, and copies of any written reports of such evaluations.

(g) Specific identification and a summary and evaluation of all reports of investigations, and of clinical experience purporting to show adverse reactions to the drug product, and any other question of safety or effectiveness of the drug product which are available and have been considered by FDA and which may not otherwise be available to each applicant or other persons who manufacture or distribute identical, related or similar drug products as defined in § 130.40. (See § 130.13(f).)

(h) A clear statement as to whether or not the evidence of safety or effectiveness of the drug product would be regarded as adequate on the basis of revised labeling and if so, with what specific revisions.

(i) A fair statement of FDA's knowledge or opinions with respect to the availability of methodology and a description of studies capable of resolving any unresolved question of the safety or effectiveness of the drug product, taking into account responsible consideration of the safety of the subjects employed in such investigations.

The statute places the burden on a drug manufacturer to prove the safety and effectiveness of a drug. The procedure recommended in this comment would improperly shift the burden to the Food and Drug Administration to prove that a drug is unsafe or ineffective and would virtually preclude prompt enforcement of the law. The Commissioner concludes that this type of approach is contrary to the statutory language and legislative intent of Congress in enacting the Drug Amendments of 1962.

The Commissioner notes that, for all drugs subject to the NAS–NRC review, this constitutes the first evaluation by the Food and Drug Administration for effectiveness. Thus, a determination of lack of proof of effectiveness does not necessarily result from evaluation of new data or information. Instead, it results from an evaluation of all existing effectiveness data or information, for the first time, and a determination that it fails to include the type of evidence of effectiveness required by the statute and regulations. The courts have consistently recognized that this evalution is sufficient to constitute the "new evidence" required by the statute, on the basis of which the determination of a lack of substantial evidence may properly be made. Once the drug effectiveness study project is completed, of course, and all new drugs have been reviewed for both safety and effectiveness, this situation will no longer arise.

The pharmaceutical industry has at times contended that the requirements for substantial evidence of effectiveness took it by surprise, and that it had expected that evidence other than adequate and well-controlled clinical studies would be sufficient to prove effectiveness. The Commissioner does not believe that the statute could be so interpreted, and the courts have now ruled definitively on this matter. In any event, whatever may once have been the situation, the pharmaceutical industry can no longer contend that it is unaware of the requirements for proof of effectiveness. Section 130.12(a)(5) of the regulations was first published in the FEDERAL REGISTER of September 19, 1969 (34 FR 14596) and, after being reproposed in the FEDERAL REGISTER of February 17, 1970 (35 FR 3073), was promulgated in the FEDERAL REGISTER of May 8, 1970 (35 FR 7250). For over four years, therefore, the requirements for an adequate and well-controlled clinical study have been quite apparent to the pharmaceutical industry. Similarly the regulation setting out the requirements for combination drugs in § 3.86 (21 CFR 3.86) was proposed in the FEDERAL REGISTER of February 18, 1971 (36 FR 3126), and promulgated in the FEDERAL REGISTER of October 15, 1971 (36 FR 20038). Thus, there has been more than sufficient time for any pharmaceutical manufacturer or distributor to conduct adequate and well-controlled clinical investigations to prove or disprove the effectiveness of any drug he markets.

The entire pharmaceutical industry is therefore aware of the names of all of the drugs that are under review, the evaluation of those drugs by the NAS–NRC, and the type of effectiveness data required by the statute and regulations. There has been ample opportunity for any member of industry to meet with Food and Drug Administration officials to obtain guidance on new testing or to consult with respect to the adequacy of existing data. Thus, as the Supreme Court recognized in *Hynson*, no one can properly claim surprise or argue that there has been inadequate notice.

In considering the application of the new regulations, the Commissioner has separated the problems into four areas: (a) Safety issues; (b) effectiveness issues arising as a result of the NAS–NRC review implementing the Drug Amendments of 1962; (c) effectiveness issues arising after a drug has been approved as fully effective subsequent to the Drug Amendments of 1962, either because the product was first marketed after 1962, or because it was reviewed as a part of the program implementing the 1962 amendments and was then approved as effective; and (d) "grandfather" issues and other issues relating to the legal status of the drug.

(a) With respect to safety issues, since 1938 the Food and Drug Administration has used a general form of notice of opportunity for hearing. This form will ordinarily continue to be used whenever

the agency does not intend to consider immediate summary disposition of the matter against the person requesting a hearing. At the present moment, the Food and Drug Administration has no regulations elucidating the requirements of proof of safety for human drugs. Accordingly, until such regulations are adopted, if summary judgment is contemplated, either a detailed and specific notice will be used, or the proposed denial of a hearing will be served upon the person requesting a hearing for further opportunity to justify a hearing.

(b) With respect to effectiveness issues for drugs which have been subjected to the drug effectiveness study implementing the new requirements of the Drug Amendments of 1962, and thus were first marketed prior to the effective date of that statute, quite different considerations are involved. Ordinarily, the general type of notice, which precludes immediate use of summary judgment, will not be used. Indeed, this type of notice has not yet been used in any NDA withdrawal proceeding implementing the Drug Amendments of 1962. Instead, the notice, as already described above, refers to the detailed and specific requirements of the statute and regulations and states that summary judgment will be entered in the case unless an affected person justifies a hearing by coming forward with evidence meeting those requirements. This type of notice will continue to be used where a review of the available data and information leads to the conclusion that there is a complete absence of the type of evidence required by the statute for proof of effectiveness.

Where a review of the available data and information leads to the conclusion that there is some evidence of the type required by the statute but it is nevertheless insufficient to prove effectiveness, either a general notice will be used where no summary judgment is immediately contemplated, or a detailed form of notice will be used or a proposed denial of hearing will be served upon the person where there still exists the possibility that there may be no genuine issue of fact precluding summary disposition.

(c) With respect to effectiveness issues that arise after the Food and Drug Administration has approved a drug for effectiveness (either as a result of the NAS–NRC review, or because the NDA was submitted subsequent to 1962, but not including pre-1962 drugs with an approved supplemental NDA after 1962 without a full review of effectiveness), the issues are again somewhat different than those presented in the other two circumstances set out in paragraphs (a) and (b). Under these circumstances, the drug has been reviewed and approved for effectiveness on the basis of substantial evidence, as defined in the statute and regulations. Accordingly, it is apparent that a notice simply summarizing information on the basis of which it has been concluded that the drug is no longer proved to be effective could not, in itself, lead immediately to summary judgment, since the request for hearing could always rely upon the evidence of effectiveness on the basis of which the drug was initially approved. Nevertheless, there may also be some circumstances where adequate and well-controlled clinical studies exist with respect to the drug, but where there is no genuine issue of fact justifying a hearing. Under those circumstances, if summary disposition is to be immediately considered a detailed notice of opportunity for hearing will be used, or a proposed denial of a hearing may later be furnished for rebuttal to the person requesting the hearing.

(d) With respect to "grandfather" issues and other issues relating to the legal status of the drug, it is anticipated that such issues will arise primarily with respect to drugs which have been subjected to the NAS–NRC review. The form of notice used to implement this review will advise all persons covered by the notice that these issues are raised. Any person who contends that his drug is exempt pursuant to either of the "grandfather" clauses or for any other legal reason will be required to come forward with the detailed basis for his contention. In most instances, the facts will not be disputed and thus summary disposition will be proper. Indeed, in a number of instances the only issue raised will be a legal issue, on which no hearing is required. Where issues of fact do arise, a hearing will be granted.

2. Some comments contended that the detailed formats and analyses required by the proposal evidence a bias by the Commissioner against hearings, and constitute an unreasonable and arbitrary burden on the person requesting a hearing.

As the Supreme Court recognized in the *Hynson* case, the Drug Amendments of 1962 placed upon the Commissioner the immense burden of reviewing basically all prescription drugs then on the market, to make certain that only those that are effective as well as safe will be allowed to remain on the market. The Supreme Court fully understood that it would be impractical to conduct a hearing on every issue that would arise in the course of such a review, and approved procedures designed to separate out those issues for which a hearing is truly justified from those for which no hearing is justified.

The Commissioner has no bias against a public hearing where a sufficient factual predicate has been established to show that it will accomplish some useful purpose. Where a hearing can accomplish no useful purpose, however, it would be a waste of time, effort, and valuable public resources to hold a hearing. The purpose of the procedures contained in the proposal is to provide a reasonable mechanism for determining those issues which deserve a public hearing and those issues for which a public hearing would be unproductive and not required under the principles laid down by the Supreme Court in the *Hynson* decision.

The regulations adopt the standard enunciated by the Supreme Court in the *Hynson* decision. A hearing will be held unless it appears conclusively from the request for the hearing that the data and information on which the person requesting the hearing relies are insufficient on their face to justify the relief sought, or that the data and information justify the relief sought by the person requesting the hearing without the necessity for a hearing.

The burden placed upon the person requesting the hearing pursuant to the regulations is no different than the burden placed upon the Food and Drug Administration. Under these procedures, the Food and Drug Administration must first review the evaluation provided by the NAS–NRC, and must then conduct its own evaluation of all of the existing data and information on the drug (or the particular indication) involved. As already indicated, where there are no published objective standards that may be applied, as is presently true with respect to the statutory requirements for proof of safety, the specific information which gives rise to a determination that approval of the NDA should be withdrawn will be set forth in the FEDERAL REGISTER, or the proposed hearing denial will be given, for rebuttal, to the person requesting a hearing, if summary judgment is to be considered. Where there are published objective standards for such evaluation, as is presently true with respect to the statutory requirement for adequate and well-controlled clinical investigations, it is sufficient if the notice states that no such data or information exist.

Once the notice is published, the burden then falls on the person requesting a hearing to justify the need for a hearing. In the absence of such justification, no hearing will be held. If a safety issue is involved, the person requesting the hearing need only demonstrate the existence of data which raise a genuine issue of fact as to whether the product is or is not safe. If effectiveness is involved, the person requesting the hearing must demonstrate that there is some evidence which satisfies the requirements established in the statute and regulations for adequate and well-controlled clinical studies. If a "grandfather" issue is raised, the person requesting the hearing must demonstrate that there are sufficient data or information to justify such status or at least to raise a disputed issue of fact.

Upon receipt of a request for hearing, the Food and Drug Administration must analyze the request and take one of four courses of action. First, if a hearing is justified, the Commissioner must publish a notice announcing the hearing and setting forth the issues to be resolved at the hearing. Second, if the Commissioner concludes that the person(s) requesting the hearing has shown that the drug is safe and effective, he shall publish a notice denying the hearing, entering summary judgment for such person, and withdrawing the notice of opportunity for hearing. Third, if the Commissioner concludes that a hearing is not justified and that summary judgment should be entered against the person requesting the hearing, he must set forth his find-

ings and conclusions in detail specifying why each study contained in the request fails to meet the requirements of the statute and regulations or otherwise does not raise a genuine issue of fact. Fourth, if there are no detailed regulations that are controlling and only a general notice is used, the proposed denial of hearing must be given, for rebuttal, to the person requesting a hearing, and any such rebuttal must also be analyzed in detail. In short, in order to deny a hearing the Commissioner must review the analyses submitted by the person requesting the hearing and must reply to each specific contention made. Thus, this procedure establishes no greater burden for the person requesting a hearing than it does for the Food and Drug Administration.

Experience with requests for hearing during the past few years has demonstrated a compelling need for the formats and analyses required in the new regulations. The Commissioner has no interest whatever in meaningless requirements. Some requests for hearings, however, have been so disorganized, incomplete, and confusing as to hinder the agency's effective and efficient implementation of the act. References have been made to material that is inaccessible; literature reprints in foreign languages have been submitted without translations; some supporting material has been included only in part; material on safety and effectiveness has been intermixed; and, in general, it has frequently been apparent that the purpose of the submission was simply to overwhelm the agency with as much paper as could be found relating to the subject, regardless of its quality or relevance. The Commissioner concludes that the overall poor quality of requests for hearing submitted to date clearly necessitates the adoption of standard procedural rules designed to reduce the material submitted to those tests that have clear relevance to the question whether a hearing is justified, and to require that the material be presented in a clear, concise, and meaningful way.

3. Several comments suggested that an administrative law judge should decide if there is an issue of fact justifying a hearing, rather than the Commissioner. The comments contended that it is prejudicial and unfair for the same person who issues a notice of opportunity for hearing to rule on whether a hearing is justified. At least one comment argued that constitutional requirements preclude this form of procedure.

The Commissioner notes that the same legal arguments were made in the pharmaceutical industry briefs before the Supreme Court in the *Hynson* case, and that the Supreme Court rejected them in holding that the present summary judgment procedures meets all statutory and constitutional requirements.

Nevertheless, the Commissioner recognizes that a substantial amount of concern with respect to use of summary judgment arises from the feeling, even if not justified, of prejudgment and unfairness. Accordingly, even though the legality of the present procedure has been upheld in the courts, the Commissioner concludes that some modification of this procedure is desirable in order to dispel the perception of prejudgment and unfairness that now exists.

The Commissioner concludes that, in the future, there will be a strict separation of functions between the Bureau of Drugs and the office of the Commissioner on these matters. The Bureau of Drugs will be delegated the authority to issue a notice of opportunity for hearing. If a hearing is requested, the Bureau of Drugs will analyze the submission and draft a proposed order ruling on the matter. That proposal will then be forwarded to the office of the Commissioner along with the request for hearing, for independent review and decision. No negotiations or ex parte contacts will be permitted. The Bureau of Drugs will not in any way participate in the review of the matter by the office of the Commissioner. The Commissioner will then publish a notice granting or denying a hearing.

This formal separation of functions, which exceeds statutory and constitutional requirements as interpreted by the Supreme Court in the *Hynson* decision, will guarantee that an independent judgment is reached by an arbiter who is not involved in the initiation of the proceeding, and thus will preclude bias and guarantee fairness. It should be noted that, under the Administrative Procedure Act (5 U.S.C. 556(b)) all hearings may be conducted either by an administrative law judge or by the head of the agency. Thus, in this instance the office of the Commissioner will be serving the same function as an administrative law judge.

The office of the General Counsel will observe the same separation of functions in dealing with these matters. The attorneys who are designated to work with the Bureau of Drugs on these matters will be disqualified from participating in any way in work on them with the office of the Commissioner.

4. It was contended that there is no need for new regulations, and that the existing regulations are entirely adequate for implementation of the Drug Amendments of 1962.

The Commissioner concludes that the existing regulations are inadequate in several respects. They fail to require a standard format and analyses which will enable the Commissioner to evaluate the request for hearing expeditiously and accurately; they establish no policy or requirements with respect to the "grandfather" and other issues inherently raised in any request for hearing; and they are not as precise and explicit as they should be in numerous other areas. The purpose of regulations is to interpret and apply the law, and thus to clarify the law by apprising the public and the regulated industry of all applicable legal requirements in greater detail than is possible in a statute. The Commissioner concludes that the new regulations are both necessary and appropriate to achieve this purpose.

5. A number of comments argued that it is not legally permissible to deny a hearing simply because the hearing request does not contain the required analyses, or is not in the required formats, set out in the proposed regulations. Other comments recognized that standard analyses and formats could be required, but contended that a hearing should not be denied for minor or technical deficiencies and suggested that modification or resubmission should be allowed under these circumstances. One comment suggested that data inadvertently or carelessly omitted should not automatically be excluded if the manufacturer later discovers and seeks to submit such data.

It is a well-recognized principle, applied both by the courts and by administrative agencies, that requests for hearings or other applications and pleadings may be required to be in a standard format and to contain specified types of information. The failure to file the correct form in the correct court by a particular date has always constituted a waiver of legal rights. Section 701(a) of the act (21 U.S.C. 371(a)) clearly authorizes the Commissioner to promulgate comparable requirements for the Food and Drug Administration as long as they are reasonable. Accordingly, the suggestion that the Commissioner is without legal authority to require standardized formats or analyses for a request for hearing is rejected.

On the other hand, the Commissioner does not wish to impose undue hardship, and would not intend to reject a request for hearing solely because of minor technical deficiencies, as long as a good faith attempt to meet all the requirements of § 130.14 is apparent and any deficiencies noted are immediately corrected. In the event that, through inadvertence, critical data are excluded from a request for hearing, the Commissioner will entertain a request to receive the data upon a showing that the excluded information was overlooked in good faith. The regulations have therefore been modified to make this clear.

6. Some comments contended that the purpose of the format was to permit the Commissioner to resolve factual disputes, and pointed out that a factual dispute must be resolved at a hearing.

The Commissioner fully recognizes that a factual dispute must be resolved at a hearing. The regulations have been modified to make this clear. The sole purpose of the required format and analyses is to permit the Commissioner to determine whether a factual dispute does exist, or whether there is no factual dispute that justifies a hearing.

7. One comment contended that the Commissioner may not properly require a point-by-point analysis of a drug study against the criteria in §§ 130.12(a)(5) or 3.86.

The Commissioner rejects this contention as legally and factually unsound. Such an analysis is required in order to determine whether a hearing is justified. As already noted, there is ample legal authority for such a requirement.

8. Comments pointed out that a hearing must be held unless all of the data are conclusively inadequate when held up

against the requirements of the statute and the regulations. Some comments contended that the Food and Drug Administration must accept whatever allegations are made in the request for hearing, and is precluded from denying a hearing if the person requesting the hearing alleges that the data or information meet the requirements of the statute and regulation.

The Commissioner agrees that a hearing may be immediately denied only if none of the data or information submitted meet the requirements of the statute, as spelled out in the implementing regulations. It is equally clear that mere allegations or conclusory statements are insufficient to justify a hearing. The new requirements for specific formats and analyses will help the Commissioner determine whether a conclusion that the hearing is justified, reached by a person requesting a hearing, is supportable. In no instance will the Commissioner accept such a conclusion without analyzing the data and information to confirm that they do, on their face, meet the requirements of the statute and regulations. This issue was fully briefed and argued in the *Hynson* case, and the Supreme Court approved the existing Food and Drug Administration procedures. The Commissioner has the same authority to examine the pleadings in a summary judgment motion as does a court in similar circumstances. It obviously would be unacceptable if summary judgment could be avoided merely by the unsupported statement that evidence exists which satisfies the requirements of the statute and regulations, when none in fact does exist.

9. One comment suggested that the regulations state precisely what showing will suffice to obtain a hearing.

The Commissioner advises that a hearing will be granted when data or information are presented from which it appears that there is a genuine and substantial issue of fact. Thus, for example, where the issue is safety, a showing of studies purporting to demonstrate the safety of the drug will ordinarily suffice to justify a hearing unless, when viewed in the light of a detailed notice of opportunity for hearing, or after the person requesting a hearing has had an opportunity to rebut a proposed denial of a hearing, they present no issue of fact and the matter is therefore ready for decision without the necessity of a hearing. Where the issue is effectiveness, the submission of some evidence which meets all the requirements of the statute and regulations and which contains results which show that the drug is effective would also ordinarily be sufficient to justify a hearing (unless, after the person requesting the hearing has been given the opportunity to respond to a proposed denial of a hearing, there remains no factual issue). If an adequate and well-controlled clinical study or studies meeting the requirements of § 130.12 (a) (5) are submitted and, on their face, demonstrate the ineffectiveness of the product, however, certainly no hearing would be justified. The regulations have been modified to state this policy.

10. One comment urged that the regulations make it clear that the Commissioner's order denying a hearing must contain detailed findings and conclusions.

This was the intent of the proposal, and the Commissioner has therefore modified the regulations to make the intent more explicit. As noted in paragraph 1 of this preamble, the Commissioner has made such detailed findings and conclusions in all orders denying a hearing with the single exception of the order which resulted in the *USV* decision in the United States Court of Appeals for the District of Columbia Circuit, and the procedure used in that case has not since been followed in any other case.

11. Several comments stated that the task of compiling all the required information for a request for hearing is too large to be completed within 60 days. Some contended that such a requirement does not meet the requirements of "fair play" mentioned in the *Hynson* decision. It was apparent that most of the comments assumed that, if a hearing is held, it would consider only the data and information included with the request for hearing.

The Commissioner concludes that 60 days is an entirely reasonable period of time within which to organize and submit sufficient data and information to justify a hearing. It has been the standard practice of the Food and Drug Administration since 1938 to permit only 30 days for such submissions. The time permitted in the new regulations thus doubles the amount of time that has previously been allowed. In all but a very few instances, the 30-day time period has been sufficient for such submissions. The comments provided no convincing argument to justify the assertion that the new type of formats could not be completed in twice the amount of time that has previously been allowed.

There is no need to submit all available data on safety and/or effectiveness with a request for hearing. Indeed, a major deficiency of requests for hearing previously submitted is that they contain vast amounts of data and information which do not meet the requirements of § 130.12(a) (5) and § 3.86 and thus are not relevant to the issue whether a hearing is justified. Accordingly, the final regulations have been revised to make it clear that only studies meeting the requirements of § 130.12(a) (5) and, in the case of combination drug products, § 3.86, may be submitted to support a request for hearing. Studies not meeting those requirements may be submitted only if a waiver has previously been granted by the Food and Drug Administration pursuant to § 130.12(a) (5).

The Supreme Court held in the *Hynson* case that a hearing may lawfully be denied when it appears conclusively from the face of the data and information submitted in support of the request for hearing that the person requesting the hearing cannot prevail. Thus, immediate summary disposition of such matters is precluded if the request for hearing is supported by some evidence which, on the face of all of the data and information submitted, meets the requirements of § 130.12(a) (5) and, where applicable, § 3.86, and shows that the drug is effective. The Commissioner notes that the amount of evidence sufficient to satisfy this burden is entirely different from the amount necessary to establish the effectiveness of the drug. One study meeting all of the requirements of § 130.12(a) (5) and § 3.86 may be sufficient to obtain a hearing, but is ordinarily insufficient to establish the effectiveness of a drug product. The rule laid down by the Supreme Court in *Hynson* states only that, as long as evidence of the type required by the statute and regulations is identifiel in the request for hearing, the person requesting the hearing has satisfied his burden of coming forward with sufficient evidence to justify a hearing.

Section 505(d) of the act requires that drug effectiveness be proved by "substantial evidence", which is in turn defined as "adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience". Section 130.4 provides that ordinarily the reports of clinical studies will not be regarded as adequate unless they include reports from more than one independent, competent investigator. The Commissioner is considering whether the regulations should be changed to require, in all instances, at least two studies by independent investigators meeting the requirements of § 130.12(a) (5) and, where applicable, § 3.86, before a drug may be regarded as proved effective. Pending any such requirement, the submission of a single study showing effectiveness and meeting the requirements of § 130.12(a) (5) and, where applicable, § 3.86 will be sufficient to preclude immediate summary judgment.

The final regulations have been revised to state that all studies on the drug meeting the requirements of § 130.12(a) (5) and, where applicable, § 3.86 known to the person requesting the hearing shall be submitted. This will provide the Commissioner with all of the data and information relevant to the question whether a hearing is justified or, indeed, whether summary judgment should be granted for the person requesting the hearing.

Submission of one or more studies meeting the requirements of § 130.12(a) (5) and, where applicable, § 3.86 precludes immediate summary judgment, but does not necessarily preclude ultimate summary disposition of the matter. The Director of the Bureau of Drugs may, upon analysis of the data and information submitted, conclude that summary disposition is still feasible. Under these circumstances, a proposed denial of hearing, analyzing the data and information submitted in detail and stating why no genuine issue of fact exists that would justify a hearing, would be served upon the person requesting a hearing. That person would then have

an additional 60 days within which to rebut the proposed order and to demonstrate the existence of a disputed issue of fact.

The Commissioner advises that, if a hearing is held, all relevant data and information may be admitted into evidence regardless whether they were included with the request for hearing. Accordingly, the fact that only studies meeting the requirements of § 130.12(a)(5) and, where applicable, § 3.86 may be submitted in support of a request for hearing does not preclude consideration of additional data and information, which may corroborate such studies, at any hearing that is held.

12. Several comments requested that the regulations be clarified to state that a request for hearing need address only the issue(s) specified in the notice of opportunity for hearing, i.e., that if the notice relates only to effectiveness, the safety portions of the standard format may be ignored. It was sugested that a general statement to this effect would be preferable to the requirement of a specific waiver in each instance.

The Commissioner advises that this was the intent of the proposal. The final regulations have been revised to make this intent clear.

13. Some comments similarly suggested that an analysis of compliance with § 3.86 should be required only if the drug is a combination drug.

The Commissioner advises that this was the intent of the proposal. The final regulations have been amended to make this intent clear.

14. Two comments argued that a consensus of physicians is sufficient to satisfy the requirements of proof of effectiveness and is, in any event, sufficient to justify a hearing.

This issue was fully litigated before the Supreme Court in the *Hynson* case. The Supreme Court held that the regulations in § 130.12(a)(5):

> * * * express well-established principles of scientific investigation. Moreover, their strict and demanding standards, barring anecdotal evidence indicating that doctors "believe" in the efficacy of a drug, is amply justified by the legislative history. The hearings underlying the 1962 Act show a marked concern that impressions or beliefs of physicians, no matter how fervently believed, are treacherous.

In reviewing the statutory requirement of substantial evidence of effectiveness, the Supreme Court stated:

> The "substantial evidence" requirement reflects the conclusion of Congress, based upon hearings, that clinical impressions of practicing physicians and poorly controlled experiments do not constitute an adequate basis for establishing efficacy.

Thus, the clear congressional mandate, as interpreted by the Supreme Court, has decided this issue. The law provides that a consensus of medical opinion is not sufficient to establish the effectiveness of a drug or to justify a hearing.

15. One comment asked whether the definition of adequate and well-controlled investigations in § 130.12(a)(5) contains the only criteria to be used in assessing whether a study is adequate and well-controlled.

The Commissioner emphasizes that the purpose of § 130.14, and of the Commissioner's decision under it, is to determine whether a hearing is justified. Section 130.14 provides that the only objective criteria for determining whether a study of effectiveness is adequate and well-controlled are those established in § 130.12(a)(5). If a hearing is granted, the question whether a study or studies are sufficient to constitute substantial evidence of effectiveness under the statute will undoubtedly raise additional issues not covered by § 130.12(a)(5).

16. A number of comments argued that no unfavorable data or information should be required to be submitted. The comments pointed out such data or information are not relevant to the question whether a hearing is justified.

The Commissioner concludes that the purpose of the request for hearing is to determine whether a hearing is justified. It is not necessary for all unfavorable data to be considered in making that determination. Accordingly, this provision has been deleted from the final regulations. On the other hand, all adequate and well-controlled studies, which do determine whether a hearing is justified, must be submitted, regardless whether they are favorable or unfavorable, as discussed above in paragraph 11. In addition, unfavorable analyses, opinions, and judgments with respect to the specific data and information submitted with the request for hearing are relevant to the issue whether there is justification for a hearing, and thus are properly required to be submitted. For example, the opinion of a company employee or outside expert that a study submitted with a request for a hearing fails to meet any of the elements of § 130.12(a)(5) would also be required to be submitted. The final regulations have therefore been modified in this respect.

The Commissioner advises that, if a hearing is held, it is essential that the participants at the hearing submit all unfavorable data or information available to them, as well as any favorable data or information on which they rely. This will then permit the Commissioner ultimately to make the proper decision as to whether the drug has been proved safe and effective. The Commissioner will amend the regulations relating to hearings to so provide at a later date. In the interim, the Commissioner will request that the presiding officer at any hearing held with respect to such matters apply this requirement.

17. Some comments suggested that the request for hearing should not be required to contain a copy of each piece of data or information already submitted to the agency as part of an IND, NDA, or other application or report. One comment recommended that the regulations state whether the data and information submitted with the request for a hearing must include all of the underlying raw data or may consist solely of summaries.

The Commissioner concludes that it is essential that all of the data and information on which a company relies to justify a hearing must be submitted in full with the request for hearing, in the formats and with the analyses required by the regulations. In the past, requests for hearings have simply incorporated by reference all of the data in an NDA, or have included incomplete reports. In order to make certain that there is no misunderstanding with respect to the material on which the request for a hearing relies, submission of all such data and information is required.

All of the raw data must be available to the Food and Drug Administration in order for the Commissioner to make a determination whether those data are adequate to justify a hearing "on their face", as required by the Supreme Court in the *Hynson* decision. The Commissioner recognizes, however, that it could be a hardship to require submission of all of the underlying raw data on which the final report of a study is based. Accordingly, submission of such data will be required only if it has not previously been submitted to the Food and Drug Administration in any application or report. If it has previously been submitted, it may be incorporated by reference as part of the report which is submitted. The final regulations have been revised in this respect.

The Commissioner believes that the requirement that all data and information on which reliance is placed to justify a hearing be submitted with the request for hearing will work no hardship. For example, as is pointed out in several paragraphs in this preamble, only evidence meeting the requirements of the statute and regulations for evidence of effectiveness may be submitted to justify a hearing. No data or information failing to meet the requirements of § 130.12(a)(5) may be submitted unless accompanied by a waiver.

18. Similarly, comments suggested that the proposed regulations should be revised to state that a decision whether to grant or to deny a hearing will be made on the basis of the NDA file as well as the data, information, and analyses submitted with the request for hearing.

