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TUESDAY, JULY 27, 1976

highlights

NOTICE REGARDING PRIVACY ACT PUBLICATIONS GUIDELINES

The Office of the Federal Register announces that publication of the Privacy Act Publication Guidelines originally scheduled for the July 28th issue of the "Federal Register" has been postponed. A new publication date will be announced in advance.

PART I:

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reminders

(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.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 3201..... Pub. Law 94–369
Public Works Employment Act of 1976
(Passed over Presidential veto July 22, 1976; 90 Stat. 999)

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Twelve agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5286. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

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Title 3—The President

Executive Order 11928 • **July 26, 1976**

Exemption of Harold Council From Mandatory Retirement

Harold Council, a member of the Mississippi River Commission, will become subject to mandatory retirement for age as of July 31, 1976, under the provisions of section 8335 of title 5 of the United States Code, unless exempted by Executive order.

In my judgment, the public interest requires that Harold Council be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of section 8335 of title 5 of the United States Code, I hereby exempt Harold Council from mandatory retirement until July 31, 1977.

Gerald R. Ford

THE WHITE HOUSE,
July 26, 1976.

[FR Doc.76-21912 Filed 7-26-76;11:16 am]

Executive Order 11929 • July 26, 1976

Incentive Pay for Enlisted Members of the Uniformed Services Who Are Involuntarily Removed From Aerial Flight Duties

By virtue of the authority vested in me by sections 301(a) and (f) of title 37 of the United States Code, section 301 of title 3 of the United States Code, and as President of the United States of America and Commander in Chief of the armed forces, it is hereby ordered as follows:

SECTION 1. Executive Order No. 11157 of June 22, 1964, as amended, is further amended by adding the following section:

"Sec. 114. Under such regulations as the Secretary of Defense and the Secretary of Transportation may prescribe with respect to enlisted members within their respective jurisdictions, any enlisted member who has been required by competent orders to perform duty as a crew member involving frequent and regular participation in aerial flight shall, if he is involuntarily removed from the performance of that duty, under circumstances prescribed by such regulations with less than 120 days' advance notice, be deemed to have fulfilled all of the requirements for payment of incentive pay under section 301(a)(1) or (f) of title 37 of the United States Code, for that duty for up to 120 days after the date on which he was notified of such removal.".

SEC. 2. Section 105 of Executive Order No. 11157 of June 22, 1964, as amended, is further amended by deleting "section 110" and inserting in lieu thereof "sections 110 and 114".

Gerald R. Ford

THE WHITE HOUSE,
July 26, 1976.

[FR Doc.76-21913 Filed 7-26-76;11:17 am]

Memorandum of June 30, 1976

Presidential Determination Under Section 614(a) of the Foreign Assistance Act of 1961, as Amended—Spain

[Presidential Determination No. 76-19]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, June 30, 1976.

Pursuant to the authority vested in me by Section 614(a) of the Foreign Assistance Act of 1961, as amended, I hereby:

(a) Determine that the use of not to exceed $725,000 in FY 1976 in military assistance funds for military training and the use of up to $200,000 in FY 1976 in military assistance funds to defray the cost of packing, crating, handling and transportation of previously funded grant materiel for Spain, without regard to Section 620(m) of the Act, are important to the security of the United States; and

(b) Authorize such use of up to $925,000 of military assistance funds without regard to Section 620(m) of the Act.

This determination shall be published in the FEDERAL REGISTER.

Gerald R. Ford

JUSTIFICATION FOR PRESIDENTIAL DETERMINATION TO PERMIT SECURITY ASSISTANCE TO SPAIN

PROBLEM

Section 620(m) of the Foreign Assistance Act of 1961, as amended, (the Act), prohibits assistance to "any economically developed nation" except under certain circumstances not relevant here. Spain has been treated as an "economically developed nation" for purposes of section 620(m).

Section 614(a) of the Act permits the President to authorize assistance notwithstanding the requirements of the Act (including section 620(m)), if he determines that such assistance is "important to the security of the United States." Such determinations were made in each of the preceding five fiscal years to permit continuation of our security assistance program with Spain. For the reasons set forth below, the continuation of this assistance during the current fiscal year is important to the security of the United States.

JUSTIFICATION

United States access to and utilization of strategically important air and naval facilities in Spain have continued uninterrupted since expiration last year of the five-year Agreement of Friendship and Cooperation of August 6, 1970, pending entry into force of the Treaty of Friendship and Cooperation of January 24, 1976. The United States security assistance program represents a concrete manifestation of our continued desire for close military cooperation with Spain and of our recognition that an adequate Spanish defensive capability benefits European security as well. The fiscal year 1976 assistance authorized to be furnished by the present determination is composed of a relatively modest training program of not to exceed $725,000, and funding of not to exceed $200,000 for the cost of packing, crating, handling and transportation of military assistance materiel for which funds were obligated in prior fiscal years.

This modest fiscal year 1976 military assistance program will serve to foster the spirit of U.S.-Spanish military cooperation on which continued United States access to the strategically important air and naval facilities in Spain is based. Therefore, I have concluded that the provision of this assistance to Spain, notwithstanding the provisions of section 620(m) of the Act, is important to the security of the United States.

[FR Doc.76-21805 Filed 7-23-76;2:34 pm]

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

National Aeronautics and Space Administration

Part 213.3148 is amended to show that 22 positions in the Secretarial Science program at Langley Research Center, National Aeronautics and Space Administration are excepted under Schedule A.

Effective on July 27, 1976, § 213.3148(e) is added as set out below:

§ 213.3148 National Aeronautics and Space Administration.

* * * * *

(e) Twenty-two positions in the Secretarial Science program at Langley Research Center when occupied by students at Thomas Nelson Community College. No one may be employed under this authority for more than 1,280 hours in a service year. No new appointments may be made under this authority after August 31, 1976.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.76-21729 Filed 7-26-76;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—WAREHOUSE REGULATIONS

PART 107—NUT WAREHOUSES

On June 17, 1976, there was published in the FEDERAL REGISTER (41 FR 24594) a notice of proposed rulemaking regarding amending certain sections of the regulations appearing in Part 107 of Subchapter E, Chapter I under Title 7 of the Code of Federal Regulations with respect to types of eligible nuts, net worth, bonding and other requirements, pursuant to authority conferred by section 28 of the United States Warehouse Act (7 U.S.C. 268). The proposed amended regulations were published in their entirety.

Interested persons were given 30 days in which to submit written data, views, or arguments concerning the proposed amended regulations. No such comments have been received. After due consideration of all relevant matters, and under the aforesaid authority, Part 107 is amended as published herein.

Several changes have been made from the proposed regulations published on June 17, 1976. Such changes generally are of an editorial nature, made to improve language and clarity of meaning which add no additional substantive requirements. Provisions for bonds to be furnished by persons acting as custodians of nuts in State operated warehouses have been deleted since there are no State warehouses which would operate under the Act at this time.

It is necessary to dispense with the normal 30 day interim period between publication of these regulations and the date upon which they become effective.

As these regulations are being published in final form, the beginning of the peanut harvesting season is rapidly approaching. The harvest season for nuts in this country will commence on or about August 1, 1976, for this year's crop. Under these circumstances, if these regulations are not made effective until 30 days after their publication, it will create a situation wherein warehousemen will not be able to provide warehousing under these regulations for peanuts until some time after they are harvested. Furthermore, there is the likelihood of creating considerable confusion from the changeover from the existing regulations to the proposed regulations after the harvest season has begun. Accordingly, it is found that due and timely execution of the function of the Secretary under the Act makes it imperative and unavoidable to omit the normal 30-day delay between the publication of these regulations and their effective date, and to make them effective upon publication.

Effective date: July 27, 1976.

Done at Washington, D.C. July 21, 1976.

DONALD E. WILKINSON,
Administrator.

7 CFR Part 107 is revised as set forth below:

AUTHORITY: (Sec. 28, (7 U.S.C. 268).)

DEFINITIONS

§ 107.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 107.2 Terms defined.

For the purposes of the regulations in this part, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *Nuts.*—Unshelled nuts of the following kinds: American-grown peanuts, pecans, filberts, and English or Persian walnuts; and shelled American-grown peanuts.

(b) *The Act.*—The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; (7 U.S.C. 241–273)) as amended.

(c) *Person.*—An individual, corporation, partnership, or two or more persons having a joint or common interest.

(d) *Department.*—The United States Department of Agriculture.

(e) *Secretary.*—The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Service.*—The Agricultural Marketing Service of the United States Department of Agriculture.

(g) *Administrator.*—The Administrator of the Service or any other officer or employee of that Service to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(h) *Regulations.*—Rules and regulations made under the Act by the Secretary.

(i) *Warehouse.*—Unless the context otherwise clearly indicates, any building, structure, or other protected enclosure licensed or to be licensed under the Act, in which nuts are or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which nuts are or may be stored.

(j) *Warehouseman.*—Any person lawfully engaged in the business of storing nuts, who holds an effective warehouseman's license under the Act, or who has applied for such a license.

(k) *License.*—A license issued under the Act by the Secretary.

(l) *Warehouseman's bond.*—The bond required by the Act to be given by a warehouseman.

(m) *Licensed inspector.*—A person licensed under the Act by the Secretary to inspect, grade and to certificate the condition, grade or other class of nuts stored or to be stored in a licensed warehouse.

(n) *Licensed weigher.*—A person licensed under the Act by the Secretary to weigh and certificate the weight of nuts stored or to be stored in a licensed warehouse.

(o) *Receipt.*—A licensed warehouse receipt issued under the Act.

(p) *Package.*—A bag, sack, box, or other container.

(q) *Ton.*—(Short ton) 2,000 pounds.

WAREHOUSE LICENSES

§ 107.3 Application form.

Applications for licenses and for amendments of licenses under the Act shall be made to the Administrator upon prescribed forms furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Administrator shall find to be necessary to the consideration of his application.

§ 107.4 All facilities to be licensed or exempted.

All facilities within the same city or town used for the storage of nuts by an applicant for a warehouse license must qualify for a license and be licensed under the Act if the applicant is to be licensed to operate as a nut warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Administrator upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of the nonfederally licensed facilities, there would be no likelihood of interchange, substitution, or commingling of nuts stored in such facilities with nuts stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this section, the applicant shall not be licensed under the Act as a nut warehouseman in the city or town in which the facilities in question are located. Each applicant for a nut warehouse license must apply for a license covering all facilities operated by him for the storage of nuts within the same city or town or for exemption as provided in this section. If a licensed nut warehouseman acquires any additional nut storage facilities within the same city or town in which his licensed warehouse is located he shall file promptly an application for a license or an exemption of the additional facilities. No nut storage facility acquired by a licensed nut warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of nuts until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed nut storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used for the storage of nuts, until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of nuts by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of nuts.

§ 107.5 Scales; bin and compartment numbers.

(a) Each warehouse must be equipped with suitable scales in good order, and so arranged that all nuts, whether for storage or for nonstorage purposes, can be weighed in and out of the warehouse. The scales in any warehouse shall be subject to examination by representatives of the Department and to disapproval by the Administrator. If he disapproves any weighing apparatus, it shall not thereafter be used in ascertaining the weight of nuts for the purposes of this Act, until such disapproval be withdrawn.

(b) Both bulk bins and compartments for sacked nuts of all warehouses licensed under the Act shall be identified by means of clearly discernible numbers securely affixed thereto. The series of numbers to be used shall be approved by the Service. Bulk bins shall be numbered so as to be easily identified at the openings on top and also on or near the outlets. Compartments shall be numbered in such a manner as to clearly show the space covered by each number.

§ 107.6 Net assets.

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made under the regulations in this part, shall have and maintain above all exemptions and liabilities, total net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least $25 per ton for the maximum number of tons of peanuts, 2 cents per pound for the maximum number of pounds of walnuts or filberts, and/or 3 cents per pound for the maximum number of pounds of pecans, that the warehouse could accommodate when stored in the manner customary to the warehouse as determined by the Administrator: *Provided*, That no person may be licensed as a warehouseman under the

regulations in this part unless he has allowable net assets of at least $10,000: *And provided further,* That any deficiency in net assets required above the $10,000 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 107.14(c). In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. Such insurance shall be in the form of lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the State in which the warehouse is located.

(b) In case a warehouseman is licensed or is applying for licenses to operate two or more warehouses under the regulations in this part, the maximum quantity of nuts which all such warehouses will accommodate when stored in the manner customary to the warehouses, as determined by the Administrator, shall be considered in determining whether the warehouseman meets the net assets requirements specified in paragraph (a) of this section.

(c) For the purposes of paragraphs (a) and (b) of this section only, capital stock as such shall not be considered a liability.

§ 107.7 Grounds for not issuing license.

A license for the conduct of a warehouse, or any amendment to a license, under the regulations in this part, shall not be issued if it is found by the Secretary that the warehouse is not suitable for the proper storage of nuts; that the warehouseman does not possess a good reputation, or does not have a net worth of at least $10,000, or is incompetent to conduct such warehouse in accordance with the Act and the regulations in this part; or that there is any other sufficient reason within the intent of the Act for not issuing such license. If all the facilities operated for the storage of nuts by the applicant within the same city or town are not to be licensed under the Act, the applicant shall not be licensed as a nut warehouseman with respect to any of such facilities, unless an exemption of the facilities which are not to be licensed is granted as provided in § 107.4.

§ 107.8 License shall be posted.

Immediately upon receipt of his license of any modification or extension thereof under the Act, the warehouseman shall post the same, and thereafter, except as otherwise provided in the regulations in this part, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

§ 107.9 Suspension, cancellation or revocation of warehouse licenses.

(a) Pending investigation, the Secretary, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary may, without hearing, suspend or cancel the license issued to such warehouseman. The Secretary may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a warehouseman when he determines that such warehouseman:

(1) Does not have a net worth of at least $10,000;

(2) Has parted, in whole or in part, with his control over the licensed warehouse;

(3) Is in process of dissolution or has been dissolved;

(4) Has ceased to operate such licensed warehouse;

(5) Has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse;

(6) Has made unreasonable or exorbitant charges for services rendered;

(7) Is operating in the same city or town in which his licensed warehouse facilities are located, any facility for storage of nuts which is not covered by a license or an exemption as provided in § 107.4, or

(8) Has in any other manner violated or failed to comply with any provision of the Act or the regulations in this part.

(b) Whenever any of the conditions mentioned in paragraphs (a) (1) through (8) of this section shall come into existence, it shall be the duty of the warehouseman to notify the Administrator immediately of the existing condition. Before a license is revoked or suspended (other than temporarily pending investigation) for any violation of, or failure to comply with, any provision of the Act or of the regulations in this part, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 107.81.

§ 107.10 Return of suspended or revoked warehouse license.

In case a license issued to a warehouseman terminates or is suspended, revoked, or canceled by the Secretary, it shall be returned immediately to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as required in § 107.8: *Provided,* That in the discretion of the Administrator a new license may be issued without reference to such suspension.

§ 107.11 Lost or destroyed warehouse license.

Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof or a new license may be issued under the same or a new number at the discretion of the Administrator.

§ 107.12 Unlicensed warehousemen must not represent themselves as licensed.

No warehouse or its warehouseman shall be designated as licensed under the Act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise unless such warehouseman holds an unsuspended, unrevoked, and uncanceled license for the conduct of such warehouse.

WAREHOUSE BONDS

§ 107.13 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the Act shall, before such license is granted, file with the Secretary a bond containing the following conditions and such other terms as the Secretary may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall:

Faithfully perform during the period of one year commencing _____, or until the termination of said license(s) in the event of termination prior to the end of the one year period, all obligations of a licensed warehouseman under the terms of the Act and regulations thereunder relating to the above-named products; and

Faithfully perform during said one year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the Act, such delivery obligations and further obligations as a warehouseman as exist at the beginning of said one year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s);

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the Act and regulations and contracts shall include obligations under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

§ 107.14 Amount of bonds; additional amounts.

(a) The amount of bond to be furnished for each warehouse under the regulations in this part for peanuts shall be fixed at a rate of $25 per ton for the first 10,000 tons of licensed capacity and $20 per ton for all tons of licensed capacity over 10,000 tons; for walnuts and filberts the bond shall be fixed at a rate of 2 cents per pound for the licensed capacity; and for pecans the bond shall be fixed at a rate of 3 cents per pound for the licensed capacity: *Provided,* That in any case the amount of bond shall not be less than $20,000 nor more than $500,000, except as prescribed in paragraph (c) of this section. The licensed capacity shall be the maximum quantity of nuts that the warehouse will accommodate when stored in the manner customary to the

warehouse as determined by the Administrator.

(b) In case a warehouseman is licensed or is applying for licenses to operate two or more warehouses in the same State he may give a single bond meeting the requirements of the Act and the regulations in this part to cover all his warehouses within the State. In such case the warehouses to be covered by the bond shall be deemed to be one warehouse only for purposes of determining the amount of bond required under paragraph (a) of this section.

(c) In case of a deficiency in net assets above the $10,000 minimum required under § 107.6, there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency. In any other case in which the Administrator finds that conditions exist which warrant requiring addtional bond, there shall be added to the amount of bond as determined under the other provisions of this section, a further amount to meet such conditions.

§ 107.15 Amendment to license; bond.

In case an application is made for an amendment to a license and no bond previously filed by the warehouseman under §§ 107.13–107.17 covers obligations arising during the period covered by such amendment, the warehouseman shall, when notice has been given by the Secretary, that his application for such amendment will be granted upon compliance by such warehouseman with the Act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the Act. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the Act and the regulations in this part, may be filed in lieu of a new bond.

§ 107.16 New bond required each year.

A continuous form of license shall not remain in force for more than one year from its effective date, or any subsequent extension thereof, unless each year prior to the date on which the license would expire, the warehouseman files a bond in the required amount with the Secretary and such bond has been approved by him.

§ 107.17 Approval of bond.

No bond, amendment, or continuation thereof shall be accepted for the purposes of the Act and the regulations in this part until it has been approved by the Secretary.

WAREHOUSE RECEIPTS

§ 107.18 Form.

(a) Every receipt, whether negotiable or nonnegotiable, issued for nuts stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the Act, embody within its written or printed terms the following:

(1) The name of the warehouseman and the designation, if any, of the warehouse.

(2) The license number of the warehouse.

(3) A statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws.

(4) In the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

(5) A statement conspicuously placed, whether or not the nuts are insured, and, if insured, to what extent, by the warehouseman against loss by fire, lighting, tornado, or otherwise.

(6) The kind and type of nut.

(7) The net weight of the nuts.

(8) In the case of nuts the identity of which are to be preserved, the identification or location in accordance with §§ 107.35, 107.36, and 107.38; and

(9) The words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon.

(b) Every receipt, whether negotiable or nonnegotiable, issued for unshelled peanuts stored in a licensed warehouse shall specify that the unshelled peanuts are accepted for storage under the Act and the regulations in this part, for a period not to extend beyond July 1 following the year in which harvested. Upon demand and the surrender of the old receipt by the lawful holder thereof on or before July 1, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of unshelled peanuts in the warehouse, if he then continues to act as a licensed warehouseman, may issue a new receipt for a further specified period not to extend beyond March 31 of the year following the date of surrender of the old receipt: *Provided,* That the farmers' stock peanuts are first reinspected by a licensed inspector and found to be be in proper condition for further storage and the grade or other class, as determined by the licensed inspector is shown on the new receipt.

(c) Every receipt, whether negotiable or nonnegotiable, issued for shelled peanuts stored in dry storage space in a licensed warehouse shall specify a period, for which the peanuts are to be stored under the Act and the regulations in this part, not to extend beyond May 31 following the year in which harvested. Every receipt, whether negotiable or nonnegotiable, issued for peanuts stored in cold storage space in a licensed warehouse shall specify a period, not exceeding one year, for which the peanuts are accepted for storage under the Act and regulations in this part. Upon demand for issuance of a new receipt, surrender of the old receipt by the lawful holder thereof at or before the expiration of the period specified therein and an offer to satisfy the warehouseman's lien, the warehouseman, upon such lawful terms and conditions as may be granted by him to other depositors of peanuts in his warehouse, shall, in the absence of some lawful excuse, issue a new receipt for a further specified period, not exceeding one year.

(d) Every receipt, whether negotiable or nonnegotiable, issued for walnuts, filberts, or pecans stored in a licensed warehouse under ordinary dry storage conditions shall specify a period for which the walnuts, filberts, or pecans are accepted for storage under the Act and the regulations in this part not to extend beyond March 31 following the year in which harvested. Upon demand by the lawful holder and surrender of this receipt on or before March 31, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of walnuts, filberts, or pecans in his warehouse, if he then continues to act as a licensed warehouseman may issue a new receipt for a further specified period not to extend beyond December 31 of the year following the date of surrender of the old receipt: *Provided,* That the walnuts, filberts, or pecans are first reinspected by a licensed inspector and found to be in proper condition for further storage and the grade and condition as determined by the licensed inspector and the year in which the walnuts, filberts, or pecans were harvested are shown on the new receipt: *And provided further,* That such nuts are placed in licensed cold storage space before or immediately following inspection thereof and before the issuance of receipts.

(e) The grade or other class stated in a receipt issued for nuts, shall be stated in such receipt in accordance with § 107.77 as determined by the licensed inspector who last inspected the nuts before the issuance of such receipt, and such receipt shall embody within its written or printed terms the following: (1) That the nuts covered by the receipt were weighed by a licensed weigher, and inspected by a licensed inspector; (2) a form of indorsement which may be used by the depositor or his authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the nuts covered by the receipt.

(f) If a warehouseman issues a receipt omitting the statement of grade or other class on request of the depositor as permitted by section 18 of the Act, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "not graded on request of depositor."

(g) If a warehouseman issues a receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

§ 107.19 Copies of receipts.

At least one actual or skeleton copy of all receipts shall be made, and all copies, except skeleton copies, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable." A copy of each receipt issued shall be retained by the warehouseman for a period of one year after December 31 of the year in which the corresponding original receipt is canceled.

§ 107.20 Lost or destroyed receipts; bond.

(a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate receipt issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such new or duplicate receipt the licensed warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that the applicant is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the nuts represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon (i) preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or (ii) at least two individuals other than the applicant who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the extent of the amount of the bond.

§ 107.21 Printing of receipts.

Receipts issued by a warehouseman shall be (a) in form prescribed by the Administrator, (b) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (c) on distinctive paper.

§ 107.22 Return of receipts before delivery of nuts.

Except as permitted by law or by this part, a warehouseman shall not deliver nuts for which he has issued a negotiable receipt until the receipt has been returned to him and canceled; and shall not deliver nuts for which he has issued a nonnegotiable receipt until such receipt has been returned to him, or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor.

§ 107.23 Partial delivery of nuts.

Before delivery is made of the last portion of a lot of nuts covered by a nonnegotiable receipt, the receipt itself shall be surrendered. If a warehouseman delivers a part only of a lot of nuts for which he has issued a negotiable receipt under the Act, he shall take up and cancel such receipt and issue a new receipt bearing the same lot number for the undelivered portion of the nuts. In addition to showing the information required by § 107.18, the new receipt shall also indicate the date and number of the receipt which it supersedes.

§ 107.24 Authority for delivery of nuts on nonnegotiable receipts.

Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of nuts covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of nuts covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine: *Provided*, That if the holder of such nonnegotiable receipts agrees in writing to hold blameless both the warehouseman and bondsman for any loss that might result from improper delivery through receipt of an unauthorized telegram, deliveries may be made on receipt of telegraphic orders to be followed immediately with usual confirmation order.

§ 107.25 Omission of grade; no compulsion by warehouseman.

No warehouseman shall, directly or indirectly, by any means whatever, compel or attempt to compel the depositor of any nuts stored in his licensed warehouse to request the issuance of a receipt omitting the statement of grade or other class.

§ 107.26 Persons authorized to sign receipts.

Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign and shall file the signatures of such persons, and each warehouseman shall be bound by such signatures the same as if he had personally signed the receipt.

§ 107.27 Canceled receipts; auditing.

Each warehouseman, when requested by the Service, shall forward his cancelled receipts for auditing to such field offices of the Service as may be designated from time to time. For the purpose of this section, only such portion as the Service may designate of each cancelled receipt, numbered to correspond with the actual receipt number need be submitted.

DUTIES OF LICENSED WAREHOUSEMEN

§ 107.28 Nuts must be inspected and weighed.

(a) Except in case of identity preserved nuts when grade or other class is omitted at request of depositor, all nuts received into the warehouse shall be inspected and weighed by a licensed inspector and/or weigher and no receipt may be issued under the Act and the regulations in this part until the nuts covered by such receipt have been so inspected and weighed.

(b) When requested by the depositor of nuts the identity of which is to be preserved, a receipt omitting statement of grade or other class but not weight may be issued.

(c) Except as provided in § 107.41, all nuts delivered out of a warehouse must be weighed by a licensed weigher.

(d) Warehousemen must keep stocks of nuts in storage by grades or other class in balance with the grades or other class of nuts represented by outstanding storage obligations for which receipts have been or are to be issued, except when the nuts have unavoidably improved or deteriorated through natural causes. In the case the grades or other class of stored nuts should get out of balance with grades or other class represented by outstanding storage obligations for which receipts have been or are to be issued, the warehouseman shall effect proper adjustments.

§ 107.29 Receipts; basis for issuance.

Before issuing any receipt under the Act each warehouseman shall, unless he personally weighed, inspected, and graded, if graded, a lot of nuts, first obtain either a copy of, or the original weight certificate, and inspection certificate, if any, covering said lot of nuts. The warehouse records shall clearly identity the certificate(s) used as a basis of issuance of each warehouse receipt, and said inspection and weight certificate shall be kept on file as a record in the warehouseman's office. Such certificates shall be retained for a period of three years after December 31 of the year in which issued.

§ 107.30 Insurance requirements.

(a) Each licensed warehouseman, when so requested in writing as to any nuts by the depositor thereof or lawful holder of the receipt covering such nuts, shall, to the extent to which in the exercise of due diligence he is able to procure such insurance, keep such nuts while in his custody as a licensed warehouseman insured in his own name or arrange for insurance otherwise to the extent so requested against loss or damage by fire, lightning and tornado. When insurance is not carried in the warehouseman's name the receipts shall show that the nuts are not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought, in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, by telegraph or orally in person or by telephone and with subsequent confirmation in writing, and at his own expense, immediately notify the person making the request of the fact. Nothing

in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all nuts stored in his warehouse.

(b) Each warehouseman shall comply fully with the terms of insurance policies or contracts covering his licensed warehouse and all products stored therein, and shall not commit any acts, nor permit his employees to do anything, which might impair or invalidate such insurance.

(c) Each warehouseman shall keep exposed conspicuously in the place prescribed by § 107.8, and at such other place as the Administrator or his representative may from time to time designate, a notice stating briefly the conditions under which the nuts will be insured against loss or damage by fire, lightning, and tornado.

(d) Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of the regulations in this part, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

(e) Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of the regulations in this part, and shall, as soon as collected, promptly pay to the persons concerned any portion of such moneys which they may be entitled to receive from him.

§ 107.31 Care of nuts in warehouses.

Each warehouseman shall at all times exercise such care in regard to nuts in his custody as a reasonably careful owner would exercise under the same circumstances and conditions. Walnuts, filberts, and/or pecans stored under licensed receipts between March 31 and December 31, of the year following the year in which such walnuts, filberts, and/or pecans were harvested must be stored in a licensed cold-storage warehouse or room. Unless otherwise authorized by the Administrator, the warehouseman shall maintain even temperature and humidity in licensed cold-storage space, with temperature not higher than 37° F., nor less than 32° F., and relative humidity not higher than 70 percent nor less than 55 percent at any time while nuts of any kind subject to this Act are in storage. Such licensed cold-storage warehouse or room shall be equipped with automatic recording instruments for temperature and relative humidity approved by the Administrator. Continuous records or charts of temperature and relative humidity shall be kept by the warehouseman.

§ 107.32 Care of nonlicensed nuts, or other commodities.

If, at any time, a warehouseman shall handle or store nuts otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise care with respect to it, as not to endanger the nuts in his custody as a warehouseman or impair the insurance thereof or his ability to meet his obligations and perform his duties under the act and the regulations in this part. If the warehouseman stores commodities other than those for which he is licensed, licensed receipts shall not be issued therefor.

§ 107.33 Records to be kept in safe place.

Each warehouseman shall provide a fireproof safe, vault, or compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of issued and canceled receipts, except that with the written consent of the Administrator, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety approved by the Administrator. Each canceled receipt shall be retained by the warehouseman for a period of six years after December 31, of the year in which the receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act. Canceled receipts shall be arranged by the warehouseman in numerical order and otherwise in such manner as shall be directed, for purposes of audit, by authorized officers or agents of the Department of Agriculture.

§ 107.34 Warehouse charges.

A warehouseman shall not make any unreasonable or exorbitant charge for service rendered. Before a license to conduct a warehouse is granted under the Act the warehouseman shall file with the Service a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges, he shall file with the Service a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by § 107.8, and at such other places, accessible to the public, as the Administrator or his representative may from time to time designate, a copy of his current rules and schedule of charges.

§ 107.35 Numbered tags to be attached to packaged nuts.

Each warehouseman shall, upon acceptance of any lot of nuts in packages or sacks for storage, immediately stencil or mark an identification number or mark on each such package in the lot and attach to such lot a tag of good quality which shall identify the lot. Such tag shall show the lot number, the identification mark on each package, the number of the receipt issued to cover such nuts, the number of packages or sacks in the lot, the kind of nuts, the grade or other class if determined, and the gross weight of the nuts at the time they entered storage.

§ 107.36 Identification tag on stored nuts.

Each warehouseman shall so store each lot of nuts for which a receipt under the Act has been issued that the tag thereon, required by § 107.35 is visible and readily accessible, and shall arrange all packages in his licensed warehouse so as to permit an accurate count thereof and to facilitate sampling of the nuts and inspection for condition.

§ 107.37 Bulk nuts; grade or other class and weights.

Each licensed warehouseman shall accept all nuts for storage and shall deliver out of storage all bulk nuts, other than specially binned or sacked nuts, in accordance with the grade or other class of such nuts as determined by a person duly licensed to inspect such nuts and to certificate the grade or other class thereof, and in accordance with the weights of such nuts as determined by a person duly licensed to weigh such nuts and to certificate the weight thereof, under the Act and the regulations in this part.

§ 107.38 Identity-preserved nuts; bulk storage.

Upon the acceptance for storage in his licensed warehouse of any lot of bulk nuts the identity of which is to be preserved, the warehouseman shall store such nuts in an individual bin or compartment designated by lot or cargo numbers, or by letters, numbers or other clearly distinguishable words or signs, permanently and securely affixed thereto, or shall so mark the container or containers of such nuts, or so place the nuts in the warehouse, that their identity will not be lost during the storage period.

§ 107.39 Delivery of nuts.

Except as may be provided by law or the regulations in this part, each licensed warehouseman, (a) upon proper presentation of a receipt for any nuts, other than identity-preserved nuts, and upon payment or tender of all advances and legal charges, shall deliver to such depositor or lawful holder of such receipt nuts of the grade or other class and quantity specified in such receipt, and (b) upon proper presentation of a receipt for any nuts, the identity of which was to have been preserved during the storage period, and upon payment or tender of all advances and legal charges, shall deliver to the person lawfully entitled thereto, the identical nuts stored in his licensed warehouse.

§ 107.40 Removal of nuts from storage; conditions.

Except as may be permitted by law or the regulations in this part, a licensed warehouseman shall not remove any nuts for storage from the licensed warehouse until such receipt is first surrendered and canceled. If it becomes absolutely necessary to remove the nuts prior to the sur-

render of the receipts in order to protect the interests of holders of the receipts, the warehouseman shall promptly notify the Administrator of such removal and the necessity therefor.

§ 107.41 Loading out without weighing.

When the lawful owner of an entire lot of identity preserved nuts requests the warehouseman to deliver said lot without reweighing said nuts, the warehouseman may make such delivery if there is an accurate record of the weight of such nuts when received. Such deliveries shall be made only when the lawful owner agrees to assume all shortages and other risks incidental thereto, and after the warehouse receipts covering all of the nuts in the lot have been surrendered to the warehouseman and canceled.

§ 107.42 Business hours.

(a) Each licensed warehouse shall be kept open for the purpose of receiving nuts for storage and delivering nuts out of storage every business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously for eight hours between 8 a.m. and 6 p.m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the telephone number and address where he is to be found, who shall be authorized to deliver nuts stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor, as the case may be.

§ 107.43 System of accounts.

Each licensed warehouseman shall have and maintain a system of accounts, approved for the purpose by the Service, which shall include but is not limited to a stock record showing for each lot of nuts, the name of the depositor, the weight of the nuts, the number of packages in each lot, the grade or other class when grade or other class is required to be, or is, ascertained, the location, the dates received for and delivered out of storage and the receipts issued and canceled, a separate record for each depositor and such accounts shall include a detailed record of all moneys received and disbursed and of all effective insurance policies. In the case of nuts stored in packages, the tag number mentioned in § 107.35 shall be shown. Such records shall be retained by the warehouseman for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

§ 107.44 Reports.

Each licensed warehouseman shall, from time to time, when requested by the Administrator, make such reports, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse as the Administrator may require.

§ 107.45 Copies of reports to be kept.

Each warehouseman shall keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted by such warehouseman under the regulations in this part.

§ 107.46 Inspections; examinations of warehouses.

Each licensed warehouseman shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to enter and inspect or examine, on any business day during the usual hours of business, any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

§ 107.47 Weighing, testing, measuring apparatus; inspection.

The apparatus used for determining the weight, quantity, or quality stated in a receipt or certificate shall be subject to examination by the Service. If the Service shall disapprove such apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight, quantity, or quality of nuts for the purposes of the Act and the regulations in this part.

§ 107.48 Warehouse to be kept clean.

Each licensed warehouseman shall keep his warehouse clean and free from trash, dust, rubbish, or accumulations of materials that will increase the fire hazard or interfere with the handling of nuts.

§ 107.49 Signs of tenancy; posting.

(a) Each licensed warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license display and maintain appropriate signs on the licensed warehouse in such a manner as will give ample notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of appropriate size and design and shall include the following: (1) The name of the licensee, (2) the license number of the warehouse, (3) whether the warehouseman is owner or lessee, and (4) the words "public warehouse."

(c) Such other wording or lettering may appear in the sign or signs not inconsistent with the purpose of the Act and the regulations in this part, subject to the approval of the Service.

(d) Upon the expiration of his license, or during periods of suspension thereof, the warehouseman shall immediately remove such signs or portions thereof as may convey the impression that the warehouse is licensed.

(e) The warehouseman shall not permit any signs to remain on his licensed property which might lead to confusion as to the tenancy.

§ 107.50 Excess storage.

If at any time a warehouseman shall store nuts in his warehouse in excess of the capacity for which it is licensed, such warehouseman shall immediately notify the Service of such excess storage, the reason therefor, and the location thereof.

§ 107.51 Deteriorating nuts; handling.

(a) If the licensed warehouseman, with the approval of the licensed inspector, shall determine that any nuts are deteriorating and that such deterioration cannot be stopped, the licensed warehouseman shall give immediate notice of the fact, in accordance with paragraphs (b) and (c) of this section.

(b) Such notice shall state (1) the warehouse in which the nuts are stored; (2) the quantity, kind, and grade or other class of the nuts at the time the notice is given; (3) the actual condition of the nuts as nearly as can be ascertained, and the reason, if known, for such condition; (4) the outstanding receipts covering the amount of nuts out of condition, giving the number and date of each such receipt and the quantity, the kind, and grade or other class of the nuts as stated in each such receipt; and (5) that such nuts will be delivered upon the return and cancellation of the receipts therefor.

(c) A copy of such notice shall be delivered in person or shall be sent by mail (1) to the person holding the receipts, if known to the licensed warehouseman; (2) to the person who originally deposited the nuts; (3) to any other persons known by the licensed warehouseman to be interested in the nuts; and (4) to the Administrator. If the holders of the receipts and owners of the nuts are known to the licensed warehouseman and cannot, in the regular course of the mails, be reached within 12 hours, the licensed warehouseman shall, whether or not requested so to do, also immediately notify such persons by telegraph or telephone at their expense. Public notice shall also be given by posting a copy of such notice at the place where the warehouseman is required to post his license and keeping such notice posted so long as the condition exists. A copy of such notice shall be kept as a record of the warehouse.

(d) Any person, interested in any nuts or the receipt covering such nuts stored in a licensed warehouse, may, in writing, notify the licensed warehouseman conducting such licensed warehouse, of the fact of his interest, and such licensed warehouseman shall keep a record of the fact. If such person request in writing

that he be notified regarding the condition of any such nuts and agree to pay the cost of any telegraph or telephone toll charge, such licensed warehouseman shall notify such person in accordance with such request.

(e) Nothing contained in this section shall be construed as relieving the licensed warehouseman from properly caring for any nuts after notification of their condition in accordance with this section.

(f) Records required to be kept by this section shall be retained, as a part of the records of the warehouse, for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

§ 107.52 Sale at public auction.

If the nuts, advertised in accordance with the requirements of § 107.51 have not been removed from storage by the owner thereof within 5 days from the date of notice of their being out of condition, the licensed warehouseman in whose licensed warehouse such nuts are stored may sell the same at public auction at the expense and for the account of the owner after giving 10 days' notice in the manner specified in § 107.51 (c).

§ 107.53 Compliance with contracts.

Each warehouseman shall faithfully perform such obligations as a warehouseman as may be assumed by him under contracts with depositors of nuts in his warehouse.

§ 107.54 Fire loss to be reported by wire.

If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by wire or by telephone to the Administrator the occurrence of such fire and the extent of damage.

§ 107.55 Grade-weight certificate; filing.

When an inspection or weight certificate has been issued by a licensed inspector or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the nuts covered by such certificate are stored, and such certificate shall become a part of the records of the licensed warehouseman. Such certificates shall be retained, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which the certificates are issued.

FEES

§ 107.56 Warehouse license fees.

There shall be charged and collected a fee of $20 for each original warehouseman's license, and a fee of $10 for each amended or reinstated warehouseman's license applied for by a warehouseman, and a fee of $6 for each license or amendment thereto issued to an inspector and/or weigher, except that no fee shall be charged for issuance of a license to an inspector who holds an unsuspended and unrevoked license under the Agricultural Marketing Act of 1946 and regulations thereunder to inspect and grade any nuts and to certificate the grade or other class thereof.

§ 107.57 Warehouse inspection fees.

There shall be charged and collected for each original inspection of a warehouse under the Act, when such inspection is made upon application of a warehouseman, a fee based on the storage capacity of the warehouse, determined in accordance with § 107.6 and at the rate of $5 for each 100 tons, or fraction thereof, of peanuts, and $10 for each 1,000 hundredweight, or fraction thereof, of storage capacity of the warehouse for other nuts, but in no case less than $40 nor more than $600, and for each reinspection, applied for by the warehouseman, a fee based on the extent of the reinspection proportioned to, but not greater than, that prescribed for the original inspection.

§ 107.58 Advance deposit.