For the reasons already stated above, the Commissioner concludes that this would be inefficient and inappropriate. The sole issue is whether the person requesting the hearing can satisfy his burden of coming forward with sufficient evidence of the type required by the statute and regulations to justify a hearing. As already noted, vague and confusing requests for hearings in the past have necessitated definitive new regulations detailing the requirements for a request for hearing, including both that the data on which reliance is placed be specified and submitted and that analyses of how the data comply with the requirements of the statute and the regulations be included. These requirements are not met simply by reference to material in an NDA, and thus the Commissioner will not refer to any data in an NDA (except

with respect to raw data underlying a submitted report) when determining whether a hearing is justified.

19. The same comments also requested that, if the NDA contains an analysis of the way in which the data contained in the NDA meet the requirements of the statute and regulations, that analysis should be accepted as sufficient for purposes of the request for hearing.

Again, the Commissioner concludes that the request for hearing must be a self-contained document with each of the elements required by the new regulations. Several hundred requests for hearings may be submitted in the process of implementing the Drug Amendments of 1962, and it is therefore important that each meets the same requirements in order to allow the Commissioner to implement the law effectively and efficiently. If an NDA in fact contains an analysis that fully meets the requirements of the new regulations, the person requesting the hearing may, of course, copy that analysis and submit it as part of the request for hearing. The Commissioner concludes that, in the interest of administrative efficiency, this requirement is not unduly burdensome.

20. A number of comments objected to the provisions stating that a request for hearing may not be supplemented with additional material after the 60 days permitted for submission of data and information, unless that additional material is "not in existence" at the time of the submission. There appeared to be general recognition that some cut-off date is justified, but the comments suggested that the phrase "not in existence" be revised to read "not completed" or "not known."

The Commissioner concludes that this provision of the regulations should remain as proposed. A study which is not completed is, of course, not in existence as of that time. The Commissioner fully intends to receive studies that are in progress, but not yet completed, when the notice of opportunity for hearing is published. The regulations have been revised simply to require that the request for hearing state all such studies which are then in progress, and which will later be submitted. This will permit the Commissioner to determine whether, in his discretion, it would be advisable to delay ruling on a request for hearing until the results of studies in progress are available.

The Commissioner rejects the suggestion that material "not known" to exist at the time of the request for hearing should later be permitted to be assembled and submitted. This would, in effect, result in no cut-off period whatever. On numerous occasions in the past, persons requesting a hearing have subsequently supplemented that request with multiple submissions of data and information culled from the literature and other sources, all of which were available at time of the original request for hearing. This has resulted in lengthy delays while the newly submitted information has been assessed. In the interest of administrative efficiency, it is essential that this type of continuous submission be precluded. Accordingly, the new regulations require that any submission of existing information be made within the 60-day time period permitted in the regulations.

This should again impose no hardship upon persons requesting a hearing. All of the NAS–NRC evaluations for effectiveness have now been made public and are readily available to any person who requests them. Thus, any interested person may easily determine the present status of a drug subject to the effectiveness review, and may begin immediately to undertake whatever search for data or information may be appropriate. Particularly in view of the fact that only evidence meeting the requirements of the statute and regulations may be submitted with a request for a hearing, this is not an imposing burden.

21. A few comments requested that the requirements of the new regulations relating to formats and analysis not be applied retroactively to all persons who have previously requested a hearing in response to a notice of opportunity for hearing implementing the Drug Amendments of 1962.

The Commissioner agrees that the new regulations do not automatically apply retroactively to all persons who have previously requested a hearing. The Food and Drug Administration will review prior requests for a hearing to determine whether it is in the interest of justice and the public health to decide the pending matter on the basis of the submission already made or to request a new submission in the formats and with the analyses required by the new regulations. Where it is determined that a new submission should be made pursuant to the revised regulations, an appropriate notice will be published in the FEDERAL REGISTER. In such cases, there will be no hardship since it should be a relatively easy matter for the persons involved to review the data previously submitted and to specify evidence which meets the requirements of the statute and regulations, if any such evidence exists.

22. Several comments pointed out that the Supreme Court stated in the *Hynson* decision that summary judgment could properly be imposed only if there was noncompliance with the "precise" elements of § 130.12(a)(5), and that those aspects of the regulation requiring judgment could not properly support the denial of a hearing.

The Commissioner agrees with this comment and has no intention of denying a hearing solely because of failure to comply with the judgmental elements of § 130.12(a)(5). Indeed, in no instance to date has a hearing been denied on such a basis. The regulations have been modified to make this clear.

At the same time the Commissioner notes that a total failure of a study even to attempt to comply with one of the "judgmental" elements of § 130.12(a)(5) may be sufficient to deny a hearing. For example, the Commissioner will not deny a hearing because of his judgment that the study does not provide "adequate assurance" that the subjects are suitable for the purpose of the study, but may well exercise summary judgment if the plan or protocol for the study fails to include a method of selection of the subjects that would provide any assurance whatever that they are suitable for the study. Any such decision will depend entirely upon whether it is conclusively apparent, on the face of the data or information submitted, that the requirements of the statute and regulations have not been met.

23. A comment requested that the regulations specifically identify those "precise" criteria in § 130.12(a)(5) on which denial of a hearing may properly be based in accordance with the *Hynson* decision.

The Commissioner concludes that it is not practical to be this specific in the regulations. The language in the *Hynson* decision, together with the discussion in this preamble, provides ample guidance on this matter. Any person designing a controlled clinical investigation to prove effectiveness has not only the provisions of §§ 3.86 and 130.12(a)(5) to give him specific advice, but also has the opportunity to request a conference with Food and Drug Administration officials to discuss proposed protocols, and may submit proposed protocols for a written opinion. The Food and Drug Administration is now putting in final form some 27 clinical testing guidelines that will provide additional guidance to the pharmaceutical industry and clinical investigators with respect to testing the various categories of pharmaceutical agents, and the current drafts of those guidelines are available upon request. Thus, no one can properly claim surprise with respect to the requirements of an adequate and well-controlled clinical study.

24. A number of comments pointed out that § 130.40 (21 CFR 130.40) and the notices of opportunity for hearing provide that a manufacturer of a drug may request from the Food and Drug Administration a ruling as to whether a specific product is affected by a specific notice, and stated that this would not be possible within the 30-day time period permitted for filing a request for a hearing under the proposed regulations.

The Commissioner agrees with this comment. Accordingly, the final regulations have been changed to state that, where an opinion of this kind is requested within the 30 days permitted for requesting a hearing, the time for filing the request for hearing and the supporting data shall commence as of the date of the response provided by the Food and Drug Administration to that request for an opinion, if the opinion is that the drug is covered by the notice.

25. Several comments stated that any hearing granted by the Commissioner should include, if the issue is raised, the question whether a particular drug is in fact similar or related and thus covered by the NDA withdrawal pursuant to § 130.40. A comment stated that provision should be made in the request for hearing for a contention that a drug is

not similar or related and thus is not covered by the NDA withdrawal.

The Commissioner notes that, as stated in paragraph 24 of this preamble, the manufacturer of a drug who is not certain whether an NDA withdrawal covers his product may request an opinion from the Commissioner on the matter. The time for requesting a hearing for such person is stayed pending receipt of that requested opinion.

If the Commissioner's opinion states that the drug is so covered, and the manufacturer subsequently requests and is granted a hearing on the NDA withdrawal, the Commissioner agrees that the issue whether the drug is in fact similar or related is properly encompassed within the hearing. The final regulations have been modified to so state.

If the Commissioner's opinion is that the drug is covered by the NDA withdrawal, but the manufacturer concludes not to file a request for hearing, or his request for hearing is denied, the question whether the drug is in fact similar or related to the drug for which the NDA has been withdrawn is properly an issue for resolution in a United States District Court upon appeal from the Commissioner's opinion, which constitutes final agency action under the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 701 et seq.).

The Supreme Court stated in the *Hynson* case that the decision of the Food and Drug Administration that a "me-too" drug is a new drug which is covered by an NDA that is being withdrawn, because it is similar, related, or identical to the drug for which the NDA is being withdrawn, is reviewable in a United States District Court and is not reviewable in a United States Court of Appeals. Subsequent to the publication of the proposed regulations in the FEDERAL REGISTER, the United States Court of Appeals for the Eighth Circuit handed down its decision in *North American Pharmacal, Inc. v. Department of HEW, supra.* The Eighth Circuit recognized that an order declaring "me-too" status is reviewable in a United States District Court, but concluded that when a "me-too" manufacturer seeks review of an NDA withdrawal order such review is properly heard in a United States Court of Appeals under section 505(h) of the act (21 U.S.C. 355(h)). The Commissioner does not contest this procedure and accordingly has incorporated it in the final regulations. The Supreme Court has held in the *CIBA* case that if such review is not sought, the issues may not later be litigated in a United States District Court.

Similarly, the Commissioner has concluded that the final regulations should state the record that will be certified to a United States Court of Appeals upon review of an NDA withdrawal order when a hearing is denied. Since the administrative record upon which the Commissioner will enter any such decision will consist solely of the notice of opportunity for hearing, the request for hearing, any proposed denial of hearing furnished to a person requesting a hearing and that person's response (where this procedure is used), and the Commissioner's final order denying the hearing, the final regulations provide that these documents will constitute the record certified for appeal.

26. Several comments noted that the present definition of "identical, related, or similar drugs" contained in § 130.40 could be made more specific or otherwise improved. Questions were raised whether identical, related, or similar drug products were subject to regulatory action before action is taken on the drug product for which there is an NDA, and whether a conclusion that such drug product is effective eliminates the need for NDA's for all identical, related, and similar drug products.

The Commissioner notes that § 130.40 was cited with approval by the Supreme Court in the *Hynson* decision and was upheld in the *North American Pharmacal case*. Possible amendment of that regulation to achieve greater clarity deserves separate proposal, and should not be undertaken without time for comment. Any person interested in revision of § 130.40 may submit an appropriate petition specifying revised language that would better describe the drug products covered by a notice of opportunity for hearing. The same result can be obtained by interested drug manufacturers submitting requests for opinions on the applicability of specific notices to particular drug products.

The Commissioner advises that any drug product presently marketed without an approved NDA is subject to regulatory action at any time. As a matter of administrative discretion, the Commissioner may defer such action until a decision is made on the NDA's for identical, related, and similar drug products, in order to minimize competitive inequity.

A conclusion that a drug product for which there is an NDA, is safe and effective, may or may not eliminate the need for NDA's for all identical, related, and similar drug products. An approved NDA is required for any marketed drug product except for those "old drugs" which are generally recognized as safe and effective. The Commissioner will be proposing a procedure for determining the old drug status of drug products at a later date.

27. One comment pointed out that the Supreme Court stated in the *Hynson* decision that "In some cases general recognition that a drug is efficacious might be made without the kind of scientific support necessary to obtain approval of an NDA." Modification of the proposed regulations was requested to reflect this fact.

The Commissioner agrees that such modification is appropriate. The Commissioner had intended that the proposal incorporate the waiver provisions contained in the proviso at the end of § 130.12(a)(5)(ii)(*a*). An explicit reference to this waiver provision is therefore included in the final regulations.

The Commissioner advises that the waiver provision contained in § 130.12 (a)(5)(ii)(*a*) requires submission of a separate petition to the Director of the Bureau of Drugs, on which separate action is to be taken wholly apart from any response to or analysis of an opportunity for hearing. Requests for waiver may not be included with a request for hearing. Thus, it is the responsibility of a drug manufacturer or distributor to request and obtain a waiver from any of the requirements of § 130.12(a)(5) with respect to any study of which he relies to demonstrate either effectiveness or general recognition of effectiveness of a drug, before the effectiveness of a drug is put in issue by a notice of opportunity for hearing. Since the NAS–NRC evaluations of all of the drugs subject to the drug efficacy review project have been available for well over a year, and in some instances much longer, drug manufacturers and distributors have had ample opportunity to assess the status of their products, review the supporting data, and request waivers where appropriate. The regulations have been modified to make it clear that the request for hearing shall include any waiver previously so obtained.

28. One comment contended that the Supreme Court decision in the *Hynson* case is applicable only to the test for general recognition of effectiveness, and not to the test for general recognition of safety.

The Commissioner concludes that this contention is without merit. The rationale underlying the *Hynson* decision is that the standard for "general recognition" is at least as stringent as that for approval of a new drug. The Supreme Court pointed out in the *Hynson* decision that, "The thrust of section 201(p) is both qualitative and quantitative," and explicitly rejected the contention that general recognition can be based merely upon expert testimony and other evidence which would be insufficient to support initial approval of the drug itself. The Supreme Court stated in the *Bentex* decision that "the reach of scientific inquiry under both section 505(d) and under section 201(p) is precisely the same." The Commissioner concludes that the Supreme Court decisions mean that, to be generally recognized as safe, a drug must have the same quantity and quality of scientific and medical evidence that is required for initial approval of a new drug for safety, and must, in addition, be "used to a material extent or for a material time" under the conditions involved. The Commissioner will so apply the law in the future.

As with effectiveness, the Commissioner recognizes that general recognition of safety may in some cases be made without the precise kind of scientific support necessary to obtain approval of an NDA. Accordingly, the regulations have been revised to incorporate the same waiver provisions for general recognition of safety as have been incorporated for general recognition of effectiveness. Such waiver must, of course, be petitioned separately from a request for hearing, and it is the responsibility of

any drug manufacturer who needs such a waiver to support the marketing of his drug to request and obtain it so that it will be available if needed to respond to any request for hearing.

29. A comment stated that there is no indication in the Supreme Court cases that evidence of general recognition must ordinarily be based upon published studies.

The Commissioner points out that this issue was fully litigated in the recent Supreme Court cases. The government argued that publication is essential to general recognition, citing lower court decisions, and the pharmaceutical industry argued that general recognition may exist wholly apart from publication. The Supreme Court explicitly stated in the *Bentex* decision, "Whether a particular drug is a 'new drug,' depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation and backed by substantial support in scientific literature." Thus, the requirement of publication prior to general recognition was accepted by the Supreme Court. Accordingly, no change in the proposed regulations is warranted in this respect.

30. A comment contended that the issue of pre–1938 "grandfather" protection does not require administrative expertise for resolution, and thus that the *Bentex* decision recognizing primary jurisdiction in FDA with respect to deciding the new drug/old drug status of a drug is inapplicable to this issue.

The Commissioner rejects this contention as unfounded. The Supreme Court explicitly stated in the *Hynson* decision, "We do not accept the invitation to hold that FDA has no jurisdiction to determine whether a particular drug is a 'new drug,'" and instead held that the Food and Drug Administration's "jurisdiction to determine whether it has jurisdiction is as essential to its effective operation as is a court's like power." The Supreme Court concluded in *Hynson*, "the heart of the new procedures designed by Congress is the grant of primary jurisdiction to FDA, the expert agency it created." The Supreme Court nowhere indicated that the "primary jurisdiction" of the Food and Drug Administration would extend only to some new drug issues, but not to all such issues. Indeed, the Supreme Court stated in the *Bentex* decision, "We conclude that the District Court's referral of the 'new drug' and the 'grandfather' issues to FDA was appropriate, as these are the kinds of issues peculiarly suited to initial determination by the FDA."

The rationale for the Supreme Court's decision is as applicable to issues arising under the 1938 "grandfather" clause as it is to issues arising under the 1962 "grandfather" clause, or the issue of "general recognition." The 1938 "grandfather" clause requires consideration of labeling representations and conditions of use for drugs prior and subsequent to 1938. These matters involve the same technical and scientific judgments by experts that led the Supreme Court to state in the *CIBA* case that the Food and Drug Administration is "appropriately the arm of government to make the threshold determination of the issue of coverage."

Accordingly, the final regulations provide, as did the proposal, that a notice of opportunity for hearing encompasses all 1938 "grandfather" clause issues as well as all other issues relating to the status of similar, related, or identical drugs.

31. One comment suggested that the regulations should be clarified explicitly to state that a "me-too" drug manufacturer of a similar, related, or identical drug is entitled to request and, if the request is adequate, obtain a hearing, when it is proposed that the NDA covering that drug be withdrawn.

The Commissioner advises that the proposal and final regulations explicitly so provide.

32. A comment contended that the information required by the format relating to the "grandfather" status of a product exceeds the requirements established in the act for exempting a drug from the new drug provisions.

The Commissioner notes that the comment did not specify the way in which the information required by the proposed format purportedly exceeds statutory requirements for "grandfather" status. In any event, the Commissioner has thoroughly reviewed the information to be required by the format and concludes that all of it is relevant to the "grandfather" status of a drug. Accordingly, no change in the proposed format is justified.

33. A comment suggested that the new drug and old drug issues should be separated, and that separate hearings should be held on them. The comment argued that 60 days provided an inadequate time to document the old drug status of a drug.

The Commissioner concludes that the regulations should not be changed in this respect. Where the issue is safety or effectiveness, the factual evidence necessary to obtain a hearing is the same for a new drug as for an old drug. In both instances, data or information meeting the requirements of the statute and regulations must be submitted. Under these circumstances, no greater amount of time is necessary to obtain and submit information to support the contention that a drug is an old drug than is necessary to obtain information supporting the contention that a hearing is justified for a new drug.

Where the issue involves "grandfather" status, there is no reason why the data necessary to support the status of the drug under one or both of the "grandfather" clauses in the statute should not have been obtained and compiled long before any request for hearing is published. A drug manufacturer is, of course, responsible for the legal status of each of his products. Every drug manufacturer should know that, to be lawfully marketed, a drug must be the subject of an approved NDA, or an old drug, or exempt from an NDA by reason of the "grandfather" provisions of the statute. There is no reason why a manufacturer should wait for a notice of opportunity for hearing to document the "grandfather" status of his product, if he relies upon the "grandfather" provisions as the legal basis upon which the product is marketed.

Accordingly, the Commissioner has modified the regulations to state this policy, so that no one may claim surprise if it should be necessary to document the "grandfather" status of the product pursuant to a notice of opportunity for hearing.

34. One comment questioned whether the statement in proposed § 130.14(e), that a notice of opportunity for hearing encompasses all issues relating to the legal status of the product(s) subject to it, is intended to include such issues as adulteration and misbranding.

The Commissioner advises that all such issues relevant to the notice are intended to be encompassed within such a notice. For example, issues of misbranding may well arise if the product is not effective or is unsafe when taken as directed.

35. Several comments contended that proposed § 130.14(e)(3) exceeds the statute in that it states that no drug containing an active ingredient for which an NDA has at any time been effective or deemed approved or approved may be exempt under the "grandfather" provisions of the act. It was contended that a drug product may be "grandfathered" even if it contains such an active ingredient, as long as the NDA covering the drug containing that ingredient was filed subsequent to the marketing of the other product.

The Commissioner concludes that this issue was squarely decided by the Supreme Court in the *Hynson* and *USV* cases, contrary to the position taken in the comments. Accordingly, no change in the proposed regulations is warranted.

The Supreme Court stated in the *USV* case that the transitional provisions in section 107(c) of the Drug Amendments of 1962 (76 Stat. 788) were "designed in general to make the new 1962 requirements applicable to drugs then on the market after a 2-year grace period." The Supreme Court quoted with approval the statement of Senator Eastland that, "established drugs which have never been required to go through new drug procedures will not be affected by the new effectiveness test insofar as their existing clauses are concerned." The Supreme Court held, on this basis, that all "me-too" drugs which are similar, related, or identical to a drug subject to an NDA are covered by that NDA, thus avoiding "a hiatus in the regulatory scheme for which there seems to be no cogent reason."

In its briefs, the government argued that only those few drugs that, as a generic class, were never subject to new drug regulations could fall within the "grandfather" exemption. Pharmaceutical industry briefs contended that the construction of the 1962 amendments urged by the government "would make

the exemption meaningless," and the Supreme Court quoted that industry position in the *USV* decision. Any other interpretation would violate the rationale of the Supreme Court in holding in the *USV* case that general recognition of safety for a drug subject to an NDA prior to 1962 does not exempt that drug from the requirements of the 1962 amendments. The Supreme Court found that it was the congressional purpose to apply the new requirements of the Drug Amendments of 1962 to all drug products on a consistent and comprehensive basis with very few exceptions. It is a well-recognized principle of law that exemptions are to be construed narrowly, with the burden on the person who asserts such status. The courts have consistently applied this doctrine to the "grandfather" exemptions for the new drug provisions of the act, and the Commissioner will so construe and apply them. See, e.g., *Durovic* v. *Richardson*, 479 F. 2d 242 (7th Cir. 1973); *United States* v. *An article of drug * * * Bentex Ulcerine*, 469 F.2d 875 (5th Cir. 1973); *United States* v. *1,048,000 Capsules*, 347 F. Supp. 768 (S.D. Tex. 1972); *United States* v. *Allan Drug Corp.*, 357 F.2d 713 (10th Cir. 1966).

36. A few comments contended that the Commissioner should not define the issues for a hearing, but that this should be left to the parties and to the administrative law judge.

The Commissioner concludes that it is extremely important that a notice of hearing define the issues to be resolved. The Commissioner is ultimately responsible for deciding whether a new drug has been proved safe and effective, and thus may be marketed. Unless the Commissioner defines the issues, the hearing may concern itself with extraneous matters, or may not directly address the issues which the Commissioner concludes are important to his decision.

The Commissioner recognizes that the administrative law judge must have discretion to further refine the issues. This should be done, however, after the Commissioner has himself set out in the notice of hearing the issues that he regards important to the ultimate resolution of the matter.

37. A number of comments took issue with the narrow statement of the confidential matters exempt from public disclosure at a hearing, and suggested that, in any event, this matter should await promulgation of the final public information regulations proposed in the FEDERAL REGISTER of May 5, 1972 (37 FR 9128).

The Commissioner concludes that the only information which should not be disclosed in a public hearing is information that is prohibited from public disclosure pursuant to section 301(j) of the act (21 U.S.C. 331(j)) and 18 U.S.C. 1905. The final regulations have been modified to so provide. It is important that, at a public hearing, as much information be made available as is reasonably possible so that the parties, the participants, and the public have a full understanding of the proceeding. Information which may either be held as confidential or disclosed, in the Commissioner's discretion, pursuant to 5 U.S.C. 552(b) will be fully disclosed at any public hearing except for material that constitutes an invasion of privacy or which has been the subject of a specific written promise of confidentiality. Specific provisions defining the material which falls into these categories will await final promulgation of the public information regulations.

38. A comment recommended full release of all the scientific and medical evidence involved in any proceeding with respect to withdrawal of approval of an NDA.

The Commissioner advises that release of such material is limited by the provisions of 21 U.S.C. 331(j) and 18 U.S.C. 1905, which provide that it is a criminal offense for a government employee to divulge trade secret information relating to new drugs. The type of information falling within those provisions has been outlined in the regulations proposed by the Commissioner in the FEDERAL REGISTER of May 5, 1972 (37 FR 9128). Those guidelines will apply until final public information regulations are published.

39. Some comments indicated confusion about the intended meaning of the words "parties" and "interested persons" in § 130.14(g) of the proposed regulations.

The Commissioner advises that the term "parties" includes the Food and Drug Administration and any other person for whom a hearing has been granted. "Interested persons" includes everyone else, including any persons who have not requested or who have been denied a hearing. The Commissioner concludes that no change is necessary to clarify the intended meaning of those words.

40. One comment pointed out that physicians are interested persons, who may wish to participate in the procedures involving withdrawal of approval of NDA's.

The Commissioner fully agrees with this comment. Indeed, any person is entitled to participate as an interested person in such matters. Although the statute explicitly limits the persons who may request a hearing to an "applicant" (which includes manufacturers of similar, related, and identical drugs), the Commissioner will receive and consider all comments submitted by other interested persons in response to a notice of opportunity for hearing. The regulations have been revised to so provide.

41. A number of comments argued that a copy of the notice of opportunity for hearing should be served personally upon the NDA holder, as the proposal provides, and also upon the manufacturers of all similar, related, or identical drugs that will be affected by the notice. Some comments contended that service of the notice by publication in the FEDERAL REGISTER is legally defective under the act and the Constitution. Other comments questioned whether the NDA holder for a similar, related, or identical drug intended to be affected by the notice would be given personal notice or would be required to determine the effect upon his drug solely by publication of the FEDERAL REGISTER notice. Most of the comments suggested that, in view of the enactment of the Drug Listing Act of 1972, it was now possible to provide personal notice to all manufacturers of drugs affected by a notice of opportunity for a hearing.

The Commissioner has carefully considered all of these comments and suggestions, and has concluded that no change in the proposal is warranted. The regulations provide that every NDA affected by a notice of opportunity for hearing will be listed in the notice published in the FEDERAL REGISTER, and that each NDA holder so affected will receive personal notice. Thus, an NDA not listed in the notice is not affected by that notice, even though that NDA may be for a similar, related, or identical drug. It is the intent of the Commissioner that all NDA's for similar, related, or identical drugs will be the subject of a single notice or of notices published at about the same time, in order to reduce potential competitive inequity.

The legal adequacy of serving notice of the withdrawal of approval of an NDA upon manufacturers of similar, related, or identical products not named in the notice, solely by publication of the notice in the FEDERAL REGISTER, was recently decided in *North American Pharmacal, Inc.* v. *Department of HEW*, *supra*. The Court noted that the Supreme Court had approved in the *Hynson* case the procedure under which FDA issues a single notice of opportunity for hearing which affects all similar, related, or identical drugs. The Court then ruled that the Food and Drug Administration was not required to provide personal notice of the opportunity for hearing to such "me-too" manufacturers before withdrawing the NDA. The Court pointed out that 44 U.S.C. 1508 provides:

> A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient in law, when the notice is published in the FEDERAL REGISTER * * *

It also held that section 505(g) of the act requires special service only to NDA holders. Accordingly, the Court held that both statutory and constitutional requirements are satisfied when notice of opportunity for hearing is given to manufacturers of similar, related, or identical drugs solely through publication in the FEDERAL REGISTER.

The entire pharmaceutical industry is well aware of the Food and Drug Administration practice of publishing notices of opportunity for hearing. The cost of subscribing to the FEDERAL REGISTER is minimal. As the Court stated in the *North American Pharmacal* case, "me-too" manufacturers:

> * * * should be required, both as a matter of self-interest and of law, to keep abreast of the FDA regulations affecting their products. Under these circumstances, it should not be incumbent upon the FDA to ferret

out the "me-too" manufacturers. Rather, the "me-toos" should be in the forefront, ready to come forth to protect their own interest and supply the necessary data and information to support the safety and efficacy of their products. Their failure to do so was at their peril.

The Food and Drug Administration has not yet been able to assimilate all of the information submitted to the agency as required by the Drug Listing Act of 1972 (86 Stat. 559), and it will be some months before this will be possible. Even when that task is completed, it is entirely possible that the agency could overlook some drugs that are properly affected by a notice of opportunity for hearing. Moreover, it is possible that some drug products may not yet be listed pursuant to section 510 of the act even though the law so requires.

Accordingly, since the burden of keeping abreast of legal requirements is properly placed upon manufacturers who have the most detailed information about the products they market, the Commissioner concludes that the FEDERAL REGISTER notices provide sufficient information for any manufacturer to determine whether his products may reasonably be regarded as affected, and that the burden for maintaining compliance with all legal requirements should remain, as it always has been, on the manufacturer. The final regulations have been revised explicitly to so provide.

42. A comment suggested that all notices of opportunity for hearing should be furnished to physicians as well as to the pharmaceutical industry.

The Commissioner agrees that all such notices should be furnished to all physicians and all other interested persons. Physicians may receive such notices, either individually or through professional associations and societies, by subscription to the FEDERAL REGISTER, which carries all such notices. The Commissioner encourages professional societies and journals to summarize and publicize important developments of this nature. Comment may then be furnished to the Hearing Clerk within the prescribed 60-day time limit.

The Commissioner advises that the statute does not permit a physician or any other interested person who is not a party to obtain a hearing as of right. The Commissioner does have discretion, however, to hold some form of hearing on any subject matter when he concludes that it is in the public interest to do so, and the final regulations have been revised to so state.

The Commissioner further advises that, if any interested person objects to action by the Commissioner and is unsuccessful in a petition requesting the Commissioner to refrain from or modify that action, he may challenge that action by appeal directly in a United States District Court under the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 701 et seq.). As long as the action constitutes final agency action by the Commissioner, the interested persons have exhausted their administrative remedies, and the action is brought in the proper court, the Commissioner will interpose no objects to the standing of those persons to contest the action involved.

43. Virtually all of the comments made with respect to proposed § 130.14 are equally applicable to the provisions of proposed § 146.1(d). The Commissioner has, in any event, so interpreted all comments made, and has modified § 146.1(d) accordingly except that, because all antibiotic regulations are handled by rule making, the separation of functions discussed in paragraph 3 of this preamble shall begin upon receipt of a request for a hearing.

44. Some comments recommended that revocation of outstanding antibiotic certificates upon repeal of an antibiotic regulation should be handled on an ad hoc basis.

The Commissioner concludes that this matter should be handled by a specific provision in the regulations, and should not be left to ad hoc determination. The Commissioner concludes that a determination that an antibiotic is not safe and effective, and thus that the regulation should be repealed, justifiies revocation of all outstanding certificates. If this were not done, previously marketed stocks of the drug might remain in the channels of commerce indefinitely, and might be used in place of other antibiotics that have been shown to be safe and effective.

45. The Commissioner wishes to be as certain as possible that all drug manufacturers thoroughly understand the obligations imposed upon them under the law and the regulations. These obligations include, for example, the requirement that each manufacturer or distributor of a drug has full documentation in his files to justify the "grandfather" status of any drug which he markets on the basis of that legal status, organized so that it can be submitted immediately to the Food and Drug Administration in the event that it is relevant to a request for hearing; that each manufacturer or distributor of a drug review the notices published by the Food and Drug Administration in the FEDERAL REGISTER to determine whether any NDA withdrawal covers a related, similar, or identical "me-too" drug he markets, so that he will be aware of all legal action taken by the Food and Drug Administration which affects his products; that each manufacturer or distributor of a drug request and obtain a waiver from the requirements for proof of effectiveness in § 130.12(a)(5) if he relies on data or information not meeting all of those requirements; and, more generally, the overall means by which the Food and Drug Administration will be implementing the Drug Amendments of 1962 and the new drug provisions of the law. Accordingly, the Commsisioner has concluded that a copy of this notice, as it appears in the FEDERAL REGISTER, will be sent to all known drug companies. The Comissioner believes that this procedure will provide adequate notice to all drug manufacturers and distributors of the nature of the legal requirements imposed upon them.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 701(a), 52 Stat. 1052–1053, 1055, as amended, 59 Stat. 463, as amended; 21 U.S.C. 355, 357, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs hereby amends Part 130 and Part 146 of Title 21 of the Code of Federal Regulations as follows:

1. By revising § 130.5(d) to read as follows:

§ 130.5 Reasons for refusing to file applications.

* * * * *

(d) If an applicant disputes the findings that his application is incomplete or inadequate, he may make written request to file the application over protest. In such case, the application shall be re-evaluated, and within 60 days of the date of receipt of such written request, or such additional period as may be agreed upon by the parties, the application shall be approved, or the applicant shall be given written notice of an opportunity for a hearing on the question whether the application is approveable.

2. By revising § 130.14 to read as follows:

§ 130.14 Notice of opportunity for hearing; notice of appearance and request for hearing; grant or denial of hearing.

(a) The notice to the applicant, and to all other persons who manufacture or distribute identical, related, or similar drug products as defined in § 130.40, of an opportunity for a hearing on a proposal by the Director of the Bureau of Drugs to refuse to approve an application or to withdraw the approval of an application will state the reasons for his action and the grounds upon which he proposes to issue his order.

(1) Such notice may be general (i.e., simply summarizing in a general way the information resulting in the notice) or specific (i.e., either referring to specific requirements in the statute and regulations with which there is a lack of compliance, or providing a detailed description and analysis of the specific facts resulting in the notice).

(2) The notice will be published in the FEDERAL REGISTER and will state that the applicant, and other persons subject to the notice pursuant to § 130.40, has 30 days after the date of publication of the notice within which he is required to file a written notice of appearance and request for hearing if he elects to avail himself of the opportunity for a hearing. The failure to file such a written notice of appearance and request for hearing within that 30 days constitutes an election by the applicant, and other persons subject to the notice pursuant to § 130.40, not to avail himself of the opportunity for a hearing.

(3) It is the responsibility of every manufacturer or distributor of a drug product to review every notice of op-

portunity for hearing published in the FEDERAL REGISTER to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of such a notice to a specific product he manufactures or distributes that may be identical, related, or similar by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance, HFD-300, 5600 Fishers Lane, Rockville, MD 20852. If such an opinion is requested, the time for filing an appearance and request for hearing and supporting studies and analyses shall begin as of the date or receipt of the opinion from the Food and Drug Administration.

(b) The notice of opportunity for hearing shall be provided to applicants and to other persons subject to the notice pursuant to § 130.40:

(1) To any person who has submitted a new drug application, by delivering the notice in person or by sending it by registered or certified mail to the last address shown in the new drug application.

(2) To any person who has not submitted a new drug application but who is subject to the notice pursuant to § 130.40, by publication of the notice in the FEDERAL REGISTER.

(c)(1) If the applicant, or any other person subject to the notice pursuant to § 130.40, elects to avail himself of the opportunity for a hearing, he shall file (i) within 30 days after the date of the publication of the notice (or of the date of receipt of an opinion requested pursuant to paragraph (a)(3) of this section) a written notice of appearance and request for hearing, and (ii) within 60 days after the date of publication of the notice, unless a different period of time is specified in the notice of opportunity for hearing, the studies on which he relies to justify a hearing as specified in paragraph (d) of this section.

(2) All data and information (including all protocols and underlying raw data) shall be included in full and may not be incorporated by reference, except that the raw data underlying a study submitted may be incorporated by reference from a prior submission as part of a new drug application or other report. A copy of any article cited shall be included. If any part of the submission is in a foreign language, an accurate and complete English translation shall be appended to such part. Translations of literature printed in a foreign language shall be accompanied by the original publication.

(3) All submissions required by paragraphs (c), (d), or (e) shall be in quintuplicate and filed with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852.

(4) No data or analysis submitted after such 60 days will be considered in determining whether a hearing is warranted unless they are derived from well-controlled studies begun prior to the date of the notice of opportunity for hearing, the results of which were not in existence during that 60 days. Exceptions may be made on the basis of a showing of inadvertent omission and hardship. All studies in progress, the results of which the person requesting the hearing intends later to submit in support of the request for hearing, shall be listed. A copy of the complete protocol, a list of the participating investigators, and a brief status report of the studies shall be included in the submission made pursuant to paragraph (c)(1)(ii) of this section.

(5) Any other interested person who is not subject to the notice of opportunity for hearing may also submit comments on the proposal to withdraw approval of the new drug application. Such comments shall be submitted within the time and pursuant to the requirements specified in this section.

(d) A request for hearing shall be supported by a submission as specified in paragraph (c)(1)(ii) of this section containing the studies (including all protocols and underlying raw data) on which the person relies to justify a hearing with respect to his drug product.

(1) If effectiveness is at issue, a request for hearing shall be supported only by adequate and well-controlled clinical studies meeting all of the precise requirements of § 130.12(a)(5) and, for combination drug products, § 3.86 of this chapter, or by other studies not meeting those requirements for which a waiver has been previously granted by the Food and Drug Administration pursuant to the provisions of § 130.12(a)(5). All adequate and well-controlled clinical studies on the drug product known to the person requesting the hearing shall be submitted. Any unfavorable analyses, views, or judgments with respect to such studies known to such person shall also be submitted. No other data, information, or studies shall be submitted.

(2) Such submission shall include a factual analysis of all studies submitted. If effectiveness is at issue, such analysis shall specify how each such study accords, on a point-by-point basis, with each criterion required for an adequate well-controlled clinical investigation established in § 130.12(a)(5) and, if the product is a combination drug product, with each of the requirements for a combination drug established in § 3.86 of this chapter, or shall be accompanied by an appropriate waiver previously granted by the Food and Drug Administration. If a study deals with a drug entity or dosage form, or condition of use, or mode of administration other than the one(s) in question, such fact(s) shall be clearly stated. Any study conducted on the final marketed form of the drug product shall be so designated.

(3) Such analysis shall be submitted in the following format, except that the required information relating either to safety or to effectiveness shall be omitted if the notice of opportunity for hearing does not raise any issue with respect to that aspect of the drug; and information on compliance with § 3.86 shall be omitted if the drug product is not a combination drug product. Submissions not made in this format or not containing the required analyses will not be considered and will result in denial of a hearing, except that minor technical deficiencies may be excused if it is apparent that a good faith attempt has been made to comply with the requirements of this section and any deficiencies noted are immediately corrected upon request.

I. Safety data.
A. Animal safety data.
1. Individual active component(s).
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
2. Combinations of the individual active components.
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
B. Human safety data.
1. Individual active component(s).
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
c. Documented case reports.
d. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
2. Combinations of the individual active components.
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
c. Documented case reports.
d. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.

II. Effectiveness data.
A. Individual active components: Controlled studies, with an analysis showing clearly how each such study satisfies, on a point-by-point basis, each of the criteria required by § 130.12(a)(5).
B. Combinations of individual active components.
1. Controlled studies, with an analysis showing clearly how such study satisfies, on a point-by-point basis, each of the criteria required by § 130.12(a)(5).
2. An analysis showing clearly how each requirement of § 3.86 of this chapter has been satisfied.

III. A summary of the data and views setting forth the medical rationale and purpose for the drug and its ingredients and the scientific basis for the conclusion that the drug and its ingredients have been proven safe and/or effective for the intended use. If there is an absence of controlled studies in the material submitted, or the requirements of any element of § 3.86 of this chapter or § 130.12(a)(5) have not been fully met, such fact(s) shall be clearly stated, and a waiver obtained pursuant to § 130.12(a)(5) shall be enclosed.

IV. A statement signed by the person responsible for such submission, that it includes in full (or incorporates by reference as permitted in § 130.14(c)(2)) all studies and information specified in § 130.14(d). (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001).

(e) A notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product(s) subject to it, including identical, related, and similar drug products as defined in § 130.40. Any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act, or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug

Amendments of 1962, or for any other reason, shall be stated in a notice of appearance and request for hearing pursuant to paragraph (c)(1)(i) of this section and supported by a submission pursuant to paragraph (c)(1)(ii) of this section and shall be the subject of an administrative determination by the Commissioner. The failure of any person subject to a notice of opportunity for a hearing, including any person who manufactures or distributes an identical, related, or similar drug product as defined in § 130.40, to submit a notice of appearance and request for hearing or to raise all such contentions on which he relies shall constitute a waiver of any such contentions not so raised.

(1) A contention that a drug product is generally recognized as safe and effective within the meaning of section 201 (p) of the act must be supported by submission of the same quantity and quality of scientific evidence as is required to obtain approval of a new drug application for the product, unless a waiver has been obtained from such requirement for effectiveness (as provided in § 130.12(a)(5)) and/or safety for good cause shown. Such submission shall be in the format and with the analyses required by paragraph (d) of this section. The failure to submit such scientific evidence or a submission that is not in the format or does not contain the analyses required by paragraph (d) of this section shall constitute a waiver of any such contention. General recognition of safety and effectiveness shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(2) A contention that a drug product is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938 contained in section 201 (p) of the act, or pursuant to section 107 (c) of the Drug Amendments of 1962, shall be supported by submission of evidence of past and present quantitative formulas, labeling, and evidence of marketing, on which reliance is made for such contention. The failure to submit such formulas, labeling, and evidence of marketing in the following format shall constitute a waiver of any such contention.

I. Formulation.

A. A copy of each pertinent document or record to establish the exact quantitative formulation of the drug (both active and inactive ingredients) on the date of initial marketing of the drug.

B. A statement whether such formulation has at any subsequent time been changed in any manner. If any such change has been made, the exact date, nature, and rationale for each change in formulation, including any deletion or change in the concentration of any active ingredient and/or inactive ingredient, snall be submitted, together with a copy of each pertinent document or record to establish the date and nature of each such change including but not limited to the formula which resulted from each such change. If no such change has been made, a copy of representative documents or records showing the formula at representative points in time shall be submitted to support the statement.

II. Labeling.

A. A copy of each pertinent document or record to establish the identity of each item of written, printed, or graphic matter used as labeling on the date the drug was initially marketed.

B. A statement whether such labeling has at any subsequent time been discontinued or changed in any manner. If such discontinuance or change has been made, the exact date, nature, and rationale for each discontinuance or change and a copy of each pertinent document or record to establish each such discontinuance or change shall be submitted, including but not limited to the labeling which resulted from each such discontinuance or change. If no such discontinuance or change has been made, a copy of representative documents or records showing labeling at representative points in time shall be submitted to support the statement.

III. Marketing.

A. A copy of each pertinent document or record to establish the exact date the drug was initially marketed.

B. A statement whether such marketing has at any subsequent time been discontinued. If such marketing has been discontinued, the exact date of each such discontinuance shall be submitted, together with a copy of each pertinent document or record to establish each such date.

IV. Verification.

A statement signed by the person responsible for such submission, that all appropriate records have been searched and to the best of his knowledge and belief it includes a true and accurate presentation of the facts (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001).

(3) No drug product, including any active ingredient, which is identical, related, or similar, as defined in § 130.40, to a drug product, including any active ingredient, for which a new drug application is or at any time has been effective or deemed approved, or approved under section 505 of the act, will be determined to be exempt from part or all of the new drug provisions of the act.

(4) A contention that a drug product is not a new drug for any other reason must be supported by submission of such factual records, data, and information as is necessary and appropriate to support such contention.

(5) It is the responsibility of every person who manufactures or distributes a drug product in reliance upon a "grandfather" provision(s) of the act to maintain in his files, organized as required by this paragraph, the data and information necessary fully to document and support such status.

(f) Upon receipt of any request for hearing, the Director of the Bureau of Drugs shall prepare an analysis of the request and a proposed order ruling upon the matter. The analysis and proposed order, the request for hearing, and any proposed order denying a hearing and response pursuant to paragraph (g) (2) or (3) of this section, shall be submitted to the office of the Commissioner for independent review and decision. No representative of the Bureau of Drugs shall participate or advise in the review and decision by the Commissioner. The office of the General Counsel shall observe the same separation of functions.

(g) A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing with respect to the particular drug product(s) specified in the request for hearing.

(1) Where a specific notice of opportunity for hearing as defined in paragraph (a)(1) of this section) is used, it shall state that, if it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the refusal to approve the application or the withdrawal of approval of the application, e.g., no adequate and well-controlled clinical investigations meeting each of the precise elements of § 130.12(a)(5) and, for a combination drug product, § 3.86 of this chapter, showing effectiveness have been identified, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing. Any such order entering summary judgment shall set forth the Commissioner's findings and conclusions in detail and shall specify why each study submitted fails to meet the requirements of the statute and regulations or why the request for hearing does not raise a genuine and substantial issue of fact or shall specify the requirements of this section with respect to format or analyses with which there is a lack of compliance.

(2) Where a general notice of opportunity for hearing (as defined in paragraph (a)(1) of this section) is used and the Director of the Bureau of Drugs concludes that summary judgment against the person(s) requesting a hearing should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(3) Where a general or specific notice of opportunity for hearing is used and the person(s) requesting a hearing submits data or information of a type required by the statute and regulations, and the Director of the Bureau of Drugs concludes that summary judgment against such person(s) should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(4) If review of the data, information, and analyses submitted warrants the conclusion that the ground(s) cited in the notice are not valid, e.g., that substantial evidence of effectiveness exists,

the Commissioner shall deny the hearing, enter summary judgment for the person(s) requesting the hearing, and rescind the notice of opportunity for hearing.

(5) If a hearing is requested and is justified, the Commissioner will issue a written notice defining the issues, naming an administrative law judge, and specifying the time and place at which the hearing will commence, which shall be no more than 90 days after the expiration of such 30 days unless the parties otherwise agree in the case of denial of approval, and as soon as practicable in the case of withdrawal of approval.

(6) A hearing shall be granted if there exists a genuine and substantial issue of fact or if the Commissioner concludes, in his discretion, that a hearing would otherwise be in the public interest.

(7) If the manufacturer or distributor of a drug product that may be an identical, related, or similar drug product requests and is granted a hearing, the issue whether the product is in fact identical, related, or similar to the drug subject to new drug application is properly encompassed within the hearing.

(8) A request for hearing, and any subsequent grant or denial of a hearing, shall be applicable only to the particular drug product(s) named in such documents.

(h) Any hearing will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905 will not be open to the public unless the respondent specifies otherwise in his appearance. All persons who have requested a hearing pursuant to paragraph (a) of this section and for whom a hearing has been granted pursuant to paragraph (g) of this section shall be parties to the hearing. Interested persons who are not parties may appear at and participate in a hearing and shall have the right to present evidence and file pleadings relevant to the issues. Such interested persons may otherwise participate, e.g., cross-examine witnesses, when in the judgment of the administrative law judge their interests are not adequately protected otherwise or it is required for a full and true disclosure of the facts.

(i) Any drug product subject to a notice of opportunity for hearing, including any identical, related, or similar drug product as defined in § 130.40, for which an opportunity for a hearing is waived or for which a hearing is denied shall promptly be the subject of a notice withdrawing the new drug application approval and declaring all such products unlawful. The Commissioner may, in his discretion, defer or stay such action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

§ 130.15 [Revoked]

3. By revoking § 130.15.

4. By revising the introductory text of § 130.27 to read as follows:

§ 130.27 Withdrawal of approval of an application.

The Commissioner shall notify the person holding an approved new drug application, and all other persons who manufacture or distribute identical, related, or similar drug products as defined in § 130.40, and afford an opportunity for a hearing on a proposal to withdraw approval of the application as provided in section 505(e) of the act and in accordance with the procedure in §§ 130.14 to 130.26, inclusive, if:

* * * * *

5. By revising § 130.29 to read as follows:

§ 130.29 Notices and orders.

Notices and orders under this Part 130 and section 505 of the act pertaining to new drug applications, including related, similar, and identical drug products as defined in § 130.40, old drug monographs, and related matters, shall be provided to applicants, parties to a hearing, and interested persons, as follows:

(a) To any person who has submitted a new drug application, by delivering the notice or order in person or by sending it by registered or certified mail to the last address shown in the new drug application.

(b) To any person who has not submitted a new drug application but who is subject to a notice or order pursuant to § 130.40 or § 130.301 or Part 167 of this chapter by publication of the notice or order in the FEDERAL REGISTER.

(c) To any person who is a party to or a participant in a hearing, by delivering the notice or order in person, or by sending it by registered or certified mail, to the last address shown in the records of the proceeding.

6. By revising § 130.31 to read as follows:

§ 130.31 Judicial review.

(a) The Assistant General Counsel for Food and Drugs of the Department of Health, Education, and Welfare is hereby designated as the officer upon whom copies of petitions for judicial review shall be served. Such officer shall be responsible for filing in the court a transcript of proceedings and the record on which the final orders were based. The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order as provided in § 130.14(g), without a hearing, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product as defined in § 130.40 in a United States court of appeals pursuant to section 505(h) of the act.

(c) The record upon judicial review after denial of a hearing shall consist of the notice of opportunity for hearing, the request for hearing, any proposed denial of hearing served upon the person requesting a hearing and the response (where this procedure is applicable), and the final order denying a hearing.

7. By revising § 146.1(d) to read as follows:

§ 146.1 Procedure for issuance, amendment, or repeal of regulations.

* * * * *

(d) (1) The Commissioner, on his own initiative or on the application or request of any interested person, may publish in the FEDERAL REGISTER a notice of proposed rulemaking and order to issue, amend, or repeal any regulation contemplated by section 507 of the act. Such notice and order may be general (i.e., simply summarizing in a general way the information resulting in the notice and order) or specific (i.e., either referring to specific requirements in the statute and regulations with which there is a lack of compliance, or providing a detailed description and analysis of the specific facts resulting in the notice and order).

(2) An opportunity shall be given for interested persons to submit written comments and to request an informal conference on the proposal, unless such notice and opportunity for comment and informal conference have already been provided in connection with the announcement of the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, to persons who will be adversely affected, or unless the no controversy or imminent hazard conditions set forth in paragraph (b) of this section have been met. The time for requesting an informal conference shall be 30 days and the time for comment shall be 60 days unless otherwise specified in the notice of proposed rule making. If an informal conference is requested and granted, those persons participating in the conference shall be provided an additional 30 days for comment, beginning the date of the conference, unless otherwise specified in the proposal.

(3) It is the responsibility of every manufacturer or distributor of an antibiotic drug product to review every proposal published in the FEDERAL REGISTER to determine whether it covers any product he manufactures or distributes.

(4) After considering the written comments, the results of any conference, and the data available, the Commissioner will publish an order in the FEDERAL REGISTER acting on the proposal, with opportunity for any person who will be adversely affected to file objections, to request a hearing, and to show reasonable grounds for the hearing. Any such person who

elects to avail himself of the opportunity for a hearing shall file (i) within 30 days after the date of publication of the order a written notice of appearance and request for hearing, and (ii) within 60 days after the date of publication of the order, unless a different period of time is specified in the order, the studies on which he relies to justify a hearing as specified in paragraph (d)(8) of this section.

(5) All data and information (including any protocols and all underlying raw data) shall be included in full and may not be incorporated by reference, except that raw data underlying a study submitted may be incorporated by reference from a prior submission as part of an antibiotic application, or other applications or reports. A copy of any article cited shall be included. If any part of the submission is in a foreign language, an accurate and complete English translation shall be appended to such part. Translations of literature printed in a foreign language shall be accompanied by the original publication.

(6) All submissions shall be made in quintuplicate and filed with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

(7) No data or analysis submitted after such 60 days will be considered in determining whether a hearing is warranted unless they are derived from well-controlled studies begun prior to the date of the order, the results of which were not in existence during that 60 days. Exceptions may be made on the basis of a showing of inadvertent omission and hardship. All studies in progress, the results of which the person requesting the hearing intends later to submit in support of the request for hearing, shall be listed. A copy of the complete protocol, a list of the participating investigators, and a brief status report of the studies shall be included in the submission made pursuant to paragraph (d)(4)(ii) of this section.

(8) A request for hearing shall be supported by a submission as specified in § 130.14(c)(1)(ii) of this chapter containing the studies (including all underlying raw data) on which the person relies to justify a hearing with respect to his drug product.

(i) If effectiveness is at issue, a request for hearing shall be supported only by adequate and well-controlled clinical studies meeting all of the precise requirements of § 130.12(a)(5) of this chapter and, for combination drug products, § 3.86 of this chapter, or by other studies not meeting those requirements for which a waiver has been previously granted by the Food and Drug Administration pursuant to the provisions of § 130.12(a)(5) of this chapter. All adequate and well-controlled clinical studies on the drug product known to the person requesting the hearing shall be submitted. Any unfavorable analyses, views, or judgments with respect to such studies known to such person shall also be submitted. No other data, information, or studies shall be submitted.

(ii) Such submission shall include a factual analysis of all studies submitted. If effectiveness is at issue, such analysis shall specify how each such study accords, on a point-by-point basis, with each criterion required for an adequate and well-controlled clinical investigation established in § 130.12(a)(5) of this chapter and, if the product is a combination drug product, with each of the requirements for a combination drug established in § 3.86 of this chapter, or shall be accompanied by an appropriate waiver previously granted by the Food and Drug Administration. If a study deals with a drug entity or dosage form, or condition of use, or mode of administration other than the one(s) in question, such fact(s) shall be clearly stated. Any study conducted on the final marketed form of the drug product shall be so designated.

(iii) Such analysis shall be submitted in the following format, except that information relating to safety or effectiveness shall be omitted if the order does not raise any issue with respect to that aspect of the drug; and information on compliance with § 3.86 of this chapter shall be omitted if the drug product is not a combination drug product. Submissions not made in this format or not containing the required analyses will not be considered and will result in denial of hearing, except that minor technical deficiencies may be excused if it is apparent that a good faith attempt has been made to comply with the requirements of this section and any deficiencies noted are immediately corrected upon request.

I. Safety data.
A. Animal safety data.
1. Individual active component(s).
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
2. Combinations of the individual active components.
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
B. Human safety data.
1. Individual active component(s).
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
c. Documented case reports.
d. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
2. Combinations of the individual active components.
a. Controlled studies.
b. Partially controlled or uncontrolled studies.
c. Documented case reports.
d. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
II. Effectiveness data.
A. Individual active components: Controlled studies, with an analysis showing clearly how each such study satisfies, on a point-by-point basis, each of the criteria required by § 103.12(a)(5) of this chapter.
B. Combinations of individual active components.
1. Controlled studies with an analysis showing clearly how each such study satisfies, on a point-by-point basis, each of the criteria required by § 130.12(a)(5) of this chapter.
2. An analysis showing clearly how each requirement of § 3.86 of this chapter has been satisfied.
III. A summary of the data and views setting forth the medical rationale and purpose for the drug and its ingredients and the scientific basis for the conclusion that the drug and its ingredients have been proven safe and/or effective for the intended use. If there is an absence of controlled studies in the material submitted, or the requirements of any element of § 3.86 of this chapter or § 130.12(a)(5) of this chapter have not been fully met, such fact(s) shall be clearly stated, and a waiver obtained pursuant to § 130.12(a)(5) of this chapter shall be enclosed.
IV. A statement signed by the person responsible for such submission, that it includes in full (or incorporates by reference as permitted in § 146.1(d)(1)) all studies and information specified in § 146.1(d). (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001.)

(9) Upon receipt of any request for hearing, the Director of the Bureau of Drugs shall prepare an analysis of the request and a proposed order ruling upon the matter. The analysis and proposed order, the request for hearing, and any proposed order denying a hearing and response pursuant to paragraph (d)(10)(ii) or (iii) of this section, shall be submitted to the office of the Commissioner for independent review and decision. No representative of the Bureau of Drugs shall participate or advise in the review and decision by the Commissioner. The office of the General Counsel shall observe the same separation of functions.

(10) A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact with respect to the particular drug product(s) which is specified in the request for hearing that requires a hearing.

(i) Where a specific proposal or order (as defined in paragraph (d)(1) of this section) is used, the order published in the FEDERAL REGISTER shall state that, if it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the action taken on the proposal, e.g., no adequate and well-controlled clinical investigations meeting each of the precise elements of § 130.12(a)(5) of this chapter and, for a combination drug product, § 3.86 of this chapter, showing effectiveness have been identified, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions, denying a hearing. Any such order entering summary judgment shall set forth the Commissioner's findings and conclusions in detail and shall specify why each study submitted fails to meet the requirements of the statute and reg-

ulations or why the request for hearing otherwise does not raise a genuine and substantial issue of fact or shall specify the requirements of this paragraph with respect to format or analyses with which there is a lack of compliance.

(ii) Where a general notice or order (as defined in paragraph (d)(1) of this section) is used and the Director of the Bureau of Drugs concludes that summary judgment against the person(s) requesting a hearing should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(iii) Where a general or specific notice or order is used and the person(s) requesting a hearing submits data or information of a type required by the statute and regulations, and the Director of the Bureau of Drugs concludes that summary judgment against such person(s) should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(iv) If review of the data, information, and analyses submitted warrants the conclusion that the basis for the order is not valid, e.g., that substantial evidence of effectiveness exists, the Commissioner shall deny the hearing, enter summary judgment for the person(s) requesting the hearing, and revoke the order. If a hearing is not requested, the order will become effective as published.

(v) If a hearing is requested and justified, the Commissioner will issue a written notice defining the issues, naming an administrative law judge, and specifying the time and place at which the hearing will commence, which shall be as soon as practicable. The provisions of Subpart F of Part 2 of this chapter shall apply to such hearing, except as modified by paragraph (f) of this section.

(vi) A hearing shall be granted if there exists a genuine and substantial issue of fact or if the Commissioner concludes, in his discretion, that a hearing would otherwise be in the public interest.

(11) Any hearing will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905 will not be open to the public unless the respondent specifies otherwise in his appearance. All persons who have requested a hearing and for whom a hearing has been granted shall be parties to the hearing. Interested persons who are not parties may appear at and participate in a hearing and shall have the right to present evidence and file pleadings relevant to the issues. Such interested persons may otherwise participate, e.g., cross-examine witnesses, when in the judgment of the administrative law judge their interests are not adequately protected otherwise or it is required for a full and true disclosure of the facts.

(12) The repeal of any regulation constitutes a revocation of all outstanding certificates based upon such regulation. However, the Commissioner may, in his discretion, defer or stay such action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

* * * * *

Effective date. This order shall be effective on April 12, 1974. All submissions to the Food and Drug Administration on or after that date shall be in compliance with it. No request for hearing submitted prior to the effective date of this order may be supplemented subsequent to the effective date of this order except for studies already begun as of that date.

(Secs. 505, 507, 701(a), 52 Stat. 1052–1053, 1055, as amended, 59 Stat. 463 as amended; 21 U.S.C. 355, 357, 371(a).)

Dated: March 6, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-5510 Filed 3-12-74;8:45 am]

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PART III

COST OF LIVING COUNCIL

■

PHASE IV PRICE FORMS; PHASE IV HEALTH CARE FORMS

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Appendix A—Phase IV Price Forms; Phase IV Health Care Forms

The Cost of Living Council is considering the issuance of CLC forms to be used under the Phase IV health care regulations (6 CFR Part 150, Subpart R) published at 39 FR 2670–2701 (January 23, 1974).

On November 5, 1973, the Council issued a notice of proposed rulemaking, 38 FR 30850 (November 7, 1973) setting out proposed Phase IV health care regulations for comment by the public. On November 19, 1973, at 38 FR 32497 (November 26, 1973) the Council issued for public comment proposed forms to be used under the proposed regulations. Numerous changes resulting from comments to the proposed regulations were adopted in the regulations published in final form on January 23, 1974. The Council anticipates that additional clarifying and supplemental amendments to these regulations will be published in the near future. As a result of these changes the proposed forms have been revised substantially and are therefore being issued at this time together with supporting schedules and accompanying instructions in accordance with proposed rulemaking procedures. The purpose of publishing the forms in proposed form is to provide the public an opportunity to make suggestions for improvements regarding the format and computations. In addition, the proposed forms will serve as an aid to those hospitals and long term care institutions which will be making an election to be subject to Phase III or Phase IV rules pursuant to §§ 150.701 and 150.769. The Cost of Living Council (CLC) forms relating to requests for exceptions, capital expenditure adjustments, Health Maintenance Organization prenotification and annual reports, and health insurer monitoring reports will be issued at a later date.