Before any warehouseman's license or amendment thereto or any weigher's or inspector's license is granted, or an original examination or inspection, or re-examination or reinspection, applied for by a warehouseman, is made, pursuant to the regulations in this part, the warehouseman and/or weigher, or inspector, shall deposit with the Service the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, draft, or post-office or express money order, payable to the order of the Agricultural Marketing Service, USDA.

§ 107.59 Return of excess deposit.

The Treasurer of the United States shall hold in his custody each advance deposit made under § 107.58 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

INSPECTORS AND WEIGHERS

§ 107.60 Inspectors' and weighers' applications.

(a) Application for licenses to inspect and grade or to weigh nuts under section 11 of the Act shall be made to the Administrator on forms furnished for the purpose by him. Each application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by a statement from the warehouseman for whom the applicant will inspect, grade, or weigh nuts under the Act, showing whether the applicant is competent and is acceptable to such warehouseman for the purpose.

(b) Each inspector's application shall contain:

(1) Evidence that he can correctly grade nuts in accordance with the official standards of the United States, or in the absence of such standards in accordance with any standards approved by the Administrator, and

(2) Satisfactory evidence that he will be provided with such means or facilities for inspecting and grading nuts as may be deemed necessary, for use in the locality in which the applicant expects to perform services as a licensed inspector.

(c) In lieu of compliance with the requirements of paragraph (b) of this section, the license applied for may be granted whenever such applicant furnishes satisfactory evidence that he holds an effective license under the Agricultural Marketing Act of 1946 and regulations thereunder, to inspect and grade such nuts and to certificate the grade or other class thereof.

(d) Applications for licenses to weigh nuts shall be on forms furnished for the purpose by the Administrator and shall give such information as will show the applicant's experience in weighing nuts.

(e) A single application may be made by any person for a license as both inspector and weigher upon complying with the requirements of this section.

(f) An applicant shall at any time furnish such additional information as the Department shall find to be necessary to the consideration of his application.

§ 107.61 Examination of applicant.

Each applicant for license as an inspector or weigher and each inspector or weigher shall, whenever requested by an authorized agent of the Department, submit to an examination or test to show his ability properly to inspect and grade or to weigh nuts.

§ 107.62 Posting of license.

Each inspector or weigher shall keep his license conspicuously posted in a place designated for the purpose by the Service unless authorized by the Service not to do so.

§ 107.63 Duties of inspectors and weighers.

Each inspector and each weigher whose license remains in effect shall, without discrimination, as soon as practicable, and upon reasonable terms, inspect, grade or weigh and certificate the grade or other class or weight of nuts, stored or to be stored, in a warehouse, for which he holds a license, if such nuts be offered to him under conditions as permit proper inspection and weighing and the determination of the grade or other class or weight thereof. No inspector shall issue a certificate of grade or other class for any nuts unless the inspection thereof be based upon a correct and representative sample of the nuts.

§ 107.64 Inspection certification; form.

(a) Except as provided in paragraph (b) of this section, each inspection certificate issued under the Act by an inspector shall be in a form approved for the purpose by the Department, and shall embody the following information within its written or printed terms:

(1) The caption "United States Warehouse Act, Nut Inspection Certificate."

(2) Whether it is an original, a duplicate, or other copy, and that it is not negotiable.

(3) The name and location of the warehouse in which the nuts are or are to be stored.

(4) A statement showing whether the inspection covers nuts moving into or out of the warehouse.

(5) The date of the certificate.

(6) The consecutive number of the certificate.

(7) The approximate amount of nuts covered by the certificate.

(8) The kind of nuts covered by the certificate.

(9) The grade or other class of the nuts, as determined by such licensed inspector, in accordance with § 107.77, and, in the case of nuts for which no official nut standards of the United States are in effect, the standard or description in accordance with which such nuts are graded.

(10) A statement that the certificate is issued by an inspector licensed under the United States Warehouse Act and the regulations thereunder.

(11) The signature of the inspector who inspected and graded the nuts.

In addition, the inspection certificate may include any other matter not inconsistent with the Act or the regualtions in this part, provided the approval of the Service is first secured.

(b) In lieu of the inspection certificate provided for in the preceding paragraph, each inspector, who holds an unsuspended and unrevoked license under the Agricultural Marketing Act of 1946 and regulations thereunder to inspect and grade any nuts and to certificate the grade or other class thereof for shipment or delivery for shipment in interstate or foreign commerce, shall, unless otherwise requested as to any such nuts by the owner or depositor thereof, issue a certificate of grade or other class covering such nuts in accordance with the Agricultural Marketing Act of 1946 and regulations thereunder. Such nuts shall be deemed to be inspected and graded and such certificate of grade or other class shall be deemed to be an inspection certificate for the purposes of the Act and the regulations in this part.

§ 107.65 Copies of inspection certificates to be accessible.

Each inspector shall, as soon as possible after inspecting any nuts and not later than the close of business on the next following business day, make accessible to the parties interested in a transaction in which the nuts are involved at the place designated in § 107.62 a true copy of the inspection certificate issued by him for such nuts or a record of each lot or parcel of nuts inspected or graded by such licensed inspector showing the information contained on such inspection certificate.

§ 107.66 Weight certificate; form.

Each weight certificate issued under the Act by a weigher shall be in a form approved for the purpose by the Service, and shall embody the following information within its written or printed terms:

(a) The caption "United States Warehouse Act, Nut Weight Certificate."

(b) Whether it is an original, a duplicate, or other copy, and that it is not negotiable.

(c) The name and location of the warehouse in which the nuts are or are to be stored.

(d) Whether the nuts are weighed into or out of the warehouse.

(e) The date of the certificate.

(f) The consecutive number of the certificate.

(g) The gross weight of the nuts.

(h) A statement that the certificate is issued by a weigher licensed under the United States Warehouse Act and the regulations thereunder, and

(i) The signature of the weigher.

In addition, the weight certificate may include any other matter not inconsistent with the Act or the regulations in this part provided the approval of the Service is first secured.

§ 107.67 Combination grade and weight certificate.

The grade or other class and weight of any nuts ascertained by an inspector and a weigher may be stated on a certificate meeting the combined requirements of §§ 107.64–107.66, if the form of such certificate shall have been approved for the purpose by the Service.

§ 107.68 Copies of certificates to be kept.

Each inspector and each weigher shall keep for a period of one year in a place accessible to interested parties a copy of each certificate issued by him under the regulations in this part, and shall file a copy of each such certificate with the warehouse in which the nuts covered by the certificates are stored.

§ 107.69 Licensees to permit examination of records.

Each inspector and each weigher shall permit any authorized officer or agent of the Department to inspect or examine on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the Act and this part, and shall, with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination mentioned in § 107.46 as far as any such inspection or examination relates to the performance of the duties of such inspector or weigher under the Act and the regulations in this part.

§ 107.70 Reports by licensees.

Each inspector and each weigher shall, from time to time, if requested by the Service, make reports, on forms approved for the purpose by the Service, bearing upon his activities as such inspector or weigher.

§ 107.71 Licenses; suspension, cancellation or revocation.

Pending investigation, the Secretary may, whenever he deems necessary, suspend the license of an inspector or weigher temporarily without hearing. Upon a written request or a satisfactory statement of reasons therefor, submitted by the inspector or weigher, the Secretary or his designated representative may, without hearing, suspend or cancel the license issued to such inspector or weigher. The Secretary may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to an inspector or a weigher when such licensee: (a) Has ceased to perform services as such inspector or weigher, or (b) Has in any other manner become incompetent or incapacitated to perform the duties of such inspector or weigher. As soon as it shall come to the attention of a warehouseman that either of the conditions mentioned under (a) or (b) of this section exists, it shall be the duty of such warehouseman to notify the Service in writing. Before the license of any inspector or weigher is permanently suspended or revoked pursuant to section 12 of the Act, such inspector or weigher shall be furnished by the Secretary a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 107.81.

§ 107.72 Suspended or revoked license; termination of license.

(a) In case a license issued to an inspector or weigher is suspended or revoked by the Secretary, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the inspector or weigher to whom it was originally issued and it shall be posted as prescribed in § 107.62.

(b) Any license issued under the Act and the regulations in this part to an inspector or weigher shall automatically be suspended as to any warehouse whenever the license of such warehouse shall be suspended and shall automatically terminate as to any warehouse whenever the license of such warehouse shall be revoked. Upon either suspension or termination of any inspector's or weigher's license under this paragraph, such license shall be returned to the Department. In case such license shall apply to other warehouses, the Secretary shall issue to the licensee a new license, omitting the names of the warehouses for which licenses have been revoked or suspended. Such new license shall be posted as prescribed in § 107.62.

§ 107.73 Lost or destroyed licenses.

Upon satisfactory proof of the loss or destruction of a license issued to an inspector or weigher, a duplicate thereof may be issued under the same number, in the discretion of the Secretary.

§ 107.74 Unlicensed inspectors and weighers.

No person shall in any way represent himself to be an inspector or weigher

licensed under the Act unless he holds an unsuspended and unrevoked license issued under the Act.

NUT GRADING

§ 107.75 Classification; statement.

Whenever the type or grade or other class of nuts is required to be or is stated for the purposes of the Act and the regulations in this part, it shall be stated in accordance with § 107.77.

§ 107.76 Grades based on inspection and sample.

Whenever the grade or other class of nuts is required to be or is stated for the purposes of the Act or the regulations in this part, it shall be based upon a correct and representative sample of the nuts and the inspection and grading thereof shall be made under conditions which permit the determination of its true grade or other class.

§ 107.77 Standards to be used.

Official Nut Grading Standards of the United States are hereby adopted as the official nut grading standards of the Act and the regulations in this part; *Provided*, That, the grade of nuts for which no official nut standards of the United States are in effect, shall be stated: (a) In accordance with the standards, if any, adopted by the local board of trade, chamber of commerce, or by the nut trade generally in the locality in which the warehouse is located, subject to the approval of the Service, or (b) in the absence of the standards mentioned in (a) of this section, in accordance with any standards approved for the purpose by the Service.

§ 107.78 Conditions and procedure for appeal of grades or other class.

(a) If a question arises as to whether the kind, grade or other class, or condition of nuts was correctly stated in a receipt or inspection certificate issued under the Act or the regulations in this part, the warehouseman concerned or any person financially interested in the nuts involved may, after reasonable notice to the other party, submit the question to the Administrator, who may appoint a committee to make a determination. The decision of the committee shall be final unless the Administrator shall direct a review of the question. Immediately upon making its decision, the committee shall issue a certificate embodying its findings to the appellants and to the licensee or licensees involved.

(b) If the decision of the committee be that the kind, grade or other class or condition of any identifiable lot was not correctly stated, a new receipt or certificate embodying therein the statement of kind, grade or other class or condition in accordance with the findings of the committee.

(c) All necessary and reasonable expenses of such determination shall be borne by the losing party, unless the Administrator or his representative shall decide that the expense shall be prorated between the parties.

§ 107.79 Publications.

Publications under the Act and the regulations in this part, shall be made in such media as deemed proper by the Administrator.

§ 107.80 Information of violations.

Every person licensed under the Act shall immediately furnish the Administrator any information which comes to the knowledge of such persons tending to show that any provision of the Act or the regulations in this part has been violated.

§ 107.81 Procedure in hearings.

For the purpose of hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations, the licensee involved shall be allowed a reasonable time within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by an official authorized by the Secretary. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by such official from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the official before whom the hearing is held. Every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department. At the end of the oral hearing, the parties shall be afforded an opportunity to file proposed findings of the fact, conclusions of law, and orders, after which the official before whom the hearing is held shall prepare his report including his recommended findings of fact, conclusions of law, and order, which shall be served upon the parties, who may file exceptions thereto within a time specified by such official. After the expiration of such time, such report together with any proposed findings of fact, conclusions of law, and orders, and exceptions filed by the parties shall be transmitted to the Secretary for consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

§ 107.82 One document and one license to cover several products.

A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Administrator.

§ 107.83 Bond, assets, and fees for combination warehouse.

Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Administrator in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

§ 107.84 Amendments.

Any amendment to, or revision of, the regulations in this part, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the Act.

NOTE.—The reporting and/or record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

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CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 14]

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Miscellaneous Amendments

Regulations governing the Special Milk Program for Children are amended to implement Pub. L. 94-105, enacted October 7, 1975, and Federal Management Circular 74-7 (34 CFR Part 256) which prescribes uniform administrative requirements for Federal grants-in-aid, and for other purposes.

Pub. L. 94-105 amended section 3 of the Child Nutrition Act of 1966 to make Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands eligible for the Special Milk Program for Children. In addition, a new provision was added to the Act to prohibit the use of a minimum rate of reimbursement for each half pint of milk served to children which would exceed the cost of the milk to the school or institution. These two changes affect § 215.2(y) and § 215.8(b)(1), respectively.

On July 24, 1975, changes in the regulations governing the National School Lunch, School Breakfast, and Nonfood Assistance Programs and State Administrative Expenses became effective as a result of the implementation of Federal Management Circular 74-7. These changes, where applicable, are being incorporated into the Special Milk Program for Children regulations and they are highlighted below:

(1) State agencies will be responsible for prescribing the accounting records relating to their use of the Federal grants

made to them under this part. Such records must be accurate and current.

(2) State agencies will be allowed to specify the data items on the application form and on the claim form used to reimburse School Food Authorities and child-care institutions.

(3) The provision dealing with Program termination is rewritten in accordance with the grant closeout procedures contained in Attachment L of Federal Management Circular 74–7 (34 CFR Part 256).

(4) Record retention requirements are modified to permit State agencies to maintain records in their original form or on microfilm.

(5) State agencies will use their own procedures to disallow any portion of a claim and recover any payment made to a School Food Authority or child-care institution that was not properly payable under this part.

As a result of this amendment, many specific details of program administration will be left to State agency discretion. The Department's role in these areas will be to provide guidance rather than to dictate procedures. In this connection, the requirements now removed from these regulations may be viewed as acceptable practices which State agencies may modify to meet their own needs. The Department will provide appropriate guidance materials to State agencies to aid them in developing their own procedures.

In addition, the free milk provisions applicable to child-care institutions in Part 244—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Child-Care Institutions, are now incorporated into this part. Part 245 continues to be the applicable regulation for determining eligibility for free milk in schools.

There are several changes of significance under definitions including a new definition for "adults" and "milk" and adding a definition for "children".

Other minor changes are made for clarification.

Considering the fact that the changes to the regulations implement Pub. L. 94–105 and considering the fact that changes in definitions and those resulting from implementation of Federal Management Circular 74–7 have already been published for public comment and have been placed into effect under the other child nutrition programs, it is determined that proposed rule making and public participation procedures thereon are impracticable and unnecessary.

Accordingly, Part 215 is amended as set forth below:

§ 215.1 [Amended]

1. In § 215.1, the quoted statute is amended by inserting immediately after "Guam" in the second sentence the following: "the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands,"; and by adding at the end thereof the following: "Notwithstanding any other provisions of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children."

2. In § 215.2, paragraphs (c) and (x–1) are deleted; paragraphs (b), (e), (k), (l), (n), (r), (v), (y) and (z) are revised; and paragraphs (d), (e–1), (j), (j–1), (u–1) and (aa) are added, as follows:

§ 215.2 Definitions.

* * * * *

(b) "Adults" means those persons not included under the definition of children.

(c) [Reserved]

(d) "Child Care Food Program" means the program authorized by section 17 of the National School Lunch Act, as amended.

(e) "Child-care institution" means any nonprofit nursery school, child-care center, settlement house, summer camp, service institution participating in the Summer Food Program for Children pursuant to Part 225 of this chapter, institution participating in the Child Care Food Program pursuant to Part 226 of this chapter, or similar nonprofit institution devoted to the care and training of children. The term "child-care institution" also includes a nonprofit agency to which such institution has delegated authority for the operation of a milk program in the institution. It does not include any institution falling within the definition of "School" in paragraph (v) of this section.

(e–1) "Children" means persons under 19 chronological years of age in child-care institutions; or persons under 21 chronological years of age attending schools as defined in § 215.2(v)(2) and (3) of this part; or students of high school grade or under as determined by the State educational agency in schools as defined in § 215.2(v)(1) of this part.

* * * * *

(j) "Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

(j–1) "Free milk" means milk for which neither the child nor any member of his family pays or is required to work in the school or child-care institution or in its food service.

(k) "Fiscal year" means the period of 12 calendar months beginning July 1, 1975, and ending June 30, 1976; the period of 15 calendar months beginning July 1, 1976, and ending September 30, 1977; and the period of 12 calendar months beginning October 1, 1977, and each October 1 of any calendar year thereafter and ending September 30 of the following calendar year.

(l) "Milk" means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

* * * * *

(n) "Needy children" means: (1) Children who attend schools participating in the Program and who meet the School Food Authority's eligibility standards for free milk approved by the State agency, or FNSRO where applicable, under Part 245 of this chapter; and (2) children who attend child-care institutions participating in the Program and who meet the eligibility standards for free milk approved by the State agency, or FNSRO where applicable, under § 215.13a of this part.

* * * * *

(r) "Nonprofit" means exempt from income tax under the Internal Revenue Code, as amended.

* * * * *

(u–1) "Reimbursement" means financial assistance paid or payable to participating schools and child-care institutions for milk served to eligible children.

(v) "School" means (1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade. (2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution, or any public or nonprofit private institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "institution" includes, but is not limited to: Homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. (3) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

* * * * *

(x–1) [Reserved]

(y) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or the Trust Territory of the Pacific Islands.

(z) "State agency" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program.

(aa) "Summer Food Service Program for Children" means the program authorized by section 13 of the National School Lunch Act, as amended.

3. Section 215.3 is revised to read as follows:

§ 215.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, CND shall be responsible for Program administration.

(b) Within the States, to the extent practicable and permissible under State law, responsibility for the administration of the Program in schools and child-care institutions shall be in the educational agency of the State: *Provided, however,* That another State agency, upon request by the Governor or other appropriate State executive or legislative authority, may be approved to administer the Program in schools as defined in § 215.2(v)(2) or § 215.2(v)(3) or in child-care institutions.

(c) FNSRO shall administer the Program in any school as defined in § 215.2(v)(1) or § 215.2(v)(2) or in any child-care institutions as defined in § 215.2(e) to which the State is not permitted by law to disburse the Program funds paid to it or wherein the State is otherwise unable to administer the Program. References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program to such schools or child-care institutions within such State.

(d) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

4. Section 215.4 is revised to read as follows:

§ 215.4 Payments of funds to States and FNSROs.

(a) For each fiscal year, the Secretary shall make payments to each State agency, and allocate funds to FNSROs where applicable, at such times as he may determine from the funds appropriated for Program reimbursement. Such payments to any State agency or allocations to FNSROs where applicable, shall be in a total amount equal to the product obtained by multiplying the projected number of half pints of milk to be served under the Program during the fiscal year, to children in schools or child-care institutions with which such State agency or FNSRO has approved Program agreements, by the applicable rates.

(b) Each State agency shall be responsible for controlling Program reimbursement payments so as to keep within the funds made available to it, and for the timely reporting to FNS of the number of half pints of milk actually served. The Secretary shall increase or decrease the available level of funding by adjusting the State agency's Letter of Credit when appropriate; and a final adjustment will be made at such time as the total number of half pints actually served under the Program during the fiscal year is reported to FNS.

5. In § 215.5, paragraph (b) is deleted and reserved; and paragraph (a) is revised to read as follows:

§ 215.5 Method of payment to States.

(a) Funds to be paid to any State shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall: (1) Obtain funds needed to reimburse School Food Authorities and child-care institutions through presentation by designated State officials of a Payment Voucher on Letter of Credit (Treasury Form GFO 7578) in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department; (2) submit requests for funds only at such times and in such amounts as will permit prompt payment of claims; (3) use the funds received from such requests without delay for the purpose for which drawn. Notwithstanding the foregoing provisions, if funds are made available by Congress for the operation of the Program under a continuing resolution, Letters of Credit shall reflect only the amount available for the effective period of the resolution.

(b) [Reserved]

* * * * *

6. Section 215.6 is revised to read as follows:

§ 215.6 Use of funds.

Federal funds made available under the Program shall be used to encourage the consumption of milk through reimbursement payments to schools and child-care institutions in connection with the purchase and service of milk to children in accordance with the provisions of this part: *Provided, however,* That, with the approval of FNS, any State agency, or FNSRO where applicable, may reserve for use in carrying out special developmental projects an amount equal to not more than 1 per centum of the Federal funds so made available for any fiscal year.

7. In § 215.7, paragraphs (b) and (c) are revised, and paragraph (d) is amended as follows:

§ 215.7 Requirements for participation.

* * * * *

(b) Each School Food Authority or child-care institution shall also submit for approval, either with the application or at the request of the State agency, or FNSRO where applicable, a free milk policy statement which, if the application is for a school, shall be in accordance with Part 245 of this chapter or, if the application is for a child-care institution, shall be in accordance with § 215.13a of this part.

(c) The application shall include information in sufficient detail to enable the State agency, or FNSRO where applicable, to determine whether the School Food Authority or child-care institution is eligible to participate in the Program and extent of the need for Program payments.

(d) The State agency, or the Department through FNSRO where applicable, shall enter into a written agreement with each School Food Authority or child-care institution approved for participation in the Program. Such agreement shall provide that the School Food Authority or child-care institution shall, with respect to participating schools and child-care institutions under its jurisdiction:

* * * * *

(2) Make free milk available at least once during each day of operation to needy children as defined in this part, and make no discrimination against any needy child because of his inability to pay for the milk;

* * * * *

(6) Maintain a financial management system as prescribed by the State agency, or FNSRO where applicable;

(7) Upon request, make all records pertaining to its milk program available to the State agency and to FNS or OA for audit and administrative review, at any reasonable time and place. Such records shall be retained for a period of three years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit;

(8) Retain the individual applications for free milk submitted by families for a period of three years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

8. In § 215.8, paragraphs (a), (b) and (c) are revised to read as follows:

§ 215.8 Reimbursement payments.

(a) Reimbursement payments shall be made for milk purchased and served to children by participating School Food Authorities and child-care institutions, except that reimbursement shall not be made for the first half pint of milk served as part of a reimbursed meal served under the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program for Children, or the Child Care Food Program, or served in commodity only schools as part of a meal meeting the requirements of § 210.15a(b) of this chapter.

(b)(1) The rate of reimbursement per half pint of milk purchased and served to children in nonpricing programs and served to children other than needy children in pricing programs shall be the rate announced by the Secretary for the fiscal year or period involved. However, in no event shall the reimbursement for each half pint of milk served to children exceed the cost of the milk to the

school or child-care institution. (2) Within the limitations set forth in paragraph (c) of this section, the rate of reimbursement for milk purchased at a single price and served to needy children in pricing programs shall be equal to the cost (after discount) per half pint of milk. If milk is purchased at more than one price, the average cost (i.e., the total cost of all milk purchased during the month, divided by the number of half pints purchased) shall be used.

(c) Reimbursement at the rate equal to the cost (after discount) per half pint of milk purchased and served to needy children shall be limited to one (1) half pint serving per child per operating day in pricing programs which also provide a food service to children, and two (2) half pint servings per child per operating day in pricing programs which do not provide a food service to children. Reimbursement for any additional milk served free to needy children in addition to these limitations shall be made at the rate prescribed in paragraph (b)(1) of this section.

* * * * *

9. In § 215.10, paragraphs (b), (c), (e) and (f) are revised to read as follows:

§ 215.10 Reimbursement procedure.

* * * * *

(b) Any Claim for Reimbursement for any fiscal year not received by the State agency, or FNSRO where applicable, within 90 days after the close of the milk service program, or, in the case of programs which operate year-round, within 90 days after the closing date of the fiscal year, may be disqualified from payment, except where the State agency, or FNSRO where applicable, considers that a Claim for Reimbursement has been filed late because of circumstances beyond the control of the School Food Authority or child-care institution.

(c) Each Claim for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the information for the reports required under § 215.11(c). Claims for Reimbursement shall be filed with the State agency, or FNSRO where applicable, by the 10th day of the month following the month covered.

* * * * *

(e) Milk served to adults is not eligible for reimbursement.

(f) Any School Food Authority or child-care institution which operates both a pricing and nonpricing milk program in the same school or child-care institution, may elect to claim reimbursement for: (1) All milk purchased and served to children under the Program at the rate prescribed for nonpricing programs in § 215.8(b)(1), or (2) only milk purchased and served to children in the pricing program at the rates and limitations prescribed in § 215.8 (b) and (c) for pricing programs.

10. In § 215.11, paragraphs (a), (b), (c) and (d) are revised to read as follows:

§ 215.11 Special responsibilities of State agencies.

(a) *Program administration and goals.* Each State agency, or FNSRO where applicable, shall include in its State Plan of Child Nutrition Operations developed under § 210.4a of the National School Lunch Program regulations (7 CFR Part 210), or in its State Plan of Child Care Food Programs Operations developed under § 226.7 of the Child Care Food Program regulations (7 CFR Part 226), or in its program management and administration plan developed under § 225.8 of the Summer Food Service Program for Children regulations (7 CFR Part 225), its goals for the Program and a plan to monitor Program performance and measure progress in achieving Program goals. To meet the minimum criteria for approval, that portion of the Plan which deals with Program assistance must include: (i) objectives, (ii) reasons for the establishment of the objectives, (iii) methods to be used to accomplish the objectives, and (iv) evaluation methods to be used in determining if the objectives are being met.

(b) *Program assistance.* Each State agency, or FNSRO where applicable, shall provide Program assistance, as follows:

(1) Consultive, technical, and managerial personnel to administer the Program and monitor performance of schools and child-care institutions and to measure progress towards achieving Program goals.

(2) Visits to participating schools and child-care institutions to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title), issued under title VI of the Civil Rights Act of 1964.

(3) Documentation of such Program assistance shall be maintained on file by the State agency, or FNSRO where applicable.

(c) *Records and reports.* (1) Each State agency shall submit information on Program operations on a form provided by FNS, and shall maintain current accounting records of Program operations which will adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the final Financial Status Report, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

(2) Each State agency shall report information on the use of Program funds to FNS on a form provided by FNS. Reports shall continue to be submitted on a regular basis after the end of the fiscal year to which they pertain until all unpaid obligations have been liquidated at which time the last report should be marked "Final" and submission discontinued for that fiscal year.

(d) *Compliance.* State agencies, or FNSROs where applicable, shall require School Food Authorities and child-care institutions to comply with applicable provisions of this part.

* * * * *

11. In § 215.12, paragraph (b) is deleted and reserved; and paragraphs (a) and (d) and the last sentence of paragraph (f) are revised to read as follows:

§ 215.12 Claims against schools or child-care institutions.

(a) State agencies, or FNSROs where applicable, shall disallow any portion of a claim and recover any payment made to a School Food Authority or child-care institution that was not properly payable under this part. State agencies will use their own procedures to disallow claims and recover overpayments already made.

(b) [Reserved]

* * * * *

(d) Each State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of the final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

* * * * *

(f) * * * Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of § 215.5(c).

* * * * *

12. Section 215.13 is revised to read as follows:

§ 215.13 Management evaluations and audits.

(a) In accordance with the plan submitted under § 210.4a or §225.8 or § 226.7 of this chapter, the State agency shall provide for audits of the funds and operations of the Program covered by this part, at the State, School Food Authority and child-care institution levels, to be made with reasonable frequency but, beginning in fiscal year 1978, not less frequently than once every two years. The audits shall determine the fiscal integrity of financial transactions and reports, and the compliance with applicable laws and regulations and with the administrative requirements set forth in Attachment G of Federal Management Circular 74–7. Audits may be made by State agency internal auditors, by State Auditors General, by State Controllers, or by other comparable State audit groups; or by Certified Public Accountants or State licensed public accountants.

(b) While OA shall rely to the fullest extent feasible upon State sponsored audits, it shall, whenever considered necessary, (1) make audits on a statewide basis, (2) perform on-site test audits, and (3) review audit reports and related working papers of audits performed by or for State agencies.

(c) Use of audit guides available from OA is encouraged. When these guides are

utilized, OA will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(d) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools and child-care institutions) of any operations of the State agency under the Program and shall provide OA with full opportunity to conduct audits (including visits to schools and child-care institutions) of all operations of the State agency under the Program. Each State agency shall make available its records, including records of the receipt and expenditure of funds under the Program, upon a reasonable request by FNS or OA. OA shall also have the right to make audits of the records and operations of any school or child-care institution.

(e) In making management evaluations or audits for any fiscal year, the State agency, FNS or OA may disregard any overpayment which does not exceed $35 or, in the case of a State agency administered Program, does not exceed the amount established under State law, regulations, or procedure as a minimum amount for which claim will be made for State losses generally. However, no overpayment shall be disregarded when there are unpaid claims of the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

13. Section 215.13a is added to read as follows:

§ 215.13a Determining eligibility for free milk in child-care institutions.

(a) *General.* Child-care institutions participating in the Program shall make free milk available to children who are unable to pay the full price of milk. It is the responsibility of each child-care institution to determine the children who are eligible to receive free milk, and to assure that there is no physical segregation of, or other discrimination against, or overt identification of, children unable to pay the full price of milk.

(b) *Action by State agencies and FNSROs.* Each State agency, or FNSRO where applicable, shall annually, for child-care institutions participating in the Program under their jurisdiction:

(1) Inform each child-care institution of its responsibility to provide free milk to eligible children upon request, and to provide to each a copy of the State's family-size income standards for determining eligibility for free meals under the National School Lunch Program and School Breakfast Program to assist the institution in meeting its responsibility;

(2) Require each child-care institution to develop, at the time the child-care institution applies for Program participation and thereafter at the time the Program agreement is renewed, a written policy statement to be used uniformly in all food service centers under its jurisdiction, as required in paragraphs (c) or (d) of this section.

(3) No State agency, or FNSRO where applicable, shall approve any child-care institution for participation on either a summer or year-round basis unless the free milk policy statement has been reviewed and approved, nor renew the agreement of any child-care institution participating on a year-round basis unless the free milk policy statement has been reviewed and approved. Approval of such policy statement shall be made within 60 days of receipt from the child-care institution. Pending approval of a revision of a policy statement, an existing policy statement shall remain in effect.

(c) *Policy statement—nonpricing child-care institutions.* Child-care institutions which operate a nonpricing program shall develop a policy statement which consists of an assurance to the State agency, or FNSRO were applicable, that all children are offered the same quantity of milk at no separate charge regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(d) *Policy statement—pricing child-care institutions.* Child-care institutions which operate a pricing program shall develop a policy statement for determining eligibility for free milk which shall contain the following:

(1) The specific criteria to be used in determining eligibility for free milk. These criteria shall give consideration to economic need as reflected by family size and income. The criteria used by the child-care institution may not result in the eligibility of children from families whose incomes exceed the State's family-size income standards for determining eligibility for free meals under the National School Lunch and School Breakfast Programs.

(2) The method by which the child-care institution will collect information from families in order to determine a child's eligibility for free milk.

(3) The method by which the child-care institution will collect milk payments so as to prevent the overt identification of children receiving free milk.

(4) A hearing procedure substantially like that outlined in Part 245 of this chapter.

(5) An assurance that there will be no discrimination against free milk recipients and no discrimination against any child on the basis of race, color, or national origin.

(e) *Public announcement of eligibility criteria.* Each child-care institution shall make available annually to the information media serving the area from which the child-care institution draws its attendance, a public release announcing the availability of free milk to children meeting the approved eligibility criteria. The public announcement must also state that milk is available to all children in attendance without regard to race, color, or national origin.

14. A new § 215.14a is added to read as follows:

§ 215.14a Procurement standards.

(a) This section provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive Orders. State agencies may use their own procurement regulations which reflect applicable State and local law, rules, and regulations, provided that procurements made with Federal grant funds adhere to the standards set forth in this section.

(b) The standards contained in this section do not relieve the State agency of the responsibilities arising under its contracts. The State agency is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the Program. This includes, but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the State or Federal authority that has proper jurisdiction.

(c) The State agency shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Program funds. The State agency's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State law, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the State agency's officers, employees, or agents, or by contractors or their agents.

(d) All procurement transactions of the State agency, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The State agency should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(e) The State agency shall establish procurement procedures which comply with the provisions of this section.

(f) Proposed procurement actions shall be reviewed by appropriate officials of the State agency to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(g) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such de-

scription shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement and, when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(h) Positive efforts shall be made by the State agency to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed with Program funds.

(i) The type of procuring instruments used (e.g., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.) shall be appropriate for the particular procurement and for promoting the best interest of the Program. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(j) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to subparagraph 4 of this paragraph is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State law or regulations. When formal advertising is employed:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State agency, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State agency.

(3) Any or all bids may be rejected when it is in the State agency's interest to do so, and such rejections are in accordance with applicable State law, rules, and regulations.

(4) Procurements may be negotiated by the State agency if it is not practicable or feasible to use formal advertising. Notwithstanding the existence of circumstances justifying negotiations, competition shall be obtained to the maximum extent practicable. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(i) The public exigency will not permit the delay incident to advertising;

(ii) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the Department for prior approval;

(iii) The aggregate amount involved does not exceed $10,000;

(iv) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(v) No acceptable bids have been received after formal advertising;

(vi) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(vii) Negotiation is otherwise authorized by applicable Federal or State law, rules, or regulations.

(k) Contracts shall be made by State agencies only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(l) The procurement records or files of State agencies for negotiated purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: (i) Justification for the use of negotiation in lieu of advertising, (ii) contractor selection, (iii) the basis for the cost or price negotiated.

(m) A system for contract administration shall be maintained by the State agency to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(n) The State agency shall include provisions to define a sound and complete agreement in all contracts which it awards when the contract costs are to be borne by Program funds.

(o) In awarding contracts the State agency must comply with the following requirements:

(1) The State agency's contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State agencies in excess of $10,000 shall contain suitable provisions for termination by the State agency, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) Where applicable, all contracts awarded by State agencies in excess of $2,500, which involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation.

(4) Contracts awarded by State agencies, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Department. The contractor shall be advised as to the source of additional information regarding these matters.

(5) All negotiated contracts (except those of $10,000 or less) awarded by State agencies shall include a provision to the effect that the State agency, the Department, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the Program for the purpose of making audit, examination, excerpts, and transcriptions.

(6) Contracts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857b et seq.). Suspected violations shall be reported by the State agency in writing to the Regional Office of the United States Environmental Protection Agency, with a copy to the Department.

(p) States agencies shall observe their regular requirements and practices with respect to bonding and insurance.

15. Section 215.15 is revised to read as follows:

§ 215.15 Miscellaneous provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment L of Federal Management Circular 74–7 (34 CFR Part 256).

(b) *Termination for cause.* FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the

conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency, or FNSRO where applicable, shall terminate a School Food Authority's or child-care institution's participation in the Program by written notice whenever it is determined by FNS or the State agency that the School Food Authority or child-care institution has failed to comply with the conditions of the Program. When participation in the Program has been terminated for cause, any payments made to the State agency or any recoveries from the State agency or from the School Food Authority or child-care institution shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation in the Program when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of noncancellable obligations, properly incurred by the State agency prior to termination. A State agency, or FNSRO where applicable, may terminate a School Food Authority's or child-care institution's participation in accordance with these provisions.

(d) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the Program which are not inconsistent with the provision of this part.

16. Section 215.16 is revised to read as follows:

§ 215.16 Program information.

School Food Authorities and child-care institutions desiring information concerning the Program should write to their State educational agency, or the appropriate Food and Nutrition Service Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: New England Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 34 Third Avenue, Burlington, Massachusetts 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, the Commonwealth of Puerto Rico, Virginia, the Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 729 Alexander Road, Princeton, New Jersey 08540.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee: Southeast Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, Georgia 30309.

(d) In the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin: Midwest Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah and Wyoming: West-Central Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–D–22, Dallas, Texas 75242.

(f) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, and Washington: Western Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Program, No. 10.556, National Archives Reference Services)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This amendment shall become effective August 1, 1976.

Dated: July 21, 1976.

JOHN DAMGARD,
Deputy Assistant Secretary.

[FR Doc.76-21579 Filed 7-26-76;8:45 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amendment 8]

PART 722—COTTON

Subpart—Regulations for 1968 and Succeeding Years Extra Long Staple Cotton Program

1976 CROP PRICE SUPPORT PAYMENT FACTOR AND PRICE SUPPORT PAYMENT RATE

On July 18, 1975, notice of proposed rule making regarding determinations with respect to the 1976 crop of extra long staple cotton was published in the FEDERAL REGISTER (40 FR 30283). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 30 days after publication of the notice. No comments were received in response to the factor and payment rate.

This amendment to the regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years is issued pursuant to section 101(f) of the Agricultural Act of 1949, as amended. The purposes of this amendment are to incorporate the 1976 price support payment factor and the 1976 price support payment rate.

The regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years, 33 FR 19159, as amended, are hereby further amended as follows:

1. Section 722.704 is amended by adding a new paragraph (g) to read as follows:

§ 722.704 Price support payment factor.

* * * * * *

(g) For 1976, the price support payment factor is 0.9725.

2. Section 722.709 is amended by adding a new sentence at the end of paragraph (a).

§ 722.709 Price support payment.

(a) * * * For 1976, the price support payment rate shall be 1.51 cents per pound.

* * * * * *

(Sec. 101(f), as amended, 82 Stat. 702 (7 U.S.C. 1441(f)))

Effective date: July 27, 1976.

Signed at Washington, D.C., on July 20, 1976.

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

[FR Doc.76-21519 Filed 7-26-76;8:45 am]

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

[Valencia Orange Regulation 536, Amendment 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 16–22, 1976. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended mar-

keting agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 536 (41 FR 29130). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.*—The provisions in pargraph (b) (1) (i), and (ii) of § 908.836 Valencia Orange Regulation 536 (41 FR 29130) are hereby amended to read as follows:

§ 908.836 [Amended]

* * * * *

(1) District 1: 315,000 cartons;
(ii) District 2: 385,000 cartons.

(b) * * *

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

Dated: July 22, 1976.

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

[FR Doc.76–21668 Filed 7–26–76;8:45 am]

[Nectarine Reg. 8, Amdt. 1]

PART 916—NECTARINES GROWN IN CALIFORNIA

Container, Pack, and Container Marking Requirements

This amendment of Nectarine Regulation 8 (§ 917.350; 41 FR 24698) is issued pursuant to the marketing agreement and Order No. 916 (7 CFR Part 916). Said regulation became effective on June 15, 1976, and this amendment extends the regulation, without change, for an indefinite period. Unless extended, the regulation would expire on August 2, 1976. The regulation specifies certain container labeling and pack requirements for fresh shipments of California nectarines.

Notice was published in the June 30, 1976, issue of the FEDERAL REGISTER (41 FR 26923) that consideration was being given to a proposal by the Nectarine Administrative Committee, established under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act." The notice allowed interested persons 16 days to submit written data, views, or arguments pertaining to the proposal. No such material was submitted.