The proposed forms, schedules and instructions will not be adopted until they are approved by the Office of Management and Budget. At that time the Council will amend its regulations to incorporate the forms, schedules and instructions.

Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed CLC forms set forth in this notice, to the Executive Secretariat, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. Comments should be identified with the designation "Phase IV Health Care Forms Docket", and should be organized so that those dealing with a particular CLC form are separate from those dealing with other forms (i.e. on separate pages). At least 10 copies should be submitted. All communications received on or before April 1, 1974, will be considered by the Council before the Council takes final action on the proposed forms. The proposed forms contained in this notice may be changed in the light of comments received and in order to conform to any clarifying or supplemental changes to the regulations. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street, NW., Washington, D.C., during the hours of 9 a.m. to 5 p.m., Monday through Friday. Submissions will be available both before and after the closing date for comments.

Form CLC–61—Annual Report for Acute Care Hospitals

Form CLC–61 is intended for use by an acute care hospital as its annual report which must be filed with the Cost of Living Council within 120 days following the end of each fiscal year, in accordance with § 150.717. This form is designed to summarize the data necessary for the Cost of Living Council to monitor the performance of acute care hospitals.

In addition, it is contemplated that Form CLC–61 will be required as an attachment when an acute care hospital is submitting a request for an exception to the regulations. Further information regarding this matter will be published by the Council at a time when the exceptions procedures have been developed for the health care industry.

Form CLC–61 shall be filed with annexed copies of Schedule D or Schedule I for the inpatient portion of the hospital's operations, and Schedule O for the outpatient portion of the hospital's operations when the hospital's outpatient services are covered under § 150.707. A Schedule M must also be attached whenever the hospital is reporting a patient mix change. Requirements for these schedules are discussed more fully below.

Part II of Form CLC–61 provides a summary of the acute care hospital's inpatient operations for the reported fiscal year and the immediately preceding fiscal year. It summarizes authorized and actual total inpatient operating charges and expenses, reimbursed expenses, and prospective rate revenues. In addition, it identifies any dollar amounts in excess of the limitations, as well as any available carry-over amounts for the following year. Part II, therefore, is used to monitor compliance with the regulations.

Part III of Form CLC–61 provides a summary of the hospital's operations for outpatient services. This part indicates the method of implementing charge increases, the authorized and actual percentage aggregate weighted charge increases, the percentage in excess, if any, and any amount available for carry-over in the following fiscal year. Part III is provided to monitor compliance with § 150.707.

Part I, "Identifying Data", Part IV, "Additional Information" and Part V, "Certification and Signature" are self-explanatory.

Schedule D to Form CLC–61, "Inpatient Computations for Acute Care Hospitals with Admissions Decrease", provides information that will be used in Part II of Form CLC–61. This schedule takes a hospital on a step-by-step basis through the necessary computations and is completed as the alternate to Schedule I when a hospital has had fewer admissions in the reported fiscal year than in the immediately preceding fiscal year. Part II contains the basic data necessary for the computations carried out in Part III of this schedule for both charges and expenses. These two parts provide the necessary figures for compliance with the volume adjustment levels specified in §§ 150.706 (b) and (c) and for computation of the inpatient carry-over amounts for charges and expenses available in the following fiscal year in accordance with § 150.708. Also included in the Part III computations are any adjustments for patient mix changes, capital expenditures, exceptions and other special adjustments.

Part IV of the Schedule D to Form CLC–61 is used to compute the actual and authorized reimbursed expenses and any amount in excess when the limitation on total inpatient reimbursed expenses of § 150.705 applies. Part V provides for computation of the prospective rate revenues subject to the limitation of § 150.705(b). Part I, "Identifying Data", is self-explanatory.

Schedule I to Form CLC–61, "Inpatient Computations for Acute Care Hospitals With Admissions Increase or Constant Admissions", provides background information that will be used in Part II of Form CLC–61. This schedule takes a hospital on a step-by-step basis through the necessary computations and is completed only if the hospital had an increase in admissions, or at least an equal number of admissions in the reported fiscal year, from the immediately preceding fiscal year. Part II contains the basic data necessary for the computations carried out in Part III of this Schedule for both charges and expenses. These two parts provide the necessary figures for compliance with the volume adjustment levels specified in § 150.706 (a) and for computation of the inpatient carry-over amounts for charges and expenses available in the following fiscal year in accordance with § 150.708. Additional adjustments for patient mix changes, capital expenditures, exceptions and other special adjustments are also included in the Part III computations.

Parts IV and V of the Schedule I to Form CLC–61 provide for computation of the limitations on reimbursed expenses and prospective date revenues described above in Schedule D to Form CLC–61. Part I, "Identifying Data", is self-explanatory.

Schedule M to Form CLC–61, "Patient Mix Adjustment for Acute Care Hospitals", is to be used by a hospital reporting or requesting approval of an adjustment in its per admission charge and expense limitations when it has experienced a significant change in its patient mix. Parts II and IV provide for computing the patient mix factor and the restated total inpatient operating charges as outlined in the Standard Methodology for Adjustment of Charges and Expenses,

§ 150.712(c). Part III is used to compute the dollar amounts of the patient mix adjustment and to identify the amount for which Cost of Living Council approval is needed pursuant to § 150.712(f). Part I, "Identifying Data", is self-explanatory.

Schedule O to Form CLC–61 and Form CLC–71, "Outpatient Computations for Acute Care Hospitals and Long Term Care Institutions", is provided for use by an acute care hospital or long term care institution which has any outpatient services that are subject to the limitations of the Phase IV health care regulations.

The schedule indicates the method of controlling charges that the hospital or institution has chosen, i.e., unit charge increase or aggregate weighted charge increase. Part II to Schedule O contains the basic computations for determining the actual and authorized aggregate weighted charge increase, the amount in excess (if any) and the amount available for carry over in the following fiscal year for outpatient services, in accordance with §§ 150.707 and 150.775. The information in Part II of Schedule O is reported by acute care hospitals in Part III of Form CLC–61. Part III of Schedule O and the related instructions provide the method of computing the aggregate weighted charge increase for determining compliance with §§ 150.707 and 150.775 similar to that provided in Form CLC–81 for Medical Practitioners and Medical Laboratories. Part I, "Identifying Data," is self-explanatory.

FORM CLC–71—ANNUAL REPORT FOR LONG TERM CARE INSTITUTIONS

On February 7, 1974, the United States District Court for the District of Columbia enjoined enforcement of the Economic Stabilization regulations against nursing homes. The Council has appealed this decision to the Temporary Emergency Court of Appeals. These forms are being published for consideration by those long term care institutions not covered by the Court's order.

Form CLC–71 is intended for use by a long term care institution as its annual report which must be filed with the Cost of Living Council within 120 days following the end of each fiscal year, in accordance with § 150.780. This form is designed to provide the data necessary for the Cost of Living Council to monitor the performance of long term care institutions.

In addition, it is contemplated that Form CLC–71 will be required as an attachment when a long term care institution submits a request for an exception to the regulations.

Form CLC–71 shall be filed with a Schedule L whenever an adjustment is claimed for an exception, approved capital expenditure, or other special adjustment and with a Schedule O whenever the institution has increased any charges during the reported fiscal year for outpatient services covered under § 150.775.

Specific instructions are provided in Part II of Form CLC–71 for the computation of average realized revenues per diem for each level of care of the various classes of purchasers in order to check compliance with § 150.773. A long term care institution's average realized revenues per diem during any fiscal year may not be more than 106.5 percent of its average realized revenues per diem during the preceding fiscal year.

The instructions to Part II of Form CLC–71 also indicate that revenue increases permitted in one year but not fully implemented may be accumulated but only for the level of care of the class of purchasers to which the increase is applied and only in the fiscal year following the year in which the full allowable increase was not taken. This is in accordance with §§ 150.774 (b) and (c).

Part I, "Identification Data", Part III, "Additional Information", and Part IV, "Certification and Signature" are self-explanatory.

Schedule L to the Form CLC–71, "Special Computations for Long Term Care Institutions", provides the background information for Part II of the Form CLC–71 when the institution has special authorization to adjust the limitations on average realized revenues per diem. Part II of Schedule L provides, on a step-by-step basis, the calculation for each class of purchasers and level of care of the authorized average realized revenues per diem when a capital expenditure, exception or special adjustment is claimed by the institution. Part II also provides for computing the per diem and total dollar amounts in excess for each class of purchasers and level of care. Part III of Schedule L is used to allocate the total dollar amounts of authorized adjustments among classes of purchasers and levels of care. Part I, "Identifying Data", is self-explanatory.

FORM CLC–81—MONITORING RECORD FOR MEDICAL PRACTITIONERS AND MEDICAL LABORATORIES

Form CLC–81 is provided for use by the medical practitioner or medical laboratory in computing its aggregate weighted price increase for compliance with § 150.734. Specific instructions are provided in Part IIA of Form CLC–81 for the three different methods of computing the percentage aggregate weighted price increase (%AWPI) which are outlined in § 150.734(d). Part IIB of the Form CLC–81 provides instructions for determining compliance with the limitation in § 150.734(b) for the medical practitioner or medical laboratory which is paid under a fixed dollar amount contract with another health care provider.

In addition to the computation of the aggregate weighted price increase, Form CLC–81 is provided for use by the medical practitioner in determining his base period and deport year revenue margins for compliance with § 150.735. Specific instructions are provided in Part IIIA to Form CLC–81 for this calculation. Section 150.735(b) of the regulations requires that a medical practitioner who has incorporated his practice or has abandoned his corporate status during or subsequent to the base period shall determine his revenue margin and base period revenue margin by excluding from operating expenses any salary, pension or other deferred compensation in excess of that amount permitted to be deferred under the self-employed retirement plan (the Keogh Plan), authorized by 26 U.S.C. 401. Part IIIB to Form CLC–81 provides for this determination (if applicable). The determination under Part IIIB is entered in Item 21 of Part IIIA to Form CLC–81.

Part I, "General Information", Part IV, "Additional Information", and Part V, "Certification and Signature", are self-explanatory.

Although the regulations relating to medical practitioners and medical laboratories, §§ 150.730 through 150.745, do not require a report to be filed with the Cost of Living Council as prenotification of a price increase or on an annual basis, such a report could be required by the Cost of Living Council for the purpose of determining compliance by a specific medical practitioner or medical laboratory, and it is strongly recommended that this form be kept as a record by each medical practitioner and medical laboratory for monitoring its own compliance.

In consideration of the foregoing, it is proposed to amend 6 CFR Part 150 in the Appendix (Phase IV Price Forms) by the addition of Forms CLC–61, CLC–71, and CLC–81, with supporting schedules and accompanying instructions, to read as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order Number 14, 38 FR 1489)

Issued in Washington, D.C., March 6, 1974.

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

FORM CLC-61
(Proposed March 1974)

ECONOMIC STABILIZATION PROGRAM

ANNUAL REPORT FOR ACUTE CARE HOSPITALS

CLC USE ONLY
Date of Filing
Docket Number
Clock ☐ 30 ☐ None

Part I. - Identifying Data (Please complete requested items and check applicable boxes below).

1(a) Name of Hospital	2(a) Name of Parent Firm (if applicable)
Address (number and street)	Address (number and street)
City or town, State and ZIP code	City or town, State and ZIP code
(b) Hospital is ☐ Profit ☐ Nonprofit	(b) Parent Firm is ☐ Profit ☐ Nonprofit
(c) Federal Identification Number	(c) Federal Identification Number

3. Statistical Data - See Instructions

(a) State Code ☐☐ (b) DHEW Region ☐☐ (c) Bed Size ☐☐☐

(d) Inclusive dates of reported fiscal year From ☐☐ (mo) ☐☐ (dy) ☐☐ (yr) to ☐☐ (mo) ☐☐ (dy) ☐☐ (yr)

(e) Inclusive dates of last fiscal year From ☐☐ (mo) ☐☐ (dy) ☐☐ (yr) to ☐☐ (mo) ☐☐ (dy) ☐☐ (yr)

(f) Total Admissions in RFY _____ (g) Total Admissions in LFY _____

(h) Cost-reimbursed Admissions in RFY _____ (i) Cost-reimbursed Admissions in LFY _____

4. (a) Is this filed as an annual report? ..... Yes ☐ No ☐
If yes, attach a copy of the financial statements of the hospital (audited, if an independent audit is performed).
If no, attach explanation of purpose of filing.

(b) Is the reported fiscal year the first fiscal year to be regulated pursuant to 6 CFR Part 150 Subpart R? ..... Yes ☐ No ☐
If yes, see instructions.

(c) In the reported fiscal year, did you qualify as a new facility? ..... Yes ☐ No ☐
If yes, see instructions.

(d) What does this report include? See instructions.

☐ Prior-year carry-over of allowable increases - Attach a copy of Form CLC-61 filed last fiscal year.

☐ Patient mix adjustment - Attach Schedule M showing that adjustment ☐ was approved or did not require approval.

☐ approval was pending on filing date (30 days had not elapsed)

☐ Special adjustment - Attach documentation and authority.

☐ Approved capital expenditure - Attach documentation and authority.

☐ Approved exception; approval is ☐ final and a copy of Order is attached

☐ provisional; request was filed ☐☐ (mo) ☐☐ (dy) ☐☐ (yr)

Docket number _____

(e) Have you previously received from the Cost of Living Council, the Price Commission, or the Internal Revenue Service, any of the following under the Economic Stabilization Program? If any is checked "yes", give details and attach a copy.

(1) a written interpretation from one of the agencies listed above? ☐ Yes ☐ No

(2) an exception? ☐ Yes ☐ No

(3) an order requiring reduction of prices or refunds? ☐ Yes ☐ No

(4) a Notice of Probable Violation which has not yet been resolved? ☐ Yes ☐ No

(f) Which accounting system and cost apportionment system were chosen to determine total operating expenses and to allocate total inpatient operating expenses pursuant to 6 CFR 150.703?

Accounting System

☐ AICPA Audit Guide
☐ Blue Cross
☐ Medicare
☐ State Uniform Hospital Accounting System

Cost Apportionment

☐ Blue Cross
☐ Medicare
☐ State Uniform Hospital Accounting System

Part II. - Inpatient Summary

	LAST FISCAL YEAR			REPORTED FISCAL YEAR	
	(a) Actual Total	(b) Actual Per Admission	(c) Authorized Per Admission	(d) Actual Per Admission	(e) Authorized Per Admission
5. Total inpatient operating charges	$	$	$	$	$
6. Total inpatient operating expenses	$	$	$	$	$
7. Total inpatient reimbursed expenses (if applicable)	$	$	$	$	$

	Charges	Expenses
8. Authorized total inpatient operating charges and expenses From Item 22 of Schedule D or I.	$	$
9. Actual total inpatient operating charges and expenses From Item 24 of Schedule D or I	$	$
10. Amount in excess - From Item 25 of Schedule D or I.	$	$
11. Available carry-over next year - From Item 27 of Schedule D or I.	$	$

12. Authorized total inpatient reimbursed expenses From Item 37 of Schedule D or I ..... $ _____

13. Actual total inpatient reimbursed expenses From Item 38 of Schedule D or I ..... $ _____

14. Amount in excess, if any From Item 39 of Schedule D or I ..... $ _____

15. Authorized total inpatient charges to prospective rate payors From Item 47 of Schedule D or I ..... $ _____

16. Actual total inpatient revenues received from prospective rate payors From Item 48 of Schedule D or I ..... $ _____

17. Amount in excess, if any From Item 49 of Schedule D or I ..... $ _____

Part III - Outpatient Summary

	Charges
18. Authorized total percentage increase ..... From Item 8 of Schedule O	%
19. Actual total percentage increase ..... From Item 9 of Schedule O	%
20. Percentage in excess ..... From Item 10 of Schedule O	%
21. Percentage available for carry-over next fiscal year ..... From Item 11 of Schedule O	%

22. Method of implementing charge increase

- [ ] Unit charge increase
- [ ] Aggregate weighted charges increase
- [ ] No charge increase implemented during reported fiscal year on any charge subject to 6 CFR 150.707.

Part IV - Additional Information

23. (a) Name and title of individual to be contacted for additional information

(b) Address (number and street)

(c) City or town, State and ZIP code	(d) Phone number (include area code)

24. You must maintain, for possible inspection and audit, a record of all price changes after November 13, 1971. Give location of such records.

Part V - Certification and Signature

I have examined this form and the attached exhibits, schedules and explanations, and certify that to the best of my information, knowledge and belief the information set forth therein is factually correct, complete and in accordance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Type name and exact title of chief executive officer, administrator, or chief financial officer of the hospital and date signed.

Name	Date	Signature
Title		

INSTRUCTIONS FOR FORM CLC–61—ANNUAL REPORT FOR ACUTE CARE HOSPITALS

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974.

A. *Purpose.* 1. Form CLC–61 is designed to provide the data necessary for the Cost of Living Council (CLC) to monitor the performance of acute care hospitals under the Economic Stabilization Program regulations of 6 CFR Part 150, Subpart R.

2. Form CLC–61 provides the means by which an acute care hospital reports changes in charges and expenses for an inpatient hospital stay and for covered outpatient services. It may also be used by the hospital to monitor its own performance during the reported fiscal year.

B. *Who must use Form CLC–61.* 1. Each acute care hospital, as defined in 6 CFR 150.703, must file an annual report (Form CLC–61).

2. Each acute care hospital which requests approval of a patient mix adjustment pursuant to 6 CFR 150.712 shall file a Form CLC–61 prepared in accordance with the instructions to Schedule M. If the reported fiscal year has not yet been completed at the time of submission, actual figures shall be used to the extent available and budgeted figures for the remainder of the year.

C. *When to file Form CLC–61.* 1. Each acute care hospital shall file Form CLC–61 not later than 120 days following the end of the reported fiscal year.

2. It is recommended that requests for approval of a patient mix adjustment be submitted as soon during the reported fiscal year as the change trend in patient mix can be identified. In no event, however, can the request for approval be submitted later than the date of filing of the annual report.

D. *What to file.* File this form, together with the required Schedules and other required supporting information or documentation. Each acute care hospital shall attach either Schedule D or Schedule I for inpatient data. Schedule O must be submitted for outpatient data if any of the hospital's outpatient services are covered under 6 CFR 150.707. Schedule M must be attached if a patient mix adjustment is claimed or if approval of the adjustment is requested. In any case in which a hospital has previously received approval of a patient mix adjustment pursuant to 6 CFR 150.712 based in whole or in part on projected or budgeted figures, a new Schedule M must be prepared for the annual report using only actual figures.

A hospital which files a Form CLC–61 that contains incomplete or incorrect information will be required to file a corrected Form CLC–61 and will be considered in violation of the reporting requirements if a complete and correct form is not filed within the prescribed 120 days.

E. *Where to file.* Send all filings to the following address:

Office of Health
Cost of Living Council
2000 M Street, NW.
Washington, D.C. 20508

F. *Suggestions for improvement.* The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to:

Cost of Living Council, Office of the Executive Secretariat
2000 M Street, NW.
Washington, D.C. 20508

G. *Rounding.* For purposes of this form, all percentages must be expressed to the nearest two decimal places (such as 15.92 percent). When the form calls for dollars, entries will be shown to the nearest whole dollar. Amounts of 50¢ or greater should be rounded to the next largest whole dollar and amounts less than 50¢ should be dropped.

H. *Sanctions.* The timely submission of a Form CLC–61 by a hospital is a mandatory requirement under the Phase IV regulations. Late filing, failure to keep records, or failure otherwise to comply with the Economic Stabilization regulations may result in criminal fines, civil penalties, and other sanctions as provided by law.

I. *Definitions and abbreviations Authorized.* 1. When used to modify total inpatient operating expenses, authorized means the maximum amount of total inpatient operating expenses which an acute care hospital can incur without being subject to restrictions on inpatient reimbursements under cost reimbursement arrangements. Thus, when the actual amount of total inpatient operating expenses is less than or equal to the authorized amount of these expenses, no cost reimbursement arrangement is subject to the limitations of the Economic Stabilization Program. Conversely, when the actual amount of total inpatient operating expenses exceeds the authorized amount of these expenses, inpatient reimbursements under cost reimbursement arrangements are subject to the total inpatient reimbursed expenses limitations of 6 CFR 150.705 and 150.706.

2. When used to modify inpatent or outpatient charges, reimbursed expenses, capital expenditures, exception, or special adjustment, authorized means the maximum lawful amount under Economic Stabilization regulations for purposes of this form and its Schedules.

Cost reimbursed admission. An admission which was paid in whole or in part under a cost reimbursement arrangement.

Filed. Received at the Cost of Living Council.

Fiscal year is abbreviated as FY.

Full fiscal year. A fiscal year of 12 months duration.

Last fiscal year (abbreviated as LFY). The fiscal year immediately preceding the reported fiscal year.

Reported fiscal year (abbreviated as RFY). The fiscal year for which compliance is being measured, a report is submitted, or an exception is requested.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c). Enter the Federal identification number which the hospital uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Item 3 (a) and (b). The code designations for these items are listed below. The first column after the list of states is a two digit code for your state; enter that code in Item 3(a). In the second column is the code designation for the Department of Health, Education, and Welfare region in which your hospital is located; enter the two digit code in item 3(b).

State	State code item 3(a)	DHEW code item 3(b)
Alabama	01	04
Alaska	02	10
Arizona	03	09
Arkansas	04	06
California	05	09
Colorado	06	08
Connecticut	07	01
Deleware	08	03
District of Columbia	09	03
Florida	10	04
Georgia	11	04
Hawaii	12	09
Idaho	13	10
Illinois	14	05
Indiana	15	05
Iowa	16	07
Kansas	17	07
Kentucky	18	04
Louisiana	19	06
Maine	20	01
Maryland	21	03
Massachusetts	22	01
Michigan	23	05
Minnesota	24	05
Mississippi	25	04
Missouri	26	07
Montana	27	08
Nebraska	28	07
Nevada	29	09
New Hampshire	30	01
New Jersey	31	02
New Mexico	32	06
New York	33	02
North Carolina	34	04
North Dakota	35	08
Ohio	36	05
Oklahoma	37	06
Oregon	38	10
Pennsylvania	39	03
Rhode Island	40	01
South Carolina	41	04
South Dakota	42	08
Tennessee	43	04
Texas	44	06
Utah	45	08
Vermont	46	01
Virginia	47	03
Washington	48	10
West Virginia	49	03
Wisconsin	50	05
Wyoming	51	08

Item 3(c). Enter the number of beds which your hospital maintained on the last day of the reported fiscal year.

(d) and (e). Self-explanatory.

(f) and (g). Enter the total number of admissions for your hospital in the reported fiscal year and last fiscal year, respectively. "Admissions" means the number of patients (including free-care patients) accepted for inpatient service in beds licensed for hospital care or, in states where licensing is not required, staffed for hospital care. For the purpose of this definition, births or transfers between departments may be treated as admissions, if the hospital by consistent administrative practice has treated transfers or births as admissions. You must, however, count your admissions in the same way in both fiscal years.

(h) and (i). If you completed Part IV, "Reimbursed Expenses Computation" on either Schedule D or Schedule I, enter the total number of cost reimbursed admissions for both the reported fiscal year and the last fiscal year, respectively. The fact that a cost reimbursement arrangement authorizes a third party payor to reimburse on the basis of charges when the charges are less than cost does not alter the fact that the reimbursement was paid under the terms of a cost reimbursement arrangement.

Item 4(a). Self-explanatory.

(b). If the reported fiscal year is the first fiscal year to be governed under the Phase IV regulations (6 CFR Part 150, Subpart R) and your last fiscal year was governed under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), you may be entitled to adjust your total inpatient operating charges to account for the annualized effect of increases authorized under those earlier regulations. For example, if your fiscal year corresponds to the calendar year and you implemented an annualized 6 percent increase on July 1, 1973, your charges will reflect only six months of that price increase. Since the charge increase was not reflected in the first six months of the year, you may add to the actual total inpatient operating charges which you had during the fiscal year ending December 31, 1973, an amount equal

to the additional charge which would have been levied had all of your charge increases been made on January 1, 1973. You may annualize only those charge increases lawfully in effect on the last day of the last fiscal year under Subpart O.

In any case in which the charge on the last day of the last fiscal year had been lowered below authorized levels to assure compliance with 6 CFR Part 150, Subpart O, the charge may be increased to that amount which, if charged uniformly throughout the fiscal year, would have been lawful. However, the charge so established may not exceed the highest charge actually made for that service during that fiscal year.

If you make this adjustment, you must attach a supplemental page or pages setting forth your computations in order that this report indicate clearly the amount that was actually charged (that is, your total inpatient operating charges), and the additional amount which you claim as your entitlement for the balance of the year.

Item 4(c)—Situation A—If. (1) Your hospital qualified as a new facility as defined in 6 CFR 150.703; and

(2) Your hospital received the approval specified in paragraphs (b) and (c) of 6 CFR 150.713 or in paragraph (c) of 6 CFR 150.714; and

(3) Your hospital first qualified as a new facility in the reported fiscal year or the reported fiscal year was your first full (12-month) fiscal year of operations in a new facility.

Then. You were to have established your charges in conformance with the approval received. Complete in full only Parts I, IV, and V of Form CLC–61. In Part II, complete the following items; (1) columns (a) through (d) of Items 5, 6, and 7; (2) Item 8 entering that amount authorized in the approval document; (3) Items 9, 10, 13, and 16.

Omit Part III and Schedules D, I, O, and M. In lieu thereof, specify on an additional page the amount of revenues authorized for operation of the project and the amount realized, showing each separately for inpatient and outpatient services.

Situation B—If. (1) Your hospital qualified as a new facility as defined in 6 CFR 150.703; and

(2) Your hospital qualified under the "grandfather clause" in 6 CFR 150.713(a) (2) either because the capital expenditure was approved prior to January 1, 1974, on its merits on the basis of community need by a planning agency listed in 6 CFR 150.713(b), or in the event such State approval procedures were not required or were not available to your hospital, because prior to January 1, 1974 your hospital was committed to the construction of your new facility by firm authorization of the hospital's governing board and one or more implementing financial obligations were contractually or otherwise incurred in reliance on the authorization; and

(3) Your hospital first qualified as a new facility in the reported fiscal year or the reported fiscal year was your first full (12-month) fiscal year of operations in a new facility;

Then. You were allowed to establish your charges pursuant to the Special Pricing Rules of 6 CFR 150.709. Complete in full only Parts I, IV, and V of Form CLC–61. In Part II, complete only columns (a), (b), and (d) of Items 5, 6, and 7 and Items 9, 13, and 16. Omit Part III and Schedules D, I, O, and M. In lieu thereof, specify on additional pages the amount of revenues you expected to realize and the amount you actually realized, showing inpatient and outpatient revenues separately. Specify how you applied the Special Pricing Rules.

Situation C—If. Your hospital was in its second full fiscal year of operations in a new facility;

Then. Complete the Form CLC–61 normally, but note the special instructions in Schedule D or I for Items 4 and 5.

Item 4(d). Check as many boxes as are applicable. For any of these boxes checked you must attach the information indicated.

(e). Check the applicable boxes and attach the explanations and documentation indicated.

(f). The regulations require you to choose one of four accounting systems to determine your total operating expenses and one of three cost apportionment systems to allocate your total operating expenses among inpatient services and other services (such as outpatient, home health, or visiting nurse services). Check the applicable boxes indicating which of the systems you have chosen for each purpose. Once you have chosen the systems, each year must be reported in the same way under the Economic Stabilization Program. You may not change either system without the prior written approval of the Cost of Living Council.

3. If you discount from a bill for the customary charge for a clergyman, hospital employee, member of the medical staff, etc., no portion of that bill may be included as free care. Such discounts are termed "courtesy discounts" and the services were rendered to persons who were able to pay.

4. If you do not render a bill to a patient because he is unable to pay and is not covered by any third party payor, the entire customary charge may be included as free care.

5. If you render a reduced bill to a patient because he is unable to pay and is not covered by any third party payor, the difference between the customary charge and the amount stated on the bill rendered to the patient may be included as free care.

Item 6. Enter the amount of total inpatient operating expenses for the respective fiscal years.

Item 7. Enter the amount of total reimbursements for all admissions under cost reimbursement arrangements for the respective fiscal years.

Column (b)—Items 5 and 6. For each item, divide the entry in column (a) by the number of admissions in the last fiscal year, which is shown in Item 3(g), and enter the result in column (b).

Item 7. Divide the entry in column (a) by the number of cost reimbursed admissions for last fiscal year shown in Item 3(i) of this form, and enter the result in column (b).

Part II—Inpatient Summary

Items 5, 6, and 7. Note that all entries in columns (a), (b) and (c) apply to the last fiscal year and columns (d) and (e) apply to the reported fiscal year. All hospitals must complete Items 5 and 6. Only those hospitals which completed Part IV of Schedule D or Schedule I need complete Item 7. (Prospective rate revenues are not included under cost reimbursement arrangements.)