The amended regulation will continue to require that all varieties of California nectarines in fresh shipments be in containers which conform to the pack and container requirements hereinafter specified. Those requirements are that (1) nectarines packed in closed containers shall meet the requirements of "standard pack" and nectarines loose-filled or loose-packed in open containers shall be "fairly uniform in size." (Standard pack" and "fairly uniform in size" are defined in the United States Standards for Grades of Nectarines.), (2) each package or container of nectarines shall bear the name "nectarines" and the name of the variety or the words "unknown variety" if the variety is not known, (3) each package or container of nectarines shall be marked with the size of the nectarines therein, (4) No. 22D and 22E standard lug boxes of loose-filled or loose-packed nectarines shall be labeled according to the applicable net weight requirement, and (5) bulk bin containers of nectarines, in addition to above requirements, as applicable, shall contain at least 400 pounds, net weight, and be marked with the name and address of the shipper and specific net weight.

Nectarine Regulation 8 contains essentially the same requirements as were in effect in 1975 and prior years except for the requirement that loose-filled or loose-packed nectarines in open containers be "fairly uniform in size," the requirement that the name "nectarines" appear on the container in addition to the varietal name and the additional requirements applicable to bulk bin containers of nectarines. This regulatory action is necessary to assure that shippers of fresh California nectarines will continue to implement standardized packing practices and more informative labeling which will facilitate more orderly marketing of fresh California nectarines and contribute to more effective operations under said marketing agreement and order.

After consideration of all relevant material presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Nectarine Administrative Committee, established under said amended marketing agreement and order, other available information, it is hereby found that the regulation of California nectarines, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of California nectarines are currently in progress and the regulation should continue to be applicable to all such shipments in order to effectuate the declared policy of the act; (2) the provisions of the amendment are identical to those specified in the notice; (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (4) this amended regulation was recommended by members of the Nectarine Administrative Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Order.—The provisions of § 916.350(b) preceding subparagraph (1) thereof are amended to read as follows:

§ 916.350 Nectarine Regulation 8.

* * * * *

(b) On and after August 2, 1976, no handler shall handle any package or container of any variety of nectarines except in accordance with the following terms and conditions: * * *

* * * * *

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

Dated: July 22, 1976, to become effective August 2, 1976.

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

[FR Doc.76–21736 Filed 7–26–76;8:45 am]

[Peach Reg. 8, Amdt. 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Container, Pack and Container Marking Requirements

This amendment of Peach Regulation 8 (§ 917.442; 41 FR 23185) is issued pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528). Said regulation became effective on June 9, 1976, and this amendment extends the regulation, without change, for an indefinite period. Unless extended, the regulation would expire on August 2, 1976. The regulation specifies certain container labeling and pack requirements for fresh shipments of California peaches.

Notice was published in the June 28, 1976, issue of the FEDERAL REGISTER (41 FR 26576) that consideration was being given to a proposal by the Peach Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528), regulating the han-

dling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act." The notice allowed interested persons 18 days to submit written data, views, or arguments pertaining to the proposal. No such material was submitted.

The amended regulation will continue to require that all varieties of California peaches in fresh shipments be in containers which conform to the pack and container requirements hereinafter specified. Those requirements are that (1) all peaches packed in closed containers shall meet the requirements of "standard pack" as specified in the United States Standards for Peaches, (2) each container of peaches shall bear the name "peaches" and the name of the variety or the words "unknown variety" if the variety is not known, (3) each container of peaches shall be marked with the size of the peaches therein, (4) the variation in diameter among peaches in each container shall not exceed specified limits, (5) No. 22D and 22E standard lug boxes shall be labeled according to the applicable net weight requirement, and (6) bulk bin containers of peaches, in addition to above requirements, as applicable, shall contain at least 400 pounds, net weight, and be marked with the name and address of the shipper and specific net weight.

Peach Regulation 8 contains essentially the same requirements as were in effect in 1975 and prior years except for the requirement that the name "peaches" appear on the container in addition to the varietal name and the additional requirements applicable to bulk bin containers of peaches. This regulatory action is necessary to assure that shippers of fresh California peaches will continue to implement standardized packing practices and more informative labeling, which will facilitate more orderly marketing of fresh California peaches and contribute to more effective operations under said marketing agreement and order.

After consideration of all relevant material presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Peach Commodity Committee, established under said amended marketing agreement and order, and other available information, it is hereby found that regulation of California peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of California peaches are currently in progress and the regulation should continue to be applicable to all such shipments in order to effectuate the declared policy of the act; (2) the provisions of the amendment are identical to those specified in the notice; (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (4) this amended regulation was recommended by members of the Peach Commodity Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Order.—The provisions of § 917.442(b) preceding subparagraph (1) thereof are amended to read as follows:

§ 917.442 Peach Regulation 8.

* * * * *

(b) On and after August 2, 1976, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions: * * *

* * * * *

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

Dated, July 22, 1976, to become effective August 2, 1976.

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

[FR Doc.76–21738 Filed 7–26–76;8:45 am]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Special Purpose Shipments—Pears

This regulation permits movement of pears from California to a packing facility in Oregon without inspection and certification prior to such movement, subject to certain safeguard requirements which prevent distribution in commercial channels until they are graded and certified as meeting all applicable order requirements.

This action is authorized under § 917.43 of the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17529), regulating the handling of fresh pears, plums, and peaches grown in California, and was recommended by the Pear Commodity Committee which is established under the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Movement of pears between the production area (i.e. the State of California) and any point outside thereof is defined as handling under the order, and prior to handling of the fruit, it must be inspected and certified as meeting all order requirements by the Federal or Federal-State Inspection Service. Hence, grower-handlers who produce pears within such area but own packing facilities outside the area are precluded from the use of those facilities in the grading and packing of their pears, and must arrange with persons who own facilities within the area to pack such pears. The special purpose provisions of the order provide for the establishment of procedures, with appropriate safeguards, which would permit movement of pears to a facility outside the production area for packing.

The rule herein contained establishes such a procedure to permit the movement of pears owned by a grower to a packing facility owned by such grower in Oregon. The safeguards require: Approval by the committee prior to any movement of the pears; filing reports indicating the quantity of pears moved and disposition thereof; all pears must be of the person's own production and may be moved only to a packing facility owned and operated by that person; inspection and certification by the Federal-State Inspection Service prior to shipment from the Oregon packing facility; and disposition of any pears which do not meet grade, size, or quality requirements in accordance with order requirements.

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this action until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The time intervening between the date when the information upon which this amendment is based became available and the time such amendment should become effective is insufficient; (2) shipments of pears are expected to begin on or about July 12, 1976, and to permit persons directly affected to harvest and market pears, the amendment should become effective as soon as possible; and (3) no useful purpose would be served by delaying the effective time.

Therefore, Subpart—Rules and Regulations (§§ 917.100–917.179) is amended by adding a new section, which reads as follows:

§ 917.149 Special purpose shipments.

Any person may file a request with the Pear Commodity Committee to transport pears to a packing facility located in the State of Oregon without inspection and certification prior to such transporting. The committee may approve such a request subject to the following terms and conditions:

(a) Approval shall be requested by the person prior to transporting the pears out of the area of production.

(b) Such person shall file with the committee, in such manner as required, reports showing, among other things, the date and quantity of pears comprising each shipment of pears transported to Oregon and the disposition thereof.

(c) All such pears shall be of the person's own production and the packing facility to which they are transported must be owned and operated by that person.

(d) All such pears shall be inspected and certified, as required by § 917.45, by the Federal or Federal-State Inspection Service prior to the time such pears are shipped from the packing facility. Any pears shipped to any such facility which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations, may be shipped, or handled, within the State, for consumption by any charitable institution or for distribution by any relief agency or for conversion into products. Prior to any such shipment or handling, there shall

first have been submitted to the committee proof satisfactory to the committee that the pears will not be handled contrary to the requirements of the marketing agreement and order. Such proof shall include a written certificate, executed by both the handler and the intended receiver, stating that the pears will not be used for any purpose not authorized by this section.

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

Dated: July 22, 1976, to become effective July 27, 1976.

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

[FR Doc.76-21735 Filed 7-26-76;8:45 am]

[Pear Reg. 15]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Regulation by Grades and Sizes

This regulation prescribes the grade and size requirements for the Beurre D'Anjou, Beurre Bosc, Winter Nelis, and Doyenne du Comice varieties of winter pears shipped from Oregon, Washington, and California, during the period August 1, 1976, through September 15, 1976.

Findings. (1) Pursuant to the amended marketing agreement and Order No. 927, as amended (7 CFR Part 927; 39 FR 26714), which regulate the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Control Committee, established under the aforesaid marketing agreement and order, and other available information, it is hereby found that the regulation of certain specified varieties of winter pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the current and prospective crop and marketing conditions for winter pears. The committee estimates that 7.5 million boxes of winter pears will be packed under regulation as compared to 6.5 million boxes of such pears in 1975 and 6.8 million boxes in 1974. Shipments of winter pears from the production area are expected to begin soon after August 1, 1976. The grade and size requirements hereinafter provided are designed to prevent the handling, from August 1 through September 15, 1976, of any Beurre D'Anjou, Beurre Bosc, Doyenne du Comice, or Winter Nelis varieties of winter pears of lower grades and smaller sizes than hereinafter specified so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the declared policy of the act.

In addition to the basic grade and size requirements specified for Beurre D'Anjou, Beurre Bosc, and Doyenne du Comice pears, the regulation permits the handling of such pears bearing limited damage from skin punctures, however, this reduction in market desirability would be offset by the requirement that any pears thus affected be of a specified higher grade and larger size.

The requirement that the core temperature of Beurre D'Anjou pears grown in the Oregon and Washington districts and shipped through September 15, 1976, must have been lowered to 35° F. or less prior to shipment is designed to assure proper ripening of such pears.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 1, 1976. A reasonable determination as to supply of, and the demand for winter pears must await the development of the crop thereof, and adequate information thereon was not available to the Control Committee until July 8, 1976, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such pears. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such pears are expected to begin soon after August 1, 1976; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such pears; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 927.315 Pear Regulation 15.

Order. (a) During the period August 1, 1976, through September 15, 1976, no handler shall ship any of the following varieties of pears which do not meet the requirements hereinafter specified.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided*, That pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size;

(2) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through September 15, 1976, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35° Fahrenheit or less;

(3) Beurre Bosc pears shall grade at least U.S. No. 2 and shall be of a size not smaller than 180 size: *Provided*, That pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size;

(4) Doyenne du Comice pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2: *Provided*, That pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size; and

(5) Winter Nelis pears shall be of a size not smaller than 195 size and shall grade at least U.S. No. 2.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of any variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60 (a), under the following conditions:

(1) Each handler desiring to make shipments of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee, on forms supplied by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears such as Anjou, Bosc, Winter Nelis, Comice, and Other Similar Varieties (7 CFR 51.1300–51.1323); "135 size," "165 size," "180 size," and "195 size" shall mean that the pears of such designated sizes will pack, in accordance with the sizing and pack-

ing specifications of a standard pack as specified in said United States Standards, 135, 165, 180, or 195 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: July 22, 1976.

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

[FR Doc.76-21737 Filed 7-26-76;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1201—TYPE 62, SHADE-GROWN CIGAR-LEAF TOBACCO GROWN IN DESIGNATED PRODUCTION AREA OF FLORIDA AND GEORGIA

Suspension of Certain Provisions of the Order

Notice was published in the FEDERAL REGISTER (41 FR 22579) that the Department is considering the temporary suspension of certain provisions of Order No. 195, as amended (7 CFR Part 1201), regulating the handling of Type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Florida and Georgia for the fiscal period ending January 31, 1977. These temporary suspensions will eliminate counting of tobacco leaves and handler assessments for the remainder of the 1976 marketing season.

The aforesaid Order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S..C 601 et seq.), and the Marketing Agreement and Order No. 195, as amended (7 CFR Part 1201).

STATEMENT OF CONSIDERATION

The temporary suspension of § 1201.53 eliminates the need to count tobacco leaves for the remainder of the 1976 marketing season. The Control Committee has requested this suspension because substantially reduced planting of this type of tobacco during the 1976 growing season will not meet the expected demand. The suspension will provide growers with needed flexibility in the marketing of their tobacco during the 1976 season.

The temporary suspension of § 1201.300 eliminates the handler assessment for the remainder of the 1976 marketing season. The reason for this suspension is that the Control Committee has determined that no expenses will be incurred by it during the fiscal period ending January 31, 1977, and, therefore, it will not be necessary to make any assessments against eligible handlers during that period.

Interested persons were afforded opportunity to file written data, views, or arguments on this proposal. No comments were filed in opposition of this proposal, therefore, after consideration of the relevant material, including the proposals set forth in the aforesaid notice and other available information, it is hereby found and determined that from the effective date hereof through January 31, 1977, the following provisions do not tend to effectuate the declared purposes of the Act:

§ 1201.53 Initial regulation fixing number of leaves that may be handled. Commencing with the fiscal period ending on January 31, 1963, and continuing until such time as suspended, modified or terminated pursuant to this part; (a) The maximum number of leaves primed from any tobacco plant during a fiscal period that are eligible for handling is fixed at 18 plus the additional number of leaves provided in § 1201.55(b)(2); and (b) the maximum number of leaves primed from all tobacco plants during such fiscal period that may be handled is fixed at the number of tobacco leaves equal to 18 multiplied by the total number of tobacco plants grown during fiscal period.

(27 FR 4763, May 19, 1962)

§ 1201.300 Expenses and rate of assessment for the fiscal period ending January 31, 1973. (a) Expenses in the amount of $7,200 are reasonable and likely to be incurred by the Control Committee for its maintenance and functioning during the fiscal period ending January 31, 1973.

(b) The following rate of assessment which each handler who first handles tobacco shall pay, in accordance with the applicable provisions of the said amended marketing agreement and amended order, is hereby fixed as such handler's pro rata share of the aforesaid expenses: $1.60 per 1,000 pounds of tobacco handled by such handler as the first handler thereof during the fiscal period ending January 31, 1973.

(c) Terms used in this section shall have the same meaning as when used in said amended marketing agreement and amended order.

(38 FR 15440, June 12, 1973)

It is essential to make this suspension effective immediately to carry out the intent of the Secretary to provide for the orderly marketing of Type 62 tobacco during the 1976 season. The marketing season has already begun, and this suspension involves the elimination of restrictions on the number of leaves to be handled for the remainder of the current season and further involves the elimination of assessements on eligible handlers for the remainder of the fiscal year.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the aforesaid marketing area in that it is necessary to implement at the earliest opportunity the objectives of the Control Committee in providing producers with needed flexibility in the marketing of their tobacco in 1976 and by notifying eligible handlers that no further assessments will be made until after January 31, 1977;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date;

(c) The Control Committee has recommended this suspension; and

(d) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective July 27, 1976.

It is therefore ordered that the aforementioned provision of the order is hereby suspended from the effective date hereof through January 31, 1976.

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

Effective date: July 27, 1976.

Signed at Washington, D.C. on July 22, 1976.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.76-21734 Filed 7-26-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Cotton Loan Program Regs., Amdt. 1]

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

INCREASE IN CHARGE FOR FORM A–3 CLASSIFICATION

The regulations issued by Commodity Credit Corporation (CCC) published as the Cotton Loan Program Regulations in 40 FR 30092 are amended as follows:

Paragraph (b) of § 1427.16 is amended to increase the classification charge from 45 cents to 60 cents for cotton samples submitted for a Form A–3 classification or for a Form A–3 review classification. The amended paragraph (b) reads as follows:

§ 1427.16 Classification and micronaire readings of cotton.

* * * * *

(b) A classification charge of 60 cents per bale shall be collected from the producer by the warehouseman for all cotton for which samples are submitted to a board for a Form A–3 classification or for a Form A–3 review classification. The board will bill the warehouseman at the end of each month for such charges. Payment of these bills shall be made by check or money order payable to "Commodity Credit Corporation" and mailed to the Prairie Village Commodity Office.

* * * * *

Because harvest of the 1976 crop is underway, producers need to know the amount of such charges. Therefore, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421).)

Effective Date: This amendment takes effect on July 27, 1976.

Signed at Washington, D.C., on July 20, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-21669 Filed 7-26-76;8:45 am]

[Tobacco Loan Program Regs. (Amdt. 5)]

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

FLUE-CURED TOBACCO GROWERS' DESIGNATION OF WAREHOUSES

On June 21, 1976, there was published in the FEDERAL REGISTER (41 FR 28494) a notice of proposed rule making concerning proposed amendments to the Tobacco Loan Program regulations (39 FR 2006 as amended, 40 FR 24175). The notice included proposed amendments of the procedures by which flue-cured tobacco growers' designations of the warehouses at which they will market their tobacco. Interested parties were given the opportunity to submit, not later than July 6, 1976, data, views and recommendations.

Sixteen responses were received pursuant to the notice. Six recommended adoption of the proposal. The others opposed adoption on the basis that a producer's opportunity to sell tobacco would be eliminated for a period of one to two weeks following the redesignation. The proposal would not have that result. While tobacco redesignated could not be sold with price support during the one to two week period (the time required to allocate sales opportunity for the redesignated tobacco), the tobacco redesignated presumably would not include tobacco which the producer had an opportunity to sell, on the basis of his initial designation, during the one to two week period. Thus, instead of eliminating the sales opportunity for redesignated tobacco, the proposal would eliminate the redesignated tobacco using sales opportunity for tobacco previously designated by other producers.

The proposed amendment of 7 CFR 1464.2 is hereby adopted without change and is set forth below:

Effective Date: July 27, 1976.

Signed at Washington, D.C., on July 22, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

§ 1464.2 Availability of price support.

* * * * *

(e) * * *

(2) * * *

(iii) *When producer designations shall be made.* Producer designations of the warehouse or warehouses at which they will market their tobacco shall be made each year during a period which shall be announced by the county ASCS office in their county prior to the start of the period. Such period shall be prior to May 31 each year. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse or warehouses at which the tobacco involved will be marketed, as advised by the county ASCS office, pursuant to procedures to be established by the Deputy Administrator, Programs, ASCS. Producers who have designated warehouses which cease to operate or cease to have tobacco inspection or price support available may change their designations of such warehouses at any time subsequent to such occurrences.

Redesignations (changes in warehouses designated or in pounds designated to the warehouses) or initial designations for undesignated farms may be made during the five work days ending on the first Friday of each calendar month after any flue-cured marketing area has opened for inspection and sale of tobacco. For tobacco produced on any farm such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

* * * * *

(v) *Entering warehouse designation information.* The warehouse code number of the warehouse the producer has designated for his tobacco will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (e)(2)(iii) of this section, such effective date will be shown on the farm marketing card. If the producer has not designated a warehouse, a warehouse number code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning his marketing card to the county ASCS office and requesting the transfer of any unmarketed pounds of flue-cured tobacco shown on any marketing card to another eligible warehouse or warehouses.

(vi) *Use of warehouse designation information.* (a) A separate sale bill marked "no price support" shall be prepared for that quantity of tobacco weighed in that is in excess of the balance of the pounds designated as shown on the marketing card;

(b) The warehouse shall mark "no price support" on a sale bill for any tobacco which is presented for sale and which is accompanied by a marketing card which does not show a warehouse code, which shows a code of another warehouse or which shows an effective date which is later than the date on which the tobacco is presented for sale.

* * * * *

[FR Doc.76-21791 Filed 7-26-76;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 715—SUSPENSION OR REVOCATION OF CHAPTER, INVOLUNTARY LIQUIDATION

PART 747—RULES OF PRACTICE AND PROCEDURE

Conduct of Hearings

Part 747 of the National Credit Union Administration rules and regulations (12 CFR Part 747) prescribes the rules of practice and procedure followed by the Administration in hearings held pursuant to the provisions of section 206 of the Federal Credit Union Act (12 U.S.C.A. 1786).

For the purposes of conducting such hearings, it is necessary for the Administration to obtain the services of Administrative Law Judges on loan from other Federal agencies, with the assistance and approval of the Civil Service Commission's Office of Administrative Law Judges. The administrative burden imposed upon the affected agencies in this connection is substantial.

Thus, when feasible, it is of paramount importance that the Administration defer any request for the services of an Administrative Law Judge in connection with a given proceeding under Part 747 until such time as the actual conduct of the hearing or other contest of the charges contained in the notice is of relative certainty. Experience has demonstrated that such certainty does not exist at the time of the issuance of the notice of hearing.

Section 747.3 (12 CFR 747.3), however, sets forth those items to be contained in each notice of hearing, and requires, inter alia, that the notice identify the "trial examiner" (i.e., Administrative Law Judge) designated to preside over the hearing. In the interest of alleviating the above discussed burden, it is considered advisable to eliminate that requirement from § 747.3. This will enable the Administration to defer submission of its request for the services of an Administrative Law Judge until such time as the petitioner responds to the notice of hearing, and then only if the response indicates an intent to challenge, in whole or in part, the charges contained therein, or until such other time as the eventual conduct of the hearing or other need for the services of an Administrative Law Judge in connection with the proceeding appears certain.

Sections 747.4(c) and 747.4(d) provide, respectively, that an admission of the allegations contained in a notice of hearing, or failure to file an answer to a notice, shall authorize the "trial examiner" to find the facts as alleged in the notice and to file a recommended de-

cision with the Administrator. In view of the above discussed revision to § 747.3, it will be necessary to also revise §§ 747.4(c) and 747.4(d), so that those latter sections authorize the Administrator, upon either an admission of the allegations, or a failure to answer, to find the facts as alleged in the notice and issue an appropriate order.

Further, in order to bring current both Parts 747 and 715, it is necessary to replace the words "trial examiner," each remaining time that they appear therein, with the words "Administrative Law Judge." Also, to bring current § 747.16, it is necessary to revise the Office Address of the Administrator, National Credit Union Administration, as presently stated therein.

Accordingly, Parts 715 and 747 are amended as follows:

1. Part 715 is revised by deleting the words "trial examiner" each time they appear therein and by inserting, in lieu thereof, the words "Administrative Law Judge."

§ 747.3 [Amended]

2. Section 747.3 is amended by deleting the words "the trial examiner" and also by deleting the comma which immediately precedes and the comma which immediately succeeds those words.

§ 747.4 [Amended]

2. Section 747.4(c) is amended by deleting all language after the words "will provide a record" and inserting, in lieu thereof, the words "based upon which the Administrator may issue an appropriate order."

3. Section 747.4(d) is amended by deleting that portion of the first sentence which follows the words "and to authorize the" and inserting, in lieu thereof, the words "Administrator to find the facts as alleged in the notice and issue an appropriate order."

4. Part 747 is amended by deleting the words "the trial examiner" each remaining time they appear therein and by inserting the words "Administrative Law Judge," in lieu thereof.

In view of the need to expeditiously alleviate the above discussed administrative burden imposed by the former § 747.3, and further considering that all revisions herein which are unrelated to that need are entirely nonsubstantive, it is considered impracticable, unnecessary and contrary to the public interest to provide notice of proposed rulemaking in this matter. It is similarly considered requisite to dispense with advance publication of these revisions.

Accordingly, effective immediately, Parts 747 and 715 are amended as set forth above.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

Dated: July 19, 1976.

C. AUSTIN MONTGOMERY,
Administrator.

[FR Doc.76-21626 Filed 7-26-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Opinion No. 749-C; Docket No. R-478]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced Prior to January 1, 1973

JULY 19, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

Smith, Commissioner: Opinion No. 749 (41 FR 2806, Jan. 2, 1976),[1] issued December 31, 1975, prescribed "just and reasonable" rates[2] for natural gas in interstate commerce prior to January 1, 1973.[3] That opinion prescribed a base rate of 23.5 cents per Mcf effective January 1, 1976, through June 30, 1976, and a base rate of 29.5 cents per Mcf effective on and after July 1, 1976;[4] the base rates are subject to adjustment for Btu content, State or Federal production, severance, or similar taxes and a gathering allowance, if applicable.[5]

Opinion No. 749-A, (41 FR 9865, March 8, 1976)[6] issued February 27, 1976, granted twenty (20) applications for rehearing of Opinion No. 749 for the sole purpose of further consideration of that opinion,[7] and prescribed certain interim modifications to the regulations promulgated by Opinion No. 749, including the correction of certain omissions, and stayed the disbursement of refunds and rate reductions pending a final order of the Commission. In addition, small producers were relieved of the obligations to make rate filings to collect the minimum rate set by Opinion No. 749-B, __ F.P.C. __ (March 31, 1976).

PROCEDURAL ISSUES

Of all of the parties seeking rehearing, only the American Public Gas Association ("APGA") challenges the Commission's use of its rulemaking procedures in this proceeding to prescribe rates. APGA contends that the rates prescribed on "only comments by parties concerning the uncrossed-examined, untested rate recommendations of the Commission Staff, which were based solely on the uncross-examined, untested answers of the producers contained on the data collection forms provided by the Commission"[8] are not just and reasonable rates supported by substantial evidence. It is contended that these procedures violate the "full hearings" and "substantial evidence" standards of the Natural Gas Act which require adversary proceedings,[9] the Commission's Rules and Regulations,[10] and "the fundamental fairness requirement of the due process clause of the Fifth Amendment to the United States Constitution * * *".[11] These contentions are all in error and represent a repetition of APGA's assertions which have previously been rejected by the Commission,[12] and the United States Courts of Appeals for the District of Columbia Fifth and Tenth Circuits. *American Public Gas Association, et al.* v. *FPC, supra,* 498 F.2d 718 (D.C. Cir.); *Shell Oil Co., et al.* v. *FPC, supra,* 520 F.2d 1061 (5th Cir.); *Phillips Petroleum Co., et al.* v. *FPC,* 475 F.2d 842 (10th Cir. 1973), *cert. denied* 414 U.S. 1146 (1946). The *Phillips* decision affirmed the establishment of rates for flowing gas by the utilization of rulemaking procedures similar to those adopted in the instant case. 475 F.2d 842 at 841.

The Supreme Court held in *United States* v. *Morton Salt Co.,* 338 U.S. 632 (1950), that the Administrative Procedure Act, "created safeguards even narrower than the constitutional ones," and if the requirements of the Administrative Procedure Act and the Natural Gas Act are satisfied, then the constitutional constraints have been met.

The procedures followed herein are similar to those which were approved in *Phillips Petroleum Co.* v. *FPC, supra; American Public Gas Association* v. *FPC, supra,* and *Shell Oil Co.* v. *FPC, supra.* Those cases have all held that the Com-

[1] __ F.P.C. __ (1975).

[2] Sections 4(a) and 5(a) of the Natural Gas Act, require that all rates received by a "natural gas company" be "just and reasonable". 52 Stat. 822, 283 (1938); 15 U.S.C. 717c(a), 717d(a) (1970).

[3] Rates for natural gas first flowing in interstate commerce on or after January 1, 1973, were prescribed in Opinion Nos. 699 and 699-H. *Just And Reasonable National Rates For Sales Of Natural Gas From Wells Commenced On Or After January 1, 1973,* Docket No. R-389-B, Opinion No. 699, 51 F.P.C. 2212 (June 21, 1974), *reh. denied,* Opinion No. 699-H, __ F.P.C. __ (December 4, 1974), *aff'd sub nom. Shell Oil Co., et al.* v. *FPC,* 520 F.2d 1061 (5th Cir. 1975), petitions for writ of certiorari denied.

[4] The prescribed base rate will increase on July 1, 1976, to reflect the termination of percentage depletion for most gas production by the Congress. *See* Int. Rev. Code of 1954, 613A(b)(2), added by the Tax Reduction Act of 1975, Pub. L. 94-12, 501.

[5] See Opinion No. 749, at 1, 48, __ F.P.C. __.

[6] __ F.P.C. __ (1976).

[7] The parties seeking rehearing of Opinion No. 749 are listed in Appendix A to Opinion No. 749-A. The State of Minnesota (Minnesota) applied for rehearing of Opinion No. 749 and filed a petition to intervene. By this opinion, we consider the petition for rehearing and grant petition to intervene. Additionally, at pages 31, *et seq.*, we discuss certain matters raised in letters of Congressman Moss which have been considered as a request for reconsideration.

[8] APGA Application For Rehearing at 1.

[9] *Id.*

[10] *Id.* at 1-2 citing § 1.20(g)(1) of the rules of practice and procedure. 18 CFR 1.20(g)(1) (1975).

[11] *Id.* at 2.

[12] *Just And Reasonable National Rates, supra,* 51 F.P.C. 2212, at 2219-2224, Opinion No. 699-H at 3-6, __ F.P.C. __ at __-__. *See also Area Rates For The Rocky Mountain Area,* 49 F.P.C. 924, *reh. denied,* 49 F.P.C. 1279 (1973); *Initial Rates For Future Sales Of Natural Gas For All Areas,* 46 F.P.C. 620 (1971), *aff'd sub nom. American Public Gas Association, et al.* v. *FPC,* 498 F.2d 718 (D.C. Cir. 1974); *Area Rates For The Appalachian And Illinois Basin Areas,* 44 F.P.C. 1112, *amended,* 44 F.P.C. 1334, *reh. denied,* 44 F.P.C. 1487 (1970).

mission is not required to hold formal hearings prior to prescribing just and reasonable rates. Even *Mobil Oil Corp.* v. *FPC, supra,* on which APGA relies does not require that the procedures of 5 U.S.C. 556, 557 be followed prior to setting rates. 483 F. 2d at 1251.

Here the Commission proceeded upon the basis of public notices, verified data submissions, sworn comments supported by data, information, and testimony submitted under oath, reply comments, the staff cost of service studies, and the applications for rehearing.[13]

Cases cited by APGA will not support its position. *Morgan* v. *United States*, 298 U.S. 468 (1936), and *Interstate Commerce Commission* v. *Louisville & Nashville R.R.*, 227 U.S. 88 (1913) were distinguished in *United States* v. *Florida East Coast Ry.*, 410 U.S. at 242–245 (1973), and it can be fairly said that the *Louisville & Nashville* decision is from "early in the history of the federal administrative tribunal, [when] the courts were persuaded to engraft judicial limitations upon the administrative process." *United States* v. *Morton Salt Co.*, 338 U.S. 632 at 642 (1950).[14]

Contrary to APGA's suggestion, the right to a formal hearing under the Commission's rules of practice and procedure is limited. Section 1.20(g)(1) provides for a formal hearing with opportunity for oral cross-examination only when the Commission initiates a hearing pursuant to § 1.20(a). Section 1.20 (m) sets the procedures to be followed in a rulemaking. Thus, it is patently clear that § 1.20 does not guarantee an absolute right to a hearing but provides a panoply of procedures which the Commission may utilize in various cases without stating what "procedures will be mandated in any given case."[15]

That the Commission may have held formal hearings in prior area rate proceedings does not dictate that the Commission is forever bound to follow such proceedings. Moreover, there is no issue which is being contested in this proceeding that has not been fully developed in the comments and replies thereto.[16]

The Indicated Producer Respondents ("Producer Group") contend that the Commission should abandon its traditional costing methodology which was utilized in Opinion No. 749 in favor of methodologies which yield results more beneficial to the producers. No record has been developed to persuade us that a different methodology better advances the interests of the producers and equally protects the interests of the consuming public.

It has not been shown that the Commission's order "produces an end result which is harmful to the public interest."[17] The Commission's methodology results in rates which are based on the costs associated with finding and producing these gas volumes.

The Producers have not shown that the rates fixed by the Commission methodology are inadequate. They have only indicated that other methodologies produce results more beneficial to them. There is nothing in the Natural Gas Act which requires the Commission to establish rates which are solely beneficial to the producer. The Producer Group has not met "the heavy burden of making a convincing showing that [the methodology adopted in Opinion No. 749] is invalid because it is unjust and unreasonable in its consequences." *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944).

We turn now to specific attacks upon various elements of the Commission's selected rate methodology.

A. Cost of Service

1. Utilization of 1972 test year

The Commission's adoption of a 1972 test year for costing purposes is challenged by APGA, particularly as to the adoption of 1972 exploration and development costs. APGA alleges that (1) these costs "bear absolutely no relationship to the flowing gas which will bear the rate" established by the Commission, (2) the use of these costs will result in "windfall profits for the producer and no benefits for the consumer" through increased rates, (3) producers may receive a higher rate upon a demonstration of the need for "special relief under Section 2.76 and 2.77", and (4) the receipt of revenues resulting from this increase in flowing gas rates must be tied to reinvestment in "explorat[ion] for and develop[ment] [of] natural gas which must be dedicated to the interstate" markets. These arguments demonstrate lack of understanding by APGA of the purpose of this proceeding and the development of the Commission's costing and methodology.

Starting with the first area rate proceeding,[18] the Commission has consistently adopted as the test for computing flowing gas costs a calendar year for which it had actual costs and related data, and fixed the closing date of such year as the dividing date between "old" or "flowing" gas and "new" gas. In the present case the calendar year 1972 was fixed as the test year and, perforce the dividing date, between "old" gas, which is the subject of this proceeding, and "new" gas, which is the subject of Opinion Nos. 699 and 699–H (supra n. 3) and Docket No. RM75–14, is January 1, 1973.

In the first Permian Basin proceeding, the calendar year 1960 was adopted as the test year for "flowing" gas costs and the dividing date was January 1, 1961. 34 F.P.C. 159 at 188–189, 212. Similarly, the initial proceedings to establish area rates for the Southern Louisiana area adopted the calendar year 1960 as the test year for computing "flowing" gas costs and the dividing date between "old" and "new" gas was January 1, 1961. *Area Rate Proceeding, et al. (Southern Louisiana Area)*, 40 F.P.C. 530 at 555–556, 590 (1968), *aff'd sub. nom. Austral Oil Co., et al.* v. *FPC*, 428 F.2d 407 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970). The second round of *Southern Louisiana Proceedings* utilized a test year of 1969 to compute flowing gas costs, and adopted a dividing date of October 1, 1968, between "old" and "new" gas. *Area Rate Proceeding (Southern Louisiana Area)*, 46 F.P.C. 86 at 135 (1971), *aff'd sub. nom. Mobil Oil Corp.* v. *FPC*, 417 U.S. 283 (1974).

APGA is correct in asserting that the certain costs incurred in the test year will relate to gas delivered at the rates established in Opinion No. 699–H; however, the same would be true of any test year. The fact that there is some overlap does not render the Commission's selection of the test year unreasonable. There will always be some overlap with any calendar year that is selected as the test year. APGA offers no alternative test year to be adopted if the Commission were to accept its contention that use of the 1972 test year is invalid. What APGA suggests is a "complete segregation of exploration and development between flowing and future volumes * * *".[19] We noted (*Id.*) that such a segregation is what has been characterized as an example of "demand[ing] the perfect at the expense of the achievable." *Public Service Comm'n* v. *FPC*, 487 F. 2d 1043 at 1067 (D.C. Cir. 1973) (Leventhal, J., dissenting).[20] The Commission's selection of the test year is rational and represents one of "the" pragmatic adjustments which may be called for by particular circumstances"[21] that this agency makes as it establishes rates.

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[13] Because the data forms were submitted by the respondents under the penalty of perjury, we reject out of hand APGA's assertion that the data filed by the respondents are untested. APGA has raised no specific issue with the reliability of this data; APGA did not contest any of the entries in the data collection forms submitted by any respondent or question any reconciliation made during conferences between the Staff and Mr. Donald Auten, representing the Producers. Under such Circumstances, the Commission concluded that there was no genuine issue in dispute which could not be resolved through the submission of such written comments and testimony. *Shell Oil Co.* v. *FPC, supra, APGA* v. *FPC, supra, Phillips Petroleum Co.* v. *FPC, supra.*

[14] *Murphy Oil Corp.* v. *FPC*, 431 F.2d 805 (8th Cir. 1970), *Shell Oil Co.* v. *FPC*, 334 F.2d 1002 (3d Cir. 1964), and *Mississippi River Fuel Corp.* v. *FPC*, 202 F.2d 899 (3d Cir.), *cert. dismissed*, 345 U.S. 988 (1953), dealt with the rejection of filings (*Mississippi River Fuel Corp.*), and the right to some hearing on rate filings (*Murphy* and *Shell*). None of those cases reached the question of whether the right to a hearing involved the right to a full adversary hearing with oral cross-examination. Thus, these cases are not relevant to the issue presented by APGA.

[15] *Just And Reasonable New Gas Rates*, Opinion No. 699–H at 6, — F.P.C. —.

[16] APGA's assertion that its comments were not considered is erroneous; APGA's comments were fully considered. The omission of APGA from the list of parties filing comments was only an administrative oversight.

[17] *Shell Oil Co.* v. *FPC*, 520 F.2d 1061 at 1084.

[18] *Area Rate Proceeding, et al.*, 34 F.P.C. 159 (1965), *aff'd Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

[19] Opinion No. 749 at 21 n. 51, — F.P.C. —.

[20] APGA "would constrain the Commission to seek a refinement in methodology that it has fairly indicated is not ascertainable and available." *Id.*, 487 F. 2d 1043 at 1066–1067 (Leventhal, J., dissenting).

[21] *FPC* v. *Natural Gas Pipeline Co.*, 315 U.S. 575, 586 (1942).

There is given no basis for APGA's averment that the use of the 1972 test year results in "windfall profits for the producers and no benefits for the consumers." APGA fails to recognize the fact that the rates established in Opinion No. 749 are based upon a computation of average costs plus a fair rate of return. Here, as in the area rate cases, the rates have been prescribed on a group basis as approved by the Supreme Court in *Permian, supra,* and *Mobil Oil Corp.* v. *FPC,* 417 U.S. 283 (1974), and, on a group basis, the rates do not result in windfall profits. The standards of *Permian* and *Mobil* have been satisfied. There is no error as APGA alleges.

To use the procedures under §§ 2.76 [22] and 2.77 [23] to resolve every case in which an individual producer sought increased rates for flowing gas would result in an administrative impossibility.[24] The basic purpose of area rates and national rates is to establish an average of general applicability which will reduce the number of exceptions to that rule to a manageable level.[25] We can find nothing in the record of this case or the history of producer regulation that indicates that APGA's proposal is a workable solution; rather, we find that it would unduly complicate the administrative process. (Further, since the rates established in Opinion No. 749 are cost-based, there are no excess profits and no need to unduly burden the rate structure with the cumbersome reinvestment proposal suggested by APGA.)

2. RATE OF RETURN

APGA, Minnesota, and the Producer Group take exception to the Commission's allowance of a 15 percent rate of return. APGA and Minnesota argue that such a rate of return is too high; the Producer Group argues that it is too low.

While the Producer Group contend that the rate of return should be in the range of 17 to 18 percent, APGA and Minnesota did not state what they consider to be a proper rate of return. On the basis of our decision in the second Permian proceeding where we approved flowing gas rates based upon a 15 percent rate of return,[26] and the record in this proceeding, we reject the naked contentions of APGA and Minnesota that a lower rate of return should have been fixed.[27]

Contrary to a Producer Group's assertion, we did give Dr. Solomon's testimony the consideration we found to be appropriate. However, we found in Opinion No. 749, as we find here that an overall return in the range of 17 to 18 percent proposed by Dr. Solomon would be inappropriate for flowing gas. Such a return would yield average returns in the range of 21.35 to 21.66 percent on common equity.[28] There is no persuasive evidence that such returns are necessary for the maximum recovery of the gas supplies which are subject to this proceeding.

3. NORMALIZATION OF EXPLORATION AND DEVELOPMENT EXPENDITURES

The Producer Group contends that because exploration and development expenditures will replace less than half the reserves produced during that year, the Commission should reverse its decision in Opinion No. 749 that test year expenditures should not be normalized. It also avers that the Commission's reasoning ignores the need for internal generation of capital.

The arguments of the Producer Group ignores the fact that the rate structure established in Opinion No. 749 and the rate structure prescribed in *Just and Reasonable National Rates for New Gas* are parts of an intergrated whole. In Opinion No. 699–H, *supra,* n. 3, we determined that flowing gas should receive the higher national rate for new gas when a contract expires by its own terms and is superseded by a renewal contract. This element of the rate structure for new gas was designed to place part of the burden of financing future exploration and development efforts on flowing gas. We find that these elements of the rate structure are sufficient to place an equitable portion of the needed internally generated capital on flowing gas.

Flowing gas costs should not be inflated by a hypothetical exploration and development allowance as a result of normalization which does not represent funds expended. The Producer Group seeks to shift incentive for exploration and development from new gas rates to flowing gas rates. The rates for new gas should bear the main burden for financing future exploration and development.[29]

Finally, the Producer Group contention must be weighed in light of the fact that the use of a 1972 test year to compute exploration and development costs includes a component in the flowing gas rates for exploration and development, based on current costs and properly spreads the burden of expansion "on all users rather than on those above who purchased gas in the future." *Mobil Oil Corp.* v. *FPC,* 417 U.S. 283, (1974). Consequently, the respondents receive rates which include amounts designed to aid in part current exploration and development activities.

Thus, we conclude that our determination not to normalize test-year exploration and development expenditures, is appropriate.

4. FEDERAL INCOME TAXES

APGA, Minnesota, Congressman Moss, and, to a certain extent, the Public Service Commission for the State of New York (PSCNY), challenge the allowance for Federal income taxes in the rate structure adopted in Opinion No. 749. Their arguments reduce to the following: (1) The Commission abandoned the actual taxes paid principle; (2) the producers will not pay taxes at the statutory rate of 48 percent (see Int. Rev. Code of 1954, section 11); (3) The Commission has no substantial evidence on which to base an income tax allowance; and (4) the Commission should adopt the same procedures with respect to income taxes that were adopted in Opinion Nos. 699 [30] and 699– H.[31]

We preface this discussion by noting that this is the first proceeding in which the Commission has issued an opinion prescribing a rate of general applicability for natural gas producers since the passage of the Tax Reduction Act of 1975.[32] Unlike most other provisions of that Act which were to reduce taxes, the provisions dealing with percentage depletion were specifically designed to impose payment of Federal income taxes upon the petroleum industry.[33] Thus, the decision in Opinion No. 749 with respect to Federal income taxes is, as it must be, based upon different premises than those which formed the rationale for our earlier decisions regarding federal income taxes.[34]

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[22] 18 C.F.R. 2.76; *Policy With Respect To Sales Where Reduced Pressures, Need For Reconditioning, Deeper Drilling Or Other Factors Making Further Production Uneconomical At Existing Prices,* 49 F.P.C. 992, *amended,* 49 F.P.C. 1325 (1973).

[23] 18 C.F.R. 2.77; *Flaring And Venting Of Natural Gas,* 49 F.P.C. 996, *reh. denied,* 49 F.P.C. 1324 (1973).

[24] A history of the Commission's difficulties in attempting to regulate natural gas producers on a company-by-company basis is set forth in the Supreme Court's opinion in the *Permian Basin Area Rate Cases.* 390 U.S. 747 at 755–759 (1968). It takes little imagination to conjure up the results of attempting to regulate on a well-by-well basis.

[25] The purpose of §§ 2.76 and 2.77 is to provide procedures for handling those cases where the application of the established ceiling rate results in hardship. These procedures are not designed to handle the case load that would result from attempting to determine flowing gas rates on a company-by-company or well-by-well basis.

[26] *Area Rate Proceeding (Permian Basin Area II),* 50 F.P.C. 390, 395 (1973). (See 50 F.P.C. 429, 460–461 [Initial Decision]).

[27] Minnesota's analysis of the rate of return data is flawed by the fact that it does not look to current data and because it does not consider that the earned returns in prior years may not have been adequate.

[28] Based upon the capitalization adopted in this proceeding. This capitalization is set forth in Opinion No. 699–H at 33, ____ F.P.C. ____.

[29] The allowance for "future expansion of exploratory effort" to which the Producer Group refers was a part of the new gas costing model, not the model for flowing gas. *See, e.g., Southern Louisiana I,* 40 F.P.C. 530 at 589 (1968).

[30] 51 F.P.C. 2212 at 2259–2261.

[31] Opinion No. 699–H at 35–36, __ F.P.C. ___.

[32] Pub. L. 94–12, 89 Stat. 27 (1975), § 501, 89 Stat. 47–53, adding section 613A to the Int. Rev. Code of 1954 and repealing section 613 to terminate percentage depletion for crude oil and natural gas with certain exceptions.

[33] See, *e.g.,* 121 Cong. Rec. H1151–H1161; H1162, H1163–H1166; H1168–H1170; H1171–H1172; H1177–H1191 (February 27, 1975, daily ed.). It is well known that this was the purpose of the Green Amendment to eliminate percentage depletion (121 Cong. Rec. 1191 (2d Column) (February 27, 1975, daily ed.)). We are, therefore, not persuaded by the contention that our action is "exactly opposite the policy directive of the Tax Reduction Act of 1975."

[34] *E.g., Just And Reasonable National Rates For New Gas, supra,* n. 3; *Area Rate Proceeding, et al. (Southern Louisiana Area),* 40

We find that APGA and Minnesota have incorrectly cited the cases which they state support their position or have cited cases which are no longer relevant to this issue.

El Paso Natural Gas Co., 281 F.2d 567 (5th Cir. 1960), *cert. denied sub nom. California* v. *FPC*, 366 U.S. 912 (1961), involved the rate treatment of tax savings resulting from the use of percentage depletion; the repeal of percentage depletion moots that issue. *Alabama-Tennessee Natural Gas Co.* v. *FPC*, 359 F. 2d 318 (5th Cir.), *cert. denied*, 385 U.S. 847 (1966), merely found that the Commission had authority to require that tax savings resulting from the use of accelerated depreciation be flowed through to the Company's customers rather than normalized to offset lower depreciation amounts in the future.[35] Similarly, this Commission's earlier decisions (*supra*, n.) to the extent that they rely upon percentage depletion and accelerated depreciation are not apposite to the question before us. Finally, *City of Chicago* v. *FPC*, 458 F.2d 731 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972), held that income taxes "should not be singled out for special treatment" and that a computed average tax would be the proper amount for inclusion in area (or national) rates. *Id.*, 458 F.2d at 756.

However, there is a matter left to be considered: namely, how the Commission should treat the fact that natural gas producers in some instances file income tax returns which include revenues and deductions from activities other than their jurisdictional natural gas operations and that many producers are members of an affiliated group which files a consolidated Federal income tax return pursuant to Int. Rev. Code of 1954, section 1501? The Supreme Court held in *FPC* v. *United Gas Pipe Line Co.*, 386 U.S. 237 (1967) that the Commission in fixing regulated rates could take into account tax savings experienced by a consolidated group including a jurisdictional company where the tax savings are the result of tax losses from the operations of non-jurisdictional members of the group. The Court was again confronted with this question in a second opinion arising from the Commission's petition for a writ of certiorari to review an adverse decision of the Court of Appeals (388 F.2d 385 (5th Cir. 1968)) entered on remand after the Supreme Court's first opinion. *FPC* v. *United Gas Pipe Line Co.*, 393 U.S. 71 (1968). In this opinion the Court strongly indicated that tax losses from non-jurisdictional activities should first be allocated to reduce taxable income from other non-jurisdictional operations and that jurisdictional rates should be reduced only when there was a net tax loss from all non-jurisdictional operations.[36]

This Commission considered the Supreme Court's two opinions delineating the appropriate rate treatment to be accorded consolidated returns in *Florida Gas Transmission Co.*, 47 F.P.C. 341 (1972), *reh. denied*, 49 F.P.C. 261 (1973), and *Natural Gas Pipeline Co.*, 50 F.P.C. 789 (1973). In *Florida Gas*, we held that "a utility should be regulated on the basis of its being an independent entity; that is a utility should be considered as nearly as possible on its own merits and not on those of its affiliates." 47 F.P.C. at 363. This holding was followed in *Natural Gas Pipeline*, where the Commission found that tax losses of affiliates should not be used as a mechanism to reduce rate because that would probably tend to discourage exploration and development. 50 F.P.C. at 790. We hold that the same principle apply in this case and that the Federal income tax allowance should not be reduced to reflect "tax losses" of affiliates not regulated by this Commission.

An additional facet of the "tax loss" matter is how "tax losses", if any, from non-jurisdictional activities of the same company conducting the natural gas operations should be treated. Just as "tax losses" from affiliates should not be considered in prescribing the tax allowance for the regulated company, "tax losses" from non-natural gas sales activities of the same company should not be considered in determining the tax allowance for the regulated activities. In other words, the regulated activities are properly viewed as a separate corporate entity and the Federal income tax allowance computed accordingly.[37]

Having determined that the federal income tax component allowed should be computed by looking only to the revenues and deductions which will be generated by natural gas sales, it is necessary to focus on how any tax liabilities or benefits are to be allocated between the rates established for gas from wells commenced prior to January 1, 1973, and those established for gas from wells commenced after that date.

In Opinion No. 699-H pre-production investment was reduced by the tax savings resulting from tax deductions generated by exploration efforts associated with new gas, the premise being that a producer would have sufficient revenues generated by sales of all gas to permit utilization of such tax deductions when they file their federal income tax returns. In order to be consistent, this necessitated a method of computing the tax allowance for gas from wells commenced prior to January 1, 1973, which takes into consideration only the costs associated with finding and producing these volumes. The tax allowance contained in Opinion No. 749 using the data contained in Appendix C accomplishes this. These data represent a composite of expenditures incurred by the respondents and the revenues before consideration of the allowance for income taxes to be received under the rates prescribed. From these data, production net income (Appendix C, Line 34) can be computed as a preliminary step in computing taxable income (Appendix C, Line 41). After production net income is determined adjustments reflecting interest expense, amortization of previously capitalized intangible drilling costs (IDC), and current intangible drilling costs capitalized are necessary in order to determine taxable income. The tax allowance is then computed by multiplying taxable income by 0.92308 (48÷52) to yield the income tax allowance.[38] The net result of this methodology is that the base rate of 23.5 cents per Mcf plus the tax allowance of 6 cents per Mcf effective July 1, 1976, will yield to the producer an after tax return of 15 percent on rate base.

5. MINIMUM RATE

The Producer Group urges that the minimum rate be increased by the inclusion of a specific income tax component. Mobil argues that the minimum rate should be increased to 20 cents and be subjected to quality adjustments. Congressman Moss' letter poses several questions concerning the minimum rate. APGA objects to the minimum rate.

The contentions of the Producer Group and Mobil were fully considered in Opinion No. 749. No specific income tax component can be identified for the minimum rate because the data from which the computation could be made is not available. Furthermore, the appropriateness of a specific income tax allowance with respect to gas sold under the minimum rate would vary widely from producer depending upon the mix of minimum rate and other gas that the producer sells in a given year. Under these circumstances, the recognition of possible income tax liability as one factor in justifying the increase of the minimum rate above the *Permian II* level is the only appropriate or possible response to the income tax question. Simplicity is more readily achieved than precision in establishing a minimum rate and Mobil's suggestion that the minimum rate be subject to additional allowances is rejected.

APGA suggests that because the Commission did not establish minimum rates

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F.P.C. 530 (1968), *aff'd sub nom. Austral Oil Co.* v. *FPC*, 428 F. 2d 407, *reh. denied*, 444 F. 2d 125 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970); *Area Rate Proceeding (Permian Basin Area)*, 34 F.P.C. 159 (1956), *aff'd Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

[35] With respect to the rate treatment of accelerated depreciation, the Congress has specified certain rules to be followed in utility rate proceedings. Int. Rev. Code of 1954, section 167(1), as amended by the Tax Reform Act of 1969, section 441, 83 Stat. 487, 625–628 (1969). *FPC* v. *Memphis Light, Gas & Water Division*, 411 U.S. 458 (1973).

[36] This results in extremely complex calculations due to the carryback and carryover provisions in the Internal Revenue Code. See, *e.g.*, Int. Rev. Code of 1954, section 172(b).

[37] To the extent that the decision in *Area Rate Proceeding, et al. (Southern Louisiana Area)*, 40 F.P.C. 530, 581–586 (1968), holds that "tax losses" from non-jurisdictional activities of a company are to be considered in fixing rates for jurisdictional activities, we hereby overrule that decision. That decision is in conflict with *FPC* v. *United Gas Pipe Line Co.*, 386 U.S. 237 (1967), 393 U.S. 7 (1968).

[38] This method is consistent with that utilized to compute the income tax allowance in natural gas pipeline and electric utilities. See, *e.g.*, *Kansas-Nebraska Natural Gas Company, Inc.* Opinion No. 731 at 42–44, Appendix I __ F.P.C. __ (May 15, 1975).

for the South Louisiana area in the Area Rate proceedings, that no minimum rate was established in this nationwide proceeding. No minimum rate was established in South Louisiana. I believe the proposed 13.75 cent minimum would have affected seven contracts with most of the impact falling upon a single pipeline.[39] Disregarding the small producers, the minimum rate in this proceeding will affect 76 of the 92 reporting producers, 43 of 59 producers in South Louisiana alone. In other respects as well, the current situation is quite distinguishable. The national gas supply situation has worsened substantially since South Louisiana I and South Louisiana II were decided. Virtually all of the impact of the minimum rate in South Louisiana will be in the state domain portion of the Area and sales to interstate pipelines from that portion have declined materially in recent years. The minimum rate today is as necessary in South Louisiana as elsewhere. Furthermore, more than 80 percent of the volumes affected by this minimum rate are delivered under contracts that have an initial date of 1964 or earlier, a time when supply surpluses most likely distorted rates in relation to current costs of production.[40]

In summary, we find that the public interest requires the establishment of a minimum rate for the entire nation at the rate of 18 cents per Mcf, plus local production taxes. Opinion No. 749 is affirmed as to minimum rate. We also find that there is no basis for distinguishing between large and small producers with respect to the minimum rate.

B. Cost Allocation

In Opinion No. 749, the Commission abandoned the relative cost method of allocating production costs between liquids and gas because of a determination that the relative cost method today would assign excessive costs to the condensate liquids. In lieu of relative cost, the Commission extended the application of the modified Btu method that theretofore had been utilized for the purpose of allocating exploration and development costs. It was found that, while no allocation method is perfect with respect to joint costs, the modified Btu method which gives consideration to the relative value of the joint products was likely to produce the fairest result. The relative values were determined by reference to data from the non-jurisdictional intrastate market rather than by reference to the jurisdictional price of natural gas as had been used in the past. Consideration was given to historical data, current data, and future trends, and the modifying factor was set at 1.5. On rehearing, several parties have objected on different grounds to the allocation method.

The Producer Group contends that the Commission erred in not basing allocation upon either the relative vapor volume or the relative Btu content of the joint products. APGA contends that the Commission erred in abandoning the relative cost method. PSCNY does not dispute the departure from the relative cost method to the modified Btu method, but it, along with the State of Minnesota (Minnesota) contend that the modified factor was derived from too current data. Additionally PSCNY and Minnesota argue that the Commission should utilize a net liquid credit method of allocation.

The Producer Group condemns the modified Btu method because it compels the application of "policy choices and judgment regarding value which leads ultimately to circular, arbitrary and predetermined results."[41] However, the methods suggested by the Producer Group—vapor volume or straight Btu—require a no less significant and a more questionable policy choice—which is, that value *expected* is irrelevant to the allocation of cost *expended* in production of joint products. Such a policy choice could be avoided only by an alternative decision that relative values are equal, a judgment equally susceptible to being circular, in that it leads absolutely to predetermined results and consequently is more arbitrary because it is contrary to the available evidence. The Producer Group further asserts that the modified Btu method "stacks the deck against gas,"[42] and alleges that the Commission is determining that gas is a less valuable product. The modified Btu method is an application of, and not a determination of values. The marketplace value is represented by the historical and current evidence of unregulated market prices. It is a fact that such prices for natural gas and liquid hydrocarbons *at the wellhead* demonstrate that common physical characteristics of the products do not equate the value of the products. No denegation of the value of natural gas at the point of ultimate consumption need be implied from the evidence of wellhead prices. As was stated in Opinion No. 749, the differences in relative costs of transportation or storage, as well as societal premiums attached to motor fuel, can account for the different average wellhead prices. There is no suggestion that natural gas is an "inferior" product or that it cannot be indeed a superior product in particular applications or situations.

The evidence to date, however, will not support a finding that the producer can expect to receive an average wellhead price for natural gas that is equivalent on a physical characteristic basis to the average wellhead price for hydrocarbon liquids. It is that expectation that must form the basis in an average cost rate proceeding. The Producer Group offers only the general statement that "the trend is toward unity."[43] That trend was taken into account in Opinion No. 749 by the use of historical and current data.

The Producer Group also contends that the Commission did not take into account the "unquantifiable effect of a free market for interstate gas on national gas values."[44] There, of course, can be no "free" market for interstate natural gas under existing law and any assumption concerning such a market would be mere speculation. To avoid endless speculation, it is reasonable to accept the available intrastate data as to the values at the wellhead as some evidence of the appropriate modifying factor as long as it is recognized that absolute precision in the allocation of joint costs is not achievable.

PSCNY does not challenge the change from relative costs to modified Btu allocation of costs between gas and liquids; nor does it contend that the use of intrastate natural gas prices for the gas leg of cost allocation is beyond the discretion of the Commission. PSCNY and Minnesota do contend, that it is not proper for the Commission to utilize the current price data in determining the modifying factor. But, a substantial portion of the production costs in issue in this proceeding are prospective costs. The cash expense that is required to maintain production in existing fields necessarily will be incurred in the future. The allocation method with respect to those expenses should reflect prospective values of the derived products. PSCNY concedes that exploration and development costs historically have been treated on a "more current basis"[45] and this implicitly suggests that it is within the discretion of the Commission to utilize current prices in developing the modifying factor for the allocation of exploration and development costs.

To accept the protestants' methods logically, the Commission would be led to the use of three different modifying factors in a single proceeding. That is, prospective production expenditures would be allocated on the basis of prospective prices, other production expenses would be allocated on the basis of historical prices, and exploration and development expenses would be allocated on the basis of current prices. It would not be mathematically impossible to apply such a method, but where the inquiry inherently depends so heavily upon judgment, such a method is not patently more

[39] *Area Rate Proceeding (Southern Louisiana Area, et al)*, 40 F.P.C. 530, 624 (1968).

[40] Impact Of Minimum Rate By Initial Contract Vintage:

Vintage of contract	Volumes (thousand cubic feet)	Cumulative percent
Before 1930	5,108,000	0.189
1930 to 1939	5,689,000	.399
1940 to 1949	249,742,000	9.630
1950 to 1954	366,412,000	23.150
1955 to 1959	292,438,000	33.950
1960 to 1964	1,221,920,000	79.080
1965 to 1969	535,816,000	98.870
1970 to 1973	30,541,000	100.000
Total	2,707,666,000	

The total represents slightly less than 25% of all gas sold in interstate commerce for the data period.

[41] *The Producer Group's*, Application for Rehearing, filed January 30, 1976, p. 36.

[42] *Id.* at 37.

[43] *Id.* at 35.

[44] *Id.* at 35.

[45] *Public Service Commission of the State of New York*, Petition for Rehearing, filed January 30, 1976, p. 4.

reasonable than the approach taken by the Commission in Opinion No. 749. There the Commission applied a single modifying factor that was derived after giving consideration to the historical data, current prices, and future trends. Also, it should be noted that large changes in the modifying factor produce only small changes in the indicated costs. If the modifying factor was increased by one-third, from 1.5 to 2.0, the indicated price would be reduced by approximately 2 percent, or less than ½ of one cent per Mcf.

PSCNY and Minnesota suggest that the Commission adopt a liquid credit method for assigning the costs between liquids and gas. The net liquid credit method had been utilized since *Permian I* [46] for new gas costing. It is deemed inappropriate, however, to continue that method in this proceeding because it credits the total revenue from liquid sales to the total cost of service. It, therefore, assigns costs from gas to liquids by the amount that the total revenue from liquids exceeds actual cost of production (plus return) that the Commission allocates to regulated natural gas.

C. Revenue Impact

At mimeo pages 36–38 of Opinion No. 749, we included a study on the revenue impact of the rate structure prescribed therein. Additional studies made by the Commission showed that the estimated impact was slightly understated.

Utilizing the same assumptions set forth in Opinion No. 749, the estimated annual impact on the rates in effect prior to July 1, 1976, is $225,861,000 compared to $218,342,000 given in Opinion No. 749.

The revised impact is broken down as follows:

1975 Estimated Revenue	$2,408,938,000
Revenue Due To:	
Base Ceiling	96,179,000
Btu Adjustment	26,298,000
Gathering Allowance	22,082,000
Base Minimum	81,302,000
Total	2,634,799,000

The revised unit revenue impacts are shown below:

	Revenues (in thousands)	Unit revenues [1]
Estimated 1975 revenues	$2,408,938	22.90
Estimated revenues	2,634,799	25.05

[1] In cents per thousand cubic feet.

These charges will cause an increase in unit revenues of approximately 2.15 cents per Mcf as compared to approximately 2.08 cents per Mcf. This is greater than the revenue impact originally estimated.

For the period subsequent to July 1, 1976, the estimated impact is approximately $512,263,000 compared to the original estimate of $502,770,000.

[46] *Area Rate Proceeding, et al. (Permian Basin Area)*, 34 F.P.C. 158 (1964), at 219.

This revised revenue impact is broken down as follows:

1975 Estimated Revenue	$2,408,938,000
Revenue Due To:	
Base Ceiling	370,150,000
Btu Adjustment	36,252,000
Gathering Allowance	26,550,000
Base Minimum	79,312,000
Total	2,921,202,000

The revised unit revenue impacts are shown below:

	Revenues (in thousands)	Unit revenues [1]
Estimated 1975 revenues	$2,408,938	22.90
Estimated revenues	2,921,203	27.77

[1] In cents per thousand cubic feet.

The resulting increase in revised unit revenues of 0.09 cents per Mcf from approximately 27.68 cents per Mcf to approximately 27.77 cents per Mcf represents an increase of approximately 1.9 percent.

The revised impact of including a Federal income tax allowance in the base rate is as follows:

	Revenues (in thousands)	Unit revenues [1]
Estimated revenues under ceiling rate including 6¢/1,000 ft³ Federal income taxes	$2,921,203	27.77
Estimated revenues under ceiling rate excluding 6¢/1,000 ft³ Federal income taxes	2,634,799	25.05
Difference	286,404	2.72

[1] In cents per thousand cubic feet.

The Producer Group argues that the Commission should establish a rate structure which permits the producers to receive the rates prescribed by the Commission. Congressman Moss argues that the Commission has shifted risks from the producers to the consumers "[b]y increasing flowing gas prices above contractually-agreed upon, fixed-price escalations * * *". Both arguments are found to be in error for the reasons set forth below.

The rates established by the Commission do not permit any producer to collect any rate in excess of the rate which is provided by its contracts except for those contracts it may have which provide for a rate below the minimum rate. The preceding tables clearly demonstrate that on the whole, producers will collect rates less than the prescribed rates because of contractual rate limitations. For example, after July 1, 1976, when the established base rate increases to 29.5 cents per Mcf, the producers as an average will realize unit revenues of only 27.77 cents per Mcf. Realized unit revenues will be 1.73 cents per Mcf below the base rate before allowable adjustments. Thus, the assumption in Congressman Moss' arguments is patently in error. Contractual limitations rather than being exceeded prevent the producers from receiving rates which the Commission has determined are just and reasonable and necessary to recover the costs incurred.

Turning next to the Producer Group's argument that we should permit rates in excess of contractually authorized rates to be collected, we note that such action by the Commission is prohibited by the Natural Gas Act, *United Gas Pipe Line Co.* v. *Memphis Light, Gas and Water Division*, 358 U.S. 103 (1958); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956). In *Sierra, supra*, the Supreme Court held that the Commission may not set aside contractually agreed upon rates unless "the rate is so low as to adversely affect the public interest—as where it might impair the financial ability of the public utility to continue its service, cast upon other customers an excessive burden, or be unduly discriminatory." 350 U.S. 348, 355. The Commission did make such a finding on the record of this proceeding for those contracts which provide for rates below the minimum rate. With respect to those contracts we found that "the rate is so low as to adversely affect the public interest * * *", *Id.* Thus, we have found and affirm that there is evidence to support the Producer Group's contention that Opinion No. 749 should be modified to permit any producer to abrogate its contract and collect the minimum rates prescribed by the Commission since the Act provides: "the Commission shall determine the just and reasonable rate * * *." *Provided, however*, that the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural-gas company on file with the Commission—Sec. 5a of the Natural Gas Act; 15 U.S.C. 717d.[47]

D. Rate Design Factors

1. Market Value Royalties

The Producer Group urges the Commission to provide adjustments to the ceiling rate to reflect "market value" royalties on the grounds that some producers selling gas in interstate commerce are being subjected to lawsuits and demands by royalty owners for payments based on the alleged "market value" of the gas without regard to the just and reasonable rates established by this Commission. The record supports no such an adjustment.

If producers are put in a bind by their royalty obligations they may petition the F.P.C. for individualized relief, see, *Mobil Oil Corp.* v. *F.P.C.* 417 U.S. 283 (1974), affirming *Placid Oil Co.* v. *F.P.C.*, 483 F. 2d 880 (CA5, 1973), and saying that a producer affected by higher royalty obligations is entitled to seek individualized relief. While indicating that relief on some grounds may be possible, this case does not state under what conditions re-

[47] See, *Sierra, supra*, 350 U.S. 348.

lief should be granted, nor does it define when the right to gain relief matures. (Pennzoil Producing Company, *et al.*, Docket No. RI76-8, *et al.*, Opinion No. 753-A, issued February 27, 1976).

2. WAIVER OF REFUND CREDITS

The Producer Group contends that the Commission erred in its decision to require waiver of refund credits granted in certain area rate decisions.[48] It is argued that the Commission entered a retroactive rate order, that there is no evidence to support the Commission's decision, and that the action is contrary to the public interest.

As the Court noted in *Shell Oil Co.* v. *FPC*, *supra*, n. 3, with respect to new gas, "the FPC has established a new rate system" which "is the product of an independent determination of incentives, and, as it is in so many other regards, the new rate structure is not tied to previous determinations." 520 F. 2 at 1082-1083. The Court then held that the replacement of one rate structure with another did not constitute retroactive rate making (520 F. 2d 108):

> Replacement of one incentive structure with another or, viewed in another light, providing a new alternative rate system, is an exercise of Commission discretion which does not amount to retroactive rate regulation. *See Moss* v. *FPC*, 164 U.S. App. D.C. 1, 502 F.2d 461 (1974).

We find that the same reasoning is applicable to this proceeding. Thus, the claim that the Commission established a retroactive rate is without merit.

The decision requiring the waiver granted in past Commission decisions is a matter of discretion and we find is in the public interest. Permitting a producer to receive the rate established in Opinion No. 749 and to retain the right to utilize gas volumes to discharge its prior refund obligations, in our opinion, allows such producer to receive a "double benefit." [49] We cannot rationalize any justification for granting such a bonus.

Finally, the Producer Group ignores the fact that refund credits granted in the past are allowed. Only future deliveries are affected by our order. The individual producer retains its right to continue deliveries at the existing pre-Opinion No. 749 area rates and retain refunds credits until such time as it determines it to be in its own interest to file for a rate increase to rate prescribed in Opinion No. 749.

3. PIPELINE PRODUCTION

Certain parties [50] have raised questions concerning the applicability of the rate prescribed herein to pipeline owned production from a lease acquired prior to October 8, 1969. In Opinion No. 749-A,[51] we determined that production from such a lease should continue to be priced on a cost-of-service basis pending a final opinion on rehearing. We now conclude and find that production from a pipeline-owned lease acquired prior to October 8, 1969, should be priced on a cost-of-service basis, rather than at the rate prescribed in Opinion No. 749.

Mid Louisiana is the only party which claims that production from its pre-October 8, 1969, pipeline-owned leases should be priced at the rates prescribed in Opinion No. 749. The majority of the parties addressing this issue in petitions for rehearing urged the Commission to continue its policy of pricing such production on a cost-of-service basis. We find that our prior policy should be continued.[52] Mid Louisiana has failed to demonstrate that this policy is arbitrary and should be modified. However, that is not to say that Mid Louisiana may not file a petition for special relief and request that for accounting and ratemaking purposes it be granted an exception to the Commission's general policy. Also, there are other avenues open to it.[53]

MISCELLANEOUS MATTERS

There are a number of miscellaneous matters which the Producer Group urges the Commission to clarify. Specifically, the Commission is asked (1) to grant permanent certificates in all cases where operations are being conducted pursuant to temporary certificates, (2) to consolidate all pending § 4(e) [54] and § 7(c) [55] proceedings and to provide for the termination of the § 4(e) proceedings where appropriate, and (3) to require that interest on refunds be calculated to the last day of the month preceding the month in which the refund is filed.

We shall provide for the issuance of permanent certificates in those cases where sales are being made under temporary certificates. Further, we shall consolidate the pending § 4(e) and § 7(c) dockets in this proceeding and issue a list of the proceedings to be consolidated so that the parties will have an opportunity to advise the Commission of any corrections which appear to be warranted. Thereafter a final appendix will be issued with a list of those dockets which shall be terminated pursuant to this opinion.

For those proceedings in which rates are presently being collected subject to refund or where collected subject to refund prior to the issuance of Opinion No. 749, refunds will be determined on the basis of the adjusted national rate prescribed in Opinion No. 749 or the otherwise applicable higher area rate.

We further find that interest on refunds should be calculated in accordance with Order No. 513-A, issued July ___, 1976, to the last day of the month preceding the month in which the refund report is filed rather than to the date of such report. This is consistent with prior opinions and will facilitate the filing of refund reports.

By letters of January 19, 1976 and March 22, 1976 to Richard L. Dunham, Chairman of the Federal Power Commission, Congressman John E. Moss, Chairman of the House Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce commented on Opinion No. 749. By Notice of Letters issued March 31, 1976, the Commission determined that these letters should be treated as a request for reconsideration of Opinion No. 749. The parties to the proceeding were given the opportunity to comment on Chairman Moss' letters on or before April 27, 1976. Comments were received from Indicated Producer Respondents, United Distributing Companies, State of Minnesota, Eakle Gas Co., *et al.*, and Perkins Production Company, and from the Commission's staff.

We have reviewed the letter from Chairman Moss, together with the various comments received and find that there is no basis therein for modification of our Opinion No. 749. We agree in general with the comments of the Commission's staff with respect to the various matters dealt with in the staff comments. The other matters raised by Chairman Moss that were not dealt with in the staff comments involved primarily issues relating to inflation impact. While we reaffirm our views with respect to the inflation impact of Opinion No. 749, we would emphasize the statements contained in footnote 83 on page 39 of that Opinion:

> The prices established herein reflect the costs including a reasonable rate of return which are properly assignable to gas produced from wells commenced prior to January 1, 1973. Even if the increase prescribed herein were to result in a substantial increase in consumer prices, which it does not, the increase would still be justified as a regulated company must recover its costs reasonably incurred plus a rate of return commensurate with the risks of the business.

Chairman Moss suggests that the inflation impact should be considered for a series of years into the future rather than only for the first year after the effective date of the order. In response to this we would point out that in succeeding years, the ratio of gas flowing into interstate commerce under old gas prices will decline from the ratio estimated to be applicable to the first year. As "old gas" declines, as a proportion of total old and new gas, the impact of the price increase

[48] Amoco Production Company ("Amoco") and Mobil Oil Corporation ("Mobil") did not join this contention in the Producer Group's application for rehearing.

[49] *Just And Reasonable National Rates For New Gas*, 51 F.P.C. 2212 at 2276.

[50] Columbia Gas Transmission Corporation ("Columbia"), Consolidated Gas Supply Corporation ("Consolidated"), El Paso Natural Gas Company ("El Paso"), Mid Louisiana Gas Company ("Mid Louisiana"), Northwest Pipeline Corporation ("Northwest"), APGA, and PSCNY.

[51] _____ F.P.C. _____ (February 27, 1976).

[52] APGA's assertion "that it would be unlawful under *City of Chicago* v. *FPC*, 458 F.2d 731 (D.C. Cir. [1971]), *cert. denied*, 405 U.S. (1972), to apply the national rate for flowing gas to gas produced by pipelines from pre-October [8], 1969 leases: is erroneous. *City of Chicago* does not require that gas produced from such leases to be priced according to any particular methodology.

[53] *See, e.g., Colorado Interstate Gas Company*, 51 F.P.C. 74, *rehearing denied*, 51 F.P.C. 754 (1974); *Natural Gas Pipeline Co.*; 50 F.P.C. 368 (1973).

[54] 52 Stat. 822 (1938); 76 Stat. 72 (1962); 15 U.S.C. § 717c(e) (1970).

[55] 52 Stat. 825 (1938); 56 Stat. 83 (1942); 15 U.S.C. § 717f(c) (1970).

for old gas authorized in Opinion No. 749 will diminish. We would also note that in succeeding years, there will be no growing inflationary impact of Opinion No. 749 except to the extent that the estimated unit revenue of 27.77¢/Mcf [56] may creep gradually upward toward the ceiling rates of 29.5¢ fixed by the order. As stated in Opinion No. 749:

> The unit revenues are less than the ceiling rate as the result of various contractual limitations which restrain rates collectible under those contracts to levels which are less than the amounts which would be collected if the ceiling rate and the applicable adjustments were received.[57]

Our calculations indicate that the maximum impact of this change over the succeeding five year period on the Consumer Price Index (CPI) would be less than .25 index points.[58]

Chairman Moss also raises questions concerning our calculation of the impact of the increase of the CPI and asks for examples of the effects of the increase on specific items in the index. With respect to the first of these, we believe that reference to the publication by the Bureau of Labor Statistics of the United States Department of Labor entitled *Relative Importance of Components in the Consumer Price Index* [59] will indicate that the calculated impacts set forth in our order are of a proper order of magnitude. If attention is focused on that portion of the CPI designated "Food at Home" which represents nearly 20 percent of the total market basket included in the CPI, it is necessary to make separate estimates of the impact of the increases on (1) natural gas used in the production of fertilizer, (2) natural gas used as fuel in agriculture, forestry, and fisheries, and (3) natural gas used in the manufacture and processing of food and kindred products. On this basis, we have concluded that the indirect effect of the increase in gas prices of Opinion No. 749 on the "Food at Home" portion of the CPI is about 0.085 percent. If we assume that this indirect effect is the same as for all other elements of the CPI and add in the direct effect, our calculations indicate that the CPI would have been increased about 12/100 of 1 percent.

Chairman Moss also raised questions concerning the impact of the increase on fertilizer prices, the Wholesale Price Index (WPI) and on prices charged by commercial users. Data available to the Commission indicate that the impact of the increase on the price of anhydrous ammonia, which accounts for most of the gas used in fertilizer production would be in the order of 1.0 percent. The calculations contained in Chairman Moss' letter designed to show that 64 percent of the dollar increase in industrial prices as calculated by the Commission would be represented by increases in fertilizer prices is based on the faulty assumption that the entire selling price of fertilizer represents cost of gas. Our calculations indicate that the fertilizer industry would only account for about 5 to 6 percent of the $225 million increase in industrial prices shown in Opinion No. 749 rather than the 64 percent calculated by Chairman Moss. With respect to the WPI, we calculate an impact of 0.032 percent based upon the "relative importance" of gas in the WPI as set forth in the Bureau of Labor Statistics publication entitled, *Wholesale Prices and Price Indexes*, Supplement 1975 at page 19.

With respect to the impact on commercial users, we note that there is no price index comparable to the WPI and CPI. We are able, however, to calculate that if the relative importance of gas to commercial users were comparable to its relative importance to consumers, the impact would be 0.04 percent. If a similar calculation is made using the relative importance of gas in the WPI, the impact on prices charged by commercial users would be 0.02 percent.

Finally, Chairman Moss raises a series of questions relating to the effect of increased gas prices on production and exploration and development. In response thereto, we reiterate that "an increase of about 4.8¢/Mcf in the price of gas at the wellhead represents an increase of roughly 21 percent." This is clearly a substantial increase and it is on this basis that we believe the increased revenue on production form existing fields "is likely to be material." We would also note that our estimate of inflation impact was not based on any conclusion that the higher prices of Opinion No. 749 "will convince producers to accelerate production from older fields * * * ." Rather, Opinion No. 749 states:

> To the extent that additional gas supplies are brought to market as a result of taking larger proportions of total gas from existing reservoirs and as a result of additional investment in exploration and development activity, demand for higher cost alternatives is reduced and upward pressure on the prices of alternative energy sources is at least partially relieved.
>
> The additional producer revenues occasioned by this order to the extent not required for payment of increased taxes, will be available for investment in additional exploration and development activity.

This is, of course, true whether the additional revenue represents exploration and development activity or for some other purpose.

The Commission orders: (A) All applications for rehearing, reconsideration, and/or clarification of Opinion No. 749 are hereby denied except to the extent provided in Ordering Paragraphs (B) through (F) below.

(B) Section 2.56B(i) and § 2.56B(k) are amended as provided in Ordering Paragraph (B) of Opinion No. 749–A.

(C) Section 2.66(d) is amended as provided in Ordering Paragraph (C) of Opinion No. 749–A.

(D) Ordering Paragraph (C) of Opinion No. 749, as amended by Ordering Paragraph (D) of Opinion No. 749–A, is hereby approved.

(E) Ordering Paragraph (D) of Opinion No. 749 is amended as follows:

(1) The first paragraph of Ordering Paragraph (D) is amended to read as follows:

> Within 120 days of the date of this order, refund reports shall be filed with this Commission in triplicate, and one copy served on the purchaser, by each producer collecting rates subject to refund in section 4(e) or section 7(c) proceedings in excess of the adjusted national rate prescribed herein or the otherwise higher applicable area rate, and as to which refunds are required under the terms of this decision. With respect to the rates involved in pending section 4(e) and section 7(c) proceedings set forth in the attached Appendix refunds shall be computed on the basis of the adjusted national rate or the otherwise applicable area rate whichever is greater. Such rates shall apply from the date rates were collected subject to refund or the date such rates were collected under a temporary certificate. The report shall show separately the principal and interest (with volumes sold, and the period covered) in sufficient detail to explain such computations. Interest shall be calculated to the last day of the month preceding the month in which the refund report is filed. Upon compliance with the provisions of this paragraph, the section 4(e) and section 7(c) covered hereby and set forth in said Appendix shall be deemed terminated insofar as they apply to the rate schedules involved herein. Any refund obligation in any pending section 7(c) proceeding shall be deemed to be fully discharged upon compliance with this paragraph to the extent that the proceeding is covered by this opinion.

(2) The stay of Ordering Paragraphs (D) and (E) of Opinion No. 749 granted by Ordering Paragraph (E) of Opinion No. 749–A is terminated effective the date of this order.