Column (a)—Item 5. Enter the amount of total inpatient operating charges for the last fiscal year. Exclude any amount of free care as defined below.

"Free care" means the customary charge for health care services and property furnished to an inpatient unable to pay for such services or property and for which a bill is not rendered to the patient or third party payor. It also includes the difference between the customary charge for an inpatient service or property and the amount actually billed to the patient. Contractual allowances, bad debts, and courtesy discounts are excluded from the scope of this definition.

For example:

1. If any particular service or property rendered to a particular patient is paid for in whole or in part by a third party payor (such as Blue Cross, private insurer, Medicare, Medicaid, county welfare, etc.) no part of the customary charge for that service or property may be included as "free care". In other words, contractual allowances are not "free care".

2. If you render a bill equal to or exceeding the customary charge for a particular service or property to a particular patient but receive no payment or reduced payment from that patient, the fact that payment in full was not received does not qualify the difference between the customary charges and actual payment as free care. In other words, bad debts are not free care.

Column (c)—Items 5 and 6. If "last fiscal year" was subject to the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), then enter in column (c) the same amount shown in column (b). If "last fiscal year" was subject to the Phase IV regulations (6 CFR Part 150, Subpart R), then show in column (c) the same amount shown for the respective item number in column (e) of the Form CLC–61 filed for the last fiscal year.

Item 7. If you were not required to complete Part IV of Schedule D or I on your report filed for the last fiscal year, or if the last fiscal year was governed under the Phase II/III regulations, then enter in column (c) the same amount shown in column (b). If you were required to complete Part IV of Schedule D or I on your report for the last fiscal year, then divide the amount shown in Item 37 of Schedule D or I for last fiscal year by the number of cost reimbursed admissions for the last fiscal year.

Column (d)—Items 5 and 6. For each item divide the amount shown in Item 24 of Schedule D or I by the number of admissions in the reported fiscal year, which is shown in Item 3(f), and enter the result in column (d).

Item 7. Divide the amount shown in Item 38 of Schedule D or I by the number of cost reimbursed admissions for the reported fiscal year which is shown in Item 3(h) of this form, and enter the result in column (d).

Column (e)—Items 5 and 6. Leave this column blank until you have completed Schedule D or I. After you have completed the appropriate Schedule, enter the respective amounts shown in Item 23(a) of the Schedule.

Item 7. Complete Schedule D or I before completing this item. Once you have completed that form, divide the amount shown in Item 37 of the Schedule by the total number of cost reimbursed admissions for the reported fiscal year, which is shown in Item 3(h) of this form.

Items 8–17. Self-explanatory.

Part III—Outpatient Summary

Items 18–22. Self-explanatory.

Part IV—Additional Information

Items 23–24. Self-explanatory.

Part V—Certification and Signature

Type the name and title of the individual who has signed the certification and the date of signing. The individual who signs and certifies Form CLC–61 must be the chief executive officer, the administrator, or the chief financial officer of the hospital. No other signature will be accepted by the Cost of Living Council.

See footnote at end of document.

SCHEDULE D
Form CLC-61
(Proposed March 1974)

ECONOMIC STABILIZATION PROGRAM

Inpatient Computations for Acute Care Hospitals With Admissions Decrease

CLC USE ONLY
Docket Number

Part I. - Identifying Data

1. (a) Name of Hospital

(b) Address (City, State)

(c) Federal Identification Number

2. Report for Fiscal Year ended Month Day Year

Part II. - Base Information

3. (a) Total admissions in Reported Fiscal Year .....

(b) Total admissions in Last Fiscal Year .....

4. Admissions Inside Zone (not subject to volume adjustment - see instructions) .....

5. Admissions Outside Zone (subject to volume adjustment - see instructions) .....

6. Lesser of Actual or Authorized Charges per admission Last Fiscal Year [From Form CLC-61, lesser of Item 5 Col(b) or Col (c)] ..... $

7. Lesser of Actual or Authorized total inpatient operating expenses per admission Last Fiscal Year [From Form CLC-61, lesser of Item 6 col(b) or col(c)] ..... $

Part III. - Report Computations

	Charges	Expenses
8. Total Charges&Expenses for admissions decrease inside zone		
Charges: Item 6 X Item 3(b) X 1.075	$	
Expenses: Item 7 X Item 3(b) X 1.075		$
9. Reduction of Total Charges&Expenses for admissions decrease outside zone		
Charges: Item 5 X Item 6 X 0.43	$	
Expenses: Item 5 X Item 7 X 0.43		$
10. Total before last year carry-over -- Item 8 minus Item 9	$	$
11. Last year carry-over -- see instructions	$	$
12. Preliminary basic allowance -- Item 10 plus Item 11	$	$
13. Maximum limitation -		
Charges: Item 3(a) X Item 6 X 1.2	$	
Expenses: Item 3(a) X Item 7 X 1.2		$
14. Basic allowance -- lesser of Item 12 or Item 13	$	$
15. (a) Basic per admission rate - Item 14 divided by Item 3(a)	$	$
(b) Ratio to LFY		
Charges: Item 15(a) divided by Item 6		
Expenses: Item 15(a) divided by Item 7		

	Charges	Expenses
16. Total patient mix adjustment From Schedule M, Item 16 - ☐ Final ☐ Pending approval	$	$
17. Special adjustments (specify and attach documentation) (a)	$	$
(b)	$	$
(c)	$	$
18. Total authorized inpatient operating Charges&Expenses for capital expenditure approved pursuant to 6 CFR 150.713 or 150.714(c) ..... Attach documentation and check box ☐ Approved ☐ Provisional	$	$
19. Additional amount authorized by exception not included in Item 18 ..... See instructions and check box ☐ Approved ☐ Provisional	$	$
20. Preliminary total authorization - Sum of Items 14, 16, 17, 18 & 19	$	$
21. Limitation imposed by exception, if any ..... See instructions	$	$
22. Authorized total inpatient operating Charges&Expenses ..... Lesser of Item 20 or Item 21	$	$
23. (a) Total per admission rate - Item 22 divided by Item 3(a)	$	$
(b) Ratio to LFY Charges: Item 23(a) divided by Item 6		
Expenses: Item 23(a) divided by Item 7		
24. Actual total inpatient operating Charges&Expenses	$	$
25. Amount of excess if any..... If Item 24 is greater than Item 22, enter the difference; if not, enter a zero. Charges: See instructions for remedies Expenses: If this item is greater than zero, complete Part IV	$	$
26. (a) Amounts not eligible for carry-over Item 11 plus Item 19	$	$
(b) Total authorization exclusive of ineligible items Item 22 minus Item 26(a)	$	$
27. Carry-over available next fiscal year ..... If Item 26(b) is greater than Item 24, enter the difference; if not, enter a zero.	$	$

Part IV. - Reimbursed Expenses Computation

Complete this part only if the "Expenses" column of Item 25 shows an amount greater than zero. See instructions.

28. Total inpatient reimbursed expenses in LFY	$
29. Admissions covered under cost reimbursement arrangements in LFY	$
30. LFY inpatient reimbursed expenses per admission ..... Item 28 divided by Item 29	$
31. Admissions covered under cost reimbursement arrangements in RFY	$
32. Total authorization in RFY before adjustments ..... Item 31 times Item 30 times Item 23(b) Expenses	$
33. Special adjustments - See instructions and attach computations and authority (a)	$
(b)	$
34. Additional amount authorized by exception - See instructions and check applicable box - ☐ Approved ☐ Provisional	$
35. Preliminary total authorization ..... Sum of Items 32, 33, and 34	$

36. Limitation imposed by exception - see instructions ..... $

37. Authorized total inpatient reimbursed expenses in PFY ..... $
Lesser of Item 35 or 36

38. Actual total inpatient reimbursed experses in RFY ..... $

39. Amount of excess, if any ..... $
If Item 38 is greater than Item 37, enter the difference; if not, enter a zero.
If this Item is greater than zero, see instructions for remedies.

Part V. - Prospective Rate Computations

Complete this part only if any third party payor reimburses under prospective rates rather than charges or reimbursable expenses.

40. Actual total charges to inpatients covered under prospective rates in RFY ..... $

41. Reduction ratio for total inpatient operating charge overage, if any ..... $
Item 25 "Charges" divided by Item 24 "Charges"; if Item 25 is zero, enter "N.A."

42. Excess charges to inpatients covered under prospective rates ..... $
Item 40 times Item 41

43. Authorized inpatient charges to prospective rate payors before exception ..... $
Item 40 minus Item 42

44. Additional amount authorized by exception ..... $
See instructions and check applicable box -
☐ Approved
☐ Provisional

45. Preliminary authorization ..... $
Item 43 plus Item 44

46. Limitation imposed by exception ..... $
See instructions

47. Authorized total inpatient charges to prospective rate payors in RFY ..... $
Lesser of Item 45 or 46

48. Actual total revenues received or accrued from prospective rate payors in RFY ..... $

49. Amount of excess, if any ..... $
If Item 48 is greater than Item 47, enter the difference; otherwise enter a zero.
If this amount is positive, see instructions for remedies.

INSTRUCTIONS FOR SCHEDULE D OF FORM CLC–61—INPATIENT COMPUTATIONS FOR ACUTE CARE HOSPITALS WITH ADMISSIONS DECREASE

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974.

Complete this Schedule only if the hospital had fewer admissions in the reported fiscal year than in the last fiscal year; that is, if the number of admissions indicated on Form CLC–61 Item 3(f) is less than Item 3(g), use this Schedule. In any other case, use Schedule I.

SPECIFIC INSTRUCTIONS

Before completing this Schedule be sure that you have completed Items 1–4 and columns (a), (b) and (c) of Items 5 and 6 of Form CLC–61. Note however, that you need not complete Item 3(h) or 3(i) of Form CLC–61 unless you are required to complete Part IV of this Schedule. Be sure that you have thoroughly read instructions for all items mentioned on Form CLC–61.

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c). Enter the Federal identification number which the hospital uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Part II—Base Information

Item 3(a). This number must agree with Form CLC–61, Item 3(f).

(b). This number must agree with Form CLC–61, Item 3(g).

Items 4 and 5. Pursuant to 6 CFR 150.706, hospitals are required to make certain adjustments if admissions fluctuate beyond specified percentages. The "zone", as used in these items, refers to the limits within which no volume adjustment is required and outside of which an adjustment must be made.

Find the description below which applies to your hospital and follow the instructions for that description.

If in the reported fiscal year your hospital first qualified as a new facility or if the reported fiscal year was your first full (12-month) fiscal year of operations in a new facility, then see instructions to Item 4(c) of Form CLC–61. If you meet the definition of a new facility and the reported fiscal year was your second full (12-month) fiscal year of operations, then all admissions are within the zone. Enter in Item 4 the same number shown in Item 3(a) and enter zero in Item 5.

If neither of the above descriptions applies to your hospital, perform the computations below and note the special instructions in Step 2. (Numbers determined in Steps 5 and 6 will be entered on Schedule D as indicated.)

Step 1. Enter LFY admissions (Schedule D, Item 3(b)). _____

Step 2. If you had fewer than 4,000 admissions in the LFY or if your total inpatient operating charges in the LFY were less than $2,500,000, enter 0.90; otherwise, enter 0.95. _____

Step 3. Multiply the entry in Step 1 by the entry in Step 2 and enter the product. _____

Step 4. Enter RFY admissions (Schedule D, Item 3(a)). _____

Step 5. Admissions within zone. Enter the greater of the entry in Step 3 or the entry in Step 4; enter this number also in Item 4 of Schedule D. _____

Step 6. Admissions outside zone. If the entry in Step 3 is greater than the entry in Step 4, enter the difference; otherwise enter a zero. Enter the same number in Item 5 of Schedule D. _____

Items 6 and 7. When the authorized amount is less than the actual amount, the authorized amount forms the base from which the succeeding year's entitlements under the Economic Stabilization Program are computed; otherwise, the actual amount constitutes the base.

Part III—Report Computations

The two columns marked "Charges" and "Expenses" are computed independently for each item listed. Where the items used in the computations differ, separate instructions are given for each column.

Items 8–10. Self-explanatory.

Item 11. If the last fiscal year was governed under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), enter zero in both columns; there is no carry-over. If the last fiscal year was governed under the Phase IV regulations (6 CFR Part 150, Subpart R), then enter the same amount shown in Item 11 of Form CLC–61 which was filed last fiscal year (or the most recent amendment of that filing).

Items 12–15. Self-explanatory.

Item 16. Enter the dollar amount of your total patient-mix adjustment. If your patient-mix adjustment did not require a Cost of Living Council approval (see instructions to Schedule M for details), check "final". If your patient-mix adjustment has been approved by the Cost of Living Council either because the Council, issued an affirmative order, or because thirty days elapsed from the date of filing without your receiving a response from the Council, the entry will be taken from Item 16 of Schedule M. If you received an order from the Cost of Living Council denying the adjustment, enter zero. If you received an order from the Council modifying your adjustment, enter the amount shown in that order.

Note, however, that if the approval of this adjustment was based in whole or in part on projected or budgeted figures, a new Schedule M must be prepared for the annual report using only actual figures; the adjustment claimed may not exceed the amount previously approved or that amount actually experienced, whichever is less, unless you are now requesting approval of the amount in excess of that previously approved. Indicate by checking the applicable box whether your patient-mix adjustment has received final approval or whether you have applied for approval, but had not received a response on the date you completed Form CLC–61 (to which this Schedule is annexed), or thirty days had not elapsed by this date.

Item 17. These are blank spaces provided for special adjustments. Use them only when authorized by the Council (such as CLC Notice 74–3 Energy Needs of Acute Care Hospitals and Long Term Institutions).

Item 18. If the reported fiscal year was the inaugural year for operations resulting from a capital expenditure, enter the actual amount of total inpatient operating charges and total inpatient operating expenses attributable to the capital expenditure, but do not enter more than the amount authorized in the approval document, if applicable. If the reported fiscal year was the first full fiscal year (but not the inaugural year) for operations resulting from a capital expenditure, enter the actual incremental increase in total inpatient operating charges and total inpatient operating expenses attributable to the capital expenditure, but do not enter more than the incremental amount authorized in the approval document, if applicable.

Item 19. If you have received an exception other than an exception for a capital expenditure included in Item 18, check the applicable box indicating whether approval of the exception is final as evidenced by an Order from the Cost of Living Council or whether approval is provisional because you requested an exception subject to the 60-day clause of 6 CFR 150.714(b) and you have not received an Order from the Council within 60 days (plus any additional days required to provide additional information requested by the Council) by the date you completed Form CLC–61 to which this Schedule is attached. If the exception granted a specific total dollar amount of charges, expenses, or both, in addition to the amount otherwise authorized pursuant to the regulations, then enter the additional amount authorized by the Decision and Order in Item 19. Be certain before making an entry that your exception was for total inpatient operating expenses. Exceptions for total inpatient reimbursed expenses will be recorded in Part IV and not in this item.

If the exception granted a specific dollar amount of charges or operating expenses per admission, convert that amount to total dollars and enter the result (i.e., multiply Item 3(a) times the dollar amount per admission). If the exception granted a specific percentage increase in charges or expenses per admission, convert that amount to total dollars and enter the result.

Item 20. Self-explanatory.

Item 21. If you have not received an exception, enter "none". If you have received an exception, but the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount. If you have received an exception but the Decision and Order did not specify any limitation, then enter "none".

Item 22. If "none" is entered in Item 21, enter the amount shown in Item 20.

If there is a dollar amount entered in Item 21, then enter in Item 22 the lesser of the amounts shown in Item 20 or 21.

Items 23–24. Self-explanatory.

Item 25—Charges. If this report is being completed during the fiscal year as an aid in monitoring your own compliance with the Economic Stabilization Program, the amount shown in Item 25 is the amount (assuming the accuracy of your projections) by which you should reduce your charges in order to ensure compliance by the end of the fiscal year. You should continue to monitor to assure that your corrective action was appropriate.

If this is your annual report and the reported fiscal year has been completed, then this is the dollar amount of charges to which 6 CFR 150.720 applies. You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. The compliance plan may provide for reduction of charges, a stipulation of no charge increase during a period of time, or any other action which is reasonable and appropriate to cause the remission of such excess charges or a combination of any of the foregoing. The Cost of Living Council may approve such a plan, order certain charges, or order a different plan of its own design.

If a request for exception is pending on the date you completed Form CLC–61 to which this Schedule is attached, and the amount requested equals or exceeds the amount of the excess, you need not file your compliance plan until 20 days following receipt of an Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

Expenses. If this Item is greater than zero, you must complete Part IV of this Schedule. The fact that the "Expenses" column of Item 25 is greater than zero does not result in a violation of the Economic Stabilization regulations, but merely means that you must

complete Part IV to determine if you are in compliance on reimbursed expenses.

Item 26 (a) and (b). Self-explanatory.

Item 27. This is the amount which you will report as your carry-over next fiscal year.

Part IV—Reimbursed Expenses Computation

You are required to complete this part only if the "Expenses" column of Item 25 showed an amount greater than zero. Do not complete this part if the "Expenses" column of Item 25 is zero.

Item 28. Enter the total dollar amount of all payments for services rendered during the last fiscal year under cost reimbursement arrangements for inpatient expenses. Remember that a cost reimbursement arrangement means any formula provided by contract or legislation to calculate the final amount payable for health services furnished by an acute care hospital on the basis of cost rather than charges or on the basis of charges when the charges are less than cost. Arrangements pursuant to which the amount to be reimbursed for one year is calculated on the basis of costs occurring in any other year are not cost reimbursement arrangements.

Item 29. Enter the total admissions for the last fiscal year for patients whose care was paid for in whole or in part under a cost reimbursement arrangement.

Items 30–32. Self-explanatory.

Item 33. These are blank spaces provided for special adjustments. Use them only if you have received authorization from the Council. Do not include any amount already reported in Item 17 "Expenses".

Item 34. If you did not receive an exception for total inpatient reimbursed expenses, enter "none". If you received an exception for total inpatient reimbursed expenses in addition to those entitlements authorized pursuant to the regulations, enter the total dollar amount of the exception granted. Convert any amount stated as a per admission rate (either dollars or percentage) to total dollars. Be certain before making an entry that your exception was for total inpatient reimbursed expenses. Exceptions for total inpatient operating expenses should have been recorded in Item 19 "Expenses" and not in this Item. Also, check the appropriate box indicating whether this exception has received final approval as evidenced by an Order from the Cost of Living Council or whether approval was provisional because you requested an exception subject to the 60-day clause and 60 days had elapsed at the time you completed Form CLC–61 to which this Schedule is attached.

Item 35. Self-explanatory.

Item 36. If you have not received an exception or if you have received an exception for total inpatient reimbursed expenses, but the exception did not specify any limitations, then enter "none". If the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount.

Items 37–38. Self-explanatory.

Item 39. If Item 39 is greater than zero, the lesser of the amount shown in this item or in the "Expenses" column of Item 25 is the total dollar amount which will normally be credited to settlements with cost reimbursers on a pro-rata basis. You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. The Cost of Living Council may approve such a plan, order certain changes, or order a different plan of its own design. If a request for exception for an amount at least equal to the amount of the excess was pending on the date you completed Form CLC–61 (to which this Schedule is attached), you need not file your compliance plan until 20 days following receipt of an Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

Part V—Prospective Rate Computation

Complete this part only if any third party payors reimburse you for the inpatient health care of their subscribers or beneficiaries on the basis of prospective rates rather than charges or reimbursable expense. "Prospective rates" means a system of payments applicable to third party payors established in advance for health care services, without provision for retrospective adjustment based on actual charges or costs incurred during the year in which the services were rendered.

Item 40. Enter the actual total charges billed to or on behalf of inpatients covered by third party payors who pay under prospective rates.

Item 41. If the amount shown in the "Charges" column of Item 25 is greater than zero, then divide that amount by the amount shown in the "Charges" column of Item 24. If the amount shown in the "Charges" column of Item 25 is zero, enter "N.A."

Items 42 and 43. Self-explanatory.

Item 44. If you have received an exception granting a specific total dollar amount of prospective rate revenues in excess of the charges to inpatients covered under prospective rates, enter that amount in this Item. Convert any amount expressed as a rate per admission (either dollars or percentage) to a total dollar amount. Check the applicable box indicating whether this exception had received final approval as evidenced by an Order issued by the Cost of Living Council, or whether approval was provisional because you requested an exception subject to the 60-day clause and 60 days had elapsed at the time you completed Form CLC–61 to which this Schedule is attached. Remember that an exception which is approved provisionally may be revoked or modified at a future time.

Item 45. Self-explanatory.

Item 46. If you have not received an exception or if you have received an exception which did not state a specific limitation, enter "none." If the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount.

Item 47. Self-explanatory.

Item 48. Enter the actual total of all revenues received from prospective rate payors. "Received" means paid, accrued, or both.

Item 49. If this item is greater than zero, this is the total dollar amount of prospective rate revenues which will normally be credited to settlements with third party payors who paid on a prospective rate system.

You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. The Council may approve such a plan, order certain changes, or order a different plan of its own design. If a request for exception for an amount at least equal to the amount of the excess was pending on the date you completed Form CLC–61 (to which this Schedule is attached), you need not file your compliance plan until 20 days following receipt of an Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

ECONOMIC STABILIZATION PROGRAM

Inpatient Computation for Acute Care Hospitals With Admissions Increase or Constant Admissions

SCHEDULE I
CLC Form-61
(Proposed March 1974)

CLC USE ONLY

Docket Number

Part I. - Identifying Data

1. (a) Name of Hospital

(b) Address (City, State)

(c) Federal Identification Number

2. Report for Fiscal Year ended Month Day Year

Part II. - Base Information

3. (a) Total admissions in Reported Fiscal Year .....

(b) Total admissions in Last Fiscal Year .....

4. Admissions inside zone (not subject to volume adjustment -- see instructions) .....

5. Admissions outside zone (subject to volume adjustment -- see instructions) .....

6. Lesser of actual or authorized charges per admission Last Fiscal Year [From CLC Form-61, lesser of Item 5 Col(b) or Col(c)] ..... $

7. Lesser of actual or authorized expenses per admission Last Fiscal Year [From CLC Form-61, lesser of Item 6 Col(b) or Col(c)] ..... $

Part III. - Report Computations

	Charges	Expenses
8. Total Charges and Expenses for admissions inside zone Charges: Item 4 X Item 6 X 1.075 ..... Expenses: Item 4 X Item 7 X 1.075	$	$
9. Total Charges and Expenses for admissions outside zone Charges: Item 5 X Item 6 X 0.43 ..... Expenses: Item 5 X Item 7 X 0.43	$	$
10. Total before last year carry-over ..... Item 8 plus Item 9	$	$
11. Last year carry-over ..... See instructions	$	$
12. Preliminary Basic Allowance ..... Item 10 plus Item 11	$	$
13. Minimum Total Charges and Expenses authorized per regulations Charges: Item 3(a) X Item 6 X 1.03 ..... Expenses: Item 3(a) X Item 7 X 1.03	$	$
14. Basic Allowance ..... Greater of Item 12 or Item 13	$	$

	Charges	Expenses
15. (a) Basic per admission rate - Item 14 divided by Item 3(a)	$	$
(b) Ratio to LFY		
Charges: Item 15(a) divided by Item 6		
Expenses: Item 15(a) divided by Item 7		
16. Total patient mix adjustment From Schedule M, Item 16 -- ☐ Final ☐ Pending approval	$	$
17. Special adjustments (specify and attach documentation) (a)	$	$
(b)	$	$
(c)	$	$
18. Total authorized inpatient operating Charges&Expenses for capital expenditure approved pursuant to 6 CFR 150.713 or 150.714(c) Attach documentation and check box ☐ Approved ☐ Provisional	$	$
19. Additional amount authorized by exception not included in Item 18 See instructions and check box ☐ Approved ☐ Provisional	$	$
20. Preliminary total authorization -- Sum of Items 14, 16, 17, 18 & 19	$	$
21. Limitation imposed by exception, if any See instructions	$	$
22. Authorized total inpatient operating Charges&Expenses Lesser of Item 20 or Item 21	$	$
23. (a) Total per admission rate - Item 22 divided by Item 3(a)	$	$
(b) Ratio to LFY		
Charges: Item 23(a) divided by Item 6		
Expenses: Item 23(a) divided by Item 7		
24. Actual total inpatient operating Charges&Expenses	$	$
25. Amount of excess if any If Item 24 is greater than Item 22, enter the difference; if not, enter a zero. Charges: See instructions for remedies Expenses: If this item is greater than zero, complete Part IV	$	$
26. (a) Amounts not eligible for carry-over Item 11 plus Item 19	$	$
(b) Total authorization exclusive of ineligible items Item 22 minus Item 26(a)	$	$
27. Carry-over available next fiscal year If Item 26(b) is greater than Item 24, enter the difference; if not, enter a zero.	$	$

Part IV. - Reimbursed Expenses Computation

Complete this part only if the "Expenses" column of Item 25 shows an amount greater than zero. See instructions.

28. Total inpatient reimbursed expenses in LFY	$
29. Admissions covered under cost reimbursement arrangements in LFY	$
30. LFY inpatient reimbursed expenses per admission Item 28 divided by Item 29	$
31. Admissions covered under cost reimbursement arrangements in RFY	$
32. Total authorization in RFY before adjustments Item 31 times Item 30 Times Item 23(b) Expenses	$
33. Special adjustments - See instructions and attach computations and authority (a)	$
(b)	$

34. Additional amount authorized by exception - See instructions and check applicable box - ☐ Approved ☐ Provisional $

35. Preliminary total authorization ..... $
Sum of Items 32, 33, and 34

36. Limitation imposed by exception - see instructions ..... $

37. Authorized total inpatient reimbursed expenses in RFY ..... $
Lesser of Item 35 or 36

38. Actual total inpatient reimbursed expenses in RFY ..... $

39. Amount of excess, if any ..... $
If Item 38 is greater than Item 37, enter the difference; if not, enter a zero.
If this Item is greater than zero, see instructions for remedies.

Part V. - Prospective Rate Computations

Complete this part only if any third party payor reimburses under prospective rates rather than charges or reimbursable expenses.

40. Actual total charges to inpatients covered under prospective rates in RFY ..... $

41. Reduction ratio for total inpatient operating charge overage, if any ..... $
Item 25 "Charges" divided by Item 24 "Charges"; if Item 25 is zero, enter "N.A."

42. Excess charges to inpatients covered under prospective rates ..... $
Item 40 times Item 41

43. Authorized inpatient charges to prospective rate payors before exception ..... $
Item 40 minus Item 42

44. Additional amount authorized by exception ..... $
See instructions and check applicable box - ☐ Approved ☐ Provisional

45. Preliminary authorization ..... $
Item 43 plus Item 44

46. Limitation imposed by exception ..... $
See instructions

47. Authorized total inpatient charges to prospective rate payors in RFY ..... $
Lesser of Item 45 or 46

48. Actual total revenues received or accrued from prospective rate payors in RFY ..... $

49. Amount of excess, if any ..... $
If Item 48 is greater than Item 47, enter the difference; otherwise enter a zero.
If this amount is positive, see instructions for remedies.

INSTRUCTIONS FOR SCHEDULE I OF FORM CLC–61—INPATIENT COMPUTATIONS FOR ACUTE CARE HOSPITALS WITH ADMISSIONS INCREASE OR CONSTANT ADMISSIONS

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974.

Complete this Schedule only if the hospital had the same or a greater number of admissions in the reported fiscal year as compared to the last fiscal year; that is on Form CLC–61, if Item 3(f), is the same as or greater than Item 3(g), use this Schedule. If the hospital had fewer admissions, use Schedule D instead.

SPECIFIC INSTRUCTIONS

Before completing this Schedule be sure that you have completed Items 1–4 and Columns (a), (b), and (c) of Item 5 and 6 of Form CLC–61. Note, however, that you need not complete Item 3(h) or 3(i) unless you are required to complete Part IV of this Schedule. Be sure that you have thoroughly read instructions for all items mentioned on Form CLC–61.

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c). Enter the Federal Identification Number which the hospital uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Part II—Base Information

Item 3(a). This number must agree with Form CLC–61, Item 3(f).

(b). This number must agree with Form CLC–61, Item 3(g).

Items 4 and 5. Pursuant to 6 CFR 150.706, hospitals are required to make certain adjustments if admissions fluctuate beyond specified percentages. The "zone", as used in these items, refers to the limits within which no volume adjustment is required and outside of which an adjustment must be made.

Find the description below which applies to your hospital and follow the instructions for that description.

If your hospital had the same number of admissions in the reported fiscal year as in the last fiscal year, enter that number in Item 4 and enter a zero in Item 5.

If in the reported fiscal year your hospital first qualified as a new facility, or if the reported fiscal year was your first full (12-month) fiscal year of operations in a new facility, then see instructions to Item 4(c) of Form CLC–61.

If your hospital meets the definition of a new facility and the reported fiscal year was your second full (12-month) fiscal year of operations, then all admissions are within the zone. Enter in Item 4 the same number shown in Item 3(a), and enter zero in Item 5.

If none of the above descriptions applies to your hospital, perform the computations below and note the special instructions in Step 2. (Numbers determined in Steps 5 and 6 will be entered on Schedule I as indicated.)