(F) Pursuant to Opinion No. 749–B, persons defined as small producers by 18 C.F.R. 157.40 (1975), need not make rate filings to collect the minimum rate prescribed in § 2.56B9h). Small producers as so defined are not entitled to collect 130 percent of the minimum rate for the reasons heretofore set out. However, small producers are entitled to collect 130 percent of the ceiling rate established herein pending a final order in Docket No. R–393.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

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[56] This is comparable to the revenue of 27.68¢/Mcf set forth in Opinion No. 749 at page 37.

[57] Opinion No. 749, page 38.

[58] It should be emphasized that this is a maximum value since by the end of this period there would still be contractual limitations that would hold some rates below ceiling levels. Our calculations of the impact on the CPI relate only to those items which we can directly relate to the price increases in natural gas under this Opinion, and we do not find it necessary in this case to quantify all secondary impacts, some of which could potentially offset the above effects.

[59] December 1975, at page 3.

APPENDIX.—OPINION NO. 749–C

SEC. 4(e) SUSPENSION PROCEEDINGS [1]

Producer	*Docket No.*
Adobe Corp	RI70–1234, 70–1242
Amerada Hess Corp	RI65–336, RI65–566, RI72–110, RI74–38, RI74–110, RI74–173, RI74–180, RI75–31, RI75–36, RI75–124, RI76–109
American Petrofina Co. of Texas	RI70–1561, RI71–1013, RI73–122, RI73–287, RI74–58, RI74–87, RI74–96, RI74–97, RI74–230, RI75–59, RI76–78
Amoco Production Co	RI71–691, RI71–1084, RI73–70, RI73–174, RI74–2, RI74–4, RI74–18, RI74–35, RI74–63, RI74–66, RI74–71, RI74–75, RI74–81, RI74–83, RI74–85, RI74–105, RI74–109, RI74–149, RI74–168, RI74–208, RI74–221, RI74–223, RI74–224, RI74–229, RI74–262, RI75–12, RI75–81, RI76–15, RI76–20, RI76–52, RI76–56, RI76–59, RI76–60, RI76–63, RI76–67
Anadarko Production Co	RI71–52
Apache Corp	RI71–460
Nettie Armstrong	RI64–633
Agnes Cullen Arnold et al	RI70–734
Ashland Oil, Inc	RI65–450, RI67–144, RI76–31
Atlantic Richfield Co	RI67–252, RI68–181, RI68–468, RI68–570, RI69–76, RI72–125, RI72–126, RI72–203, RI73–241, RI73–307, RI74–5, RI74–36, RI74–69, RI74–91, RI74–95, RI74–102, RI74–148, RI74–176, RI74–181, RI74–184, RI75–58, RI75–61, RI76–1, RI76–69, RI76–81
Austral Oil Co., Inc	RI75–16, RI75–103, RI76–91
Aztec Oil and Gas Co	RI74–144, RI74–166, RI74–251
Perry R. Bass	RI70–1763, RI74–210, RI75–41, RI75–134
Bayou Oil Co	RI73–228
Belco Petroleum Corp	RI73–171, RI73–196, RI73–316, RI74–90, RI74–116, RI74–119, RI74–190, RI75–27, RI75–56, RI75–83, RI75–98, RI76–36, RI76–61, RI76–107
Beta Development Co	RI74–140, RI75–96
Big Marsh Oil Co	RI71–701
Ruth Phillips Bisiker	RI71–1081, RI73–192
Bridwell Oil Co	RI66–308
George R. Brown	RI68–623
H. L. Brown	RI71–299
Burmah Oil & Gas Co	RI75–8, RI75–89, RI75–143
Cabot Corp	RI71–334
Champlin Petroleum Co	RI64–763, RI70–799, RI74–233, RI74–245, RI75–144, RI76–11
Chevron Oil Co	RI70–551, RI70–630, RI70–684, RI70–1437, RI74–62, RI74–171, RI74–231, RI75–62, RI75–117, RI75–131, RI76–12, RI76–33, RI76–53, RI76–58
Cities Service Oil Co	RI71–905, RI73–245, RI73–292, RI73–323, RI76–32
Clinton Oil Co	RI72–123, RI74–157, RI75–44, RI75–47, RI75–49
Coastal States Gas Producing Co	RI68–160
Columbian Fuel Corp	RI68–17
Continental Oil Co	RI70–1342, RI70–1629, RI71–406, RI71–1032, RI71–1085, RI72–1, RI72–245, RI72–248, RI73–263, RI73–311, RI74–33, RI74–80, RI74–128, RI74–139, RI74–158, RI74–178, RI74–211, RI75–9, RI75–25, RI75–51, RI75–93, RI75–115, RI76–99
C. Crady Davis et al	RI75–129
Exxon Corp	RI71–51, RI72–132, RI72–133, RI73–1, RI73–288, RI74–27, RI74–41, RI74–68, RI74–113, RI74–159, RI75–35, RI75–50, RI75–53, RI75–63, RI75–76, RI75–119, RI76–38, RI76–73, RI76–74, RI74–86, RI76–87
Felmont Oil Corp	RI74–121
Forest Oil Corp	RI68–333
T. Jack Foster Trust "A"	RI74–23
The Fourth Nat. Bank & Trust Co., Wichita	RI70–1132
Elias Floyd Fox	RI64–407
Donald S. Garvin d.b.a. Garvin & Summers	RI71–319
Gas Gathering Corp	RI71–806
General Crude Oil Co	RI72–4
Getty Oil Co	RI71–299, RI71–981, RI73–9, RI73–239, RI73–262, RI73–317, RI74–156
Grampian Co., Ltd	RI71–1082, RI73–191

See footnote at end of table.

Producer	Docket No.
Gulf Oil Corp	RI68-667, RI70-709, RI70-790, RI70-1200, RI70-1304, RI72-85, RI73-143, RI74-3, RI74-88, RI74-104, RI74-137, RI74-199, RI74-213, RI74-232, RI75-77, RI75-79, RI75-114, RI76-54, RI76-55, RI76-102, RI76-111, RI76-113
John A. Hairford	RI71-459
Hondo Oil and Gas Co	RI74-12, RI74-101, RI76-80
Houston Natural Gas Production Co	RI71-1018
J. M. Huber Corp	RI69-760, RI73-302
H. L. Hunt	RI70-1733, RI74-30
Hunt Industries	RI74-61
Hunt Oil Co	RI69-557
William Herbert Hunt	RI71-301
Howard C. Johnson	RI72-38
Kerr-McGee Corp	RI66-156, RI68-523, RI74-57
Kickapoo Oils	RI69-120
Radcliffe Killam	RI69-524
Kimbell Oil Co	RI74-74
Koch Development Corp	RI75-113, RI76-91
Mack Oil Co	RI69-225
Marathon Oil Co	RI68-217, RI68-704, RI69-44, RI70-394, RI73-53, RI73-172, RI74-89, RI75-33, RI75-57, RI75-68, RI75-110, RI76-6, RI76-48, RI76-108, RI76-110
M. H. Marr	RI72-3
George W. Marthens, Agent	RI71-323
McCulloch Gas Processing Corp	RI74-141
Mesa Petroleum Co	RI74-115, RI74-152, RI75-104
J. S. Michael	RI71-1030
Midwest Oil Corp	RI64-195, RI70-1747
Mobil Oil Corp	RI69-498, RI70-96, RI70-1176, RI71-553, RI71-654, RI71-1052, RI71-1053, RI72-250, RI73-34, RI73-303, RI74-76, RI74-93, RI74-117, RI74-154, RI74-179, RI74-185, RI74-200, RI74-253, RI74-254, RI74-263, RI75-11, RI75-14, RI75-85, RI75-91, RI75-108, RI75-142, RI76-4, RI76-84, RI76-88
Mokeen Oil Co. (Agent)	RI70-749
Monsanto Co	RI73-130
Murphy Oil Corp	RI75-109
Northeast Blanco Development Corp. et al	RI75-69
North Central Oil Corp	RI65-360, RI73-29
Northern Natural Gas Producing Co	RI74-118, RI75-92, RI75-125, RI76-90
Northwest Production Corp	RI74-100, RI75-88, RI76-92, RI76-94
John C. Oxley et al	RI70-1111
Pan Mutual Royalties, Inc	RI70-1739
C. M. Paul	RI65-5, RI65-12
Pauley Petroleum, Inc	RI73-229
Pecos Company	RI69-676
PetroDynamics, Inc	RI70-296, RI70-297, RI70-1712
Petroleum Corp. of Texas	RI75-64
Phillips Petroleum Co	RI73-71, RI73-91, RI73-291, RI74-20, RI74-56, RI74-70, RI74-92, RI74-147, RI74-215, RI74-225, RI74-239, RI74-246, RI75-48, RI75-97, RI75-111, RI75-141, RI76-57, RI76-103
Placid Oil Co	RI66-132, RI67-474
Prenalta Corp	RI71-511
Productions Operators, Inc	RI75-66
PWG Partnership	RI74-99, RI75-94, RI75-123, RI76-105
R&G Drilling Co	RI74-52, RI74-192
Reading & Bates Production Co	RI68-616, RI68-617
Richard W. Robbins et al	RI68-634
Robinson Petroleum Corp	RI68-265
William C. Russell	RI74-53, RI76-39
Caroline H. Sands et al	RI64-356, RI69-553
Charles W. Scott (operator) et al	RI70-1134
Joseph Seagram & Sons, Inc	RI68-177, RI68-650
Shell Oil Co	RI66-341, RI73-265, RI73-308, RI74-1, RI74-60, RI74-165, RI74-182, RI74-255, RI75-60, RI75-101, RI75-138, RI76-85, RI76-112
Signal Oil & Gas Co	RI70-1600, RI70-1601, RI70-1674, RI74-25, RI74-39, RI74-163

See footnote at end of table.

Producer	*Docket No.*
Skelly Oil Co	RI71–1051, RI73–125, RI73–286, RI74–17, RI74–31, RI74–59, RI74–98, RI74–114, RI74–122, RI74–123, RI74–124, RI74–132, RI74–136, RI74–159, RI74–191, RI74–227, RI75–1, RI75–82, RI75–84, RI75–87, RI75–95, RI75–106, RI75–145, RI76–27, RI76–76, RI76–96, RI76–98, RI76–100, RI76–101, RI76–104
H. R. Smith et al	RI70–751
Sohio Petroleum Co	RI69–594, RI73–214, RI74–150, RI75–62, RI76–106
Southern Minerals Corp	RI70–679
Southern Union Production Co	RI70–134, RI73–283, RI73–285, RI74–77, RI74–134, RI74–151, RI74–209, RI75–100, RI75–102, RI76–93
Summit Energy, Inc	RI68–284
Sun Oil Co	RI72–2, RI72–135, RI72–149, RI73–294, RI74–21, RI74–22, RI74–72, RI74–145, RI74–162, RI74–172, RI74–175, RI74–212, RI74–216, RI74–238, RI75–70, RI75–72, RI76–5, RI76–44, RI76–46, RI76–68
The Superior Oil Co	RI67–67, RI67–415, RI67–427, RI68–469, RI69–614, RI70–742, RI70–1036, RI74–64, RI74–183, RI74–226, RI74–258, RI75–26, RI75–32, RI76–13, RI76–23, RI76–25, RI76–77
Syndex, Inc	RI71–321
Tenneco Oil Co	RI74–86, RI74–126, RI74–130, RI74–146, RI74–153, RI74–202, RI75–90, RI76–89
Terra Resources, Inc	RI73–82, RI76–43
Texaco, Inc	RI70–1303, RI71–1029, RI72–44, RI72–122, RI72–124, RI73–269, RI74–4, RI74–82, RI74–84, RI74–94, RI74–133, RI74–164, RI74–169, RI74–201, RI74–207, RI74–252, RI74–257, RI75–15, RI75–18, RI75–37, RI75–38, RI75–86, RI75–139, RI76–30, RI76–62, RI76–66, RI76–95
Texas Oil & Gas Corp	RI67–217, RI70–973, RI70–1630, RI75–127
Texas Pacific Oil Co., Inc	RI69–586, RI73–258, RI74–160, RI74–170, RI74–265, RI75–42, RI75–80, RI75–140, RI76–45
Travis Oil Co	RI73–252
Union Oil Co. of California	RI72–134, RI74–34, RI74–103, RI74–131, RI74–135, RI74–198, RI75–2, RI75–34, RI75–78, RI76–16, RI76–17, RI76–24, RI76–37, RI76–49, RI76–79
Union Texas Petroleum, A Division of Allied Chemical Corp.	RI71–288, RI73–279
Wallen Production Co	RI70–1146
James E. Warren	RI70–736
Warren Petroleum Co., A Division of Gulf Oil Corp.	RI76–70
Western Oil Fields, Inc	RI65–641, RI70–1017
Westland Oil Development Corp	RI75–43
White Shield Oil & Gas Corp	RI70–1672, RI71–16
J. M. Williams, A.K.A., Jacquelin M. Williams.	RI75–71
Williams Properties, Inc	RI71–825
Wood Oil Co	RI68–262, RI69–232
Yale Oil Association	RI71–322

[1] Some of these dockets were involved in prior area rate proceedings which established refund obligations therein but did officially terminate such proceedings. The refund obligations in such cases are not affected by this opinion.

Sec. 7(c) certificate applications[1]

Docket No.	Applicant	Filing date
	Initial service	
CI62–476	Edward Marks	Nov. 2, 1961
CI62–682	Tennessee-Louisiana Oil Co	Dec. 19, 1961
CI62–1003	Sun Oil Co	Feb. 27, 1962
CI63–1119	Gulf Oil Corp	Mar. 6, 1963
CI63–1291	Amoco Production Co	Apr. 15, 1963
CI63–1493	Mayflo Oil Co	June 6, 1963
CI64–861	American Petrofina	Jan. 30, 1964
CI67–1027	Lyons Petroleum (operator)	Mar. 8, 1967
CI67–1645	Phillips Petroleum Co	May 16, 1967
CI67–1816	California Co	June 26, 1967
CI68–309	Samedan Oil Corp	Sept. 25, 1967
CI68–311	Cities Service Oil Co	Do.
CI68–970	Forest Oil Corp	Feb. 7, 1968
CI68–1027	Union Oil Co. of California	Feb. 26, 1968
CI68–1155	Phillips Petroleum Co	Mar. 28, 1968

See footnote at end of table.

Docket No.	Applicant	Filing date
	Initial service—Continued	
CI68-1333	Marathon Oil Co	Jan. 15, 1968
CI69-420	Continental Oil Co	Oct. 28, 1968
CI69-859	McMoRan Properties, Inc	Mar. 11, 1969
CI69-907	Perry R. Bass, Inc	Mar. 27, 1969
CI69-912	Dixilyn Corp	Do.
CI69-913	do	Do.
CI69-932	Davis Oil Co	Apr. 2, 1969
CI69-947	Exxon Corp	Apr. 10, 1969
CI69-949	Burmah Oil & Gas Co	Apr. 9, 1969
CI69-962	Marathon Oil Co	Apr. 16, 1969
CI69-985	Gulf Oil Corp	Apr. 23, 1969
CI69-1026	Getty Oil Co	May 5, 1969
CI69-1027	Forest Oil Corp	Do.
CI69-1132	Atlantic Richfield Co	June 2, 1969
CI69-1035	Columbia Gas Development	May 7, 1969
CI69-1061	Getty Oil Co	May 19, 1969
CI69-1092	Continental Oil Co	May 23, 1969
CI69-1096	Cities Service Oil Co	Do.
CI70-37	Subsurface Reserve Corp	July 14, 1969
CI70-50	The California Co	July 16, 1969
CI70-61	Wm. H. Meissner	July 10, 1969
CI70-78	The California Co	July 25, 1969
CI70-93	do	July 30, 1969
CI70-100	Amoco Production Co	July 31, 1969
CI70-114	Thomas W. Crews	Aug. 6, 1969
CI70-126	Columbia Gas Development	Aug. 11, 1969
CI70-134	Sun Oil Co	Do.
CI70-149	Forest Oil Corp	Aug. 14, 1969
CI70-214	Sanford E. McCormick	Sept. 2, 1969
CI70-310	Amoco Production Co	Sept. 29, 1969
CI70-311	do	Do.
CI70-322	Texas Gas Exploration Corp	Oct. 1, 1969
CI70-392	Exxon Corp	Oct. 22, 1969
CI70-450	Mobil Oil Corp	Nov. 7, 1969
CI70-472	R. E. Hibbery	Nov. 19, 1969
CI70-775	Sun Oil Co	June 5, 1970
CI70-803	Marathon Oil Co	Mar. 6, 1970
CI70-1112	Clinton Oil Co	June 18, 1970
CI71-55	The Superior Oil Co	July 24, 1970
CI71-153	John M. Beard	Aug. 18, 1970
CI71-648	Michael T. Halbouty (operator)	Mar. 5, 1971
CI71-688	Continental Oil Co	Mar. 22, 1971
CI71-689	do	Do.
CI71-726	McCulloch Oil Corp	Apr. 2, 1971
CI71-750	Bass Enterprises Production Corp	Apr. 9, 1971
CI71-751	Phillips Petroleum Co	Apr. 8, 1971
CI71-759	Sun Oil Co	Apr. 16, 1971
CI71-763	Texaco, Inc	Apr. 19, 1971
CI71-822	The Superior Oil Co	May 12, 1971
CI71-832	Sun Oil Co	May 19, 1971
CI71-875	Tenneco Oil Co	June 14, 1971
CI71-910	Signal Oil & Gas Co	June 29, 1971
CI72-145	Gulf Oil Corp	Sept. 7, 1971
CI72-171	The Superior Oil Co	Sept. 24, 1971
CI72-181	Midwest Oil Corp	Oct. 4, 1971
CI72-235	Placid Oil Co	Oct. 22, 1971
CI72-238	Hunt Oil Co	Oct. 26, 1971
CI72-240	Hunt Petroleum Corp	Oct. 27, 1971
CI72-255	Ashland Oil, Inc	Oct. 28, 1971
CI72-276	The Superior Oil Co	Nov. 8, 1971
CI72-295	Canadian Superior Oil, Ltd	Nov. 19, 1971
CI72-438	Shell Oil Co	Jan. 19, 1972
CI72-527	Kerr-McGee Corp	Feb. 28, 1972
CI72-542	Hassie Hunt Trust	Mar. 3, 1972
CI72-543	Hunt Petroleum Corp	Do.
CI72-545	George Mitchell Associates	Mar. 6, 1972
CI72-555	Texas Pacific Oil Co., Inc	Mar. 7, 1972
CI72-556	do	Do.
CI72-583	Highland Resources, Inc	Mar. 16, 1972
CI72-698	McCulloch Oil Corp. of Texas	Apr. 27, 1972
CI72-724	Sun Oil Co	May 11, 1972
CI72-728	Exxon Corp	May 15, 1972
CI72-819	American Petrofina of Texas	June 9, 1972
CI72-836	Phillips Petroleum Co	July 13, 1972
CI72-879	Austral Oil Co	June 30, 1972
CI73-21	Texaco, Inc	July 11, 1972
CI73-102	McCulloch Oil Corp	Sept. 8, 1972
CI73-119	Transocean Oil, Inc	Aug. 21, 1972
CI73-120	Anadarko Production Co	Do.
CI73-135	Amoco Production Co	Aug. 25, 1972
CI73-136	Cities Service Oil Co	Do.
CI73-144	Atlantic Richfield Co	Aug. 29, 1972
CI73-148	Continental Oil Co	Sept. 7, 1972
CI73-154	Tenneco Oil Co	Aug. 20, 1972
CI73-156	Getty Oil Co	Aug. 21, 1972
CI73-170	Union Texas Petroleum	Sept. 6, 1972
CI73-188	Phillips Petroleum Co	Sept. 8, 1972
CI73-201	Mobil Oil Corp	Sept. 18, 1972
CI73-218	Amoco Production Co	Sept. 21, 1972
CI73-300	Texaco, Inc	Oct. 26, 1972
CI73-328	Cities Service Oil Co	Nov. 6, 1972
CI73-329	Skelly Oil Co	Do.
CI73-332	Atlantic Richfield Co	Nov. 7, 1972
CI73-338	Transwestern Gas Supply Co	Do.
CI73-340	Atlantic Richfield Co	Mar. 26, 1973
CI73-342	Continental Oil Co	Nov. 8, 1972
CI73-409	Gulf Oil Corp	Dec. 9, 1972
CI73-457	Cities Service Oil Co	Jan. 2, 1973
CI73-480	Continental Oil Co	Jan. 16, 1973
CI73-512	Mobil Oil Corp	Feb. 8, 1973
CI73-710	Highland Resources, Inc	Apr. 23, 1973

See footnote at end of table.

Docket No.	Applicant	Filing date
	Initial service—Continued	
C173-720	Placid Oil Co	Apr. 30, 1973
C173-721	do	Do.
C173-728	Cities Service Oil Co	Do.
C173-735	Hunt Petroleum Corp	Do.
C173-740	Hunt Oil Co	May 2, 1973
C173-744	Continental Oil Co	Apr. 30, 1973
C173-810	Midwest Oil Corp	May 22, 1973
C173-831	Charles S. Beck	May 24, 1973
C174-352	Champlin Petroleum	Dec. 18, 1973
C174-652	Cloris L. Dale	May 13, 1974
C174-653	Austin Brady	Do.
C174-724	Helmerich & Payne	June 17, 1974
C175-221	Atlantic Richfield Co	Oct. 7, 1974
C175-226	Cities Service Oil Co	Oct. 15, 1974
C175-296	Mitchell Energy Corp	Nov. 6, 1974
C175-321	American Natural Gas Products	Nov. 15, 1974
C175-322	do	Do.
C175-338	American Petrofina of Texas	Nov. 22, 1974
C175-347	Millard Deck Oil Co	Nov. 25, 1974
C175-353	Sun Oil Co	Nov. 27, 1974
C175-354	do	Dec. 18, 1974
C175-385	Texaco, Inc	Do.
C175-388	Michael L. Klein d.b.a. MKA Oil Co	Dec. 16, 1974
C175-481	The Superior Oil Co	Feb. 13, 1975
	Amendments	
G-3216	Pan American Petroleum Co	Aug. 30, 1968
G-3894	Atlantic Richfield Co	Feb. 28, 1972
G-4541	do	June 22, 1972
G-4953	Sun Oil Co	Sept. 2, 1969
G-5991	Jos. E. Seagram & Sons, Inc	Feb. 13, 1967
G-8341	Phillips Petroleum Co	Aug. 25, 1970
G-8817	The California Co	June 11, 1965
G-10006	Amerada Petroleum Corp	May 11, 1964
G-10128	Gulf Oil Corp	Jan. 9, 1967
G-10164	do	Feb. 28, 1968
G-11034	Atlantic Refining Co	Sept. 23, 1965
G-11034	do	Aug. 25, 1967
G-11046	Cities Service Oil Co	Oct. 11, 1965
G-11181	Gas Gathering Corp	May 8, 1967
G-11181	do	July 3, 1967
G-11181	do	Sept. 3, 1968
G-11181	do	Nov. 18, 1968
G-11181	do	Feb. 4, 1969
G-11181	do	Mar. 28, 1969
G-11181	do	Dec. 14, 1970
G-11821	Marathon Oil Co	Oct. 11, 1974
G-12133	Amerada Petroleum Corp	Dec. 26, 1967
G-12362	Mobil Oil Corp	Mar. 20, 1969
G-12689	L. E. Smith	June 6, 1966
G-12932	Edgewater Oil Co., Inc	Apr. 12, 1973
G-13138	Atlantic Richfield Co	June 15, 1972
G-13680	Continental Oil Co	July 6, 1965
G-14753	Sunray Oil Co	Apr. 17, 1968
G-15463	Skelly Oil Co	Nov. 13, 1963
G-16388	The Superior Oil Co	July 23, 1965
G-16546	Skelly Oil Co	July 8, 1968
G-16975	U.S. Oil of LA., Ltd	Oct. 5, 1971
G-19437	Continental Oil Co	June 28, 1965
G-19707	Cities Service Oil Co	Feb. 26, 1964
G-19707	do	July 28, 1965
G-19707	do	July 22, 19..6
G-19707	do	Mar. 13, 1967
G-19707	do	Mar. 18, 1968
G-20138	Pubco Petroleum Corp	June 30, 1972
G-20138	do	Nov. 30, 1972
CI61-144	Phoenix Energy Co	June 12, 1973
CI61-1072	Marathon Oil Co	Dec. 5, 1966
CI61-1584	Sun Oil Co	Sept. 14, 1965
CI62-73	J. C. Trahan Drilling Contractors	Oct. 27, 1964
CI62-365	Continental Oil Co	Nov. 1, 1965
CI62-412	Gulf Oil Corp	Jan. 19, 1967
CI62-551	Burmah Development Co	Jan. 22, 1968
CI62-965	Gulf Oil Corp	Sept. 11, 1967
CI62-1139	Continental Oil Co	May 1, 1967
CI62-1412	Sunray DX Oil Co	May 10, 1968
CI62-1525	CRA, Inc	July 21, 1972
CI63-179	Irwin Miller	Nov. 27, 1964
CI63-304	Gen. American Oil Co. of Texas	Nov. 27, 1967
CI64-357	CRA, Inc	Feb. 14, 1969
CI64-1007	Tenneco Oil Co	Sept. 19, 1967
CI64-1104	American Trading & Production	Nov. 23, 1967
CI64-1244	Exxon Corp	July 31, 1967
CI65-557	Pecos Western Corp	Aug. 27, 1973
CI65-997	Continental Oil Co	Jan. 5, 1973
CI66-919	General Crude Oil Co	Mar. 20, 1975
CI66-1056	American Petrofina Co. of Texas	Feb. 4, 1974
CI66-1058	do	Do.
CI66-1059	do	Dec. 5, 1973
CI66-1060	do	Feb. 4, 1974
CI66-1066	do	Jan. 28, 1974
CI66-1068	do	Feb. 10, 1974
CI66-1070	do	Jan. 28, 1974
CI66-1124	Northern Pump Co	Feb. 19, 1975
CI67-18	Union Producing Co	Mar. 17, 1967
CI67-1651	Austral Gas Co	Feb. 10, 1971
CI68-498	Cabot Corp	Mar. 3, 1975
CI68-1241	The California Co	Mar. 23, 1973

See footnote at end of table.

Docket No.	Applicant	Filing date
	Amendments—Continued	
C170-126	Columbia Gas Development Corp.	Sept. 28, 1972
C171-718	Perry R. Bass	July 12, 1973
C172-138	Exxon Corp.	June 5, 1972
C172-147	Atlantic Richfield Co.	July 24, 1972
C172-506	Phoenix Energy Co.	June 12, 1973
C173-605	Southern Union Production Co.	Sept. 23, 1974

[1] Some of these dockets were involved in prior area rate proceedings which established refund obligations therein but did not specifically issue requisite certificate authority. The refund obligations in such cases are not affected by this opinion.

[FR Doc.76-21455 Filed 7-26-76;8:45 am]

Title 19—Customs Duties

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

[T.D. 76-205]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Republic of Panama; Coastwise Transportation

In accordance with section 27, 41 Stat. 999, as amended (46 U.S.C. 883), the Secretary of State has advised the Secretary of the Treasury on June 4, 1976, that the Republic of Panama allows privileges reciprocal to those provided for in the sixth proviso of the cited statute with respect to certain articles transported by vessels of the United States. Therefore, corresponding privileges are accorded to vessels of Republic of Panama registry as of the date of such notification.

These privileges relate to the coastwise transportation, under the conditions specified in the sixth proviso of 46 U.S.C. 883, of empty cargo vans, empty lift vans, empty shipping tanks; equipment for use with those articles; empty barges specifically designed for carriage aboard a vessel; any empty instruments for international traffic exempted from application of the Customs laws by the Secretary of the Treasury pursuant to section 332(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1322(a)); and certain stevedoring equipment and material.

§ 4.93 [Amended]

Accordingly, paragraphs (b)(1) and (b)(2) of § 4.93 of the Customs Regulations (19 CFR 4.93 (b)(1), (b)(2)), are amended by the insertion of "Republic of Panama" in appropriate alphabetical order in the lists of countries under those paragraphs.

(Sec. 27, 41 Stat. 999, as amended, sec. 14, 67 Stat. 516 (5 U.S.C. 301, 19 U.S.C. 1322(a), 46 U.S.C. 883))

There is a statutory basis for the described extension of reciprocal privileges, and the amendments recognize an exemption from the coastwise prohibition of section 27, 41 Stat. 999, as amended (46 U.S.C. 883). Therefore, good cause is found for dispensing with notice and public procedure thereon as unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

VERNON D. ACREE,
Commissioner of Customs.

Approved: July 20, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-21726 Filed 7-26-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION; DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

Forest Highway Systems; Amendment

• Purpose. The purpose of this document is to amend the Forest Highway Systems reporting date. •

The reporting date in 23 CFR 660.213 is hereby changed to conform to the new fiscal year established by the Congressional Budget and Impoundment Act of 1974 (P. L. 93-344).

Section 660.213 is revised to read as follows:

§ 660.213 System reporting.

Not later than October 15 of each year, a listing of the approved Forest Highway System as of September 30 shall be submitted by the State highway department. A mileage summary by class shall be shown on this listing.

Effective date: August 2, 1976.

Issued on: July 19, 1976.

J. R. COUPAL, Jr.,
Acting Federal Highway Administrator.

[FR Doc.76-21699 Filed 7-26-76;8:45 am]

[Docket No. 76-5]

PART 661—GREAT RIVER ROAD

Extension of Comment Period

This notice extends the period for comments on the Interim Regulations governing the disbursement of funds for the planning, design and construction of the Great River Road published on May 27, 1976, at 41 FR 21636, from July 12, 1976, to August 2, 1976.

Issued on: July 19, 1976.

J. R. COUPAL, Jr.,
Acting Federal Highway Administrator.

[FR Doc.76-21701 Filed 7-26-76;8:45 am]

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 750—HIGHWAY BEAUTIFICATION

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Subpart D, Part 750, Subchapter H, Chapter I, Title 23, Code of Federal Regulations, is amended to reflect the changes made to section 131, Title 23, United States Code, by section 122(b) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 90 Stat. 425, and the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, § 109, January 4, 1975, 88 Stat. 2284.

Section 109 of the Federal-Aid Highway Amendments of 1974, expanded the area in which the States must exercise effective control in order to remain in compliance with 23 U.S.C. 131 to include signs located outside of urban areas and beyond 660 feet of the right-of-way of Interstate and primary highways, which are visible and erected for the purpose of being read from the main traveled way of the controlled highway. Prior to the 1974 Amendments, only signs located within 660 feet of the right-of-way needed to be controlled. This change in the law created the possibility that a State may have relocated a nonconforming sign from within 660 feet to a then conforming location beyond 660 feet of the right-of-way of a controlled highway. Such a sign would have to once again be removed because of the 1974 Amendments. In order to avoid placing an undue burden on the State in this situation, the Congress added 23 U.S.C. 131(p) which provides 100 percent Federal participation upon the payment of just compensation for the removal of such signs. In order to qualify for 100 percent participation, Federal funds must have participated in the original relocation costs, the sign must have been moved to a location which was legal prior to the 1974 Amendments, the sign must have continued to be operated in a legal fashion since its relocation, and the sign must continue to be substantially the same sign as it was prior to its original relocation. The States are to look to their maintenance standards governing signs in nonconforming locations to determine whether or not the relocated sign has been substantially changed.

Existing regulations provide only for the payment of 75 percent compensation, pursuant to 23 U.S.C. 131 as it was prior to the Federal-Aid Highway Act of 1976. Existing regulations have to be amended, therefore, to provide for 100 percent participation in the costs of just compensation in the situations outlined above.

The 1974 Amendments also made eligible for 75 percent Federal participation all signs lawfully erected and maintained under State law. A technical amendment is included herein to reflect this change in 23 U.S.C. 131(g).

The material contained in these regulations relates only to a grant program of the Federal Highway Administration and only reflects a change mandated by statute. The relevant provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The amendment set forth below is effective as of July 29, 1976.

Issued on: May 25, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart D, Part 750, Title 23, CFR, is amended as follows:

§ 750.302 [Amended]

1. Existing 23 CFR § 750.302(a) is revised as follows:

(a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.

* * * * *

2. Existing 23 CFR 750.302(b) is renumbered as § 750.302(b)(1). A new subsection § 750.302(b)(2) is added to read as follows:

* * * * *

(2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR § 750.305(a)(2), and which are required to be removed as a result of the amendments made to 23 U.S.C. § 131 by the Federal-Aid Highway Amendments of 1974, P.L. 93-643, § 109, January 4, 1975. Such signs must have been relocated to a legal site, must have been legally maintained since the relocation, and must not have been substantially changed, as defined by the State maintenance standards, issued pursuant to 23 CFR § 750.707(b).

§ 750.306 [Amended]

3. A new subsection, 23 CFR § 750.306(c), is added to read as follows:

* * * * *

(c) In those cases where Federal funds participate in 100 percent of the cost of removal, the State file shall contain the records of the relocation made prior to January 4, 1975.

[FR Doc.76-21700 Filed 7-26-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 2239]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

● The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128). ●

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 40 FR 57210-212 and 41 FR 1062). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW, Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
Missouri	Callaway	Fulton, city of	July 19, 1976, emergency	May 17, 1974 Jan. 16, 1976	290051A
New York	Chautauqua	Stockton, town of	do	Nov. 1, 1974 Dec. 19, 1975	361081A
Pennsylvania	Somerset	Somerset, township of	do	Jan. 24, 1975	422055
South Dakota	Potter	Lebanon, town of	do	Jan. 3, 1975	460068
Texas	Jefferson	Bevil Oaks, town of	do		480878
*	*	*	*	*	*
Kentucky	Boyle	Unincorporated areas	July 20, 1976, emergency		[1] 210322
Maine	Hancock	Gouldsboro, town of	do		230288
Michigan	Oakland	Commerce, township of	do		260473
Missouri	St. Louis	Bel Nor, village of	do	Apr. 5, 1974	290332
Washington	Klickitat	White Salmon, town of	do	July 11, 1975	530305
*	*	*	*	*	*
Kentucky	Letcher	Fleming, city of	July 21, 1976, emergency	Mar. 28, 1975	210290
Minnesota	Fairbault	Kiester, city of	do	May 10, 1974	270121
New Hampshire	Carroll	Tamworth, town of	do	July 19, 1974	330018
New York	Delaware	Meredith, town of	do	June 28, 1974	360207
Do	Wyoming	Wyoming, village of	do	May 17, 1974	360952
Pennsylvania	Lehigh	Lynn, township of	do	Nov. 29, 1974	421812
Vermont	Windham	Dover, town of	do	Aug. 2, 1974	500127
*	*	*	*	*	*
Arkansas	Phillips	Lake View, town of	July 23, 1976, emergency	Sept. 19, 1975	050169
Do	Grant	Poyen, town of	do	July 11, 1975	050278
Illinois	Williamson	Bush, village of	do	Mar. 29, 1974	170784
Missouri	Saline	Malta Bend, city of	do	Oct. 18, 1974 Nov. 7, 1975	280402A
Nebraska	Dixon	Allen, village of	do	June 27, 1975	310244
New York	Chautauqua	Portland, town of	do	July 11, 1975	361079
North Carolina	Davidson	Unincorporated areas	do		370307
Do	Iredell	do	do		370313
Ohio	Ashtabula	Jefferson, village of	do	Aug. 8, 1975	390014
Do	Erie	Milan, village of	do	Apr. 12, 1974 May 21, 1976	390155A

[1] New community member.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974)

Issued: July 15, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21410 Filed 7-26-76;8:45 am]

[Docket No. FI-2241]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.).

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Massachusetts	Barnstable	Falmouth, town of	July 23, 1971, emergency; May 18, 1973, regular; Sept. 8, 1976, suspended.	May 18, 1973	255211A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974)

Issued: July 20, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-21498 Filed 7-26-76;8:45 am]

[Docket No. FI2240]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be August 26, 1976, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBM's in effect).

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Alabama	Choctaw	Butler, city of	H 010033 01 through H 010033 03.	Mayor, P.O. Box 455, Butler, Ala. 36904	Sept. 24, 1976
Do	Crisp	Cordele, city of	H 130214 01 through H 130214 04.	Director, Community Development, City Hall, P.O. Box 569, Cordele, Ga. 31015.	Do.
Arkansas	Woodruff	Cotton Plant, city of	H 050231A 01	Mayor, City Hall, Cotton Plant, Ark. 72036	June 21, 1974 July 30, 1976
California	Sonoma	Cotati, city of	H 060377A 01	Administrative Assistant, Post Office Box 428, Cotati, Calif. 94928.	Nov. 22, 1974 July 30, 1976
Do	Riverside	Indian Wells, city of	H 060254B 01 through H 060254B 03.	Director of Building and Planning, 45-300 Club Dr., Indian Wells, Calif. 92260.	June 28, 1974 Dec. 5, 1975 July 30, 1976
Do	Mendocino	Willits, city of	H 060187A 01 through H 060187A 02.	City Engineer, City Hall, 74 East Commercial St., Willits, Calif. 95490.	Feb. 8, 1974 July 30, 1976
Colorado	Otero	Rocky Ford, city of	H 080135A 01	City Administrator, City Hall, 203 South Main, Rocky Ford, Colo. 81067.	Apr. 5, 1974 July 30, 1976
Connecticut	Middlesex	East Haddam, town of	H 090063A 01 through H 090063A 20.	Town Chairman, Town Hall, Broom Rd., East Haddam, Conn. 06423.	Aug. 23, 1974 July 30, 1976
Florida	Pinellas	Seminole, city of	H 120257A 01	Mayor, 8050 Seminole Mall, Suite 345, Seminole, Fla. 33542.	Nov. 29, 1974 July 30, 1976
Georgia	Clayton	Morrow, city of	H 130045A 01 through H 130045A 02.	Mayor, 6141 Reynolds Rd., Morrow, Ga. 30260	May 24, 1974 July 30, 1976
Do	Telfair and Wheeler.	Scottland, city of	H 130168A 01	Mayor, P.O. Box 223, Scottland, Ga. 31083	Aug. 30, 1974
Do	Walton	Unincorporated areas	H 130185A 01 through H 130185A 29.	Chairman, County Commission, P.O. Box 585, Monroe, Ga. 30655.	Feb. 20, 1976
Idaho	Canyon	Middleton, city of	H 160037A 01 through H 160037A 02.	Mayor, Town Hall, 15 North Dewey Ave., Middleton, Idaho 83644.	Nov. 2, 1973 July 30, 1976
Illinois	McLean	Bloomington, city of	H 170490A 01 through H 170490A 06.	Mayor, 109 East Olive St., Bloomington, Ill. 61701	Sept. 24, 1976
Do	Hardin	Cave in Rock, village of	H 170274A 01	Village President, Cave in Rock, Ill. 62919	Jan. 23, 1974 July 30, 1976
Do	Cook	Chicago Heights, city of	H 170075A 01 through H 170075A 04.	Mayor, 1430 Chicago Rd., Chicago Heights, Ill. 60411	Apr. 12, 1974 July 30, 1976
Do	McLean	Colfax, village of	H 170493A 01	Village President, Village Hall, Colfax, Ill. 61728	June 7, 1974 July 30, 1976
Do	Hancock	Dallas City, city of	H 170278A 01	Mayor, City Hall, Dallas City, Ill. 62330	Mar. 22, 1974 July 30, 1976
Do	Cook	Evanston, City of	H 170090A 01 through H 170090A 03.	Mayor, Municipal Bldg., Evanston, Ill. 60204	June 21, 1974 July 30, 1976
Do	do	Flossmoor, village of	H 170091B 01 through H 170091B 02.	Village President, Park and Sterling, Flossmoor, Ill. 60422.	Apr. 6, 1973 Feb. 27, 1976 July 30, 1976
Do	Clinton	Germantown, village of	H 170049A 01	Mayor, 306 Prairie St., Germantown, Ill. 62245	Mar. 29, 1974 July 30, 1976
Do	Greene	Hillview, village of	H 170253A 01	Village President, Genera' Delivery, Hillview, Ill. 62050	Dec. 6, 1974 July 30, 1976
Do	Bureau	Princeton, city of	H 170014A 01 through H 170014A 02.	Mayor, 2 South Main St., Princeton, Ill. 61356	June 7, 1974
Do	Will	Shorewood, village of	H 170712A 01 through H 170712A 02.	Village President, Route 52 and Raven Rd., Shorewood, Ill. 60436.	Apr. 5, 1974 July 30, 1976
Do	Lake	Vernon Hills, village of	H 170394A 01 through H 170394A 02.	Village President, 291 Oakwood Rd., Vernon Hills, Ill.	Mar. 29, 1974 July 30, 1976
Indiana	Bartholomew	Unincorporated areas	H 180006A 01 through H 180006A 32.	Chairman, Courthouse, Columbus, Ind. 47201	Sept. 20, 1974 July 30, 1976
Do	Lake	Merrillville, town of	H 180138A 01 through H 180138A 11.	Clerk, 13 West 73d Ave., Merrillville, Ind. 46410	July 19, 1974 July 30, 1976
Do	Posey	Mount Vernon, city of	H 180389A 01	Mayor, 526 Main St., Mt. Vernon, Ind. 47620	Feb. 1, 1974
Do	Wabash	Wabash, city of	H 180271A 02	Mayor, City Hall, Wabash, Ind. 46992	June 7, 1974 July 30, 1976
Iowa	Fayette	Elgin, city of	H 190125A 01 through H 190125A 02.	Mayor, City Hall, Elgin, Iowa 52141	Feb. 8, 1974 July 30, 1976
Do	Sioux	Hawarden, city of	H 190252A 01 through H 190252A 02.	Mayor, City Hall, Hawarden, Iowa 51023	May 24, 1974 July 30, 1976
Kentucky	Mercer	Burgin, city of	H 210171A 01 through H 210171A 02.	Mayor, P.O. Box 283, Burgin, Ky. 40310	May 10, 1974 July 30, 1976
Maine	Somerset	Athens, town of	H 230354A 01 through H 230354A 17.	Chairman, Board of Selectmen, Town Hall, Athens, Maine 04912.	Jan. 17, 1975 July 30, 1976
Do	York	Berwick, town of	H 230144A 01 through H 230144A 12.	Selectman, Town Hall, Berwick, Maine 03901	Aug. 9, 1974 July 30, 1976
Do	do	Cornish, town of	H 230147A 01 through H 230147A 07.	Selectman, Town Hall, Cornish, Maine 04020	June 28, 1974 July 30, 1976
Do	do	Dayton, town of	H 230148A 01 through H 230148A 09.	Selectman, Town Hall, Dayton, Maine 04005	June 28, 1974 July 30, 1976
Do	Androscoggin	Leeds, town of	H 230003A 01 through H 230003A 16.	Selectmen, Town Hall, North Leeds, Maine 04263	June 21, 1974 July 30, 1976
Do	Somerset	Norridgewock, town of	H 230178A	Town Manager, Office of Town Manager, P.O. Box 7, Norridgewock, Maine 04957.	Dec. 6, 1974 July 30, 1976
Do	Penobscot	Veazie, town of	H 230403A 01 through H 230403A 02.	Community Planning Board, Chase Rd., MRB Box 339, Bangor, Maine 04401.	Jan. 3, 1975 July 30, 1976
Massachusetts	Norfolk	Avon, town of	H 250231A 01 through H 250231A 02.	Chairman, Town Hall, Avon, Mass. 02322	June 21, 1974 July 30, 1976
Do	Franklin	Deerfield, town of	H 250115A 01 through H 250115A 15.	Chairman, Planning Board, Town Hall, Deerfield, Mass. 01342.	Sept. 13, 1974 July 30, 1976
Do	Worcester	Dudley, town of	H 250302A 01 through H 250302A 09.	Selectman, Town Hall, Schofield Ave., Dudley, Mass. 01570.	Apr. 5, 1974 July 30, 1976
Do	Franklin	Erving, town of	H 250116A 01 through H 250166A 06.	Selectman, Town Hall, 3 West Main St., Erving, Mass. 01344.	June 28, 1974 July 30, 1976
Do	Middlesex	Everett, city of	H 250192A 01 through H 250192A 02.	Mayor, City Hall, Everett, Mass. 02149	June 7, 1974 July 30, 1976
Do	Hampden	Hampden, town of	H 250140A 01 through H 250140A 06.	Selectman, Town Hall, Hampden, Mass. 01036	June 21, 1974 July 30, 1976
Do	Worcester	Paxton, town of	H 250326A 01 through H 250326A 06.	Town Selectman, Town Hall, Paxton, Mass. 01612	July 26, 1974 July 30, 1976
Do	Norfolk	Plainville, town of	H 250249A 01 through H 250249A 06.	Selectman, Town Hall, South St., Box 1777, Plainville, Mass. 02762.	Aug. 16, 1974 July 30, 1976
Do	Bristol	Raynham, town of	H 250061A 01 through H 250061A 08.	Selectman, Town Hall, 53 Orchard St., Raynham, Mass. 02767.	Aug. 9, 1974 July 30, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Do	Plymouth	Rockland, town of	H 250281A 01 through H 250281A 05.	Selectman, Town Hall, 233 Market St., Rockland, Mass. 02370.	June 28, 1974 July 30, 1976
Do	Worcester	Ruthland, town of	H 250331A 01 through H 250331A 12.	Selectman, 250 Main St., Rutland, Mass. 01543	Dec. 6, 1974 July 30, 1976
Do	Plymouth	West Bridgewater, town of	H 250284A 01 through H 250284A 06.	Selectman, Town Hall, West Bridgewater, Mass. 02379	Aug. 9, 1974 July 30, 1976
Michigan	Monroe	Bedford, township of	H 260142A 01 through H 260142A 12.	Township Supervisor, Township Hall, 8100 Jackman Rd., Temperance, Mich.	Feb. 15, 1974 July 30, 1976
Do	Genesee	Davison, city of	H 260074A 01	Mayor, 200 East Flint St., Davison, Mich. 48423	May 17, 1974
Do	Ingham	East Lansing, city of	H 260089A 01 through H 260089A 04.	City Manager, 410 Abbott Rd., East Lansing, Mich. 48823	May 24, 1974 July 30, 1976
Do	Monroe	Exeter, township of	H 260586A 01 through H 260586A 11.	Supervisor, 10589 Steffas Rd., Maybee, Mich. 48159	Oct. 3, 1975 July 30, 1976
Do	Hillsdale	Hillsdale, city of	H 260086A 01 through H 260086A 02.	City Manager, Corner Broad and Hillsdale Sts., Hillsdale, Mich. 49242.	June 28, 1974 July 30, 1976
Do	Alger	Munising, city of	H 260002A 01 through H 260002A 03.	Mayor, Munising and Elm Ave., Munising, Mich. 49862	May 24, 1974 July 30, 1976
Do	Wayne	Northville, township of	H 260669A 01 through H 260669A 06.	Township Supervisor, 16300 Sheldon Rd., Northville, Mich. 48167.	Sept. 24, 1976
Do	Monroe	Raisinville, township of	H 260155A 01 through H 260155A 14.	Supervisor, 7791 North Custer Rd., Monroe, Mich. 48161	Feb. 15, 1974 July 30, 1976
Do	Macomb	St. Clair Shores, city of	H 260127A 01 through H 260127A 03.	Mayor, 27600 Jefferson. St. Clair, Shores, Mich. 48081	June 28, 1974 July 30, 1976
Do	Ingham	Williamston, city of	H 260094A 01 through H 260094A 03.	City Manager, 161 East Grand River Ave., Williamston, Mich. 48895.	May 3, 1974 July 30, 1976
Minnesota	Lake	Beaver Bay, city of	H 270244A 01	Mayor, City Hall, Beaver Bay, Minn. 55601	Aug. 30, 1974
Do	Todd	Clarissa, city of	H 270476A 01	Mayor, City Hall, Clarissa, Minn. 56440	May 3, 1974 July 30, 1976
Do	Hennepin	Excelsior, city of	H 270161A 01	Mayor, City Hall, 339 3d St., Excelsior, Minn. 55331	May 31, 1974
Do	do	Independence, city of	H 270167A 01 through H 270167A 12.	Mayor, Rural Delivery 1, Maple Plain, Minn. 55359	June 28, 1974 July 30, 1976
Do	Kittson	Kennedy, city of	H 270686A 01	Mayor, City Hall, Kennedy, Minn. 56733	Sept. 24, 1976
Do	Koochiching	South International Falls, city of	H 270660B 01 through H 270660B 02.	Mayor, Box 322, South International Falls, Minn. 56679	Jan. 17, 1975 Sept. 12, 1975 July 30, 1976
Do	Dakota	South St. Paul, city of	H 270114A 01 through H 270114A 03.	Mayor, City Hall, 125 3d Ave., North, South St. Paul, Minn.	May 10, 1974 July 30, 1976
Mississippi	Rankin	Brandon, city of	H 280143A 01 through H 280143A 02.	Mayor, City Hall, 205 West Government, Brandon, Miss. 39042.	June 7, 1974 July 30, 1976
Do	Amite	Crosby, town of	H 280003A 01	Mayor, P.O. Box 338, Crosby, Miss. 39633	Aug. 2, 1974 July 30, 1976
Do	Marshall	Potts Camp, town of	H 280114A 01 through H 280114A 02.	Mayor, Town Hall, Potts Camp, Miss. 38659	Aug. 23, 1974 July 30, 1976
Do	Bolivar	Rosedale, city of	H 280022A 01 through H 280022A 02.	Mayor, City Hall, Rosedale, Miss. 38769	June 7, 1974 July 30, 1976
Do	Oktibbeha	Starkville, city of	H 280124B 01 through H 280124B 04.	Mayor, 606 University Dr., Starkville, Miss. 39759	June 7, 1974 Oct. 17, 1975 July 30, 1976
Missouri	Caldwell	Breckenridge Hills, village of	H 290337A 01	Chairman, Village Hall, 3120 Woodson Rd., St. Louis, Mo. 36114.	Dec. 7, 1973 July 30, 1976
Do	Saline	Marshall, city of	H 290403A 01 through H 290403A 05.	P.E. City Engineer, City Office Bldg., 214 North Lafayette, Marshall, Mo.	May 3, 1974 July 30, 1976
Do	St. Louis	St. Ann, city of	H 290383A 01 through H 290383A 02.	Mayor, City Hall, 10405 St. Charles, Rock Rd., St. Ann, Mo. 63074.	Feb. 1, 1974 July 30, 1976
Montana	Beaverhead	Dillon, city of	H 300088A 01 through H 300088A 02.	City Attorney, City Hall, Dillon, Mont. 59725	Nov. 8, 1974
Nebraska	Dawes	Chadron, city of	H 310357 01	Mayor, City Hall, Chadron, Nebr. 69337	Sept. 24, 1976
Do	Boyd	Lynch, village of	H 310013A 01	Mayor, Lynch, Nebr. 68746	Nov. 8, 1974 July 30, 1976
New Hampshire	Coos	Gorham, town of	H 330032A 01 through H 330032A 10.	Town Manager, Office of Town Manager, Park St., Gorham, N.H. 03581.	Mar. 1, 1974 July 30, 1976
New Jersey	Union	Berkeley Heights, township of	H 340459A 01	Mayor, 29 Park Ave., Berkeley Heights, N.J. 07922	May 24, 1974 July 30, 1976
Do	Atlantic	Estell Manor, city of	H 340573A 01 through H 340573A 18.	Mayor, Tuckahoe Rd., Box 208, Estell Manor, N.J. 08319	Dec. 13, 1974 July 30, 1976
Do	Bergen	Fairview, borough of	H 340031A 01	Mayor, 59 Anderson Ave., Fairview, N.J. 07022	Feb. 1, 1974
Do	Hudson	Harmony, township of	H 340485A 01 through H 340485A 08.	Mayor, Rural Delivery 2, Phillipsburg, N.J. 08865	Aug. 16, 1974 July 30, 1976
Do	Somerset	Millstone, borough of	H 340438A 01	Mayor, P.O. Box 123, East Millstone, N.J. 08873	Mar. 22, 1974 July 30, 1976
Do	Atlantic	Mullica, township of	H 340517A 01 through H 340517A 17.	Mayor, P.O. Box 317, Town Hall, Elwood, N.J. 08217	Nov. 1, 1974 July 30, 1976
Do	Bergen	Northvale, borough of	H 340056A 01 through H 340056A 02.	Mayor, 116 Paris Ave., Northvale, N.J. 07647	Aug. 31, 1973 July 30, 1976
Do	do	Saddle Brook, township of	H 340074A 01 through H 340074A 02.	Mayor, 17 Platt Ave., Saddle Brook, N.J. 07662	Mar. 8, 1974 July 30, 1976
Do	Camden	Winslow, township of	H 340148A 01 through H 340148A 16.	Mayor, Rural Delivery 5, Route 73, Braddock, Hammonton, N.J. 08037.	July 26, 1974 July 30, 1976
Do	Bergen	Wood-Ridge, borough of	H 340083A 01	Mayor, 85 Humboldt St., Wood-Ridge, N.J. 07075	Sept. 7, 1973
New York	Cattaragus	Allegany, town of	H 360061A 01 through H 360061A 08.	Town Supervisor, Town Hall, Allegany, N.Y. 14706	July 26, 1974 July 30, 1976
Do	Erie	Brant, town of	H 360229A 01 through H 360229A 10.	Supervisor, Town Hall, Brant, N.Y. 14027	June 14, 1974 July 30, 1976
Do	Chemug	Catlin, town of	H 361055A 01 through H 361055A 12.	Supervisor, 4465 Shawdey Rd., Horseheads, N.Y. 14845	Aug. 2, 1974 July 30, 1976
Do	Oneida	Clayville, village of	H 360524A 01	Mayor, 1 Wiremill Pl., Clayville, N.Y. 13322	May 24, 1974 July 30, 1976
Do	Lewis	Copenhagen, village of	H 360361A 01	Mayor, Main St., Copenhagen, N.Y. 13626	May 10, 1974 July 30, 1976
Do	Erie	De Pew, village of	H 360236A 01 through H 360236A 03.	Mayor, Village Hall, De Pew, N.Y. 14043	Feb. 22, 1976 July 30, 1976
Do	Chautauqua	Dunkirk, town of	H 361108A 01 through H 361108A 04.	Town Supervisor, 5081 Shorewood Dr., Dunkirk, N.Y. 14048.	Nov. 29, 1974 July 30, 1976
Do	Greene	Durham, town of	H 360289A 01 through H 360289A 07.	Supervisor, Town Hall, East Durham, N.Y. 12433	Dec. 13, 1974 July 30, 1976
Do	Ostego	Edmeston, town of	H 361270A 01 through H 361270A 11.	Supervisor, Town Hall, Edmeston, N.Y.	Dec. 20, 1974 July 30, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
*	*	*	*	*	*
Do	Cattaraugus	Ellicottville, village of	H 360070A 01	Mayor, 1 West Washington St., Ellicotville, N.Y. 14731	May 24, 1974 July 30, 1976
Do	Cayuga	Fleming, town of	H 360110A 01 through H 360110A 06.	Town Supervisor, 26 West Lake Rd., Auburn, N.Y. 13021	June 14, 1974 July 30, 1976
Do	Montgomery	Fort Johnson, village of	H 360447A 01	Mayor, Fort Johnson Ave., Fort Johnson, N.Y. 12070	Mar. 15, 1974
Do	Columbia	Gallatin, town of	H 361316A 01 through H 361316A 12.	Supervisor, Town Hall, Pine Plains, N.Y. 12567	Oct. 25, 1974 July 30, 1976
Do	Ulster	Gardiner, town of	H 360856A 01 through H 360856A 04.	Town Supervisor, Box 177, Gardiner, N.Y. 12525	May 31, 1974 July 30, 1976
Do	Fulton	Gloversville, city of	H 360275A 01 through H 360275A 03.	Mayor, 44 North Main St., Gloversville, N.Y. 12078	June 21, 1974 July 30, 1976
Do	Westchester	Greenburgh, town of	H 360911A 01 through H 360911A 06.	Supervisor, Town Hall, Tarrytown Rd., Elmsford, N.Y. 10523.	June 21, 1974 July 30, 1976
Do	Albany	Green Island, village of	H 360009A 01	Mayor, 20 Clinton St., Green Island, N.Y. 12183	Feb. 1, 1974
Do	Washington	Greenwich, town of	H 361233A 01 through H 361233A 14.	Town Supervisor, 2 Academy St., Greenwich, N.Y. 12834	Sept. 24, 1976
Do	Chautauqua	Jamestown, city of	H 360141A 01 through H 360141A 06.	Mayor, Municipal Bldg., Jamestown, N.Y. 14701	Apr. 13, 1973 July 30, 1976
Do	St. Lawrence	Massena, town of	H 361182A 01 through H 361182A 15.	Supervisor, Town Hall, Massena, N.Y. 13662	Oct. 25, 1974 July 30, 1976
Do	Delaware	Meredith, town of	H 360207A 01 through H 360207A 04.	Supervisor, Town Hall, East Meredith, N.Y. 13757	June 28, 1974 July 30, 1976
Do	Yates	Milo, town of	H 360961B 01 through H 360961B 11.	Town Supervisor, Rural Delivery No. 2, Penn Yan, N.Y. 14527.	Jan. 16, 1976 May 17, 1974 July 30, 1976
Do	Sullivan	Neversink, town of	H 360828A 01 through H 360828A 11.	Supervisor, Town Hall, Neversink, N.Y. 12765	June 21, 1974 July 30, 1976
Do	Columbia	New Lebanon, town of	H 360176A 01 through H 360176A 03.	Supervisor, New Lebanon Center, N.Y. 12126	Apr. 12, 1974 July 30, 1976
Do	Westchester	North Castle, town of	H 360923A 01 through H 360923A 10.	Supervisor, Town of North Castle, 15 Bedford Rd., Armonk, N.Y. No ZIP code.	June 28, 1974 July 30, 1976
Do	Saratoga	Northumberland, town of	H 360725A 01 through H 360725A 13.	Supervisor, Box 22, Gansevourt, N.Y. 12831	June 21, 1974 July 30, 1976
Do	Ulster	Olive, town of	H 360860A 01 through H 360860A 06.	Supervisor, West Shokan, N.Y. 12494	June 7, 1974 July 30, 1976
Do	Oneida	Oriskany, village of	H 360538A 01	Mayor, Village Hall, Oriskany, N.Y. 13424	Feb. 22, 1974 July 30, 1976
Do	Otsego	Otego, village of	H 361022A 01	Mayor, Town Hall, Otego, N.Y. 13825	June 28, 1974 July 30, 1976
Do	Rockland	Pomona, village of	H 360688A 01 through H 360688A 02.	Mayor, Old Route 202, Pomona, N.Y. 10970	Mar. 15, 1974 July 30, 1976
Do	Onondaga	Pompey, town of	H 360590A 01 through H 360590A 04.	Supervisor, 3232 Eindy Hill Lane, Rural Delivery 2, Manlius, N.Y.	May 31, 1974 July 30, 1976
Do	St. Lawrence	Potsdam, village of	H 360709A 01 through H 360709A 02.	Mayor, Civic Center, Potsdam, N.Y. 13676	Mar. 8, 1974 July 30, 1976
Do	Putnam	Putnam Valley, town of	H 361030A 01 through H 361030A 11.	Supervisor, Rural Delivery 2, Town Hall, Putnam Valley, N.Y. 10579.	Mar. 29, 1974 July 30, 1976
Do	Steuben	Riverside, village of	H 360971A 01	Mayor, 571 Frederick St., Corning, N.Y. 14830	Sept. 21, 1973 July 30, 1976
Do	Schenectady	Rotterdam, town of	H 360740A 01 through H 360740A 17.	Supervisor, Town Hall, 1100 Vinewood Ave., Schenectady, N.Y. 12306.	June 14, 1974 July 30, 1976
Do	Allegany	Rushford, town of	H 360033A 01 through H 360033A 06.	Supervisor, Rural Delivery 3, Hardy Corners Rd., Cuba, N.Y. 14727.	Sept. 16, 1974 July 30, 1976
Do	Saratoga	Saratoga Springs, city of	H 360728A 01 through H 360728A 13.	Mayor, City Hall, Saratoga Springs, N.Y. 12866	Sept. 20, 1974 July 30, 1976
Do	Schoharie	Sharon, town of	H 361200A 01 through H 361200A 11.	Supervisor, Rural Delivery 2, Sharon Springs, N.Y. 13459.	Nov. 8, 1974 July 30, 1976
Do	Suffolk	Shelter Island, town of	H 360800A 01 through H 360800A 02.	Supervisor, 44 North Ferry Rd., Shelter Island, N.Y. 11964.	May 3, 1974 July 30, 1976
Do	Chautauqua	Sheridan, town of	H 361080A 01 through H 361080A 05.	Supervisor, Box 116, Sheridan, N.Y. 14135	Oct. 18, 1974 July 30, 1976
Do	Tioga	Spencer, town of	H 360841A 01 through H 360841A 07.	Town Supervisor, Town Hall, Spencer, N.Y. 14803	Aug. 9, 1974 July 30, 1976
Do	Herkimer	Stark, town of	H 360319A 01 through H 360319A 03.	Town Supervisor, Rural Delivery 2, Mohawk, N.Y. 13407	June 7, 1974 July 30, 1976
Do	Otsego	Unadilla, town of	H 361281A 01 through H 361281A 15.	Supervisor, Box 455, Unadilla, N.Y. 13849	Oct. 18, 1974 July 30, 1976
Do	Orange	Wallkill, town of	H 360634A 01 through H 360634A 18.	Supervisor, Box 427, Wallkill, N.Y. 12589	May 31, 1974 July 30, 1976
Do	Delaware	Walton, town of	H 360215A 01 through H 360215A 08.	Supervisor, 109 Delaware St., Walton, N.Y. 13856	Oct. 18, 1974 July 30, 1976
Do	Albany	Westerlo, town of	H 360017A 01 through H 360017A 04.	Supervisor, Box 148, Westerlo, N.Y. 12193	June 14, 1974 July 30, 1976
Do	Niagara	Wheatfield, town of	H 360513A 01 through H 360513A 08.	Supervisor, 2800 Church Rd., North Tonawanda, N.Y. 14120.	Jan. 16, 1974 July 30, 1976
North Carolina	Perquimans	Hertford, town of	H 370188A 01	Mayor, P.O. Box 32, Hertford, N.C. 27944	Feb. 15, 1974 July 30, 1976
Do	Randolph	Ramseur, town of	H 370198A 01 through H 370198A 02.	Mayor, P.O. Box 545, Main St., Ramseur, N.C. 27316	Feb. 15, 1974 July 30, 1976
Ohio	Noble	Belle Valley, village of	H 390429A 01	Mayor, Box 206, Belle Valley, Ohio 43717	Aug. 30, 1974 July 30, 1976
Do	Summit	Barberton, city of	H 390524A 01 through H 390524A 04.	Mayor, 576 West Park Ave., Barberton, Ohio 44203	May 24, 1974 July 30, 1976
Do	Hamilton	Cincinnati, city of	H 390210A 01 through H 390210A 34.	City Manager, 801 Plum St., Cincinnati, Ohio 45202	June 28, 1974 July 30, 1976
Do	Ashtabula	Geneva, city of	H 390013A 01 through H 390013A 02.	President of Council, 81 East Main St., Geneva, Ohio 44041.	Nov. 23, 1974 July 30, 1976
Do	Holmes	Holmesville, village of	H 390278A 01	Mayor, P.O. Box 12, Holmesville, Ohio 44633	Mar. 22, 1974
Do	Portage	Kent, city of	H 390456A 01 through H 390456A 04.	Mayor, 319 South Water St., Kent, Ohio 44240	Oct. 26, 1973 July 30, 1976
Do	Guernsey	Pleasant City, village of	H 390203A 01	Mayor, Box 237, Pleasant City, Ohio 43772	Aug. 23, 1974
Do	Auglaize	St. Mary's, city of	H 390022A 01 through H 390022A 03.	Mayor, 101 East Spring, St. Mary's, Ohio 45885	May 7, 1974 July 30, 1976
Do	Erie	Sandusky, city of	H 390156A 01 through H 390156A 07.	City Manager, 222 Meigs, Sandusky, Ohio 44870	June 21, 1974 July 30, 1976
Do	Harrison	Scio, village of	H 390261A 01 through H 390261A 02.	Mayor, P.O. 183, Scio, Ohio 43988	May 3, 1974
Do	Montgomery	Trotwood, city of	H 390417A 01 through H 390417A 02.	Mayor, 35 North Olive Rd., Trotwood, Ohio 45426	Feb. 15, 1974 July 30, 1976
Do	Logan	West Liberty, village of	H 390343A 01	Mayor, 201 North Detroit St., West Liberty, Ohio 43357	Apr. 12, 1974 July 30, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
Oklahoma	Washington	Bartlesville, city of	H 400220A 01 through H 400220A 10.	City Planner, Civic Center, Box 699, Bartlesville, Okla. 74003.	Aug. 30, 1974 July 30, 1976
Do	Comanche	Cache, town of	H 400048A 01	Mayor, Town Hall, 320 C Ave., Cache, Okla. 73527	May 17, 1974 July 30, 1976
Do	Pittsburg	Haileyville, town of	H 400167A 01 through H 400167A 02.	Mayor, City Hall, Haileyville, Okla. 74546	July 26, 1974 July 30, 1976
Oregon	Douglas	Drain, city of	H 410061A 01	Mayor, City Hall, Drain, Oreg. 97435	Apr. 5, 1974 July 30, 1976
Do	Curry	Gold Beach, city of	H 410054A 01	Mayor, City Hall, Gold Beach, Oreg. 97444	Sept. 13, 1974 Nov. 23, 1973 July 30, 1976
Do	Grant	Prairie City, city of	H 410082A 01	Mayor, City Hall, Prairie City, Oreg. 97869	Oct. 18, 1974 July 30, 1976
Do	Yamhill	Sheridan, city of	H 410257A 01	Mayor, City Hall, Sheridan, Oreg. 97378	Oct. 18, 1974 July 30, 1976
Do	Tillamook	Tillamook, city of	H 410202A 01 through H 410202A 03.	City Manager, City Hall, Tillamook, Oreg. 97141	June 7, 1974 July 30, 1976
Do	do	Wheeler, city of	H 410203B 01	City Recorder, City Hall, Wheeler, Oreg. 97147	Sept. 13, 1974 Nov. 28, 1975 July 30, 1976
Pennsylvania	Westmoreland	Avonmore, borough of	H 420872A 01 through H 420872A 02.	Mayor, Westmoreland Ave., Avonmore, Pa. 15618	Feb. 1, 1974
Do	Clinton	Bald Eagle, township of	H 420319A 01 through H 420319A 16.	Chairman, Township Supervisor, Rural Delivery 2, Mill Hall, Pa. 17751.	Oct. 26, 1973 July 30, 1976
Do	Snyder	Beaver, township of	H 420032A 01 through H 420032A 03.	Chairman, Rural Delivery 1, Middleburg, Pa. 17842	Nov. 1, 1974 July 30, 1976
Do	Lancaster	Brecknock, township of	H 421762A 01 through H 421762A 08.	Chairman, Rural Delivery 1, Denver, Pa. 17517	May 10, 1974 July 30, 1976
Do	Westmoreland	Derry, township of	H 421205A 01 through H 421205A 09.	Chairman, Rural Delivery 1, Box 172-A, Derry, Pa. 15627	Sept. 20, 1974 July 30, 1976
Do	Butler	Evans City, borough of	H 420216A 01 through H 420216A 02.	Borough Mayor, Box 37, Evans City, Pa. 16033	June 28, 1974 July 30, 1976
Do	Berks	Exeter, township of	H 421063A 10 through H 421063A 04.	Chairman, Fair Lane and DeMoss Rd., Rural Delivery 3, Reading, Pa. 19606.	Sept. 13, 1974 July 30, 1976
Do	Luzerne	Exeter, borough of	H 420605A 01 through H 420605A 05.	Mayor, 1229 Wyoming Ave., Exeter, Pa. 18643	June 15, 1973
Do	Tioga	Gaines, township of	H 421005A 01 through H 421005A 04.	Chairman, Gaines, Pa. 16921	June 14, 1974 July 30, 1976
Do	Allegheny	Harmar, township of	H 421068A 01 through H 421068A 04.	Chairman, 841 Russellton Rd., Cheswick, Pa. 15024	Sept. 6, 1974 July 30, 1976
Do	Erie	Lawrence Park, township of	H 320451A 01 through H 320451A 04.	President of Board, 864 Silliman Ave., Erie, Pa. 16511	May 31, 1974
Do	Bradford	Leroy, township of	H 421076A 01 through H 421076A 04.	Chairman, Rural Delivery 1, Canton, Pa. 17724	Sept. 20, 1974 July 30, 1976
Do	Montgomery	Lower Gwynedd, township of	H 420953A 01 through H 420953A 04.	Township Supervisor, Forest Dr., Gwynedd Valley, Pa.	June 14, 1974 July 30, 1976
Do	Cameron	Lumber, township of	H 421129A 01 through H 421129A 07.	Chairman, Star Route, Box 13, Emporium, Pa. 15834	Sept. 20, 1974 July 30, 1976
Do	Lycoming	Muncy, township of	H 421847A 01 through H 421847A 06.	Chairman, Rural Delivery 2, Muncy, Pa. 17756	Dec. 20, 1974 July 30, 1976
Do	Clinton	Noyes, township of	H 420331A 01 through H 420331A 07.	Chairman, Board of Supervisors, Star Route, Renovo, Pa. 17764.	Sept. 20, 1974 July 30, 1976
Do	Berks	Oley, township of	H 420965A 01 through H 420965A 10.	Chairman, Towpship Supervisor, Rural Delivery 1, Oley, Pa. 19547.	June 7, 1974 July 30, 1976
Do	Lackawanna	Roaring Brook, township of	H 420999A 01 through H 420999A 10.	Chairman, Township Supervisors, Rural Delivery 2, Olwen Heights, Moscow, Pa.	June 28, 1974 July 30, 1976
Do	Mercer	Sharon, city of	H 520678A 01 through H 420678A 02.	Mayor, 50 Chestnut Ave., Sharon, Pa. 16146	Aug. 21, 1974 July 30, 1976
Do	Cameron	Shippen, township of	H 421103A 01 through H 421103A 12.	Chairman, Rural Delivery 2, Rich Valley, Pa. 15834	Nov. 8, 1974 July 30, 1976
Do	Armstrong	South Buffalo, township of	H 421210A 01 through H 421210A 09.	Chairman, Township Supervisors, Rural Delivery 2, Worthington, Pa. 16262.	Nov. 8, 1974 July 30, 1976
Do	Bradford	Troy, township of	H 421114A 01 through H 421114A 12.	Chairman, Rural Delivery 3, Troy, Pa. 16947	Sept. 13, 1974 July 30, 1976
Do	Centre	Unionville, borough of	H 420272A 01	Mayor, Borough Hall, Fleming, Pa. 16835	Aug. 9, 1974
Do	Montgomery	Upper Gwynedd, township of	H 420956A 01 through H 420956A 03.	Manager, P.O. Box 1, West Point Pa. 19486	June 14, 1974 July 30, 1976
Do	Bucks	Warwick, township of	H 420209A 01 through H 420209A 06.	Chairman, P.O. Box 364, Jameson, Pa. 18929	July 26, 1974 July 30, 1976
Do	Tioga	Westfield, township of	H 421185A 01 through H 421185A 17.	Chairman, 121 Potterbrook Rd., City Route 2, Westfield, Pa. 16950.	Sept. 20, 1974 July 30, 1976
Do	Luzerne	West Pittston, borough of	H 420628A 01	Mayor, 130 Lacoe St., West Pittston, Pa. 18643	Mar. 29, 1974 July 30, 1976
Do	Mercer	Wheatland, borough of	H 420681A 01 through H 420681A 02.	Mayor, P.O. Box 1, West Point, Pa. 19486	July 19, 1974 July 30, 1976
Do	Bucks	Wrightstown, township of	H 421045A 01 through H 421045A 04.	Chairman, Board of Supervisors, Wycombe, Pa. 18980	May 31, 1974 July 30, 1976
South Carolina	Laurens	Laurens, city of	H 450125A 01 through H 450125A 04.	Mayor, P.O. Box 519, Laurens, S.C. 29360	June 7, 1974 July 30, 1976
Do	Lexington	Springdale, town of	H 450138A 01 through H 450138A 02.	Mayor, 2915 Platt Springs Rd., Springdale, S.C. 29169	June 28, 1974 July 30, 1976
Tennessee	Benton	Big Sandy, city of	H 470295 01 through H 470295 02.	Mayor, City Hall, Box 776, Big Sandy, Tenn. 38221	Sept. 24, 1976
Do	Smith	Carthage, town of	H 470176A 01 through H 470176A 02.	Mayor, P.O. Box 259, Carthage, Tenn. 37030	Aug. 2, 1974 July 30, 1976
Do	Grundy	Coalmont, city of	H 470225 01 through H 470225 06.	Mayor, City Hall, Coalmont, Tenn. 37313	Sept. 24, 1976
Do	Decatur	Decaturville, city of	H 470300 01 through H 470300 04.	Mayor, City Hall, P.O. Box 159, Decaturville, Tenn. 38329.	Do.
Do	Loundon	Greenback, city of	H 470303 01	Mayor, P.O. Box 40, Greenback, Tenn. 37742	Do.
Do	Lewis	Hohenwald, city of	H 470304 01 through H 470304 09.	Mayor, P.O. Box 113, Hohenwald, Tenn. 38462	Do.
Do	Sumner	Portland, town of	H 470187A 01 through H 470187A 02.	Mayor, 100 South Russell, Portland, Tenn. 37148	May 24, 1974 July 30, 1976
Do	Blount	Rockford, city of	H 470320 01 through H 470320 04.	Mayor, Route 1, Rockford, Tenn. 37853	Sept. 24, 1976
Do	Henderson	Sardis, city of	H 470321 01 through H 470321 04.	Mayor, P.O. Box 42, Sardis, Tenn. 38371	Do.
Do	Rutherford	Smyrna, town of	H 470169A 01 through H 470169A 04.	Mayor, P.O. Box 85, Smyrna, Tenn. 37167	May 31, 1974 July 30, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazard
*	*	*	*	*	*
Texas	Chambers	Anahuac, city of	H 480120A 01	Mayor, City Hall, Anahuac, Tex. 75714	June 28, 1974 July 30, 1976
Do	DeWitt	Cuero, city of	H 480196A 01 through H 480196A 02.	Chairman, City Hall, Cuero, Tex. 77954	May 3, 1974 July 30, 1976
Do	Dallas and Ellis	Ovilla, city of	H 481155A 01 through H 481155A 03.	City Secretary, Route 2, Box 275, Midlothian, Tex. 76065	July 11, 1975 July 30, 1976
Do	Garza	Post, city of	H 480251A 01 through H 480251A 02.	Mayor, 105 East Main St., City Hall, Post, Tex. 79356	Apr. 12, 1974 July 30, 1976
Do	Fisher	Roby, city of	H 480225A 01	Mayor, City Hall, P.O. Box 197, Roby, Tex. 79543	May 17, 1974
Do	Hopkins	Sulphur Springs, city of	H 480358A 01 through H 480358A 05.	Mayor, City Hall, 125 South Davis, Sulphur Springs, Tex. 75482.	Feb. 1, 1974 July 30, 1976
Utah	Summit	Kamas, city of	H 490137A 01	Mayor, City Hall, Kamas, Utah 84036	Aug. 16, 1974 July 30, 1976
Do	Weber	Pleasant View, city of	H 490218 01 through H 490218 04.	Mayor, City Hall, 885 West Pleasant View Dr., Ogden, Utah 84404.	Sept. 24, 1976
Do	Davis	Syracuse, city of	H 490051A 01 through H 490051A 02.	City Engineer, Reeve Engineering Co., 4185 South 300 West, Odgen, Utah 84403.	June 28, 1974
Vermont	Windsor	Cavendish, town of	H 500145A 01 through H 500145A 14.	Town Manager, Cavendish Town Hall, Cavendish, Vt. 05142.	Feb. 8, 1974 July 30, 1976
Do	Chittenden	Essex Junction, village of	H 500035A 01 through H 500035A 04.	Manager, Village of Essex Junction, Vt.	June 28, 1974 July 30, 1976
Do	Windsor	Ludlow, village of	H 500294A 01	Municipal Manager, Drawer B, Ludlow, Vt. 05149	Nov. 15, 1974 July 30, 1976
Virginia		Petersburg, city of	H 510112A 01 through H 510112A 07.	Mayor, City Hall, Petersburg, Va. 23803	May 31, 1974 July 30, 1976
Washington	Pierce	Fife, city of	H 530140A 01 through H 530140A 02.	Mayor, City Hall, 5209 Pacific Highway East, Tacoma, Wash. 98424.	May 24, 1974 July 30, 1976
Do	do	Orting, town of	H 530143A 01 through H 530143A 02.	Mayor, City Hall, 100 Train Ave. North, Orting, Wash. 98360.	Dec. 28, 1973 July 30, 1976
West Virginia	Mason	Mason, town of	H 540248A 01	Mayor, Box 438, Mason, W. Va. 25260	Nov. 15, 1974 July 30, 1976
Do	Mercer	Matoaka, town of	H 540126A 01	Mayor, P.O. Box 528, Matoaka, W. Va. 24736	May 31, 1974 July 30, 1976
Do	Greenbrier	Quinwood, town of	H 540244A 01	Mayor, Box 164, Quinwood, W. Va. 25981	Nov. 15, 1974
Wisconsin	La Crosse	Bangor, village of	H 550218A 01	Village President, Village Hall, Bangor, Wis. 54614	Jan. 16, 1974 July 30, 1976
Do	Marathon	Elderon, village of	H 550249A 01	Village President, Village Hall, Elderon, Wis. 54429	July 19, 1974 July 30, 1976
Do	Milwaukee	Greenfield, city of	H 550277A 01 through H 550277A 04.	Mayor, 7325 West Home Ave., Greenfield, Wis. 53220	June 15, 1973 July 30, 1976
Do	Marinette	Peshtigo, city of	H 550263A 01	Mayor, 331 Fierst St., Peshtigo, Wis. 54157	Dec. 7, 1973 July 30, 1976
Do	Barron	Rice Lake, city of	H 550016A 01 through H 550016A 02.	Mayor, 11 East Marshall St., Rice Lake, Wis. 54868	Dec. 7, 1973 July 30, 1976
Do	Kenosha	Silver Lake, village of	H 550210A 01 through H 550210A 02.	Village President, Village Hall, Silver Lake, Wis. 53170	Dec. 28, 1973 July 30, 1976
Do	Jefferson	Waterloo, city of	H 550198A 01 through H 550198A 02.	Mayor, 136 North Monroe St., City Hall, Waterloo, Wis. 53594.	Dec. 28, 1973 July 30, 1976

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: July 15, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21411 Filed 7-26-76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

South Carolina; Approval of State Compliance Manual

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, a notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina Plan and adoption of Subpart C of Part 1952 containing the decision and describing the plan. On March 26, 1976, notice of submission of a supplement to the South Carolina Plan involving a developmental change and providing opportunity for public comment was published in the FEDERAL REGISTER (41 FR 12717).