Step 1. Enter LFY admissions (Schedule I, Item 3(b)). _____

Step 2. If you had fewer than 4,000 admissions in the last fiscal year or if your total inpatient operating charges in the last fiscal year were less than $2,500,000, enter 1.04; otherwise, enter 1.02.

Step 3. Multiply the entry in Step 1 by the entry in Step 2 and enter the product. _____

Step 4. Enter RFY admissions (Schedule I, Item 3(a)). _____

Step 5. Admissions within zone. Enter the lesser of the entries in Steps 3 or 4; enter this number also in Item 4 of Schedule I. _____

Step 6. Admissions outside zone. If the entry in Step 4 is greater than the entry in Step 5, enter the difference; otherwise, enter a zero. Enter the same number in Item 5 of Schedule I. _____

Items 6 and 7. When the authorized amount or percentage is less than the actual amount or percentage, the authorized amount or percentage forms the base from which the succeeding year's entitlements under the Economic Stabilization Program are computed; otherwise, the actual amount constitutes the base.

Part III—Report Computations

The two columns marked "Charges" and "Expenses" are computed independently for each item listed. Where the items used in the computations differ, separate instructions are given for each column.

Items 8–10. Self-explanatory.

Item 11. If the last fiscal year was governed under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), enter zero in both columns; there is no carryover. If the last fiscal year was governed under the Phase IV regulations (6 CFR Part 150, Subpart R), then enter the same amount shown in Item 11 of Form CLC–61 which was filed last fiscal year (or the most recent amendment of that filing).

Items 12–15. Self-explanatory.

Item 16. Enter the dollar amount of your total patient-mix adjustment. If your patient-mix adjustment did not require a Cost of Living Council approval (see instructions to Schedule M for details), check "final". If your patient-mix adjustment has been approved by the Cost of Living Council either because the Council, issued an affirmative order, or because thirty days elapsed from the date of filing without your receiving a response from the Council, the entry will be taken from Item 16 of Schedule M. If you received an order from the Cost of Living Council denying the adjustment, enter zero. If you received an order from the Council modifying your adjustment, enter the amount shown in that order.

Note, however, that if the approval of this adjustment was based in whole or in part on projected or budgeted figures, a new Schedule M must be prepared for the annual report using only actual figures; the adjustment claimed may not exceed the amount previously approved or that amount actually experienced, whichever is less, unless you are now requesting approval of the amount in excess of that previously approved. Indicate by checking the applicable box whether your patient-mix adjustment has received final approval or whether you have applied for approval, but had not received a response on the date you completed Form CLC–61 (to which this Schedule is annexed), or thirty days had not elapsed by this date.

Item 17. These are blank spaces provided for special adjustments. Use them only when authorized by the Council (such as CLC Notice 74–3 Energy Needs of Acute Care Hospitals and Long Term Institutions).

Item 18. If the reported fiscal year was the inaugural year for operations resulting from a capital expenditure, enter the actual amount of total inpatient operating charges and total inpatient operating expenses attributable to the capital expenditure, but do not enter more than the amount authorized in the approval document, if applicable. If the reported fiscal year was the first full fiscal year (but not the inaugural year) for operations resulting from a capital expenditure, enter the actual incremental increase in total inpatient operating charges and total inpatient operating expenses attributable to the capital expenditure, but do not enter more than the incremental amount authorized in the approval document, if applicable.

Item 19. If you have received an exception other than an exception for a capital expenditure included in Item 18, check the applicable box indicating whether approval of the exception is final as evidenced by an Order from the Cost of Living Council or whether approval is provisional because you requested an exception subject to the 60-day clause of 6 CFR 150.714(b) and you have not received an Order from the Council within 60 days (plus any additional days required to provide additional information requested by the Council) by the date you completed Form CLC–61 to which this Schedule is attached. If the exception granted a specific total dollar amount of charges, expenses, or both, in addition to the amount otherwise authorized pursuant to the regulations, then enter the additional amount authorized by the Decision and Order in Item 19. Be certain before making an entry that your exception was for total inpatient operating expenses. Exceptions for total inpatient reimbursed expenses will be recorded in Part IV and not in this item.

If the exception granted a specific dollar amount of charges or operating expenses per admission, convert that amount to total dollars and enter the result (i.e., multiply Item 3(a) times the dollar amount per admission). If the exception granted a specific percentage increase in charges or expenses per admission, convert that amount to total dollars and enter the result.

Item 20. Self-explanatory.

Item 21. If you have not received an exception, enter "none". If you have received an exception, but the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount. If you have received an exception but the Decision and Order did not specify any limitation, then enter "none".

Item 22. If "none" is entered in Item 21, enter the amount shown in Item 20. If there is a dollar amount entered in Item 21, then enter in Item 22 the lesser of the amounts shown in Item 20 or 21.

Items 23–24. Self-explanatory.

Item 25—Charges. If this report is being completed during the fiscal year as an aid in monitoring your own compliance with the Economic Stabilization Program, the amount shown in Item 25 is the amount (assuming the accuracy of your projections) by which you should reduce your charges in order to ensure compliance by the end of the fiscal year. You should continue to monitor to assure that your corrective action was appropriate.

If this is your annual report and the reported fiscal year has been completed, then this is the dollar amount of charges to which 6 CFR 150.720 applies. You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. The compliance plan may provide for reduction of charges, a stipulation of no charge increase during a period of time, or any other action which is reasonable and appropriate to cause the remission of such excess charges or a combination of any of the foregoing. The Cost of Living Council may approve such a plan, order certain charges, or order a different plan of its own design.

If a request for exception is pending on the date you completed Form CLC–61 to which this Schedule is attached, and the amount requested equals or exceeds the amount of the excess, you need not file your compliance plan until 20 days following receipt of an

Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

Expenses. If this Item is greater than zero, you must complete Part IV of this Schedule. The fact that the "Expenses" column of Item 25 is greater than zero does not result in a violation of the Economic Stabilization regulations, but merely means that you must complete Part IV to determine if you are in compliance on reimbursed expenses.

Item 26 (a) and (b). Self-explanatory.

Item 27. This is the amount which you will report as your carry-over next fiscal year.

Part IV—Reimbursed Expenses Computation

You are required to complete this part only if the "Expenses" column of Item 25 showed an amount greater than zero. Do not complete this part if the "Expenses" column of Item 25 is zero.

Item 28. Enter the total dollar amount of all payments for services rendered during the last fiscal year under cost reimbursement arrangements for inpatient expenses. Remember that a cost reimbursement arrangement means any formula provided by contract or legislation to calculate the final amount payable for health services furnished by an acute care hospital on the basis of cost rather than charges or on the basis of charges when the charges are less than cost. Arrangements pursuant to which the amount to be reimbursed for one year is calculated on the basis of costs occurring in any other year are not cost reimbursement arrangements.

Item 29. Enter the total admissions for the last fiscal year for patients whose care was paid for in whole or in part under a cost reimbursement arrangement.

Items 30–32. Self explanatory.

Item 33. These are blank spaces provided for special adjustments. Use them only if you have received authorization from the Council. Do not include any amount already reported in Item 17 "Expenses".

Item 34. If you did not receive an exception for total inpatient reimbursed expenses, enter "none". If you received an exception for total inpatient reimbursed expenses in addition to those entitlements authorized pursuant to the regulations, enter the total dollar amount of the exception granted. Convert any amount stated as a per admission rate (either dollars or percentage) to total dollars. Be certain before making an entry that your exception was for total inpatient reimbursed expenses. Exceptions for total inpatient operating expenses should have been recorded in Item 19 "Expenses" and not in this Item. Also, check the appropriate box indicating whether this exception has received final approval as evidenced by an Order from the Cost of Living Council or whether approval was provisional because you requested an exception subject to the 60-day clause and 60 days had elapsed at the time you completed Form CLC–61 to which this Schedule is attached.

Item 35. Self-explanatory.

Item 36. If you have not received an exception or if you have received an exception for total inpatient reimbursed expenses, but the exception did not specify any limitations, then enter "none". If the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount.

Items 37–38. Self-explanatory.

Item 39. If Item 39 is greater than zero, the lesser of the amount shown in this item or in the "Expenses" column of Item 25 is the total dollar amount which will normally be credited to settlements with cost reimbursers on a pro-rata basis. You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. The Cost of Living Council may approve such a plan, order certain changes, or order a different plan of its own design. If a request for exception for an amount at least equal to the amount of the excess was pending on the date you completed Form CLC–61 (to which this Schedule is attached), you need not file your compliance plan until 20 days following receipt of an Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

Part V—Prospective Rate Computation

Complete this part only if any third party payors reimburse you for the inpatient health care of their subscribers or beneficiaries on the basis of prospective rates rather than charges or reimbursable expense. "Prospective rates" means a system of payments applicable to third party payors established in advance for health care services, without provision for retrospective adjustment based on actual charges or costs incurred during the year in which the services were rendered.

Item 40. Enter the actual total charges billed to or on behalf of inpatients covered by third party payors who pay under prospective rates.

Item 41. If the amount shown in the "Charges" column of Item 25 is greater than zero, then divide that amount by the amount shown in the "Charges" column of Item 24. If the amount shown in the "Charges" column of Item 25 is zero, enter "N.A."

Items 42 and 43. Self-explanatory.

Item 44. If you have received an exception granting a specific total dollar amount of prospective rate revenues in excess of the charges to inpatients covered under prospective rates, enter that amount in this Item. Convert any amount expressed as a rate per admission (either dollars or percentage) to a total dollar amount. Check the applicable box indicating whether this exception had received final approval as evidenced by an Order issued by the Cost of Living Council, or whether approval was provisional because you requested an exception subject to the 60-day clause and 60 days had elapsed at the time you completed Form CLC–61 to which this Schedule is attached. Remember that an exception which is approved provisionally may be revoked or modified at a future time.

Item 45. Self-explanatory.

Item 46. If you have not received an exception or if you have received an exception which did not state a specific limitation, enter "none." If the exception was granted on the condition that the hospital not exceed a specified limitation, enter the amount of that limitation. Convert any limitation stated as a per admission rate (either dollars or percentage) to a total dollar amount.

Item 47. Self-explanatory.

Item 48. Enter the actual total of all revenues received from prospective rate payors. "Received" means paid, accrued, or both.

Item 49. If this item is greater than zero, this is the total dollar amount of prospective rate revenues which will normally be credited to settlements with third party payors who paid on a prospective rate system. You must submit with your annual report a plan for achieving compliance to the Office of Health, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. The Council may approve such a plan, order certain changes, or order a different plan of its own design. If a request for exception for an amount at least equal to the amount of the excess was pending on the date you completed Form CLC–61 (to which this Schedule is attached), you need not file your compliance plan until 20 days following receipt of an Order from the Council denying your request or granting an amount less than that necessary to remove the excess.

SCHEDULE M
Form CLC-61
(Proposed March 1974)

ECONOMIC STABILIZATION PROGRAM

Patient Mix Adjustment For
Acute Care Hospitals

CLC USE ONLY

Docket Number

Part I. - Identifying Data

1. (a) Name of Hospital

(b) Address (City, State)

(c) Federal Identification Number

2. Report for Fiscal Year ended Month Day Year

3. (a) This Schedule is filed as a ☐ prenotification; this report contains some budgeted figures.
☐ part of my annual report; all figures used are actual.

(b) Approval of the amount shown in Item 17
☐ was received; see copy of attached Order.
☐ is assumed; request was filed _____. mo/day/yr
Docket Number _____.
and 30 day clock has expired.
☐ is not required.

(c) Approval of the amount shown in Item 15 (if this is a prenotification) or Item 18 (if this is the annual report)
☐ is requested now.
☐ is pending; request was filed _____. mo/day/yr
Docket Number _____.
and 30 day clock has not yet expired.

Part II - Patient Mix Factor

4. Total admissions in last fiscal year ..... _____
From Schedule D or I, Item 3(b)

5. Total admissions in reported fiscal year ..... _____
From Schedule D or I, Item 3(a)

6. Actual charges per admission in LFY ..... $_____
From Form CLC-61, Item 5, Column (b)

7. Total LFY restated charges (From Item 20 of this Schedule)..... $_____

8. LFY restated charges per admission ..... $_____
Item 7 divided by Item 4

9. Amount of change due to mix ..... $_____
Item 8 minus Item 6

10. Patient mix factor expressed as a decimal ..... _____
Item 9 divided by Item 6

Part III - Report Computations and Prenotification	Charges	Expenses
11. Lesser of actual or authorized charges/expenses per admission in LFY.... Charges: From Schedule D or I, Item 6 Expenses: From Schedule D or I, Item 7	$	$
12. Incremental increase ratio of basic rate ..... From Schedule D or I, Item 15(b) minus the number 1	$	$
13. Limit of increase ratio not requiring prenotification ..... Item 12 times 0.25		
14. Total dollar amount of limitation not requiring prenotification ..... Item 5 times Item 11 times Item 13	$	$
15. Maximum patient mix adjustment..... Item 5 times Item 11 times Item 10	$	$
16. Total amount claimed for patient mix adjustment ..... (Must not exceed Item 15)	$	$
17. Amount previously approved or not requiring approval, if any ..... See instructions.	$	$
18. Amount for which approval is pending or is now sought, if any ..... Item 16 minus Item 17 - See instructions for required actions.	$	$

Part IV. - Restatement of LFY Total Charges

19. Computation of Restated Total Inpatient Operating Charges

Indicate patient allocation system used - See instructions for descriptions of systems.

☐ System A

☐ System B: ICDA ☐ or H-ICDA ☐

☐ Other - attach a copy of system approval from COLC

Category (a)	LFY Admissions (b)	LFY Gross Charge per Admission (See instructions) (c)	RFY Admissions (d)	RFY Ratios (e)	LFY Restated Admissions [Item 4 X Item 19 Col(e)] (f)	LFY Restated Total Charges Col(c) X Col(f) (g)

20. Total LFY Restated Charges ..... $_____
Sum of all entries in Item 19 Col(g)
Enter here and in Item 7.

INSTRUCTIONS FOR SCHEDULE M OF FORM CLC-61—PATIENT MIX ADJUSTMENT FOR ACUTE CARE HOSPITALS

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974.

1. Schedule M will be used by an acute care hospital to show its computations supporting the amount of its claim for a significant change in patient mix to be entered in Item 16 of Schedule D or I.

2. This schedule will be used to determine whether prenotification of a claimed adjustment is required and if so, will be used in conjunction with Form CLC-61 as the prenotification document.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c). Enter the Federal Identification Number which the hospital uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Item 3 (a)–(c). Complete the remainder of this Schedule before completing these items. Then indicate by checking the appropriate boxes, the status of the patient mix adjustment you are claiming as of the date that you completed Form CLC-61 to which this Schedule is attached. Where appropriate, complete the indicated blanks. Check only one box in each item.

Part II—Patient Mix Factor

Items 4–10. Self-explanatory.

Part III—Report Computations and Prenotification Requirements

The two columns marked "Charges" and "Expenses" are computed independently for each item listed. Where the items used in the computations differ, separate instructions are given for each column.

Items 11–15. Self-explanatory.

Item 16. Enter in this item the total dollar amount of the adjustment for changes in patient mix which you are claiming (or wish to claim, if this is a prenotification) in Item 16 of Schedule D or I. This amount may not exceed the amount shown in Item 15 of this Schedule, but it may be less.

Item 17. If this is a prenotification (i.e., the computations in this Schedule are based in whole or in part on budgeted or projected figures) and the amount shown in Item 16 is greater than the amount shown in Item 14, then enter a zero; otherwise, enter the amount shown in Item 16.

If this is part of your annual report (i.e., the computations in this Schedule are based entirely on actual figures) and either (1) the amount shown in Item 16 is less than or equal to the amount shown in Item 14, or (2) you have previously for the reported fiscal year received approval of an amount at least equal to the amount shown in Item 16, then enter the amount shown in Item 16; otherwise enter the amount shown in Item 14.

Item 18. If this amount is greater than zero and the computations are based in whole or in part on budgeted or projected figures, you are required to prenotify the Cost of Living Council of the adjustment claimed in Item 16.

To make this prenotification, you will need to complete Schedule M and Schedule D or I and attach both to Form CLC-61. On Form CLC-61, you need complete only the following items: Part I, Part V, Part VI, and Items 5 and 6, columns (a), (b), and (c) of Part II.

On Schedule D or I, complete the following items: Part I, Part II, and in Part III, the "Charges" column of Items 8–15. On Schedule M, do not forget to complete Item 3 (a), (b), and (c).

If this amount is greater than zero and the computations are based entirely on actual figures, you must request approval of that portion of the total adjustment shown in this item. To do this, file Schedule M with your annual report (Form CLC-61). Do not forget to complete Item 3 (a), (b) and (c) of this Schedule. A request for approval of a patient mix adjustment cannot be accepted after the date your annual report is filed.

Part IV—Restatement of Last Fiscal Year Total Charges

Item 19. Check the box which shows which system of patient allocation you used in the computations below. Under normal circumstances, you must use one of the following standard patient allocation systems to allocate admissions.

System A. An acute care hospital may classify admissions among the following categories:

Medical
Surgical
Pediatric
Obstetric
Psychiatric

System B. An acute care hospital may use the Eighth Revision, International Classification of Diseases, Adapted for Use in the United States, (ICDA, Public Health Service Publication No. 1693, U.S. Department of Health, Education, and Welfare, Superintendent of Documents, U.S. Government Printing Office) or the Hospital Adaptation—International Classification of Diseases Adapted For Use in the United States (H–ICDA, 1968 edition, Commission on Professional and Hospital Activities, 1968 Green Road, Ann Arbor, Michigan 48105) in such a way as to include at least 85 percent of its admissions. The balance of the admissions must be included as "other."

Other. If you do not wish to use one of the standard patient allocation systems described above, or the standard methodology presented in this item, you must receive approval from the Cost of Living Council to use a system different from those set forth here. You must demonstrate in documentation accompanying the request for approval of the different system or methodology, the validity and reliability of your data and the proposed method to identify the effects of change in patient mix. Once you have received approval of the alternative system or methodology you may use it in subsequent computations on the Schedule. If the methodology differs from that presented, use the approved method in lieu of Item 18. Attach a copy of the approval document and of your computations.

Column (a). Enter each of the basic patient categories from the patient allocation system chosen.

Column (b). For each patient category, enter the number of admissions in the last fiscal year.

Column (c). Enter the last fiscal year gross charge per admission. The regulations allow you to determine the figure by means of a valid statistical sample. On a separate sheet of paper, describe in detail the sampling method used and indicate the size of the sample.

Column (d). For each patient category, enter the number of admissions in the reported fiscal year.

Column (e). Enter the weighting factor or ratio for each category. To do this, divide each entry in Column (d) by the total admissions in the reported fiscal year which is shown in Item 5. Leave this amount expressed as a decimal correct to four places.

Column (f). For each category, enter restated admissions for the last fiscal year. To do this, multiply the total number of admissions for the last fiscal year (which is shown in Item 4) by the ratio or weighting factor shown in Column (e) for each category.

Column (g). For each category multiply the entry in Column (c) by the entry in Column (f).

Item 20. Self-explanatory.

SCHEDULE O
Form CLC-61
Form CLC-71
(Proposed March 1974)

ECONOMIC STABILIZATION PROGRAM

Outpatient Computations for Acute Care Hospitals and Long Term Care Institutions

CLC USE ONLY

Docket Number

Part I. - Identifying Data

1. (a) Name of Hospital or Long Term Care Institution

(b) Address (City, State)

(c) Federal Identification Number

2. Report for Fiscal Year ended Month Day Year

3. This Institution chose: ☐ Unit charge increase of ___ percent
☐ Aggregate weighted charge increase

Part II. - Report Computations

		Charges
4.	Basic allowance for reported fiscal year	6.00 %
5.	Carry-over from last fiscal year - see instructions	%
6.	Additional percentage authorized by exception Attach documentation and check applicable box ☐ Final ☐ Provisional	%
7.	Special adjustments (specify and attach documentation - see instructions) (a)	%
	(b)	%
8.	Authorized total increase - Sum of Items 4,5,6 and 7	%
9.	Actual increase implemented If unit charge increase, from Item 3 If AWPI, from Item 10	%
10.	Amount of excess, if any Item 9 minus Item 8, but not less than zero See instructions for remedies	%
11.	Amount of carry-over available next fiscal year Item 4 minus Item 9, but not less than zero	%

12. (Non unit charge only) Did the charge for any individual service or property increase more than 10 percent or $1.00 or the percentage shown in Item 8, whichever is greatest? Yes ☐ No ☐
If yes, attach a list showing each such charge, the former charge, and the percentage increase, or attach a copy of your authorization to make such an increase.
See instructions.

Part III. - Computation of Percentage Aggregate Weighted Charge Increase

Complete this part only if you chose the aggregate weighted charge increase rather than the unit charge increase.

Charges

13. Total gross charges in the last fiscal year for all services or property subject to 6 CFR 150.707 or 150.775..... $

14. Primary method for computation of %AWCI - see instructions

Description of Service or Property (a)	Charge on Last Day of Last Fiscal Year (b)	Highest Charge During Reported Fiscal Year (c)	Percentage Charge Change (See instructions) (d)	Last Fiscal Year's Actual Charges (e)	Weighting Factor (See instructions) (f)	Percentage Weighted Charge Change (g)

15. Total %AWCI for primary method [Sum of all entries in Item 14 Column(g)] ..... %

16. Secondary method for computation of %AWCI - see instructions

Group of Services or Property (a)	Individual Service or Property on Which Highest Percentage Charge Increase Made (b)	Percentage Charge Increase On That Service (c)	Actual Gross Charges LFY For Entire Group (d)	Weighting Factor (e)	Percentage Weighted Charge Increase (f)

Charges

17. Total %AWCI for secondary method ..... %
[Sum of all entries in Item 16 Column (f)]

18. Total %AWCI - Item 15 plus Item 17 ..... %
Enter here and in Item 9

INSTRUCTIONS FOR SCHEDULE O TO FORM CLC–61 AND FORM CLC–71—OUTPATIENT COMPUTATIONS FOR ACUTE CARE HOSPITALS AND LONG TERM CARE INSTITUTIONS

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974:

Who must file. This Schedule must be prepared by all acute care hospitals and long term care institutions with covered outpatient services if any charge was increased during the reported fiscal year. Acute care hospitals will file the Schedule with Form CLC–61; long term care institutions will file the Schedule with Form CLC–71. Throughout these instructions, "institution" refers both to acute care hospitals and to long term care institutions.

Covered outpatient services. If you are a long term care institution, all services provided on an outpatient basis are covered services and property subject to 6 CFR 150.775 and must be included in your computations on this Schedule.

If you are an acute care hospital, "covered outpatient services" means those outpatient services to which the provisions of 6 CFR 150.707 apply. The coverage includes (1) all charges in each revenue department and cost center, as determined by the hospital's customary accounting practice, in which at least 70 percent of the gross charges of that revenue department or cost center was attributable to the provision of outpatient services; and (2) the charge for each outpatient service which differs from the inpatient charge for the same service.

For example, in a particular revenue department or cost center in which 75 percent of the gross charges were billed to outpatients and 25 percent of the gross charges were billed to inpatients, all charges in that department are subject to the limitations of 6 CFR 150.707. The 75 percent billed to outpatients must comply only with the outpatient limitations, but the 25 percent that is billed to inpatients must conform both to the outpatient limitation and to the inpatient limitation; i.e., the increasing of charges on that 25 percent may not cause a hospital to exceed the limitations on inpatient charges. All charges attributable to the provision of inpatient services must be included in the total inpatient operating charges subject to the limitations of 6 CFR 150.705 and 150.706.

In any other department in which less than 70 percent of the gross charges are attributable to the provision of outpatient services, no charge is subject to more than one control and some charges are not controlled at all, as explained below. Again, all charges attributable to the provision of inpatient services are included in the computations made under 6 CFR 150.705 and 150.706, as shown in Schedule D or I. For the remainder of the charges in that department, if the charge for a particular service rendered to an outpatient differs from the charge for the same service rendered to an inpatient, then the charge for the outpatient service is a covered outpatient service. For example, if you charge $15 for a chest X-ray when it is rendered to an outpatient, and you charge $10 for a chest X-ray when rendered to an inpatient, the $15 outpatient charge for a chest X-ray is a covered outpatient service. However, if you charge $10 to all patients, whether treated on an inpatient or outpatient basis, then those charges billed to outpatients are not covered outpatient services. The charges for any services that are exclusively provided to outpatients and which are not in a revenue department or cost center in which at least 70 percent of the gross charges are attributable to the provision of outpatient services, are not included as covered outpatient services and hence are not subject to controls.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c) Enter the Federal Identification Number which the institution uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Item 3. Check the appropriate box to indicate how your charge increase was implemented. If the unit charge increase method is checked, enter the uniform percentage increase implemented.

Part II—Report Computations

Item 4. Self-explanatory.

Item 5. If last fiscal year was controlled under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), enter a zero; there is no carry over. If last fiscal year was controlled under the Phase IV regulations (6 CFR Part 150, Subpart R), enter the amount shown in Item 11 of this schedule which was filed with Form CLC–61 or CLC–71 for the preceding fiscal year.

Item 6. If no exception was granted, enter a zero. If an exception was granted for a specific percentage in addition to that percentage authorized under the regulations, enter the specified percentage. If an exception was granted for a specific percentage including that percentage authorized as your basic entitlements (6 percent plus your carry over from the last fiscal year), then deduct the total of Items 4 and 5 from the authorized exception and enter the result in Item 6. Also check the applicable box indicating whether approval is final as evidenced by an Order from the Cost of Living Council or whether approval was provisional because it was an exception subject to the 60-day clause of 6 CFR 150.714(b) or 150.782(b) and 60 days had elapsed at the time you completed Form CLC–61 or Form CLC–71 to which this Schedule is attached.

Item 7. These are blank spaces provided for special adjustments. Use them only if you have received authorization from the Council.

Items 8–9. Self-explanatory.

Item 10. If the percentage shown in this item is greater than zero, you have implemented a charge increase in excess of that permitted under the regulations. When you file your report, you must file a plan for achieving compliance with the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. Such a compliance plan may provide for a reduction of charges, a stipulation of no charge increases for a certain period of time, refunds, any other action which is reasonable and appropriate to cause the remission of excess charges or revenues or a combination of any of the foregoing. The Council may approve such a plan, order certain changes, or order a different plan of its own design. If there is pending on the date you complete the Form CLC–61 or Form CLC–71 (to which this Schedule is attached) a request for exception, which, if granted, would remove the violation, then you need not file your compliance plan until 20 days following the date on which you receive an Order from the Council denying your request or granting a percentage less than that necessary to remove the violation.

If, however, you are using this Schedule to monitor your compliance before the end of the fiscal year, and you find that you have an excess in Item 10, you should take immediate steps to correct your charge structure so that by the close of your fiscal year, you will not have an excess in this item. Give details of your corrective action with your annual report. As long as such action is completed before the end of the reported fiscal year, you may use the average charge for the year in lieu of the highest charge for the year in Item 14.

Item 11. Self-explanatory. This is the amount which you will enter in Item 5 of this schedule when you file your report for your next fiscal year.

Item 12. Check the applicable box. If you answer "yes," such charges must be covered in your compliance plan which you submit to the Council unless you have received an exception to the unit charge limitations.

Part III—Computation of Percentage Aggregate Weighed Charge Increase

Complete this part only if in Item 3 you checked "aggregate weighed charge increase" rather than the "unit charge increase".

SPECIAL NOTE: When this schedule is being prepared for submission with Form CLC–61 or CLC–71 as part of your annual report, it is not necessary to complete Items 14 or 16 on the copy of the schedule that is filed. You must retain a copy of these computations in the prescribed format in your records and be prepared to submit them if requested.

Item 13. Enter the total gross charges in the last fiscal year for all services or properties subject to 6 CFR 150.707 or 6 CFR 150.775. An explanation of "covered outpatient services" is included under "General Instructions" in the first part of the instructions to this schedule.

Item 14. This is the primary method for the computation of the percentage aggregate weighted charge increase. This method is used when you can reasonably determine the actual gross charges for every service or property whose charge was increased during the reported fiscal year. An alternate method of computation is provided in Item 16 if you chose not to identify the actual gross charges for every service or property, but instead to identify such charges for a group of services or properties.

The secondary method may also be used if you applied a flat percentage increase to all charges within a particular revenue department or cost center. Therefore, some charge increases may be recorded under the primary method and others may be computed under the secondary method. Do not enter a charge increase for the same service in both places.

Column (a). Enter a brief description of each service or property for which the charge has been changed since the last day of the last fiscal year.

Column (b) Enter the charge lawfully in effect for that service or property on the last day of the last fiscal year.

Column (c) Enter the highest charge for that service or property during the reported fiscal year except in the special circumstances described in the instructions to Item 10.

Column (d). Enter the percentage change in the charge for that service or property. This is computed as follows:

$$\frac{[\text{Column (c)}]-[\text{Column (b)}]}{\text{Column (b)}}\times 100$$

Column (e). Enter the actual gross charges during the last fiscal year for that service or property. If the charge for a particular service or property was not changed during the last fiscal year, the entry for this column will equal the charge in Column (b) multiplied by the number of times that service or property was provided during the year.

Column (f). Enter the appropriate weighting factor for each service or property correct to four decimal places. This is determined by dividing each entry in Column (e) by the amount shown in Item 13. Do not convert this decimal to a percentage.

Column (g). Enter the weighted charge change for each service or property by multiplying the percentage in Column (d) by the weighting factor in Column (f).

Item 15. Self-explanatory.

Item 16. The secondary method for computation of the percentage AWCI is provided for all of those outpatient charge increases for covered outpatient services which are not included in Item 14.

Column (a). Enter the descriptive title of the group of services or properties to be covered.

Column (b). Enter the description of the individual service or property on which the highest percentage charge increase was made. For example, if the group of services or properties included 20 different items and the percentage increase in charges on those items varied from 2 percent to 10 percent, you would list the service on which the 10 percent charge increase was made.

Column (c). Enter the percentage charge increase on the service listed in Column (b).

Column (d). Enter the actual gross charges for the last fiscal year for the entire group of services or properties listed for that line item in Column (a).

Column (e). Enter the appropriate weighting factor for each group of services or properties correct to four decimal places. This is determined by dividing each entry in Column (d) by the amount shown in Item 13. Do not convert this decimal to a percentage.

Column (f). Enter the weighted charge change for each service or property by multiplying the percentage in Column (c) by the weighting factor in Column (e).

Items 17 and 18. Self-explanatory.

FORM CLC-7I (Proposed March 1974)	ECONOMIC STABILIZATION PROGRAM Annual Report for Long Term Care Institutions	CLC USE ONLY Date of Filing Docket Number

Part I. - Identifying Data

1 (a) Name of Institution	2 (a) Name of Parent Firm (if applicable)
Address (Number and Street)	Address (Number and Street)
City or Town, State and Zip Code	City or Town, State and Zip Code
(b) Institution is ☐ Profit ☐ Nonprofit	(b) Parent Firm is ☐ Profit ☐ Nonprofit
(c) Federal Identification Number	(c) Federal Identification Number

3. Institution Statistical Data - See Instructions

(a) State Code [| |] (b) DHEW Region [| |] (c) Bed Size [| | | |]

(d) Inclusive dates of reported fiscal year From [| |] [| |] [| |] to [| |] [| |] [| |]

(e) Inclusive dates of last fiscal year From [| |] [| |] [| |] to [| |] [| |] [| |]

4. (a) Is this filed as an annual report? ..... ☐ Yes ☐ No
If yes, attach a copy of the financial statements of the Institution (audited, if an independent audit is performed). If no, attach explanation of purpose of filing.

(b) Is the reported fiscal year the first fiscal year to be regulated pursuant to 6 CFR Subpart R? .. ☐ Yes ☐ No
If yes, see special instructions for Column D, Items 5, 6 and 7.

(c) In the reported fiscal year, did you qualify as a new facility? ..... ☐ Yes ☐ No
If yes, see instructions.

(d) In the reported fiscal year, did you provide a new level of care? ..... ☐ Yes ☐ No
If yes, see instructions.

(e) What does this report include? See instructions.

(1) ☐ Prior-year carry-over of allowable increases - Attach copy of Form CLC-7I filed last fiscal year.

(2) ☐ Special adjustment - Attach documentation, authority and Schedule L.

(3) ☐ Approved capital expenditure - Attach documentation, authority and Schedule L.

(4) ☐ Approved exception; approval is ☐ final and copy of Order is attached.
Attach Schedule L
☐ provisional; request was filed _____ .
month/day/year
Docket Number _____ .

(f) Has the Medicaid rate been certified by the Cost of Living Council? ..... ☐ Yes ☐ No
If yes, specify levels of care covered by certification.

(g) Have you previously received from the Cost of Living Council , the Price Commission, or the Internal Revenue Service, any of the following under the Economic Stabilization Program? If any is checked "yes", give details and attach a copy.

(1) a written interpretation from one of the agencies listed above? ..... ☐ Yes ☐ No

(2) an exception? ..... ☐ Yes ☐ No

(3) an order requiring reduction of prices or refunds? ..... ☐ Yes ☐ No

(4) a Notice of Probable Violation which has not yet been resolved? ..... ☐ Yes ☐ No

Part II. - Calculation of Revenue Limitations

(a) Classes of Purchasers and Levels of Care	LAST FISCAL YEAR (b) Patient Days	(c) Total Realized Revenue	(d) Average Realized Revenues Per Diem (c)÷(b)	REPORTED FISCAL YEAR (e) Patient Days	(f) Total Realized Revenue	(g) Average Realized Revenues Per Diem (f)÷(e)	(h) Percent Increase (g)÷(d) X 100	(i) Authorized Percent Increase See Instructions	(j) Percent Excess Over Authorized	(k) Percent Carry-over For Next Fiscal Year See Instructions	(l) Total Dollar Amount In Excess (j)X(d) X(e)
5. Medicare:											
a. Hospital											
b. Skilled											
6. Medicaid:											
a. Hospital											
b. Skilled											
c. Intermediate (Specify Levels)											
7. All Other Classes (Specify Levels)											

Part III. - Additional Information

8. (a) Name and title of individual to be contacted for additional information.

(b) Address (Number and Street)

(c) City or Town, State and Zip Code (d) Phone number (include area code)

9. You must maintain, for possible inspection and audit, a record of all price changes after November 13, 1971. Give location of such records.

Part IV. - Certification and Signature

I have examined this form and the attached exhibits, schedules and explanations, and certify that to the best of my information, knowledge, and belief the information set forth therein is factually correct, complete and in accordance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Name	Date	Signature
Title		

INSTRUCTIONS FOR FORM CLC-71—ANNUAL REPORT FOR LONG TERM CARE INSTITUTIONS

GENERAL INSTRUCTIONS

A. *Purpose.* Form CLC-71 is designed to provide the data necessary for the Cost of Living Council to monitor the performance of long term care institutions under the Economic Stabilization Program regulations of 6 CFR Part 150, Subpart R.

2. Form CLC-71 provides the means by which all long term care institutions report changes in average realized revenues per diem and charges for outpatient services to the Cost of Living Council. It may also be used by the institution to monitor its own performance during the reported fiscal year.

B. *Who must file Form CLC-71.* Each long term care institution as defined in 6 CFR 150.769 must file a Form CLC-71 with the Cost of Living Council.

C. *When to file Form CLC-71.* Each long term care institution must file a Form CLC-71 within 120 days following the end of its fiscal year in accordance with 6 CFR 150.780.

D. *What to file.* The regulations and these instructions specify what is to be included on and with this form. However, the Cost of Living Council may request additional data in particular cases. If a long term care institution has received an exception from the Cost of Living Council, a copy of the exception order must accompany the Form CLC-71.

Schedule O is to be completed and annexed to this form whenever outpatient services or property are provided by a long term care institution and the charge for an outpatient service or property has been increased over the charge prevailing in the prior fiscal year.

E. *Where to file.* Completed forms should be filed at the following address:

Office of Health
Cost of Living Council
2000 M Street, NW.
Washington, D.C. 20508

F. *Suggestions for improvement.* The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under Phase IV of the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to:

Office of the Executive Secretariat
Cost of Living Council
2000 M Street, NW.
Washington, D.C. 20508

G. *Rounding.* For purposes of this form, all percentages must be expressed to the nearest two decimal places (such as 15.92 percent). When the form calls for total dollars, entries will be shown to the nearest whole dollar. When the form calls for dollars per day (per diem), entries will be shown to the nearest cent.

H. *Sanctions.* The timely filing of a Form CLC-71 by an institution as a report is a mandatory requirement under the Phase IV regulations. Late filing, failure to file, failure to keep records or failure otherwise to comply with the Economic Stabilization Regulations, may result in criminal fines, civil penalties, and other sanctions as provided by law.

SPECIFIC INSTRUCTIONS

Part I. Identifying data

Item 1. (*a*) *and* (*b*). Self-explanatory.

(*c*). Enter the Federal identification number which the institution uses as withholder of Federal income taxes.

Item 2. Self-explanatory.

Item 3. (*a*) *and* (*b*). The code designations for these items are listed below. The first column after the list of states is a two digit code for your state; enter that code in Item 3(a). In the second column is the code designation for the Department of Health, Education and Welfare region in which your state is located; enter the code in Item 3(b).

State	State code item 3(a)	DHEW code item 3(b)
Alabama	01	04
Alaska	02	10
Arizona	03	09
Arkansas	04	06
California	05	09
Colorado	06	08
Connecticut	07	01
Delaware	08	03
District of Columbia	09	03
Florida	10	04
Georgia	11	04
Hawaii	12	09
Idaho	13	10
Illinois	14	05
Indiana	15	05
Iowa	16	07
Kansas	17	07
Kentucky	18	04
Louisiana	19	06
Maine	20	01
Maryland	21	03
Massachusetts	22	01
Michigan	23	05
Minnesota	24	05
Mississippi	25	04
Missouri	26	07
Montana	27	08
Nebraska	28	07
Nevada	29	09
New Hampshire	30	01
New Jersey	31	02
New Mexico	32	06
New York	33	02
North Carolina	34	04
North Dakota	35	08
Ohio	36	05
Oklahoma	37	06
Oregon	38	10
Pennsylvania	39	03
Rhode Island	40	01
South Carolina	41	04
South Dakota	42	08
Tennessee	43	04
Texas	44	06
Utah	45	08
Vermont	46	01
Virginia	47	03
Washington	48	10
West Virginia	49	03
Wisconsin	50	05
Wyoming	51	08

(*c*) Enter the number of beds which your institution maintained on the last day of the reported fiscal year.

(*d*) *and* (*e*). Self-explanatory.

Item 4. (*a*) *and* (*b*). Self-explanatory.

(*c*)—*Situation A—If.* (1) The institution met the definition of a new facility as defined in 6 CFR 150.771; and

(2) The institution received the approval specified in paragraphs (b) and (c) of 6 CFR 150.781 or in paragraph (c) of 6 CFR 150.782; and

(3) The institution first qualified as a new facility in the reported fiscal year or the reported fiscal year was its first full (12-month) fiscal year of operations in a new facility;

Then. It was to have established its charges in conformance with the approval received. Complete in full only Parts I, III, and IV of Form CLC-71. In Part II, complete columns (a) through (g) of Items 5, 6, and 7. Complete Part III of Schedule L and specify on additional pages the amount of revenues authorized for operation of the project and the amount realized.

Situation B—If. (1) The institution met the definition of a new facility as defined in 6 CFR 150.771; and

(2) The institution qualified under the "grandfather clause" in 6 CFR 150.781(a)(2) either because the capital expenditure was approved prior to January 1, 1974 on its merits on the basis of community need by a planning agency listed in 6 CFR 150.781(b) or in the event such State approval procedures were not required or were not available for the institution, because the institution prior to January 1, 1974 was committed to the construction of the new facility by firm authorization of the institution's governing board and one or more implementing financial obligations were contractually or otherwise incurred in reliance on the authorization; and

(3) The institution first qualified as a new facility in the reported fiscal year or the reported fiscal year was its first full (12-month) fiscal year of operations in the new facility;

Then. The institution was allowed to establish its charges pursuant to the Special Pricing Rules of 6 CFR 150.778. Complete in full only Parts I, III and IV of Form CLC-71. In Part II, complete columns (a) through (g) of Items 5, 6, and 7. Complete Part III of Schedule L and specify on additional pages the amount of revenues the institution expected to realize and the amount of revenues it actually realized. Specify how the institution applied the Special Pricing Rules.

(*d*). If the institution qualified for a new level of care during the reported fiscal year or the reported fiscal year was its first full (12-month) fiscal year of operations for the new level of care, the institution was to have established its charges for the new level of care pursuant to the Special Pricing Rules of 6 CFR 150.778 or in accordance with the approval received from the Cost of Living Council or State agency under 6 CFR 150.782(c) or 6 CFR 150.781 (b) and (c). For the new level of care only, the institution need not complete columns (h) through (l) of Part II of Form CLC-71. Complete Part III of Schedule L. On additional pages specify the amount of revenues authorized for operation of the new level of care and the amount realized if the institution received the approval specified in paragraphs (b) and (c) of 6 CFR 150.781 or in paragraph (c) of 6 CFR 150.782. If the institution qualified for the new level of care under the "grandfather clause" of 6 CFR 150.781(a)(2), specify on additional pages the amount of revenues the institution expected to derive from the new level of care and the amount it actually realized. Specify how the institution applied the Special Pricing Rules.

(*e*). Check the applicable box.

(1) Self-explanatory.

(2) If box (2) is checked, the special adjustment will be authorized by the Cost of Living Council.

(3) If box (3) is checked, explain authority under which the adjustment for capital expenditure is claimed and attach documentation.

(4) Self-explanatory.

(*f*). Self-explanatory.

(*g*). Self-explanatory.

Part II—Calculation of Revenue Limitations

Items 5-7—Column (*a*). This column lists various classes of purchasers and levels of care for the respective classes. Levels of care entered in this column must correspond with the levels of care provided in the immediately preceding fiscal year as specifically identified in the institution's accounting practices. New levels of care provided by an institution in any fiscal year are subject to the provisions of 6 CFR 150.778.

Columns (*b*) *and* (*e*). Enter the total number of patient days of care provided for each respective level in the last fiscal year (Column (b)) and the reported fiscal year (Column (e)). The number of patient days for which revenues were not realized may be excluded from the total patient days entered in this column.

Columns (*c*) *and* (*f*). Enter the total realized revenues received for each respective level in the last fiscal year (Column (c)) and the reported fiscal year (Column (f)). Total realized revenues are calculated in the following manner:

a. For institutions on a cash basis—total realized revenue is defined to equal total actual cash received for the provision of services.

b. For institutions on an accrual basis—realized revenue is defined as gross charges less discounts, contractual allowances, bad debts and charity allowances.

Column (d). If your last fiscal year was governed by 6 CFR Part 150, Subpart O, then enter in this column the authorized average per diem rate (for each class of purchasers and level of care) in effect on the last day of the last fiscal year under Subpart O. For classes of purchasers and levels of care for which the institution is paid on a retrospective cost reimbursement basis, use the most recent determination of total authorized cost reimbursements expressed as a per diem for the last fiscal year under Subpart O. In any case in which the average charge or rate for any class of purchasers or level of care on the last day of the last fiscal year had been lowered below authorized levels to assure compliance with 6 CFR Part 150, Subpart O, the charge or rate may be increased to that amount which, if charged uniformly throughout the fiscal year, would have been lawful. However, the charge or rate so established may not exceed the highest charge or rate actually made for that class of purchasers or level of care during that fiscal year.

If the Medicaid per diem rate in effect on the last day of the last fiscal year was certified to the Cost of Living Council and the Cost of Living Council has issued a certificate of compliance covering the certified rate, enter the rate in this column.

Column (g). Self-explanatory.

Column (h). Enter in this column the percentage increase in average realized revenues per diem for each class of purchasers and level of care. The percentage increase in average realized revenues per diem for each respective level is determined by subtracting the entry in Column (d) from the corresponding entry in Column (g) and dividing this result by the corresponding entry in Column (d), then multiplying by 100. The formula is:

$$\frac{\text{Column (g)} - \text{Column (d)}}{\text{Column (d)}} \times 100$$

Column (i). If Schedule L is annexed to Form CLC–71, enter in this column for Items 5, 6, and 7 the entries for Item 14 on Schedule L; otherwise, enter in this column the 6.5 percent authorized increase in the reported fiscal year plus any carry-over from Column (k) of Form CLC–71 filed for the last fiscal year.

Unused revenue increases permitted for any level of care of any class of purchasers in any fiscal year may not be applied in that year to any other class of purchasers or level of care. Attach a copy of Form CLC–71 filed for the last fiscal year if any carry-over is claimed.

The unused portion of authorized revenue increases permitted in one year but not fully implemented may be implemented only in the fiscal year following the year in which the full allowable increase was not taken, and only for the level of care and class of purchasers to which the increase applied. The unused portion of authorized revenue increases may not be compounded. There is no carry-over from any fiscal year subject to 6 CFR 300.18 or 6 CFR Part 150, Subpart O.

Column (j). If the entry in Column (h) is greater than the entry in Column (i), enter the difference; otherwise, enter zero.

Column (k). Enter in this column for each class of purchasers and level of care the unused percentage of authorized increases that can be carried over to the next fiscal year. Unless Schedule L has been completed, this calculation is made by subtracting the entry in Column (h) from the entry in Column (i). If a positive figure results from this computation, enter the amount in Column (k).

If Schedule L has been annexed to this form, the entry for Column (k) is computed from Schedule L according to the following formula:

$$\frac{\text{Item 13} - (\text{Item 3} + \text{Item 10})}{\text{Item 3}} - \text{Item 5} \times 100$$

From the resulting amount, subtract the corresponding entry in Column (h) to derive the entry for Column (k).

Column (l). If a positive total dollar excess appears in Column (1), the institution must submit to the Cost of Living Council, at the time of filing of the annual report, a plan for putting the institution in compliance with the Economic Stabilization Program regulations. If there is pending on the date the annual report is filed a request for exception which, if granted, would remove the violation then the compliance plan need not be filed until 20 days following the date on which the institution receives an order from the Cost of Living Council denying the request or granting relief in an amount less than necessary to remove the violation. This compliance plan must detail steps that will be taken either to refund to the appropriate class of purchasers for each level of care the total monies that are in excess for the class of purchasers and level of care or to reduce charges sufficiently to reduce revenues by an amount equal to the dollar excess appearing in this column.

Part III—Additional Information

Self-explanatory.

Part IV—Certification and Signature

Type the name and title of the individual who has signed the certification and the date of signing. The individual who signs and certifies Form CLC–71 must be the chief executive officer, administrator, or chief financial officer of the institution. No other person is authorized to sign this form.

SCHEDULE L Form CLC-71	ECONOMIC STABILIZATION PROGRAM Special Computations for Long Term Care Institutions	CLC USE ONLY Docket Number

Part I. - Identifying Data (Please complete requested items and check applicable boxes below).

1(a) Name of Institution

City or Town, State and ZIP Code

(b) Federal Identification Number

2. Report for Fiscal Year ended _____.

Part II. - Report Computations

CALCULATION OF SPECIAL AUTHORIZATIONS

CLASSES OF PURCHASERS & LEVELS OF CARE

Classes of Purchasers / Levels of Care					
3. LFY Average realized revenues per diem - enter the lesser of actual or authorized. From CLC-71 Column D, Items 5, 6, 7.	$				
4. Basic Authorization	1.065				
5. Carry-over from LFY expressed as a decimal					
6. Total Basic Increases (Item 4 plus Item 5)					
7. Basic Authorized Average Realized Revenues per diem Item 3 times Item 6 -- Include cents	$				
8. Capital Expenditure per diem - Attach documentation	$				
9. Special Adjustments per diem	$				
(a)					
(b)					
(c)					
10. Exception per diem not included in Item 8	$				
11. Preliminary Total (Sum of Items 7,8,9, and 10)	$				
12. Limitation imposed by exception	$				
13. RFY Authorized Average Realized Revenues per diem - Lesser of Item 11 or Item 12	$				
14. Percent change from LFY $\frac{\text{Item 13 - Item 3}}{\text{Item 3}} \times 100$ Enter here and in Items 5, 6 or 7, Column (i) of Form CLC-71.	_____%				
15. Actual Average Realized Revenues per diem - from Column (g) of Form CLC-71	$				
16. Per diem amount in excess if any. Item 15 minus Item 13; if negative enter zero.	$				

Classes of Purchasers					
Levels of Care					
17. RFY Patient Days					
18. Total amount in excess. Item 16 times Item 17. Enter here and in Items 5, 6 or 7, Column (L) of Form CLC-71.	$				

Part III. - Allocations

Use this Part to allocate total dollar amounts among classes of purchasers and levels of care when necessary. Attach documentation showing how total dollar amounts were determined. Use additional pages if necessary.

19. For what item is this Allocation being made? (Check only one)

☐ Item 8 - Capital Expenditure

☐ Item 9 - Special Adjustments (specify) _____.

☐ Item 10 - Exception

20. Amount to be allocated $_____.

21. What method was used to make the allocation? (a) ☐ Pro-rata - all classes of purchasers and levels of care.

(b) ☐ Pro-rata - selected classes of purchasers and levels of care.

22.	(a) Class of Purchasers and Levels of Care	(b) RFY Patient Days	(c) Weighting Factor	(d) Amount Allocated Col(c) X Item 20	(e) Per Diem Revenue Change Col(d) ÷ Col(b)
				$	$
23.	Totals				

INSTRUCTIONS FOR SCHEDULE L TO FORM CLC–71—SPECIAL COMPUTATIONS FOR LONG TERM CARE INSTITUTIONS

GENERAL INSTRUCTIONS

Schedule L must be completed and annexed to Form CLC–71 if any box is checked in Item 4(e)(2), 4(e)(3), or 4(e)(4) on Form CLC–71.

DEFINITIONS

"Reported Fiscal Year" (abbreviated as RFY). The fiscal year for which compliance is being measured, an annual report is filed, or an exception is requested.

"Last Fiscal Year" (abbreviated as LFY). The fiscal year immediately preceding the reported fiscal year.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data

Item 1(a). Self-explanatory.

Item 1(b). Enter the Federal Identification Number which the institution uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Part II—Report Computations

Enter at the top of each column the class of purchasers and level of care. If necessary, additional sheets duplicating the format provided should be attached.

Items 3 and 4. Self-explanatory.

Item 5. If the last fiscal year was governed under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O) enter zero in each column; there is no carryover. If the last fiscal year was governed under Phase IV regulations (6 CFR Part 150, Subpart R), insert the entry (expressed as a decimal) from Column (k) of Form CLC–71 filed for the last fiscal year. The decimal is obtained by dividing the percentage by 100.

Items 6 and 7. Self-explanatory.

Item 8. Complete this item only if an authorized adjustment for capital expenditures is reported. To determine the entries for this item, Part III of this schedule must be completed at this time. This item should not be completed unless Item 4(e)(3) on Form CLC–71 is checked and the information requested therein accompanies this schedule. The entry for each column shall be the amount allocated to the respective class of purchasers and level of care shown in Item 22, Column (e).

Item 9. Complete this item only if a special adjustment is being reported. To determine the entries for this item, Part III of this schedule must be completed at this time. This item should not be completed unless Item 4(e)(2) on Form CLC–71 is checked and the information requested therein accompanies this schedule. The entry for each column shall be the amount allocated to the respective class of purchasers and level of care shown in Item 22, Column (e).

Item 10. Enter any allowable per diem revenue increases granted by exception from the Cost of Living Council which are not included in Item 8. If a total dollar amount has been granted by exception, it must be prorated among all classes of purchasers and levels of care (unless otherwise specifically provided in the Order granting the exception) and then translated to a per diem amount. The entry for each column shall be the amount allocated to the respective class of purchasers and level of care shown in Item 22, Column (e).

Item 11. Self-explanatory.

Item 12. If a dollar limitation has been imposed on the per diem revenues that can be received from any class of purchasers for any level of care by an exception order from the Cost of Living Council, enter the dollar limitations.

Item 13–16. Self-explanatory.

Item 17. Enter in this item the number of patient days provided in the reported fiscal year. Patient days of care for which no revenues are realized may be excluded from the total number of patient days entered in this item.

Item 18. Self-explanatory.

Part III—Allocations

Item 19. Check only one box. If more than one allocation is to be made, a separate Part III must be completed for each allocation.

Item 20. Enter in this item the total dollar amount to be allocated.

NOTE: When this allocation is being made for capital expenditures, this amount will be calculated on a form prescribed by the Cost of Living Council.

Item 21. Check appropriate box. If box (b) is checked, attach justification for using this method. For instance, if a capital expenditure is being reported, the authorized revenues related thereto should be allocated so as to correspond to the classes of purchasers and levels of care to which the capital expenditures apply. If the expenditure constitutes a capital improvement benefiting the entire facility, the authorized revenues should be allocated pro rata to all classes of purchasers and levels of care.

Item 22—Column (a). Enter in this column all classes of purchasers and levels of care to which the allocation is being made.

Column (b). Enter the patient days in the RFY corresponding to each class of purchasers and level of care shown in Column (a). Patient days of care for which no revenues were realized may be excluded from the entries in this column.

Column (c). For each class of purchasers and level of care reported in Column (a), divide the entry in Column (b) by the entry in Item 23, Column (b). Do not convert this decimal to a percentage. Column (c) expresses the number of patient days in the RFY for any given level of care as a ratio of the total patient days of care to which the allocation is being made. These ratios are the weighting factors to be entered in this column.

Column (d). Enter in this column the amount to be allocated to each class of purchasers and level of care reported in Column (a). The amount to be allocated is computed by multiplying each entry in Column (c) by the entry in Item 20.

Column (e). Enter in this column the per diem revenue change for each class of purchasers and level of care reported in Column (a). Divide each entry in Column (d) by the corresponding entry in Column (b) and enter the results to the nearest cent. Depending on the type of allocation made, entries in Column (e) will be entered in Items 8, 9, or 10 of this schedule for each class of purchasers and level of care.

Item 23. Make entries only in Columns (b), (c), and (d).

SCHEDULE O
Form CLC-61
Form CLC-71
(Proposed March 1974)

ECONOMIC STABILIZATION PROGRAM

Outpatient Computations for Acute Care Hospitals and Long Term Care Institutions

CLC USE ONLY

Docket Number

Part I. - Identifying Data

1. (a) Name of Hospital or Long Term Care Institution

(b) Address (City, State)

(c) Federal Identification Number

2. Report for Fiscal Year ended Month Day Year

3. This Institution chose: ☐ Unit charge increase of ___ percent
☐ Aggregate weighted charge increase

Part II. - Report Computations

	Charges
4. Basic allowance for reported fiscal year	6.00 %
5. Carry-over from last fiscal year - see instructions	%
6. Additional percentage authorized by exception Attach documentation and check applicable box ☐ Final ☐ Provisional	%
7. Special adjustments (specify and attach documentation - see instructions) (a)	%
(b)	%
8. Authorized total increase - Sum of Items 4,5,6 and 7	%
9. Actual increase implemented If unit charge increase, from Item 3 If AUCI, from Item 18	%
10. Amount of excess, if any Item 9 minus Item 8, but not less than zero See instructions for remedies	%
11. Amount of carry-over available next fiscal year Item 4 minus Item 9, but not less than zero	%

12. (Non unit charge only) Did the charge for any individual service or property increase more than 10 percent or $1.00 or the percentage shown in Item 8, whichever is greatest? Yes ☐ No ☐
If yes, attach a list showing each such charge, the former charge, and the percentage increase, or attach a copy of your authorization to make such an increase.
See instructions.

Part III. - Computation of Percentage Aggregate Weighted Charge Increase

Complete this part only if you chose the aggregate weighted charge increase rather than the unit charge increase.

Charges

13. Total gross charges in the last fiscal year for all services or property subject to 6 CFR 150.707 or 150.775..... $

14. Primary method for computation of %AWCI - see instructions

Description of Service or Property (a)	Charge on Last Day of Last Fiscal Year (b)	Highest Charge During Reported Fiscal Year (c)	Percentage Charge Change (See instructions) (d)	Last Fiscal Year's Actual Charges (e)	Weighting Factor (See instructions) (f)	Percentage Weighted Charge Change (g)

15. Total %AWCI for primary method [Sum of all entries in Item 14 Column(g)] ..... %

16. Secondary method for computation of %AWCI - see instructions

Group of Services or Property (a)	Individual Service or Property on Which Highest Percentage Charge Increase Made (b)	Percentage Charge Increase On That Service (c)	Actual Gross Charges LFY For Entire Group (d)	Weighting Factor (e)	Percentage Weighted Charge Increase (f)

Charges

17. Total %AWCI for secondary method ..... %
[Sum of all entries in Item 16 Column (f)]

18. Total %AWCI - Item 15 plus Item 17 ..... %
Enter here and in Item 9

INSTRUCTIONS FOR SCHEDULE O TO FORM CLC–61 AND FORM CLC–71—OUTPATIENT COMPUTATIONS FOR ACUTE CARE HOSPITALS AND LONG TERM CARE INSTITUTIONS

GENERAL INSTRUCTIONS

PROPOSED MARCH 1974.

Who must file. This Schedule must be prepared by all acute care hospitals and long term care institutions with covered outpatient services if any charge was increased during the reported fiscal year. Acute care hospitals will file the Schedule with Form CLC–61; long term care institutions will file the Schedule with Form CLC–71. Throughout these instructions, "institution" refers both to acute care hospitals and to long term care institutions.

Covered outpatient services. If you are a long term care institution, all services provided on an outpatient basis are covered services and property subject to 6 CFR 150.775 and must be included in your computations on this Schedule.

If you are an acute care hospital, "covered outpatient services" means those outpatient services to which the provisions of 6 CFR 150.707 apply. The coverage includes (1) all charges in each revenue department and cost center, as determined by the hospital's customary accounting practice, in which at least 70 percent of the gross charges of that revenue department or cost center was attributable to the provision of outpatient services; and (2) the charge for each outpatient service which differs from the inpatient charge for the same service.