2. *Description of the supplement.* Compliance Manual. In response to the commitment contained in 29 CFR 1952.103 (h) the State has developed a Compliance Manual for use by its compliance staff. The manual defines procedures and guidelines to be used by the South Carolina compliance and consultation staff in carrying out the goals of the South Carolina Occupational Safety and Health program.

Chapter
- I. Purpose, Organization, and Use of Manual (Reserve).
- II. Organizational and Functional Responsibilities (Reserved).
- III. Duties and Responsibilities of Office Heads.
- IV. Compliance Programming.
- V. General Inspection Procedures.
- VI. Complaints, Discrimination, Catastrophe and/or Fatality Investigation and Other Special Situations.
- VII. Construction and Agriculture.
- VIII. Violations.
- IX. Imminent Danger.
- X. Citations.
- XI. Penalties.
- XII. Field Reporting Procedures and Forms.
- XIII. Industrial Hygiene.

3. *Issues.* (a) Public comments in response to the March 26, 1976, notice of the South Carolina plan change were received from Eric Frumin, Research Assistant, Textile Workers Union of America, AFL–CIO. There were no requests for a hearing. The Textile Workers Union objected to the State's definition of imminent danger in regard to both occupational safety and health hazards. In response to these comments and in order to correct several other outstanding problems, South Carolina submitted the following amendments to its Compliance Manual by letter dated June 17, 1976, from Edgar L. McGowan, Commissioner of Labor:

(1) Chapter IX. The State's definition of imminent danger has been amended to closely parallel the Federal definition, i.e., (1) ". . . there is a reasonable expectation that condition(s) or practice(s) could cause death or serious physical harm immediately or before the im-

minence of the danger can be eliminated."; (2) "For a health hazard(s) to constitute an imminent danger situation, it must be concluded that there is a reasonable expectation that toxic substances or health hazards are present and exposure to them will cause irreversible harm to such a degree as to shorten life or cause reduction in physical or mental efficiency even though the resulting irreversible harm may not manifest itself immediately."

(2) Chapter VII and VIII. The directions for considering a violation "repeated" for employers in businesses having no fixed establishments (construction, painting, excavation, etc.) have been made identical to the Federal, i.e., ". . . repeated violations will be alleged based on prior violations occurring anywhere within the State."

(3) Chapter XIII. The occupational health chapter has been amended in several places to correct technical inaccuracies in terminology.

(b) In addition the following clarifications were provided by Commissioner McGowan by letter dated June 18, 1976:

(1) South Carolina will adopt a procedure for the issuance of expedited citations should future experience indicate its necessity.

(2) A State policy memorandum issued December 22, 1975, directs inspection of private contractors on military bases and other government projects.

(3) The State's newly amended legislative policy on freedom of information will be reviewed and, if appropriate, necessary revisions to the Department's present policies will be made.

4. *Location of the plan and its supplement for inspection and copying.* A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30309; and Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29206.

5. *Decision.* After consideration, the South Carolina Compliance Manual as amended and described herein is approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In addition, 29 CFR 1952.104 is hereby amended by adding the following paragraph to reflect completion of a developmental step.

§ 1952.104 Completed developmental step.

* * * * *

(l) In accordance with § 1952.103(h) the State has developed and amended a Compliance Manual which defines the procedures and guidelines to be used by the South Carolina compliance and consultation staff in carrying out the goals of the program.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 20th day of July, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-21592 Filed 7-26-76;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 908—MEDICAL, DENTAL, AND VETERINARY EDUCATION PROGRAM FOR AIR FORCE OFFICERS

Part 908 of Subchapter K, Title 32 CFR, is revised to read as follows:

Sec.
908.1 Purpose.
908.2 Who may apply for sponsorship.
908.3 General requirements.
908.4 How to apply for sponsorship.
908.5 Responsibilities.
908.6 Sample letter—Request for suspension from flying status.
908.7 Sample letter—Tender of resignation.
908.8 Eligibility criteria for application.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 36-13, 28 February 1975.

§ 908.1 Purpose.

This part explains how a military member highly motivated toward an Air Force career in medicine (includes osteopathy), dentistry, or veterinary medicine may participate in advanced training that qualifies him/her as a physician, dentist, or veterinarian. It also outlines responsibilities and eligibility requirements, and tells how to apply for such sponsorship.

§ 908.2 Who may apply for sponsorship.

Any military member (active or inactive) who meets the criteria in § 908.8 may apply for sponsorship at an accredited school for the time normally required to earn an M.D., D.O., D.D.S., D.M.D., or D.V.M. degree from the school.

§ 908.3 General requirements.

A participant in this education program:

(a) If a Regular officer, must submit a Tender of Resignation (§ 908.7) under AFR 36-12, paragraph 16m, and accept appointment of a second lieutenant, Reserve of the Air Force, Medical Service Corps.

(b) If a Reserve officer, must agree to accept appointment to the Medical Service Corps Promotion List in the grade of second lieutenant, Reserve of the Air Force, effective on entry into school. On successful completion, must accept reappointment to the appropriate corps (Medical Corps (MC)), Dental Corps (DC), or Veterinary Corps (VC) when the degree is received.

(c) Is not authorized constructive service credit for this particular appointment.

(d) Has promotion eligibility while participating in the program, but it is based on the new appointment in accordance with AFR 36-89.

(e) Is not eligible for Regular Air Force consideration until reappointed to the appropriate corps on graduation or, if eliminated, after date of elimination. A former Regular officer eliminated from the program may request reappointment in the Regular Air Force. Each case is evaluated individually on its own merits considering the record of the individual.

(f) Is on active duty while attending school and is entitled to pay and entitlements for his grade.

(g) Incurs an active duty service commitment (ADSC) as outlined in AFR 36-51.

(h) Who is eliminated or withdrawn from training before completion of the first year, incurs an ADSC of three years from date of elimination or withdrawal. After the first year, elimination or withdrawal results in an ADSC of three years plus three months for each month of training received after the first year (AFR 36-51). Eliminees normally are returned in grade and date-of-rank held at the time of entry into the program to serve out the ADSC incurred. Future promotion eligibility runs from time of reinstatement of grade and date-of-rank. Retroactive promotion consideration is not authorized. Situation of any Air Force-sponsored student eliminated or withdrawn from training is reviewed by AFMPC/SGE and AFMPC/DPMR.

§ 908.4 How to apply for sponsorship.

Applicants who have been accepted by or who have applied to medical/osteopathic, dental, or veterinary schools may submit a request directly to AFMPC/SGE, Randolph Air Force Base, Texas 78148, for an application kit. Application kits for the medical and dental education programs are available in December. Application kits for the veterinary education program are available in March.

§ 908.5 Responsibilities.

(a) AFMPC:

(1) Makes selections through an Education Committee. This committee includes in its consideration for selection, career motivation, scholastic standing, and military aptitude. The committee also considers Medical College Admission Test (MCAT) scores for medical school applicants.

(2) Notifies and appoints or effects promotion list transfer, as appropriate, to the Medical Service Corps for those selected.

(3) Notifies individuals who were not selected for sponsorship.

(4) Initiates action on reassignments for any participant eliminated from training to duties to complete any unfulfilled ADSC incurred as a result of obtaining his commission or of participation in this education program.

(5) Reappoints or effects promotion list transfer, as appropriate, to either the MC, DC, or VC, when a student graduates from school.

(b) Air University, through the Commandant, Air Force Institute of Technology (AFIT):

(1) Plans and manages academic tours.

(2) Negotiates and contracts with schools for the education authorized by this part. The contract must include payment for all tuition and fees (excluding refundable deposits) listed in the selected school's official catalog. In addition, AFIT defrays associated educational expenses for books, equipment, supplies, and thesis preparation as follows:

(a) Books and materials as required, not to exceed a total of $600, the annual apportionment of which is determined by AFIT.

(b) Equipment and supplies that the school requires all students to possess.

(c) Doctoral dissertation (when required of students), $50.

(d) Reimbursement of fees for examinations administered by the National Board of Medical Examiners or the State Board of Medical Examiners when such examinations are required by the institution in which enrolled as a prerequisite to graduation.

(3) Assigns student officers to Air Force medical, dental, or veterinary activities for appropriate duties during summer months and other extended elective periods during the school year. Normally, medical and dental students are assigned to Air Force teaching hospitals.

(4) Under AFR 53-15, removes students from school when appropriate. A formal faculty board convened in accordance with AFRs 11-1 and 53-15 is required in the following circumstances:

(a) Cases involving prejudical conduct.

(b) When an officer indicates that he no longer desires to continue in the program.

(c) When an officer applies for conscientious objector status.

(d) When an officer tenders his resignation from the Air Force.

(5) Notifies AFMPC/SGE, Randolph AFB TX 78148, any time a student has been eliminated from training.

(c) Student:

(1) Forwards directly to AFIT/CIM, Wright-Patterson AFB OH 45433, at the end of each grade period a copy of his/her grades, or if the school does not divulge grades to students, asks the school to send a progress report. Local conditions dictate the method of requesting the school to forward grades to AFIT. In any case, it is the responsibility of the student to request the school to comply with this paragraph.

(2) Must turn in all nonexpendable supplies and equipment used during attendance at his/her school to the base medical materiel officer at his/her first permanent duty station as required by AFR 53-11.

(3) May apply for participation in the USAF Dental General Practice Residency Program, if he/she is a dental student. Application kits may be requested from AFMPC/SGE, Randolph AFB TX 78148, about October 1 of the student's senior year.

(4) Must participate in an Air Force-sponsored graduate education program, if he/she is a medical or osteopathic student. Application kits are sent directly to the student by AFMPC/SGE about August 1 of the student's senior year.

(5) Must certify, in writing or on a form furnished by AFIT, within 30 days following reassignment from AFIT, that sums received under (b)(2)(a), (b), and (c) above were in fact expended for the items or services for which the sums were received. Such certification is made a part of the student's AFIT academic folder. If expenditures are less than the sums received, reimbursement action is taken.

§ 908.6 Sample letter—Request for suspension from flying status.

(date)

From: (office address symbol or organization identification)

Subject: Request for Suspension From Flying Status

To: AFMPC/SGE

I hereby request a waiver of AFM 35-13, paragraph 2-29d, and request voluntary permanent suspension from flying status as a rated officer to be effective upon acceptance into the Medical, Dental, and Veterinary Education Program for Air Force Officers (AFR 36-13).

(signature)

(typed name, grade, USAF, SSAN)

(title, if any)

§ 908.7 Sample letter—Tender of resignation.

(date)

Subject: Tender of Resignation

To: (immediate commander)

1. I, ---------- under AFR
(name, grade, SSAN)
36—12, paragraph 16m, hereby voluntarily tender my resignation from all appointments in the United States Air Force effective ----------
(date school starts)

2. The reasons for the submission of this resignation are:

a. To accept appointment to the Medical Service Corps.

b. To participate in the Medical, Dental, and Veterinary Education Program for Air Force Officers (AFR 36—13).

3. I understand that if this resignation is accepted, I will be honorably discharged from all appointments held by me.

4. I (am) (am not) accountable or responsible for public property or funds.

5. I agree to accept an appointment as a Reserve of the Air Force. I further understand that acceptance of this resignation is contingent upon acceptance of the Medical Service Corps appointment in the Reserve of the Air Force.

(signature)
(typed name, grade, USAF)
(organization)

Cy to: AFMPC/SGE, Randolph AFB TX 71848.

§ 908.8 Eligibility criteria for application.

A		B	C	D
Status	An applicant who is—	And subsequent to graduation can serve a minimum of 7 yrs, plus any prior ADSC incurred, on active duty prior to reaching his mandatory retirement date	And has proof of acceptance by an accredited professional school (note 1) and has been recommended by the dean of his undergraduate school	May apply for sponsorship under the program (note 3)
1	A regular or reserve officer in grade of captain or below (if rated, see note 2).	×	×	×
2	A potential AFROTC graduate.	×	×	×
3	A reserve or active duty enlisted.	×	×	×

NOTES

1. The letter of acceptance may be contingent upon completion of specified courses prior to entrance into professional school.

2. Rated officers are eligible if they have completed or will have completed their active duty service commitment for flying training (UPT, UNT, or UHT) at time of entry into medical, dental, or veterinary school. If applicable, individuals should forward a request for permanent suspension from flying status as a rated officer with their application. Reason for requesting suspension should be contingent on their acceptance for participation in the medical, dental, or veterinary education program (sec. 908.6).

3. Medical and dental applications should be submitted in December, January, or February. Veterinary applications should be submitted in March, April, or May.

By Order of the Secretary of the Air Force.

JAMES L. ELMER,
Major, USAF, Executive,
Directorate of Administration.

[FR Doc.76-21693 Filed 7-26-76;8:45 am]

Title 40—Protection of Environment

[PP1F1134/R105; (FRL 589-4)]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

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

N-Octyl bicycloheptenedicarboximide

On April 30, 1971, the Environmental Protection Agency (EPA) gave notice (36 FR 3173) that McLaughlin Gormley King Co., 8810 Tenth Ave. N., Minneapolis MN 55427, had filed a pesticide petition (PP 1F1134). This petition proposed that 40 CFR 180 be amended by the establishment of a tolerance for residues of the insecticide n-octyl bicycloheptenedicarboximide in the raw agricultural commodities milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.25 part per million (ppm).

On August 30, 1972, EPA announced (37 FR 17554) the establishment of an interim tolerance, 40 CFR 180.319, for residues of the insecticides in the raw agricultural commodities listed above at 0.01 ppm.

All necessary data have now been submitted. The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerance is sought. Because the residues of this pesticide concentrate exclusively in fat, it has been determined that the tolerance should be established for residues in milk fat, and the fat of cattle, goats, hogs, horses, and sheep at 0.3 ppm for dermal uses of the pesticide. This tolerance is adequate to cover residues resulting in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep. Concurrent to establishment of this tolerance, the interim tolerance for n-octyl bicycloheptenedicarboximide in section 180.319 will be deleted. The 0.3 ppm tolerance established by amending 40 CFR 180 will protect the public health.

Any person adversely affected by this regulation may, on or before August 26, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on July 27, 1976, 40 CFR 180.319 is amended by deleting the interim tolerance of 0.01 ppm for residues of n-octyl bicycloheptenedicarboximide, and 40 CFR 180 is amended by adding the new section 180.367 as set forth below.

Dated: July 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (121 U.S.C. 346a(d)(2)))

§ 180.319 [Amended]

1. Part 180, Subpart C, section 180.319 is amended by deleting the entry n-octyl bicycloheptenedicarboximide and the 0.01 ppm tolerances for residues in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep as follows:

2. Part 180, Subpart C, is amended by adding the new section 180.367 to read as follows:

§ 180.367 n-Octyl bicycloheptenedicarboximide; tolerances for residues.

Tolerances are established for residues of the insecticide n-octyl bicycloheptenedicarboximide, resulting from dermal application, in raw agricultural commodities as follows:

Commodity:	*Parts per million*
Cattle, fat	0.3
Costs, fat	0.3
Hogs, fat	0.3
Horses, fat	0.3
Milk, fat	0.3
Sheep, fat	0.3

[FR Doc.76-21743 Filed 7-26-76;8:45 am]

[PP6E1706/R93A; (FRL 589-5)]

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

Tricyclohexyltin Hydroxide; Correction

In FR Doc. 76-19310, published July 2, 1976 (41 FR 27358) the two following corrections should be made:

1. Lines 5 and 6 of the paragraph beginning "Tolerances are established * * *" beneath the heading "Section 180.144 Tricyclohexyltin hydroxide; tolerances for residues." should be changed to read "tin hydroxide in or on the following raw agricultural commodities."

2. In the tabular list of commodities and numerical tolerances beneath the heading "Section 180.144 Tricyclohexyltin hydroxide; tolerances for residues.", the commodity pears was omitted. This commodity and the 2 parts per million tolerance established for it should be alphabetically inserted between the commodities "Peaches" and "Plums (fresh prunes)" as follows:

Commodity:	*Parts per million*
* * * * *	
Pears	2
* * * * *	

Dated: July 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-21744 Filed 7-26-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 167]

PART 1-1—GENERAL

PART 1-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Small Business and GSA Sources of Supply

This amendment of the Federal Procurement Regulations makes changes in Subparts 1-1.7 and 1-5.9. The change in Subpart 1-1.7 reflects the Small Business Administration's new definition of a small business subcontractor for purposes of Government procurement (41 FR 5123, February 4, 1976). The change in Subpart 1-5.9 was necessitated by revisions of the program for the use of GSA sources of supply by contractors performing wholly or substantially on cost-reimbursement type contracts. In the management of this program, it is useful for GSA to receive copies of authorizations for contractors to use GSA sources of supply and to receive information regarding Federal Supply Schedule contractors that fail to honor orders for supplies. The organizational units that are to receive this information are identified by the amendment.

Subpart 1-1.7—Small Business Concerns

Section 1-1.701-4 is revised as follows:

§ 1-1.701-4 Small business Government subcontractors.

(a) Any concern, in connection with subcontracts of $10,000 or less which relate to Government procurement, will be considered a small business concern if, including its affiliates, its number of employees does not exceed 500 persons.

(b) Any concern, in connection with subcontracts exceeding $10,000 which relate to Government procurement, will be considered a small business concern if it qualifies as such under § 1-1.701-1.

Subpart 1-5.9—Use of GSA Supply Sources by Contractors Performing Cost-Reimbursement Type Contracts

Section 1-5.902 is amended to revise paragraph (f) as follows:

§ 1-5.902 Authorization to contractors.

* * * * *

(f) Copies of each authorization shall be forwarded to General Services Administration (FFC), Washington, D.C. 20406.

* * * * *

Section 1-5.903-1 is amended to revise paragraph (b) as follows:

§ 1-5.903-1 Orders under Federal Supply Schedule contracts.

* * * * *

(b) In the event a Federal Supply Schedule contractor refuses to honor an order placed by a Government contractor in accordance with an agency authorization issued pursuant to this Subpart 1-5.9, the contracting agency shall report the facts and circumstances to

General Services Administration (FFN), Washington, DC 20406.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Effective date: This amendment is effective July 16, 1976.

Dated: July 16, 1976.

NOTE.—It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-21620 Filed 7-26-76;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 122—HEALTH SYSTEMS AGENCIES

Subpart B—Designation of Health Systems Agencies

REVISION OF REQUIREMENTS FOR CONDITIONALLY DESIGNATED HEALTH SYSTEMS AGENCIES

On March 26, 1976, there was published in the FEDERAL REGISTER (41 FR 12825–12832) regulations implementing that portion of Title XV of the Public Health Service Act that relates to the designation of entities as health systems agencies, and the performance of certain prescribed health planning and development functions by such agencies. (42 CFR Part 122, Subpart B). The purpose of this amendment is to revise two provisions of such regulations.

Section 122.106 of those regulations sets forth the provisions to be included in an agreement designating an entity as a conditionally designated health system agency and requires, in paragraph (b)(2) thereof, that within three months of the effective date of its conditional designation agreement an agency must adopt review procedures and criteria required to be utilized pursuant to section 1532 of the Act for the review of new institutional health services and other reviews of proposed health services. This requirement was included in the regulations with the expectation that, first, Department regulations concerning the requirements for review of new institutional health services and minimum procedures and criteria under section 1532 of the Act for the conduct of such reviews would be finalized soon after the designation of such agencies; and second, that State Agencies would be designated under section 1521 of the Act and would become operational within the same fiscal year quarter as the health systems agencies. These expectations have not been fulfilled. A notice of proposed rulemaking, setting forth, among other things, the requirements for review of new institutional health services and minimum procedures and criteria for health systems agencies under section 1532 of the Act, was published on March 19, 1976, with a 45 day public comment period. As indicated in the Department's adoption of interim regulations for the designation and funding of State Agencies (published in the FEDERAL REGISTER on June 3, 1976), over 3,000 comments were received concerning these regulations.

The process of analyzing such comments will take several months. It is the Secretary's view that requiring conditionally designated health systems agencies to adopt review procedures and criteria in the absence of such regulations (which procedures and criteria would subsequently have to be revised to conform to such regulations) would be premature and serve no useful purpose. Many comments have been received by the Department concurring in this view. Moreover, in light of the delays attendant upon the designation and funding of State Agencies, the Secretary thinks that it would be unwise to require health systems agencies to proceed with adoption of review procedures and criteria in the absence of designated State Agencies, with which health systems agencies may coordinate review procedures and criteria to insure the smooth operation of the health planning system contemplated by Title XV. Accordingly, the Secretary has concluded that 42 CFR § 122.106(b)(2) should be deleted. At the same time, the existence of adopted review procedures and criteria are necessary in order for the Secretary to be able to make the required finding for full designation that an agency is capable of fulfilling the requirements and functions of a health systems agency. (42 CFR § 122.105(b)(1).) Therefore, § 122.105(b)(1) has been revised to require an agency to adopt such procedures and criteria prior to full designation. The Secretary intends, however, to utilize his existing authority under section 1515(b)(2) of the Act and the terms of conditional designation agreements entered into under § 122.106 of the regulations (and, more specifically, the provisions of § 122.106(c)) to require each conditionally designated health systems agency to adopt the review procedures and criteria required by section 1532 at the earliest practicable date when in the judgment of the Secretary the agency is capable of doing so.

The second revision made to the regulations also involves § 122.106(b), which requires, in subparagraph (b)(1) thereof, that conditionally designated health systems agencies must during the period of their conditional designation perform the function described in § 122.107(c)(14) of the regulation. That is, each such agency must review, in accordance with the procedures and criteria required pursuant to section 1532 of the Act, the need for new institutional health services proposed to be offered or developed in its health service area in order to make recommendations to the appropriate State Agency to assist the State Agency in carrying out section 1122, certificate of need, and new institutional health service review functions pursuant to section 1523 of the Act. In light of the delay attendant upon the publication of final regulations concerning both the standards for section 1122, certificate of need and new institutional health services review, and minimum standards for procedures and criteria under section 1532, as well as the delays attendant upon the designation of State Agencies, as discussed more fully above, it is the Secretary's view that it is inappropriate to require health systems agencies to perform this function during that portion of the conditional designation period when the standards by which these functions are to be performed, as well as the State Agencies to which the recommendations are to be made, may not be in place. Accordingly, § 122.106(b)(1) is revised to delete the reference to § 122.107(c)(14). As previously discussed, however, the Secretary also intends to use existing authority under section 1515(b)(2) of the Act and § 122.106 to require conditionally designated health systems agencies to perform such functions when the necessary regulations are promulgated and the appropriate State Agencies are in place and performing any of their section 1523 (a)(4) or (a)(5) review functions. It should be noted, however, that the deletion of this provision does not prohibit health systems agencies from continuing their participation in present certificate of need or section 1122 reviews being done by States.

Because immediate corrective action is necessary in order to relieve existing conditionally designated health systems agencies from the requirement that they adopt such review procedures and criteria within the three month period as well as the requirement for conducting review of the need for new institutional health services proposed to be offered or developed in their health service areas, the Secretary has concluded that notice of the proposed amendments and opportunity for public participation thereon are impracticable and contrary to the public interest, and has therefore found good cause for their omission. As a rule which relieves a restriction, this amendment will be effective August 27, 1976.

Accordingly, 42 CFR Part 122 is amended by revising § 122.105 and § 122.106(b) thereof as set out below.

Effective Date: This amendment shall be effective August 27, 1976.

Dated: June 29, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: July 21, 1976.

DAVID MATHEWS,
Secretary.

1. Paragraph (b) of § 122.105 of Title 42, CFR, is amended to read as follows:

§ 122.105 Selection of agencies.

* * * * *

(b) *Fully designated agencies.*—(1) The Secretary, after consultation with and consideration of the recommendation of the appropriate Governor in accordance with paragraph (b)(2) of this section, and after conducting a review of the agency's performance during the period of conditional designation, may enter into a Full Designation Agreement with an entity whose performance during such period of conditional designation (which may not be less than one year) and whose application for full designation demonstrate to the satisfac-

tion of the Secretary that it is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency as provided in sections 1512 and 1513 of the Act and this subpart; *Provided*, That the Secretary will not enter into a Full Designation Agreement with an entity unless such entity has established a health systems plan and annual implementation plan in accordance with section 1513 (b)(2) and (3) of the Act and has adopted procedures and criteria required to be utilized pursuant to section 1532 of the Act. In considering applications the Secretary will give priority to an application which has been recommended for designation by each entity which has received a grant under section 314(b) of the Act to develop a plan for all or part of the health service area with respect to which the application was submitted, and by each regional medical program established in such area under Title IX of the Act.

2. Paragraph (b) of § 122.106 of Title 42, CFR, is amended to read as follows:

§ 122.106 Conditional designation agreements.

* * * * *

(b) During the period of conditional designation, the Secretary shall require the agency to meet only such requirements of section 1512(b) of the Act and perform only such of the functions prescribed by section 1513 of the Act and this subpart as he determines such agency to be capable of meeting and performing, and the agency shall perform only those functions under the agreement which the Secretary, in writing, directs it to perform; Provided, That the agency must perform at least the functions described in § 122.107(c) (1), (2), (3), (4), (5), (10), (11), (12) and (13) of this part. Where an agency has been unable to enter into any agreement described in § 122.107(c) (10), (11) and (12) within six months from the effective date of the Conditional Designation Agreement, it shall submit at such time a statement indicating the efforts that have been made to secure such agreement, the reason why such agreement has not been entered into and the future actions that the agency proposes to take in order to secure such agreement. Each such agreement shall be designed to take into account the progressive assumption of additional functions by the agency.

[FR Doc.76-21707 Filed 7-26-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-667]

PART 0—COMMISSION ORGANIZATION

Defense and Emergency Preparedness Functions; Order

1. The Commission has completed a review of the FCC defense and emergency preparedness functions and has concluded that there is a need to simplify, clarify and bring up-to-date the present descriptions of these functions as they appear in Part 0 of the Rules. To accomplish this, §§ 0.181 and 0.182 are amended to correctly state the names of Federal agencies with which the FCC staff regularly maintains liaison with regard to defense and emergency preparedness matters. Section 0.182 is also amended to indicate the responsibility of the Office of the Executive Director for preparing national emergency plans, developing preparedness programs and providing for an Executive Secretariat for the National Industry Advisory Committee.

2. Section 0.183 has been amended in its entirety to indicate replacement of the Office of Emergency Communications by the Emergency Communications Division within the Office of the Executive Director. The statement of the responsibilities of this new organization has been simplified and reduced for purposes of clarification, updating and reduction of the need for future revisions due to changes in applicable document numbers.

3. Section 0.184 has been deleted in its entirety as Field Liaison Officers are no longer located in the field and the civil defense efforts have been reduced thereby obsoleting this section.

4. Sections 0.186 and 0.381 have also been amended to make them current with the present nomenclature of FCC management positions, the incumbents of which would be members of the Emergency Relocation Board, and to indicate the current number of the Executive Order governing the assignment of emergency preparedness functions. The order of priority for membership on the Emergency Relocations Board has not been revised.

5. In general, the defense and emergency preparedness functions of the FCC have not been revised, but their descriptions have been simplified, clarified and brought up-to-date with current nomenclature. In addition, the amendments reflect the current organizational responsibilities for those functions.

6. As the amendments in the attached Appendix are either editorial or relate to Commission organization, procedures or practice, or restate existing requirements, prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553), do not apply.

Accordingly, *it is ordered*, That, effective July 30, 1976, Part 0 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; (47 U.S.C. 154, 155, 303, 307)).

Adopted: July 14, 1976.

Released: July 26, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

47 CFR Part 0 is amended as follows:

1. In § 0.181, paragraphs (c) and (d) are amended; paragraph (h) is redesignated (i) and a new paragraph (h) is added to read as follows:

§ 0.181 The Defense Commissioner.

* * * * *

(c) To act as the Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under national emergency conditions, and to serve as the principal representative of the Commission to the Interagency Emergency Planning Committee of the Federal Preparedness Agency/General Services Administration.

(d) To serve as the principal representative of the Commission to the Interagency Civil Defense Committee of the Defense Civil Preparedness Agency of the Department of Defense.

* * * * *

(h) To approve national emergency plans and develop preparedness programs covering: provision of service by common carriers; broadcasting facilities, and the safety and special radio services; radio frequency assignment; electromagnetic radiation; investigation and enforcement.

(i) To perform such other duties and assume such other responsibilities related to the Commission's defense activities as may be necessary for the continuity of functions and the protection of Commission personnel and property.

2. § 0.182 is revised to read as follows:

§ 0.182 Executive Director.

(a) Recommends national emergency plans and preparedness programs covering: provision of service by common carriers, broadcasting facilities, and the safety and special radio services; radio frequency assignment; electromagnetic radiation; investigation and enforcement.

(b) Acts as Alternate Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under national emergency conditions.

(c) Serves as the alternate representative of the Commission to the Interagency Emergency Planning Committee of the Federal Preparedness Agency/General Services Administration; serves as the alternate representative of the Commission to the Interagency Civil Defense Committee of the Defense Civil Preparedness Agency of the Department of Defense.

(d) Provides for the Executive Secretariat for the National Industry Advisory Committee.

(e) Keeps the Defense Commissioner informed as to significant developments in the field of emergency preparedness and related defense activities.

3. In § 0.183, the headnote and text are revised to read as follows:

§ 0.183 Emergency Communications Division.

(a) The Emergency Communications Division under the supervision and di-

rection of the Executive Director and with the concurrence of the responsible Bureau Heads and Staff Officers, develops and prepares for the Executive Director national emergency plans and develops preparedness programs covering:

(1) Provision of service by common carriers, broadcasting facilities, and safety and special radio services under national emergency conditions;

(2) Assignment of radio frequencies to Commission licensees under national emergency conditions;

(3) Preparation of data with respect to facilities operated by the non-government communications industry for use by the Mathematical Computation Laboratory;

(4) Control of non-Federal Government radio stations in an emergency;

(5) Investigations of violations of pertinent law and regulations in an emergency, and development of procedures to bring about the appropriate enforcement actions required in the interest of national security;

(6) Provision of financial, credit or other assistance to common carriers and Commission licensees who need such assistance in various conditions of mobilization;

(7) Development by common carriers and licensees of standby plans for the conservation and salvage of supplies and equipment as well as the rehabilitation, restoration, or replacement of essential communication facilities after an attack;

(8) Preparation, as claimant agency for the non-Government communications industry, to claim materials, manpower, equipment, supplies and services needed in support of the common carriers and Commission licensees from the appropriate resource agencies, and work with these agencies to insure availability of such resources in an emergency;

(9) Provision of advice and guidance to achieve industry protection necessary to maintain the integrity of the facilities and services provided by common carriers and radio station licensees, and promote a national program to stimulate disaster preparedness and damage control;

(10) Development and maintenance of a capability to assess the effects of attack on communication facilities and services subject to Commission regulation, which are essential in a national emergency, and provision of data to appropriate agencies.

(b) Prepares, plans, in collaboration with the Bureaus and Offices, for the continuity of Government functions of the Commission in the event of a national emergency, including plans for emergency mobilization of the Commission's personnel; positioning, maintenance, and protection of supplies, material and essential records; and selection, training, transportation and emergency assignment of personnel.

(c) Furnishes administrative support for the National Industry Advisory Committee, its sub-committees and special working groups as may be formed for specific purposes by the Defense Commissioner.

§ 0.184 [Reserved]

4. § 0.184 is deleted in its entirety.

5. In § 0.186, paragraphs (b)(10), (b)(11), (b)(12) and (b)(13) are amended to read as follows:

§ 0.186 Emergency Relocation Board.

* * * * *

(10) The Deputy Chief Engineer.

(11) The Deputy Chief, Safety and Special Radio Services Bureau.

(12) The Deputy Chief, Broadcast Bureau.

(13) The Deputy Chief, Common Carrier Bureau.

* * * * *

6. § 0.381 is revised to read as follows:

§ 0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Order 11490 is redelegated to the Defense Commissioner.

[FR Doc.76-21709 Filed 7-26-76;8:45 am]

[Docket No. 20550; FCC 76-426]

PART 73—RADIO BROADCAST SERVICES

Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees; Report and Order

1. The Commission has before it a Notice of Inquiry and Notice of Proposed Rulemaking (hereinafter "Notice") in Docket 20550, concerning nondiscrimination in the employment policies and practices of broadcast licensees, FCC 75-849, 54 FCC 2d 354 (1975), together with comments and reply comments filed in response thereto.[1] The Notice sought to: (a) Reaffirm the importance the Commission attaches to the concept of genuine equal employment opportunity (EEO) by its broadcast licensees; (b) propose changes in our EEO rules and procedures designed to increase the effectiveness of enforcement but not its burdens; and (c) Clarify the meaning of "affirmative action" as a necessary complement to the mere avoidance of discrimination.

2. Paragraphs 28 and 29 of the Notice invited particular comment on the "required ingredients of an acceptable (EEO) program" of affirmative action, and on the thresholds—particularly in terms of station size—at which such programs should be filed. Response also was solicited specifically with regard to employment "goals and timetables" as a remedial measure, the content and timing of discrimination complaints against licensees, and current practice under FCC Form 395, the Annual Employment Report, required of all licensees of broadcast stations employing five or more full-time employees. Before taking up these and other topics, a brief statement concerning our overall regulatory mission in this area would seem appropriate.

REGULATORY MISSION AND POLICY DEVELOPMENT

3. As set forth in section 1 of the Communications Act of 1934, as amended, (47 U.S.C. 151), the Commission's primary statutory mandate is the regulation of interstate and foreign commerce so as to develop a radio communication service for all of the people of the United States. To accomplish this end, the Commission devised rules and policies where broadcast station licensees became agents to seek out and to satisfy community needs and interests. It is, of course, the function of the Commission, without undue interference in the detailed process, to assure that stations accomplish their public purpose. One area where the Commission developed rules and policies was in the area of nondiscrimination by its licensees. In this respect, the Commission's evolving concern regarding nondiscrimination in the employment policies and practices of broadcast station licensees is reflected in a number of agency actions beginning in 1968. At that time, we noted the enactment of the Civil Rights Act of 1964 and expressed the view that the overall ability of broadcast stations to serve the public interest was related to their employment policies and practices.[2] We announced our intention, therefore, to act on substantial complaints of discrmination, either by referral to the appropriate state or federal agency with primary jurisdiction or on our own motion where no such agency existed.

4. Subsequently, in 1969, we adopted rules forbidding discrimination and calling upon each licensee to review its employment policies and practices to assure that they did not contain any barriers to equal employment opportunities.[3] Later, in 1970, we adopted further rules requiring each station licensee with five or more full-time employees to submit with their renewal applications written equal employment opportunity programs designed to assure nondiscrimination in recruiting, selection and hiring, placement and promotion, and in other areas of employment (e.g., fringe benefits, wages, etc.). 23 FCC 2d 430 (1970). At the same time, we adopted a rule requiring each licensee with five or more full-time employees to file an annual statistical profile report (FCC Form 395), stating:

> * * * [W]e do believe * * * that [statistical information] is useful to show industry employment patterns and to raise appropriate questions as to the causes of such patterns. Thus, if none of the broadcast stations in a city with a large Negro population had any Negro employees in other than menial jobs, a fair question would be raised as to the cause of this situation. * * * 23 FCC 2d at 131.

5. In 1971, the Commission again amended its rules to require written equal employment opportunity programs to be applicable to women as well as minority group members—namely, Negroes, American Indians, Spanish-surnamed Americans, and Orientals. 32 FCC 2d 708 (1971). Further, with respect to our

[1] Appendix A lists the parties filing comments and reply comments.

[2] Nondiscrimination in Employment Practices of Broadcast Licensees, 13 FCC 2d 766 (1968).

[3] Nondiscrimination in Broadcast Employment, 18 FCC 2d 240 (1969).

compliance review activities, we began to proceed on two fronts. First, we began reviewing the renewal applications of all station licensees with more than ten full-time employees to determine what, if any, corrective action was needed to increase minority and female representation on their staffs. In this respect, in its 1972 Inquiry into the Employment Policies and Practices of Certain Broadcast Stations Located in Florida, 44 FCC 2d 735 (1974), the Commission stated that "employment neutrality" was insufficient to correct the problem of underutilization of minorities and women, but, rather, affirmative efforts were necessary.[4] Accordingly, since 1972 a variety of remedial affirmative action measures have been required of licensees to assure that they are making reasonable and good faith efforts to recruit and employ minorities and women.[5]

6. Second, and during this same period of time, the Commission has had the occasion to review and act on numerous petitions to deny and other renewal challenges raising employment discrimination issues. Generally speaking, these petitions charge that the licensee employs too few minorities and/or women or that those employed are underutilized, or that they are both underrepresented and underutilized. With regard to the first argument of underrepresentation, both the Commission and the courts have held that the law does not impose a requirement that the percentage of minorities or women employees correspond to the percentage of minorities or women in the population of the community as a whole. Columbus Broadcasting Coalition v. F.C.C., 505 F. 2d 320 (D.C. Cir. 1974); Westinghouse Broadcasting Co., Inc., 48 FCC 2d 1123 (1974). Thus, in acting on the underrepresentation argument the Commission has continued to approve the employment practices of licensee whose minority or female employment levels are "within a zone of reasonableness". Bilingual Bicultural Coalition on Mass Media, Inc. v. F.C.C., 492 F. 2d 656 (1974); Stone v. F.C.C., 466 F. 2d 316, reh. denied, 466 F. 2d 331 (1972). Similarly, both the Commission and the courts have rejected the underutilization argument where the record shows that minorities and women are employed in other than menial positions. Columbia Broadcasting Systems, Inc., 46 FCC 2d 903 (1974); The Evening News Association, 35 FCC 2d 366 (1972).

7. However, both the Commission and the courts have stressed that the concept of zone of reasonableness" is not a static one and that disparities between minority and female levels of employment and local workforce percentages which might be reasonable in light of an effective recruitment policy might be unreasonable in the absence of such a policy. We have, therefore, focused our compliance review activities—in both non-contested and contested cases—not only upon statistical data but, also, the efforts undertaken by the licensee to recruit and employ minorities and women. In what may be termed the egregious cases, we have ordered hearings to determine the reasons underlying substantial disparities. Rust Communications Group, Inc., 53 FCC 2d 355 (1975); New Mexico Broadcasting Co., Inc., 54 FCC 2d 126 (1975). Where, however, it merely appears that there is a low, but not entirely unreasonable representation, we have ordered additional affirmative action efforts. See, e.g., Scott Broadcasting Corporation, 52 FCC 2d 1029 (1975); KCOP Television Inc., 57 FCC 2d 227 (1975).