For example, in a particular revenue department or cost center in which 75 percent of the gross charges were billed to outpatients and 25 percent of the gross charges were billed to inpatients, all charges in that department are subject to the limitations of 6 CFR 150.707. The 75 percent billed to outpatients must comply only with the outpatient limitations, but the 25 percent that is billed to inpatients must conform both to the outpatient limitation and to the inpatient limitation; i.e., the increasing of charges on that 25 percent may not cause a hospital to exceed the limitations on inpatient charges. All charges attributable to the provision of inpatient services must be included in the total inpatient operating charges subject to the limitations of 6 CFR 150.705 and 150.706.

In any other department in which less than 70 percent of the gross charges are attributable to the provision of outpatient services, no charge is subject to more than one control and some charges are not controlled at all, as explained below. Again, all charges attributable to the provision of inpatient services are included in the computations made under 6 CFR 150.705 and 150.706, as shown in Schedule D or I. For the remainder of the charges in that department, if the charge for a particular service rendered to an outpatient differs from the charge for the same service rendered to an inpatient, then the charge for the outpatient service is a covered outpatient service. For example, if you charge $15 for a chest X-ray when it is rendered to an outpatient, and you charge $10 for a chest X-ray when rendered to an inpatient, the $15 outpatient charge for a chest X-ray is a covered outpatient service. However, if you charge $10 to all patients, whether treated on an inpatient or outpatient basis, then those charges billed to outpatients are not covered outpatient services. The charges for any services that are exclusively provided to outpatients and which are not in a revenue department or cost center in which at least 70 percent of the gross charges are attributable to the provision of outpatient services, are not included as covered outpatient services and hence are not subject to controls.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data

Item 1 (a) and (b). Self-explanatory.

(c). Enter the Federal Identification Number which the institution uses as a withholder of Federal income taxes.

Item 2. Self-explanatory.

Item 3. Check the appropriate box to indicate how your charge increase was implemented. If the unit charge increase method is checked, enter the uniform percentage increase implemented.

Part II—Report Computations

Item 4. Self-explanatory.

Item 5. If last fiscal year was controlled under the Phase II/III regulations (6 CFR 300.18 and 6 CFR Part 150, Subpart O), enter a zero; there is no carry over. If last fiscal year was controlled under the Phase IV regulations (6 CFR Part 150, Subpart R), enter the amount shown in Item 11 of this schedule which was filed with Form CLC–61 or CLC–71 for the preceding fiscal year.

Item 6. If no exception was granted, enter a zero. If an exception was granted for a specific percentage in addition to that percentage authorized under the regulations, enter the specified percentage. If an exception was granted for a specific percentage including that percentage authorized as your basic entitlements (6 percent plus your carry over from the last fiscal year), then deduct the total of Items 4 and 5 from the authorized exception and enter the result in Item 6. Also check the applicable box indicating whether approval is final as evidenced by an Order from the Cost of Living Council or whether approval was provisional because it was an exception subject to the 60-day clause of 6 CFR 150.714(b) or 150.782(b) and 60 days had elapsed at the time you completed Form CLC–61 or Form CLC–71 to which this Schedule is attached.

Item 7. These are blank spaces provided for special adjustments. Use them only if you have received authorization from the Council.

Items 8–9. Self-explanatory.

Item 10. If the percentage shown in this item is greater than zero, you have implemented a charge increase in excess of that permitted under the regulations. When you file your report, you must file a plan for achieving compliance with the Office of Health, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. Such a compliance plan may provide for a reduction of charges, a stipulation of no charge increases for a certain period of time, refunds, any other action which is reasonable and appropriate to cause the remission of excess charges or revenues or a combination of any of the foregoing. The Council may approve such a plan, order certain changes, or order a different plan of its own design. If there is pending on the date you complete the Form CLC–61 or Form CLC–71 (to which this Schedule is attached) a request for exception, which, if granted, would remove the violation, then you need not file your compliance plan until 20 days following the date on which you receive an Order from the Council denying your request or granting a percentage less than that necessary to remove the violation.

If, however, you are using this Schedule to monotor your compliance before the end of the fiscal year, and you find that you have an excess in Item 10, you should take immediate steps to correct your charge structure so that by the close of your fiscal year, you will not have an excess in this item. Give details of your corrective action with your annual report. As long as such action is completed before the end of the reported fiscal year, you may use the average charge for the year in lieu of the highest charge for the year in Item 14.

Item 11. Self-explanatory. This is the amount which you will enter in Item 5 of this schedule when you file your report for your next fiscal year.

Item 12. Check the applicable box. If you answer "yes," such charges must be covered in your compliance plan which you submit to the Council unless you have received an exception to the unit charge limitations.

Part III—Computation of Percentage Aggregate Weighted Charge Increase

Complete this part *only* if in Item 3 you checked "aggregate weighted charge increase" rather than the "unit charge increase".

Special note. When this schedule is being prepared for submission with Form CLC–61 or CLC–71 as part of your annual report, it is not necessary to complete Items 14 or 16 on the copy of the schedule that is filed. You must retain a copy of these computations in the prescribed format in your records and be prepared to submit them if requested.

Item 13. Enter the total gross charges in the last fiscal year for all services or properties subject to 6 CFR 150.707 or 6 CFR 150.775. An explanation of "covered outpatient services" is included under "General Instructions" in the first part of the instructions to this schedule.

Item 14. This is the primary method for the computation of the percentage aggregate weighted charge increase. This method is used when you can reasonably determine the actual gross charges for every service or property whose charge was increased during the reported fiscal year. An alternate method of computation is provided in Item 16 if you chose not to identify the actual gross charges for every service or property, but instead to identify such charges for a group of services or properties.

The secondary method may also be used if you applied a flat percentage increase to all charges within a particular revenue department or cost center. Therefore, some charge increases may be recorded under the primary method and others may be computed under the secondary method. Do not enter a charge increase for the same service in both places.

Column (a). Enter a brief description of each service or property for which the charge has been changed since the last day of the last fiscal year.

Column (b). Enter the charge lawfully in effect for that service or property on the last day of the last fiscal year.

Column (c). Enter the highest charge for that service or property during the reported fiscal year except in the special circumstances described in the instructions to Item 10.

Column (d). Enter the percentage change in the charge for that service or property. This is computed as follows:

$$\frac{[\text{Column (c)}]-[\text{Column (b)}]}{\text{Column (b)}}\times 100$$

Column (e). Enter the actual gross charges during the last fiscal year for that service or property. If the charge for a particular service or property was not changed during the last fiscal year, the entry for this column will equal the charge in Column (b) multiplied by the number of times that service or property was provided during the year.

Column (f). Enter the appropriate weighting factor for each service or property correct to four decimal places. This is determined by dividing each entry in Column (e) by the amount shown in Item 13. Do not convert this decimal to a percentage.

Column (*g*). Enter the weighted charge change for each service or property by multiplying the percentage in Column (d) by the weighting factor in Column (f).

Item 15. Self-explanatory.

Item 16. The secondary method for computation of the percentage AWCI is provided for all of those outpatient charge increases for covered outpatient services which are not included in Item 14.

Column (*a*). Enter the descriptive title of the group of services or properties to be covered.

Column (*b*). Enter the description of the individual service or property on which the highest percentage charge increase was made. For example, if the group of services or properties included 20 different items and the percentage increase in charges on those items varied from 2 percent to 10 percent, you would list the service on which the 10 percent charge increase was made.

Column (*c*). Enter the percentage charge increase on the service listed in Column (b).

Column (*d*). Enter the actual gross charges for the last fiscal year for the entire group of services or properties listed for that line item in Column (a).

Column (*e*). Enter the appropriate weighting factor for each group of services or properties correct to four decimal places. This is determined by dividing each entry in Column (d) by the amount shown in Item 13. Do not convert this decimal to a percentage.

Column (*f*). Enter the weighted charge change for each service or property by multiplying the percentage in Column (c) by the weighting factor in Column (e).

Item 17 and 18. Self-explanatory.

Form CLC-81
(Proposed March 1974)

For calendar and fiscal years ending on or after January 1, 1974

ECONOMIC STABILIZATION PROGRAM
MEDICAL PRACTITIONERS/MEDICAL LABORATORIES MONITORING RECORD

CLC USE ONLY

Date of Filing

Docket Number

Part I. GENERAL INFORMATION

1(a) Name

(b) Address (number and street)

(c) City or Town, State and Zip Code

(d) ☐ Solo Practice
☐ Partnership
☐ Corporation
☐ Other (Specify): _____

2. Social Security Number or Tax Identification Number

☐ ☐

3(a) Name of parent firm (if applicable)

(b) Address (number and street)

(c) City or Town, State and Zip Code

4. Year for which compliance is being determined:

(a) Aggregate Weighted Price Increase Limitation For Compliance Calendar Year (CCY) ending December 31, 197___

(b) Limitation on Increase of Fixed Dollar Amount Specified in a Contract For Compliance Contract Year ending _____
month day year

(c) Revenue Margin Limitation For Compliance Fiscal Year (CFY) ending _____
month day year

Part II A. COMPUTATION OF PERCENTAGE AGGREGATE WEIGHTED PRICE INCREASE (%AWPI)

5. %AWPI authorized but not implemented in years prior to the CCY. _____ %

6. %AWPI authorized for the CCY (Maximum of 4.00%). _____ %

7. %AWPI granted by prior exception in the CCY (attach copy of Decision and Order). _____ %

8. Total %AWPI authorized for the CCY (Sum of Items 5, 6, and 7). _____ %

9. Computation of Total %AWPI in CCY

Description of Service or Property or Groups of Related Services or Property (a)	Price on Dec 31 of Year Preceding CCY (b)	Highest Actual or Proposed Price during CCY (c)	Percentage Price Change (d)	Actual Gross Billings for Year Preceding CCY (e)	Weighting Factor (f)	Weighted Price Change (g)
	$	$	%	$		%

10. Total Billings for Year Preceding CCY. . . . $

11. Total % AWPI. . . . . %

12. CCY percentage AWPI excess, if any (Item 11 less Item 8). _____ %

Part II B. PERCENTAGE INCREASE ON FIXED DOLLAR AMOUNTS SPECIFIED IN A CONTRACT

13. Brief description of fixed dollar amount contract _____

_____

14. Percentage increase authorized but not implemented prior to the compliance contract year. _____ %

15. Percentage increase authorized for the compliance contract year (maximum of 6.20%). _____ %

16. Percentage increase on the fixed dollar amount specified in the contract granted by prior exception in the compliance contract year (attach copy of Decision and Order). _____ %

17. Total percentage increase authorized for the compliance contract year on the fixed dollar amount specified in the contract (Sum of Items 14, 15, and 16). _____ %

18. Percentage increase on the fixed dollar amount specified in the contract implemented or proposed to be implemented in the compliance contract year. _____ %

19. Compliance contract year percentage excess, if any (Item 18 less Item 17). _____ %

Part III A. COMPUTATION OF REVENUE MARGIN

	1st Selected Base Fiscal Year Ending (/ /) (a)	2nd Selected Base Fiscal Year Ending (/ /) (b)	Combined Total of Base Fiscal Years (Column a+b) (c)	Compliance Fiscal Year Ending (/ /) (d)
20. Aggregate Annual Revenues	$	$	$	$
21. Operating Expenses	$	$	$	$
22. Net Revenue (Item 20 less Item 21)	$	$	$	$
23. Base Period Revenue Margin [Item 22 (c) ÷ Item 20 (c)]			%	
24. Adjusted Base Period Revenue Margin (If granted by exception)			%	
25. CFY Revenue Margin [Item 22 (d) ÷ Item 20 (d)]				%
26. CFY Percentage excess, if any [Item 25 (d) less the greater of Items 23(c) or 24 (c)]				%

Part III B. RECONCILIATION OF PROFESSIONAL CORPORATION OPERATING EXPENSES FOR COMPUTATION OF REVENUE MARGIN

27. Period Reconciled	1st Selected Base Fiscal Year Ending (/ /)		2nd Selected Base Fiscal Year Ending (/ /)		CFY ENDING (/ /)	
28. Total Operating Expenses						
29. Exclusions:						
(a) Salaries to Medical Practitioners						
(b) Deferred Compensation						
(c) Keogh Allowance						
(d) Total Exclusions [(a) plus(b) less(c)]						
30. Adjusted Operating Expenses [Item 28 less Item 29(d)]						

Part IV. ADDITIONAL INFORMATION

31(a) Name and title of individual to be contacted for additional information

(b) Address (number and street)

(c) City or Town, State and Zip Code

(d) Phone Number (Include area code)

Part V. CERTIFICATION AND SIGNATURE

I have examined this form and the attached exhibits, schedules and explanations, and certify that to the best of my information, knowledge and belief the information set forth therein is factually correct, complete and in accordance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Name Date

Title Signature

INSTRUCTIONS FOR FORM CLC–81—MEDICAL PRACTITIONERS/MEDICAL LABORATORIES MONITORING RECORD

GENERAL INSTRUCTIONS

A. *Purpose.* 1. Form CLC–81 is designed to assist medical practitioners and medical laboratories in computing aggregate weighted price increases; and medical practitioners in computing base period and compliance year revenue margins in accordance with Economic Stabilization Program regulations 6 CFR 150.734–150.735.

2. Form CLC–81 also provides a basis for the Cost of Living Council to determine compliance with the above sections.

B. *Who must use Form CLC–81.* A medical practitioner or medical laboratory must file a report on Form CLC–81 only upon the order of the Cost of Living Council. Such a report may be required by the Cost of Living Council for purposes of determining compliance with 6 CFR 150.734–150.735. Medical practitioners and medical laboratories not ordered by the Cost of Living Council to file a report are encouraged to use Form CLC–81 to facilitate their own computations and to monitor their own compliance.

C. *When to file Form CLC–81.* A medical practitioner or medical laboratory ordered by the Cost of Living Council to file Form CLC–81 must do so within 30 days of receipt of the order.

D. *What to file.* The regulations and these instructions specify what is to be included on and with this form. However, the Cost of Living Council may request financial statements or other additional data in particular cases. Those who file a Form CLC–81 which contains incomplete or incorrect information will be required to file, within 30 days of notice, a corrected Form CLC-81 and will be considered in violation if a completed and corrected form is not filed within these 30 days.

E. *Where to file CLC–81. Form* CLC–81 should be submitted on request to:

Office of Health
Cost of Living Council
2000 M Street, NW
Washington, D.C. 20508

F. *Suggestions for improvement.* The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under Phase IV of the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to:

Office of the Executive Secretariat
Cost of Living Council
200 M Street, NW
Washington, D.C. 20508

G. *Rounding.* For the purposes of this form, all percentages must be expressed to the nearest two decimal places (such as 5.92 percent) and all weighting factors to the nearest four decimal places (such as .0465). Fees may be rounded to the nearest quarter dollar. *Provided,* That this does not result in violation of the price increase limitations. All other dollar entries may be rounded to the nearest dollar.

H. *Sanctions.* The timely filing of a Form CLC–81 by a medical practitioner or medical laboratory upon the order of the Cost of Living Council is a mandatory requirement under the Phase IV regulations. Late filing, failure to file, or failure otherwise to comply with the Economic Stabilization regulations, may result in criminal fines, civil penalties, and other sanctions as provided by law.

I. *Definitions and abbreviations—Compliance Calendar Year (Abbreviated as CCY).* The Calendar year for which compliance with the limitation on aggregate weighted price increase is being determined.

Compliance Contract Year. The contract year for which compliance with the limitation on increases in fixed dollar amounts specified in a contract is being determined.

Compliance Fiscal Year (Abbreviated as CFY). The fiscal year of the medical practitioner for which compliance with the limitation on revenue margin increase is being determined.

Percentage Aggregated Weighted Price Increase (Abbreviated as % AWPI).

SPECIFIC INSTRUCTIONS

Part I—General Information

Self-explanatory.

Part II—Computation of Percentage Aggregate Weighted Price Increase (%AWPI)

Item 5. Enter the portion of the %AWPI allowed in prior years but not yet taken. Note: A maximum of 5 percent may have been accumulated prior to December 28, 1973, which must be justified by increased expenses of practice or doing business pursuant to 6 CFR 300.19.

Item 6. Subject to the revenue margin limitation as determined under Parts IIIA and IIIB of this form, the %AWPI authorized for the Compliance Calendar Year should equal but in any event may not exceed 4 percent.

Items 7 and 8. Self-explanatory.

Items 9–11. Items 9 and 10 provide the means by which the weight of each service or property or groups of services or property whose price has been changed or is to be changed may be determined so that Item 11, the total %AWPI, may be computed. The %AWPI may be derived by using any one of three methods as described below. There is no need to complete Items 9 and 10 if Method No. 1 is used. If any single fee has been or is to be increased during the compliance calendar year in excess of the total authorized %AWPI entered in Item 8, Item 9 and 10 must be completed by either Method No. 2 or Method No. 3. Method No. 2 depends upon a determination with reasonable accuracy of the preceding year's gross billings for each service or property whose price has been or is to be changed. If the preceding year's gross billings can be determined by groups of similar or related services or property, Method No. 3 may be used. If data on last year's billings cannot be reasonably determined by either method described above, Method No. 1 must be used by those wishing to increase their fees.

Method No. 1 (6 CFR 150.734(d)(2)). If no single fee has been or is to be increased in excess of the total authorized %AWPI entered in Item 8, the highest single percentage fee increase instituted or to be instituted may be entered in Item 11. There is no need to complete Items 9 and 10.

NOTE: For purposes of determining unused % AWPI in this year or in succeeding years, the amount entered in Item 11 will be presumed to be the total %AWPI already implemented unless Items 9 and 10 are completed at a later date.

Method No. 2 (6 CFR 150.734(d)(1)). If the preceding year's gross billings can be determined with reasonable accuracy for each service whose fee has been or is to be changed, Method No. 2 may be used.

Method No. 2 is based on the following formula:

$$\%\text{AWPI}=\Sigma\frac{P_2-P_1}{P_1}\times\frac{B_1}{B_2}\times 100$$

Where,

P_1 = The price lawfully in effect on the last day of the immediately preceding calendar year for a service or property. (Column (b))

P_2 = The highest customary price charged or to be charged during the current calendar year for that service or property. (Column (c))

B_1 = The actual gross billings during the immediately preceding calendar year for that service or property. (Column (e))

B_2 = The total gross billings during the immediately preceding calendar year for all services and property. (Item 10)

Σ = The sum of.

Computation of percentage price change for each service or property

Step 1. Enter in Item 9, Column (a) a brief description of each service or property for which the fee has been changed or is to be changed since the last day of the calendar year preceding the compliance calendar year. If additional space is needed, attach additional sheets using the same format as used in Item 9.

Step 2. Enter in Column (b) of Item 9 the price lawfully in effect for that service or property on the last day of the calendar year preceding the compliance calendar year. Note that the price in a percentage of gross or net revenues contract with another health care provider is the amount determined by multiplying the percentage specified in the contract times the appropriate unit price, i.e. gross or net revenue price, of each service performed or product provided.

Step 3. Enter in Column (c) of Item 9 the highest price charged or to be charged for that service or property during the compliance calendar year. This price may not be more than $1.00 higher than the price in Column (b) for any price of $10.00 or less.

Step 4. Enter in Column (d) of Item 9 the percentage change in the price of that service or property. This is computed as follows:

$$\frac{(\text{Column (c)})-(\text{Column (b)})}{\text{Column (b)}}\times 100.$$

This percentage may not be greater than 10 percent for any price over $10.00 in Column (b).

Computation of weighting factor for each service or property

Step 5. Enter in Column (e) of Item 9 the actual gross billings during the calendar year preceding the compliance calendar year for that service or property. If only one price was charged for that service or property during the entire preceding year the actual gross billings will equal the price in Column (b) multiplied by the number of times that service or property was provided during the year. If more than one price was charged during the year, the total billings at each price must be determined by multiplying each price by the number of times that service or property was provided at that price. The sum of the total billings at each price will equal the actual gross billings.

Step 6. Enter in Item 10 the dollar amount of the total gross billings for all services and property related to the provision of health care provided in the calendar year preceding the compliance calendar year. Exclude dollar amounts resulting from prices charged under a fixed dollar amount contract with another health care provider.

Step 7. Enter in Item 9, Column (f) the weighting factor for that service or property. This is determined by dividing the entry in Column (e) by the amount in Item 10.

Computation of percentage aggregate weighted price increase (%AWPI)

Step 8. Enter in Column (g) of Item 9 the percentage weighted price change for that

service or property. This is determined by multiplying the entry in Column (d) by the entry in Column (f).

Step 9. Enter in Item 11 the percentage aggregate weighted price increase (%AWPI) which equals the sum of all the weighted price changes in Column (g) of Item 9.

Example of calculation of %AWPI by Method No. 2. A physician wishes to increase fees by the authorized aggregate weighted percentage of 4 percent in calendar year 1974. She decides to increase the fees for a history and physical examination, a hospital visit, and a laboratory test (urinalysis). Lawful fees on December 31, 1973, for these three services were $10.00, $9.00, and $4.00 respectively. She determines actual billings in calendar year 1973 for these services to be $30,000, $4,500 and $2,000 respectively. Total billings in calendar year 1973 for all services were $100,000. She completes Items 9 through 11 as follows after first determining, at her own discretion, exactly how she wishes to apportion her allowed fee increase. [Note that no single fee over $10.00 has been increased by more than 10 percent and no single fee under $10.00 has been increased by more than $1.00 in accordance with 6 CFR 150.734(a)(2)]:

Description of service or property or groups of related services or property	Price on Dec. 31 of year preceding CCY	Highest actual or proposed price during CCY	Percentage price change	Actual gross billings for year preceding CCY	Weighting factor	Weighted price change (percent)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
History and physical examination	$10	$11	10.00	$30,000	0.3000	3.00
Hospital visit	9	10	11.11	4,500	.0450	.50
Urinalysis	4	5	25.00	2,000	.0200	.50
Total				[1] 100,000		[2] 4.00

[1] Billings for year preceding CCY.
[2] Percent AWPI.

Method No. 3 (6 CFR 150.734(d)(3)). If the preceding year's gross billings can be determined by groups of similar or related services or property whose price has been or is to be changed, Method No. 3 may be used. Method No. 3 is based on the following formula:

$$\%\ \text{AWPI} = \Sigma\ \%\ I \times \frac{G_1}{B_2}$$

Where,

$\%\ I$ = The highest percentage price increase for any service or property within a group of similar or related services or property. (Column (d))

G_1 = The actual gross billings during the immediately preceding calendar year for that group of similar or related services or property. (Column (e))

B_2 = The total gross billings during the immediately preceding calendar year for all services and property. (Item 10)

Σ = The sum of.

Computation of percentage price change for each group of related services or property

Step 1. Enter in Item 9, Column (a) a brief description of each group of related services or property for which the prices have been changed or are to be changed since the last day of the calendar year preceding the compliance calendar year. If additional space is needed, attach additional sheets using the same format as used in Item 9.

Step 2. Enter in Columns (b), (c), and (d) of Item 9 the price lawfully in effect on December 31 of the preceding year, the highest price charged or to be charged during the compliance calendar year, and the percentage price change for the individual service or property within the group identified in column (a) that had the highest percentage price increase. This percentage may not be greater than 10 percent unless the highest percentage price increase results from an increase of $1.00 or less for a fee under $10.

Computation of weighting factor for each group of related services or property

Step 3. Enter in Column (e) of Item 9 the actual gross billings during the calendar year preceding the compliance calendar year for that group of related services or property.

Step 4. Enter in Item 10 the dollar amount of the total gross billings for all services and property related to the provision of health care provided in the calendar year preceding the compliance calendar year. Exclude dollar amounts resulting from prices charged under a fixed dollar amount contract with another health care provider.

Step 5. Enter in Column (f) of Item 9 the weighting factor for that group of services or property. This is determined by dividing the entry in Column (e) by the amount in Item 10.

Computation of percentage aggregate weighted price increase (%AWPI)

Step 6. Enter in Column (g) of Item 9 the percentage weighted price change for that group of services or property. This is determined by multiplying the entry in Column (d) by the entry in Column (f).

Step 7. Enter in Item 11 the precentage aggregate weighted price increase (%AWPI) which equals the sum of all the weighted price changes in Column (g) of Item 9.

Item 12. Enter the percentage amount, if any, by which the compliance calendar year %AWPI exceeds the total %AWPI authorized for the compliance calendar year. If Item 11 is less than Item 8, enter a zero.

Part IIB—Percentage Increase on Fixed Dollar Amounts Specified in a Contract

Part IIB is to be completed by medical practitioners and medical laboratories deriving a portion or all of their gross income from fixed dollar amounts specified in contracts (including maximum or minimum guarantees) with other health care providers, other than on a fee-for-service basis. The fixed dollar amount may not increase more than 6.2 percent of the dollar amount specified in the contract for the same service or property in the preceding contract year. A separate Part IIB should be completed for each separate fixed dollar amount contract.

Item 14. Enter the portion of the percentage increase allowed in prior years but not yet taken.

NOTE: A maximum of 5 percent may have been accumulated prior to December 28, 1973, which must be justified by increased expenses of practice or doing business pursuant to 6 CFR 300.19.

Item 15. Subject to the revenue margin limitation as determined under Parts IIIA and IIIB of this form, the percentage increase authorized for the compliance contract year should equal but in any event not exceed 6.20 percent.

Items 16–18. Self-explanatory.

Item 19. Enter the percentage amount, if any, by which the compliance contract year percentage increase on the fixed dollar amount specified in the contract exceeds the total percentage increase authorized for the compliance contract year. If Item 18 is less than Item 17, enter a zero.

Part IIIA—Computation of Revenue Margin (Independent Medical Laboratories Leave Blank)

The term "base period" means any two, at the option of the practitioner concerned, of that practitioner's fiscal years ending after August 15, 1968, other than the fiscal year for which compliance is being determined.

Base period revenue margin means the ratio that the base period net revenues (aggregate annual revenues less total operating expenses directly related to the provision of health care) bears to the base period aggregate annual revenues. Revenues and operating expenses derived from the provision of health care under a contract with an HMO may be excluded in the computation of the base period revenue margin.

Item 20. If you account on a cash basis, enter total cash received and earned from the provision of all health care services and property for the fiscal year concerned. If you account on an accrual basis, enter total billed and accrued charges from the provision of all health care services and property computed in accordance with generally accepted accounting principles, consistently applied.

Item 21. Enter total operating expenses computed in accordance with generally accepted accounting principles consistently applied. Professional partnerships shall exclude from operating expenses any salaries paid to employees who are medical practitioners and who also earn more than 50 percent of their medical practice income from the partnership (6 CFR 150.735(c)). If a medical practitioner has incorporated or has abandoned his corporate status during or subsequent to either of the base years, in computing the base period and compliance fiscal year revenue margins, he must reconcile operating expenses for all the appropriate years in which he was incorporated in accordance with Part IIIB and enter in the appropriate columns the adjusted operating expenses from Item 30. (See instructions below.)

Items 22 and 23. Self-explanatory.

Item 24. An authorized adjusted base period revenue margin may be entered and used for the base period revenue margin limitation if the medical practitioner has been granted an exception to that limitation by the Cost of Living Council or Price Commission. (Submit copy of the Decision and Order.)

Item 25. Self-explanatory.

Item 26. Enter the percentage amount, if any, by which the compliance fiscal year revenue margin exceeds the base period revenue margin. If Item 25(d) is less than the greater of Item 23(c) or Item 24(c), enter a zero.

Part IIIB—Reconciliation of Professional Corporation Operating Expenses for Computation of Revenue Margin (Independent Medical Laboratories Leave Blank)

Pursuant to the provisions of 6 CFR 150.735(b), when a practitioner has incorporated or abandoned his corporate status during or subsequent to the years of the base period, he shall reconcile the operating expenses which were incurred during the years of corporate practice with the operating expenses incurred while not incorporated.

Item 27. Enter the ending date of any base or compliance fiscal year during which the medical practitioner was incorporated and for which operating expenses must be reconciled.

Item 28. Enter total operating expenses computed in accordance with generally accepted accounting principles consistently applied.

Item 29(a). Enter total salaries including monies received from profit sharing plans paid to all individual medical practitioners who are employed by or who are officers or owners of the corporation.

(*b*). Enter the dollar amount of the total deferred compensation reflected on the corporation's books of account for all individual medical practitioners who are employed by or who are officers or owners of the corporation.

(*c*). Enter the allowance permitted to be deferred under 26 U.S.C. 401 (Keogh Plan). For years prior to 1974, this allowance was equal to 10 percent of gross compensation but not to exceed $2500 per tax year. Note: The amount entered in Item 29(c) may not exceed the amount entered in Item 29(b).

(*d*). Note that Item 29(c) is to be deducted from the sum of Item 29 (a) and (b).

Item 30. Enter adjusted operating expenses for each year. This is determined by subtracting Item 29(d) from Item 28. Also enter the adjusted operating expenses in the appropriate columns of Item 21.

Part IV—Additional Information

Self-explanatory.

Part V—Certification and Signature

Type the name and title of the individual who has signed the certification and the date of signing. The individual who signs and certifies Form CLC–81 must be the medical practitioner, a designated partner, the chief executive officer, the administrator or the chief financial officer.

[FR Doc.74–5531 Filed 3–6–74;3:40 pm]