8. As we have moved with steadily increasing actions to strengthen our rules and policies in the area of nondiscrimination in the employment policies and practices of broadcast station licensees, we have attempted to do so in line with our primary statutory mandate—the regulation of communication by wire and radio in the public interest. It has long been recognized that the "public interest" mandate of a federal regulatory agency is not a broad license to promote the general welfare, and that such a mandate takes on specific content and meaning only when one carefully examines the purposes for which the agency was established. In keeping with this principle, the Supreme Court recently held that a general grant of authority to regulate an industry in the "public interest" does not authorize the regulation of employment discrimination per se, and that discriminatory practices may be considered only to the extent that such conduct is directly related to the agency's particular statutory responsibilities. NAACP v. Federal Power Commission, 44 U.S.L.W. 4659 (May 19, 1976). The Court went on to note, however, that our regulations concerning discrimination by broadcasters can be justified insofar as they are "necessary to enable the FCC to satisfy its obligation under the Communications Act * * * to ensure that its licensees' programming fairly reflects the tastes and viewpoints of minority groups." Id. at 4662, note 7.

9. Since the inception of our involvement in this area, we have been concerned that deliberate discrimination in employment may be inconsistent with the responsibility of each broadcaster to make a bona fide effort to ascertain and serve all elements of its community. We stated in 1968 that:

> A refusal to hire Negros or persons of any race or religion clearly raises a question of whether the licensee is making a good faith effort to serve his entire public. Thus, it immediately raises the question of whether he is consulting in good faith with Negro community leaders concerning programming to serve the area's needs and interests. Indeed, the very fact of discriminatory hiring policies may effectively cut the licensee off from success in such efforts. Nondiscrimination in Employment Practices of Broadcast Licensees, 13 FCC 2d at 770.

We do not contend that this agency has a sweeping mandate to further the "national policy" against discrimination, nor have we sought to duplicate the detailed regulatory efforts of specialized agencies such as the EEOC.[6] Instead, we have sought to limit our role to that of assuring on an overall basis that stations are engaging in employment practices which are compatible with their responsibilities in the field of public service programming. We propose to keep this principle firmly in mind as we move forward with the implementation of our rules relating to equal employment opportunities for minorities and women. Thus, our rules are addressed to the whole public and not to providing individual members of the public with remedies as a result of some discriminatory conduct. See National Broadcasting Company, Inc. (WRC–TV), 58 FCC 2d 419 (1976).

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[4] While it is argued that there have been only a few cases in the short history of the Commission's EEO compliance review program in which formal hearings have been instituted for the purpose of determining compliance with our rules concerning nondiscrimination, and that, to date, no license has been denied for violation of those rules, such hearings and subsequent denials of licenses are not the only manner in which administrative action may be taken to achieve compliance. This is particularly true where the record shows that, while minorities and/or women may be underrepresented on a station's staff, there are no facts indicating that such underrepresentation is the result of intentional discriminatory employment practices. In accord with the usual common sense principle expressed in Title VII of avoiding litigation where possible, where we believe that a licensee has merely failed to take sufficient steps to ensure equal employment opportunities for minorities and women, our preferred solution has been to order the licensee to take immediate corrective steps and to monitor its future affirmative action efforts. In many cases these EEO reporting requirements have been imposed as conditions to license renewal grants. We propose to continue this practice. In our view, this procedure does not contravene the public interest considerations inherent in the Communications Act in passing upon applications.

[5] The policy underlying subsection (a) of our rules, stated simply, is that persons of like qualifications be given employment opportunities irrespective of their race, color, religion, national origin, or sex. It is therefore, a policy of "non-discrimination" which requires that individuals be considered on the basis of their individual capacity and not on the basis of any of the characteristics generally attributed to the group.

[6] We have never held, for instance, that the public interest standard for determining whether a licensee is violating our rules is identical to the standards employed under Title VII cases, National Broadcasting Company, Inc., 58 FCC 2d 419 (1976), and we decline to do so today. Our rules, of course, prohibit discrimination and, further, contain provisions requiring licensees to review their employment policies and practices to assure equal employment opportunities for minorities and women. We have not, however, found discrimination by broadcast licensees based purely upon statistical disparities between females and/or minorities and their respective presence in the available labor force or between the number of females and/or minorities in each job category and their presence in the available labor force. While the EEOC, in view of its statutory mandate and expertise, may conclude that there is reasonable cause to believe that an employer is discriminating in light of the above elements, we perceive our role in the area of equal employment opportunities as more limited (see paragraph 8, supra). Thus, while we are also concerned about under-

(continued)

10. A review of employment figures [7] since 1971 reflects a steady and discernible expansion of female and minority group representation in the broadcast industry. For example, between the years 1971 and 1974 women and minority group members [8] held the following respective share of the industry's full-time workforce: 1971. 23.2 percent and 9.2 percent; 1972, 23.2 percent and 9.8 percent; 1973, 24.1 percent and 10.9 percent; and 1974, 25.3 percent and 11.6 percent. Moreover, our latest figures indicate that the increase of female and minority representation has continued. The Commission's 1975 annual study of industry wide employment patterns shows that employment of these two protected groups increased again, both in number of employees and in percentages of total employees. Of the 121,835 full-time employees, 32,029 or 26.3 percent are women and 14,870 or 12.2 percent are minority group members. In addition, the rise of female and minority representation is also mirrored in the more responsible and higher paying "upper four" job categories.[9] In 1975 there were 95,365 industry wide "upper four" positions of which 12,644 or 13.26 percent were held by women and 9,155 or 9.6 percent were held by minority group members.

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

11. *Basis of Inquiry.*—As noted in our Notice of Inquiry and Notice of Proposed Rulemaking, supra, the Commission's equal employment opportunity rules—§§ 73.125, 73.301, 73.599, 73.680 and 73.793, which read identically—embody two concepts: nondiscrimination and affirmative action. Briefly, subsection (a) provides that each licensee eliminate discrimination and afford equal employment opportunities to all persons regardless of race, color, religion, national origin or sex; and subsection (b) provides that a broadcast licensee establish and effectuate a positive and continuing program of practices designed to assure equal employment opportunity which should include: (i) Identifying the individual(s) responsible for the administration and implementation of the EEO program; (ii) communicating the program to employees and prospective employees; (iii) excluding all forms of prejudice based upon race, color, religion, national origin and sex; and (iv) conducting reviews of job structures and employment practices and adopting positive recruitment, training and other measures needed in order to assure genuine equal employment opportunity.

12. However, as also noted in our Notice of Inquiry, we believe that our current equal employment guidelines, as set forth in Section VI of our various broadcast application forms, failed adequately to describe and exemplify the measures which licensees should undertake to promote the full realization of equal employment for all qualified individuals. Therefore, to ensure more positive and result-oriented formulation and implementation of licensees' EEO programs, we proposed a model EEO program including elements we felt necessary under our rules—allowing for some variation in station size, resources, protected-group presence in the station area, etc. It was suggested that a detailed "Current Employment Survey" (Part VII, model program) need only be submitted to the Commission by stations employing 50 or more (or perhaps 25 or more) persons full-time. For smaller stations to whom the EEO program requirement would apply, this could be fulfilled through a simple up-dating of the most recently filed annual employment report. 54 FCC 2d at Para. 20. Other parts of the model program not expressly called for by the current Section VI include Part IV (Recruitment), Part V (Training), Part VI (Availability Survey), Part VIII (Job Hires) and Part IX (Promotion).[10]

13. Few comments were addressed to the procedural question whether the sample program elements ought to be considered as amending or supplanting the existing Section VI. Dempsey and Koplovitz suggested that licensees should only be required to certify that an acceptable program has been deposited in their stations' public files, pursuant to 47 CFR 1.526—echoing the comment of the EEOC that local availability of the EEO program might suffice.

14. As to the substance of the proposed program, Parts I–III (general policy, responsibility for implementation, and internal dissemination) likewise were noncontroversial in the comments received. These portions correlate approximately with, e.g., subsections 73.125(b) (1) and (2) of the basic EEO rule. Several respondents, however, wished to enlarge upon the recruitment sources set forth in Part IV of the model program appended to the Notice—which is directed to subsection (b)(3) of the EEO rule. In this regard, the National Black Media Coalition proposed that each broadcaster be required to document the reasons why each outreach measure suggested by the Commission (Para. 19, Notice)—if not selected for inclusion in its program—was thought to be inappropriate. Both Community Coalition for Media Change (CCMC) and the U.S. Commission on Civil Rights called for mandatory evaluation of the EEO programs' effectiveness, the former placing this in the context of goals and timetables and the latter speaking in terms of the productivity of referal sources in recruitment. Indian River Broadcasting, however, opposed expansion of recruitment sources, contending that this is unrealistic in terms of the availability of qualified minority and female applicants and that it will become mandatory for broadcasters to contact all of these sources. Dempsey and Koplovitz urged that recruitment data only be required where the protected group in question represents five percent or more of the pertinent area population.

15. The model program appended to the Notice also included a Part V entitled "Training". NBMC and the Corporation for Public Broadcasting (CPB) commented that broadcasters ought to identify, recruit and train not only qualified but qualifiable employees. The Center for National Policy Review commented that training efforts should be made mandatory. A number of broadcasters—i.e., Southern Broadcasting Company and Indian River Broadcasting Company—however, expressed concern that they would be forced to hire unqualified minority individuals to the exclusion of qualified non-minority applicants. Finally, CBS argued that the information regarding a licensee's training efforts should cover the entire license period and not just the "past twelve months" as set forth in the proposed Part V.

16. Parts VI through X of the model program set forth in the Notice correlate with subsection (b)(5) of the EEO rule, requiring licensees to:

> Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station.

In Part VI, the Availability Survey, we proposed that each equal opportunity program set forth data on the percentages of minorities and women in the local work force or the local population if work force data is unavailable. Generally, broadcasters favored the deletion of the availability survey unless the availability of sufficient "qualified" minorities and women could be accounted for. Specifically, the NAB recommended that precise occupational data, not merely general labor force figures, be used for determining the availability of qualified or qualifiable minorities and women. On the other hand, the use of the workforce availability survey, more or less as proposed, was favored by many groups—including NBMC, the National Urban League, NOW and CPB—who viewed it as an important tool in each licensee's affirmative action efforts.

17. Pursuant to subsection (b)(5) of our rules, we proposed (Part VII, model program) that each covered station with less than 50 (or perhaps 25) full-time employees should submit an updated Annual Employment Report with its application if there has been a change in its employment profile since the filing

(continued)
representation and underutilization, we do not believe that a licensee is guilty of discrimination under the public interest standard of the Communications Act where adequate affirmative efforts are being undertaken to correct the aforenoted deficiencies and there is no evidence of intentional wrongdoing.

[7] The computations used herein are based on figures supplied by broadcast units having five or more full-time employees.

[8] These include Negro, Oriental, American Indian and Spanish-speaking Americans.

[9] These categories are officials and managers, professionals, technicians and sales.

[10] To some extent, Part VIII of the model program, together with Part X (Effectiveness) correlate with Part 2 (Implementation) of the present Section VI.

of its last such report. For stations with 50 or more full-time employees (or perhaps 25), we proposed that their workforce survey should consist of an exhibit listing all job titles within each FCC Form 395 category, and showing the number of incumbents who are male, female, Black, Spanish-surnamed American, American Indian and Oriental. Based on the data in Parts VI and VII the broadcaster would compare the numbers of minorities and women on its workforce to their numbers in the local labor market to determine whether such persons are "reasonably represented" in its employment system. If there were a "substantial incongruence" in the proportion of minorities and women in the station's workforce and their availability in the local labor pool area, then each broadcaster, would, in answering Part X of its program, describe the measures it will follow to assure equal employment opportunity. 54 FCC 2d at Para. 20; Part X, model program.

18. Generally, broadcasters contended that the updated information requested of smaller stations (Part VII(a)) would be unnecessary in light of the annual employment reports already required to be filed. McKenna, Wilkinson and Kittner, Metromedia, and Dempsey and Koplovitz stated that since the reports are submitted annually to the Commission, the figures contained therein would be reasonably current at the filing of any renewal application. American Women in Radio and Television expressed the view that stations should also explain difficulties experienced in implementing their affirmative action plans, together with specific steps they propose to take to obviate them in the future. McKenna, Wilkinson and Kittner also criticized our use of "substantial incongruence" as a standard which provides no guidance for broadcasters. It states:

> Each station would be on the horns of a dilemma—should it take the chance and conclude that there is no "substantial incongruence" and thereby submit no further data or explanation, or should it admit to a "substantial incongruence", even when it is not sure, and attempt to supply an explanation.

Broadcasters also expressed the view that VII–B of the sample program would result in onerous reporting requirements. They contend that job titles are confusing. CBS stated that for stations with 50 or more employees the information would be of minimal value in comparing one broadcaster with another since job titles frequently differ from one station to another. CBS argued that the data should be required as a remedial step only where the applicant's program is not achieving the desired results or certain elements within the program are questionable. McKenna, Wilkinson and Kittner questions the significance attached to such showings from the standpoint of the Commission's evaluation of EEO performance. Finally, the Association of Public Radio Stations urges that we exempt stations of less than 50 full-time employees from developing workforce analyses. Their recommendation is based on the fact that the vast majority of noncommercial stations are licensed to universities and therefore under the jurisdiction of the Office of Education. They feel that this is a needless duplication of efforts. Moreover, they recommended that coordination between CPB (which requires the filing of detailed annual reports) and the FCC in this area could reduce paperwork and filing requirements.

19. The NBMC, U.S. Commission on Civil Rights and CPB advocate requiring all employers to list all job titles within each Form 395 job category ranking them from the highest paid to the lowest paid and showing the number of incumbents in each job title by race and sex. They feel that job categories are often misleading with the result of minorities and women being improperly classified within the upper four job categories. CPB urges the Commission not to exempt stations with 50 or more, nor 25 or more employees from the workforce analysis. In this regard, the U.S. Commission on Civil Rights asserts that it is impossible to conduct an adequate utilization analysis without a workforce survey, and since our rules require that affirmative action plans be filed with five or more full-time employees, they question why we propose to exempt licensees with 49 or fewer employees from this requirement. Finally, they argue that the failure to require employment data cross-referenced by race and sex for whites as well as various minority groups can lead to the double counting of minority women.

20. Next, we proposed that licensees provide 12-month information concerning job hires,[11] and that they analyze their recruitment techniques to determine whether sufficient numbers of qualified minorities and women are applying for available positions (Part VIII, model program). Generally, broadcasters felt that this requirement would be too burdensome, especially in light of the relatively few qualified minorities and women available. McKenna, Wilkinson and Kittner noted that many stations do not make a significant number of hiring decisions in any given year and suggested that extended part-time employment is a more realistic opportunity to bring about improvement in the employment of minorities and women. NBMC and others maintained that the data required can be of substantial assistance to the applicant in developing its affirmative action plan and in monitoring its results. In addition, CPB urged that the term "qualifiable" be substituted for the term "qualified." NBMC and others also suggested that information on "applicant flow" for each job opening should be reported in the EEO program—to include name, race, sex and referral source for each applicant.

21. The National Counsel of La Raza stated that the analysis in Section VIII is necessary to evaluate accurately the success of the station's equal employment opportunity program. Additionally, Indian River Broadcasting Company recommended that the Commission undertake a study that would indicate the numbers of minorities and women with the requisite skills in various broadcasting jobs. Indian River believes that the study will show a dearth of qualified minorities for all positions and women for certain positions (see also comments of Southern Broadcasting Company). Furthermore, Dempsey and Koplovitz contend that stations whose Form 395 indicates that their status is acceptable should not have to file hiring data for the previous twelve months. Moreover, CBS suggests that the judgment regarding the broadcasters' compliance with the EEO rule should be based on an entire license period rather than the "past twelve months". CBS also contends that data by race and sex for applicant hires should be required only as a remedial step where an applicant's program is not achieving the desired results. The U.S. Commission on Civil Rights urges that the data collection scheme totally fails to address the concept of underutilization of minorities and women. In this regard the National Urban League suggests we rephrase a portion of Section VIII to read "An analysis of our recruitment techniques and new hires suggests that an expansion of our recruitment activities are needed. Such activities are expected to include the following:"

22. Pursuant to Section (b)(5) of our rules we proposed (Part IX) that licensees indicate the results of their efforts to provide promotional opportunities for minorities (during the 12 month period prior to filing its renewal application). Part IX corresponds with our previous requirements in Part I(3) of Section VI. In this regard Southern Broadcasting Company favored the exemption of on-the-air employees from the proposed EEO regulations on promotion, pay and other job benefits. The National Black Media Coalition suggests that licensees should be required to identify by sex and race individuals promoted by reporting broadcasters in their various job categories. See also NOW, NAACP, CPB. The National Urban League urges that more specific information would provide more measurable results. Likewise, the U.S. Commission on Civil Rights maintains that licensees should be required to study their promotion procedures as well as the numbers of employees who are promoted and the number who are refused promotion in order to identify possible discriminatory practices.

23. Discussion. Our experience in the area of equal employment opportunities thus far has indicated to us that a written equal employment opportunity program as an exhibit to a renewal application can be a viable tool both for the broadcaster in its formulation and implementation of its employment policies and practices and the Commission in its evaluation of broadcasters' progress in eliminating discrimination and assuring equal employment opportunities. Therefore, we will continue to require that certain broadcast licensees file a written EEO program as part of their renewal applications. Furthermore, based upon our own experience as well as our analysis of the comments in this proceeding,

[11] This was not limited, in terms, to full-time positions.

we believe that the guidelines pertaining to EEO programs currently set forth in Section VI of our various application forms should be clarified. Accordingly, the sample EEO program set forth in our Notice of Inquiry will be adopted, as modified herein. It should be noted that consistent with action already taken with respect to the new renewal application for radio and changes with respect to the television renewal application, the new sample EEO program will serve as a model form to be used by both radio and television renewal applicants. In the future, all broadcast licensees responsible for filing a written EEO program are encouraged to use the model program adopted herein. In addition, our EEO rules will be amended to reflect these changes in the elements of equal employment opportunity programs as well as the filing thresholds for written EEO programs—i.e., from less than five full-time employees to more than ten full-time employees.

24. As noted supra, Sections I through III of the sample program regarding general policy, responsibility and dissemination of the EEO program received little comment from members of the public or broadcasters. However, it has been brought to our attention that our proposal omitted any provision for nondiscrimination with respect to union contracts. Therefore we have included such a provision in the sample program under Section III. Broadcasters should provide that there is a nondiscrimination clause and that union contracts do not have an exclusionary effect on women and minorities. See, e.g., National Broadcasting Company, Inc., supra. In sum, we believe that Sections I through III contain succinct statements of what the Commission expects of licensees who must file a written EEO program. Accordingly, they are adopted as modified herein.

25. While several broadcasters and citizen's groups expressed concern over Section IV, the listing of recruitment sources, we believe that this section represents a significant improvement over the uncertainty generated by our EEO rules and the old Section VI, regarding a licensee's efforts to increase the pool of minority and female applicants. Each licensee is still expected to determine how he can best communicate his policy of equal employment and available job openings to minority groups and women. The sources set out in Section IV of our sample program merely serve as as illustrative list of those sources which various broadcasters have found to be most beneficial in the recruitment process. Therefore, they need not be viewed as mandatory recruitment sources (nor is the list necessarily exhaustive), nor do licensees need explain why all sources listed in Section IV were not used in seeking minority group members and women. In addition, we again remind licensees that those sources which have proved to be consistently non-productive in terms of applicant referral should not continue to be relied upon. Rather, licensees should seek out new sources likely to widen the pool of female and minority applicants. Accordingly, Section IV will be adopted as proposed.

26. In our Notice of Inquiry we stated that training efforts were closely related to a broadcaster's efforts to increase its outreach techniques to solicit minority and female applicants. Therefore, we proposed that any training efforts be listed in Section V of the sample program. The comments have reinforced our initial belief that a listing of the various training programs used by licensees can be an important part of an equal employment opportunity program. It should be noted that training programs are not mandatory. In this regard, each licensee is expected to decide whether such training programs will assist it in its efforts to widen the pool of available minority and female applicants. Regarding the twelve month reporting requirement, we believe that twelve months represents a reasonable period of time in which to compile training information as well as other information called for in the sample program without being unduly burdensome on licensees. However, if a broadcaster wishes to include additional information, covering a period greater than twelve months, such as the entire license term, he is free to do so. Finally, we have revised Section V slightly so that the non-mandatory nature of this listing is apparent on its face.

27. As indicated in our Notice of Inquiry, it is important that broadcasters determine whether minorities and women are employed in its workforce in some reasonable relationship to the numbers in the local labor market. Our past experience leads us to believe that SMSA labor force statistics of available minorities and women represents an acceptable means of measuring a licensee's EEO performance. We are not convinced that changing this standard in favor of precise occupational data or another similar standard would be warranted, especially in view of the fact that such detailed information is not readily available for every community. Licensees are, of course, free to supplement general workforce data with specific occupational information where the latter is available. We believe that the inclusion of an availability survey would aid all licensees ultimately in evaluating the effectiveness of their EEO programs. Accordingly, the availability study set forth in Section VI will be adopted. The section will, however, be revised to reflect our reliance upon total population figures only if work figures are unavailable as expressed in the Notice of Inquiry.

28. Our purpose in proposing Section VII, the licensee's current employment survey, was to assure that the licensee and the Commission were apprised of the most current and detailed employment information, depending upon the size of the station, so that some meaningful analysis could be made regarding the availability of minority groups and females and their relationship on each station's staff. Consequently, we proposed that stations with less than fifty full-time employees submit an updated annual employment report with their renewal applications where there had been a change in the station's employment profile since filing its latest annual employment report. For those stations with 50 or more full-time employees, we would require a survey of the workforce containing a listing of all job titles within each FCC Form 395 category with minorities and females identified.

29. We believe that the workforce analysis may provide assistance to both licensees and the Commission in evaluating the EEO efforts of those stations with a significant number of employees. In this regard, we believe that the usefulness of the workforce analysis as a means of assessing minority and female participation in occupations and levels of responsibility (pursuant to subsection (b)(5) of our rules) is of questionable value where the number of employees in each job title is so small that statistical analysis is invalid. Therefore, we have decided that this analysis should be used by those broadcast licensees employing 50 or more full-time employees. In our view, where there are 50 or more employees there will be a significant number of employees with similar job titles and responsibilities so that a meaningful analysis may be undertaken. We also believe that for those stations employing less than 50 full-time employees the updated annual employment report will provide adequate information. The workforce analysis for 50 or more employees and the updated annual employment report for those stations employing less than 50 employees will, we believe, enable our staff to complete most of its processing work without the need for correspondence which ultimately prolongs and delays the processing of renewal appliactions. Therefore, we will adopt Section VII as proposed.

30. We are sympathetic to many of the commenters who expressed some degree of concern over our use of the words "reasonable representation" of minority groups and women in a station's workforce and "substantial incongruence" in the proportion of women and minorities in a given station's workforce. While "reasonable representation" is a term long used by this Commission and the courts in assessing a licensee' progress in the area of equal employment opportunities, we agree that "substantial incongruence" can take on a meaning beyond that for which it was intended—i.e., a tool of self-analysis for licensees in evaluating the effectiveness of their EEO programs and the results of these programs. What we are seeking is a good faith analysis on the part of each broadcast licensee so that it recognizes any shortcomings in its EEO program and takes corrective steps to eliminate any defects prior to the Commission's evaluation of the program. Therefore, we did not intend to intimidate licensees into thinking that any disparity between minority and female employees and their respective representation in the licensee's community of license would automatically trigger a Commission EEO inquiry or otherwise jeopardize a licensee's li-

cense renewal. While we intend to employ remedial action in order to achieve compliance with our EEO rules, we expect that each licensee's self-evaluation and explanation for any deficiencies will play a significant part in our future evaluation of EEO performance. Therefore, a licensee may explain, in Section X of the sample program, any disparity in its employment profile and the presence of minorities and women in the local labor force which, in its view, warrants further explanation, as well as any steps it intends to take to bring about improvement. We anticipate that licensees will take full advantage of this initial opportunity to present information on corrective measures so that the need for time consuming letters of inquiry may be eliminated. Therefore, Section X will be adopted, as modified herein.

31. We also believe that the comments of several groups concerning licensees' classification of employees under our annual employment report's job categories deserves our attention. We recognize that these classifications do not represent rigid categories where there is no room for differences regarding who is or who is not a management level or non-management level employee. These categories may also take on a different significance and meaning depending upon station size and location. Our concern is that the classifications set forth in the Annual Employment Reports conform to the acutal duties of the station's employees.[12] We regard this as relating to the exercise of a licensee's good faith judgment. While a classification which has no basis in reason or in fact may amount to bad faith and border on a misrepresentation, a judgment which appears to be in good faith may represent merely a difference of opinion as to the classification of a particular employee. We encourage all licensees to familiarize themselves with the instructions to Form 395 and to exercise good faith and discretion when classifying employees on our Form 395's.

32. While most broadcasters viewed Section VIII, the job hire analysis, as being too burdensome, we believe that the information called for in this section may be a helpful element for a thorough evaluation of a licensee's EEO program and the results thereof. Inclusion of this data in the equal employment opportunity program itself is intended to obviate the need for additional Commission letters of inquiry which, we believe, are far more burdensome to both licensees and the Commission in the long run. We also believe that this information will provide both the broadcaster and the Commission with a means of analyzing the effects of a licensee's recruitment program and recognizing any underutilization of minority or women in a given area. Furthermore, the section requires each broadcaster filing a written EEO program to decide whether a sufficient number of minorities and women are applying at the station and, if not, to set forth the means of expanding its contacts. In short, we agree with those commenters in favor of Section VIII that the information elicited in this section is a vital part of the entire analysis of the results of a licensee's EEO program. Therefore, Section VIII will be adopted as proposed.

33. Section IX, the licensee's promotion plan, received generally favorable comment, the chief criticism being that the proposals lacked specificity in securing detailed information. We stated in the past and we still believe that information concerning an applicant's promotional policies is an integral part of any equal employment opportunity program since equal opportunities in employment extends to internal promotion and advancement of minorities and women as well as recruitment and hiring. However, we believe that Section IX, as proposed, will secure adequate information with which to evaluate a licensee's promotional policies. Accordingly, Section IX will be adopted as proposed.

34. In sum, we believe that the sample equal employment opportunity program as set forth in our Notice of Inquiry and as modified herein represents a significant improvement and a substantial clarification of our previous EEO program requirements as embodied in Section VI of our various application forms. We believe that the new information elicited in this program will substantially aid both broadcast licensees and the Commission in carrying out the goal of eliminating discrimination based on race, color, religion, national origin and sex and implementing meaningful programs of equal employment opportunity. We expect good faith compliance by all broadcast licensees with both our EEO rules and the implementation of their EEO programs. We believe that the adoption of this sample EEO program, with slight modification, will represent a major step toward assuring that broadcast licensees commit themselves to meaningful and continuous programs of equal opportunities in employment. Furthermore, for additional information and guidance on the preparation of EEO programs, licensees may wish to consult Affirmative Action and Equal Employment, A Guidebook for Employers, which may be obtained from the Education Programs Division of the U.S. Equal Employment Opportunity Commission.

Coverage of the Equal Employment Opportunity Program

35. Currently, stations with fewer than five full-time employees are exempt from preparing and submitting written equal employment opportunity programs. See, e.g., 47 CFR 73.125(c). The Notice of Inquiry invited comments as to whether the Commission's rules should be amended to provide that broadcasters with ten or less (or perhaps fifteen or less) full-time employees be exempt from filing such a program. Objections to the proposed change were expressed by several individuals, community groups and organizations. The primary concern of those opposing the modification was a decrease in the Commission's systematic coverage of the industry. Additionally, it is argued that the greatest job opportunities lie in the smaller stations, owing to the high employment turnover they experience.[13] Other commenters concerned about the effect of raising the threshold of EEO program reporting suggested alternatives to the present system. The Equal Employment Opportunity Commission (EEOC) suggested that if the filing of affirmative plans with the FCC was felt to be burdensome "all broadcasters of five or more employees should develop a plan an at least maintain it in (their) own files" at the stations. If the five-employee threshold were to be changed, commented CCR, it should become "five to 10 employees, regardless of their full or part-time status, whichever is more inclusive."

36. Broadcasting stations, like other businesses, vary considerably in size. By way of illustration, a small independent station may operate with five or ten employees, including the station owner, all of whom may perform a variety of functions. In contrast, a radio station in one of the nation's ten largest markets might have a staff of fifty or more employees. Television stations, moreover, generally require the services of even a much greater number of employees.

37. The small radio station is, of course, more typical than its larger radio and television counterparts. It is obvious that exempting stations with ten or less (or, perhaps, fifteen or less) full-time employees from filing written equal employment programs will represent an increase in the number of broadcasters exempt from filing such programs. Nevertheless, our rules would still cover those stations which employ the overwhelming majority of the industry's total workforce.[14] Written equal employment opportunity programs, among other things, are designed to eliminate artificial, arbitrary and unnecessary barriers to em-

[12] For example, an employee whose duties were primarily secretarial or clerical in nature and who, subsequently, is named to the position of executive assistant would be improperly classified on the station's FCC Form 395 as a managerial or professional employee if the duties remained the same as under the old position or the new duties did not correspond to the job descriptions set forth in the instructions to Form 395.

[13] In a study submitted in this docket, Craig Gehring, a University of Michigan student, alleges that the greatest job opportunities lie in the smaller stations owing to the high employment turnover they experience and that, as a group, small broadcast stations have "worse" equal employment records than large stations. The study essentially consisted of a telephone survey of radio and television stations in the State of Michigan and concluded that the Commission's proposed EEO exemption for small radio and television stations would harm female and minority employment opportunities within the industry. We have examined this study and believe that the study is limited in scope (essentially to a single state) and, while suggestive, it does not substantiate the claim that, owing to higher turnover, more job opportunities are available at smaller stations.

[14] In this regard, of those stations filing FCC Forms 395—i.e., with 5 or more full-time employees—those stations with more than 10 employees total 91,889 full-time employees, representing 84.9 percent of the industry's total full-time workforce.

ployment when the barriers operate invidiously to discriminate on the basis of race or other impermissible classifications. See *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971). To this end, such programs tend to modify the formal structure of an employer's policies and practices to ensure that they will be consistent with the goal of equal employment opportunity. A small business, generally speaking, has little need for written guidelines for initial employment, for later advancement, or for wage increases. In view of its smallness, such a business does not normally have the resources to develop formal personnel procedures, including the development of standardized job descriptions and objective—rather than purely subjective—employment criteria. As noted in *McAdory* v. *Scientific Research Inc.*, 355 F. Supp. 468 (1973), whatever impact the lack of written guidelines may have upon larger companies under Title VII and EEOC's regulations, a small company with limited personnel and continually changing labor requirements will experience unnecessary hardship in maintaining such a program. Further, the fact that Congress excused small businesses from the applicability of Title VII provisions also evidences a legislative intent that small companies, such as small broadcasters, be excused from complying with the mechanical requirements applicable to larger businesses. See 42 U.S.C. 2000e(b) (1970). It would, in our opinion, ill-serve the public interest to require such small operations to assume the administrative burdens that are essentially inherent in the management of larger businesses.

38. Furthermore, since written equal employment opportunity programs are also designed to assess patterns of underutilization, which are chiefly discoverable through statistical analysis, the merit of a detailed program in a small station is questionable where analysis of statistical information is difficult, if not impossible. While it is true that valid statistical evidence may be employed to establish a case of discrimination, and thus shift the burden to the employer to refute the inference of discrimination, it is noteworthy that the majority of Title VII cases deal with large corporations with extensive labor requirements. See, e.g., United States v. Chesapeake & O. Ry., 5 FEP Cases 308 (4th Cir. 1972); Castro v. Beecher, 459 F.2d 725, 4 FEP Cases 700 (1st Cir. 1972); Parham v. Southwestern Bell Tel. Co., 433 F.2d 421, 2 FEP Cases 1017 (8th Cir. 1970); Johnson v. Goodyear Tire & Rubber Co., 349 Fed. Supp. 3, 5 FEP Cases 32 (S.D. Tex. 1972). The courts have rejected statistical inference where the statistical universe is insignificant. See, e.g., Harper v. Transworld Airlines, 525 F.2d 409 (8th Cir. 1975); Ochoa v. Monsanto Co., 473 F.2d 318 (5th Cir. 1973). Similarly, our experience has indicated that the use of employment statistics where the reporting universe is relatively small produces results which are meaningless. See, e.g., Inquiry Into the Employment Practices of Broadcast Stations Licensed for and Serving the State of Florida, FCC 76-267 (April 15, 1976). This is exemplified by the case of the station employing eight full-time employees, none of whom is a minority, in an area where minorities constitute ten percent of the labor force. In such a situation, parity in employment could be achieved by employing a fraction of one minority. In this regard, the Commission and the Courts have sought some reasonable relationship between the number of women and minorities on a station's staff and their presence in the applicable labor force. As seen by the example, however, as the size of the station's staff decreases, statistical inference is a less and less useful tool for identifying discriminatory practices. Given those circumstances, it would appear that the formal and sophisticated techniques of affirmative action programs may not be applicable in a meaningful way to the operations of smaller stations. Accordingly, we conclude that stations with ten or fewer full-time employees should be exempt from preparing and submitting written equal employment opportunity programs. Our rules will be amended to reflect this change. While we asked for comments on the possibility of exempting those stations employing fifteen or less full-time employees, we are convinced, after reviewing the comments and the statistical data herein, that exempting those stations employing ten or less full-time employees represents a more reasonable threshold. Therefore, we will adopt that threshold rather than the fifteen or less alternatives.

ENFORCEMENT AND MONITORING

39. Paragraphs 22–26 of the Notice sought to reiterate and clarify, as needed, the following steps in the Commission's EEO monitoring processes, largely carried out at the time of application for license renewal: (a) Review of any required EEO program for completeness under our rules; (b) Examination of the station's actual minority and/or female employment profiles, as appropriate, in an effort to determine the acceptability of the employment results in light of the efforts to implement the EEO program; (c) Further inquiry, usually by letter, where questions raised by the program or its results are not satisfactorily explained by the information on hand; (d) Field investigation where substantial questions remain even after written exchange of information; (e) Grant of renewal conditioned upon periodic reporting of EEO information, where the licensee is qualified but where further EEO monitoring appears appropriate in the public interest; and (f) Designation of the renewal application for hearing where there remain unresolved substantial and material questions of fact concerning discrimination or aggravated non-compliance with our EEO rules.

40. Whether discussed in terms of "zone of reasonableness," Stone v. F.C.C. supra, or of "reasonable representation" (Para. 20, supra) of protected groups at a station corresponding to their presence in the available workforce, this measurement is the key to EEO evaluation. Thus, it is not surprising that many commenting parties called for tighter definition of the acceptable zone as well as its use as a processing standard for identifying applicants with questionable employment profiles. The commenters argued that such a standard would be in keeping with the Commission's approach in resolving contested cases and would replace current evaluative standards applied during the license renewal process.[15] NBMC suggested that the zone should be defined at 80 percent of parity—i.e., that a protected group represented on a station's staff at less than four-fifths of its proportion in the relevant labor force should be considered underrepresented, and the licensee's performance suspect on that account. NAACP went further, and argued for 100 percent of parity as the standard, whereas Metromedia proposed employment of protected classes at levels of at least 30 percent of parity overall and at least 15 percent of parity in the combined categories of officials and managers, professionals, and salesworkers.

41. We are guided in our application of the "zone of reasonableness" standard by the warning of the U.S. Court of Appeals that the ratio is thought of as dynamic—shifting over time—and is always to be viewed in light of the recruitment and other affirmative EEO efforts that gave rise to the particular employment results. *Bilingual Bicultural Coalition of Mass Media, Inc.* v. *F.C.C.*, 492 F.2d 656, 658 (D.C. Cir. 1974). Also the zone must be substantial,[16] and at the same time realistically obtainable in the short term. We have carefully examined the comments of all the parties and have concluded that our present application of the "zone of reasonableness" standard is adequate in terms of assessing minority and female employment in the broadcast industry. In this regard, both the courts and the Commission have concluded that ultimately the "zone" must be evaluated in terms of statistics, the licensee's equal employment opportunity program, and any other information which may be relevant. Therefore, reliance upon statistical data alone, as advocated by several of the commenters, would represent a substantial departure from the "zone of reasonableness" standard. However, in order to make the Commission's standard used in the processing of non-contested renewal applications (see note 12, supra) more in line with the "zone of reasonableness" standard used in evaluating contested renewals, the Commission's staff is developing a new processing standard. It is contemplated that this new standard will be similar to the "zone of reasonableness" standard.

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[15] The current process entails a comparison of the two most recent Annual Employment Reports (FCC Form 395) filed by those applicants with more than 10 full-time employees. EEO letters of inquiry are sent to stations which are located in areas with at least a five percent aggregate minority population who showed no minorities or women employed full-time and/or showed a decrease in the number of minority or female full-time employees.

[16] See, e.g., Stone v. F.C.C., supra; The Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C., supra; Columbia Broadcasting Coalition v. F.C.C., 505 F. 2d 320 (1974).

42. Turning to our request for comments on the remedial steps used by the Commission, as indicated, previously, the usual first step in Commission inquiry occurs through correspondence requesting additional information or explanation. The National Urban League (NUL) asks that we adopt guidelines, supplementing the judicially-promulgated zone of reasonableness, which would specify the steps required for a licensee to remedy a deficient profile. CCR contends that no proper evaluation of licensees' EEO practices is possible without the kind of comprehensive information on applicant flow, job hires, promotions and terminations which was only partially proposed for inclusion in the model program attached to the Notice in this proceeding.[17] NOW suggested a market-wide ranking of licensees in order to identify for special attention those appearing to have the most serious EEO deficiencies, such particular scrutiny to include on-site compliance reviews.

43. The Notice (Para. 25) asked for comment on a procedure which would go beyond the requirement of comprehensive additional information such as applicant flow, to include the submission of "goals and timetables" for hiring and promotion of members of protected groups.[18] MWK cautioned that proper notice and a range of remedial steps should precede the ordering of goals and timetables. Metromedia urged that such a remedy be ordered only after a finding of specific discriminatory conduct. Some commenters went further and urged that goals would become indistinguishable from "quotas" in protected-group hiring, and thus would constitute impermissible discrimination under the civil rights statutes. On the other hand, many responding parties observed that goals and timetables had received both executive and judicial sanction. Some urged that the Commission require each licensee to devise its own such schedule of hiring and promotion, ab initio, instead of limiting the use of the process to correction of identified deficiencies.[19]

44. It is our belief that the procedural steps outlined in the Notice are sufficient to effectively enforce the Commission's nondiscrimination rules. Therefore, where our analysis of the additional requested employment information indicates that an applicant's EEO program is passive or not achieving the desired results we shall continue to use reporting requirements where appropriate to monitor licensees' performance and, where necessary, we shall require a corrective action program. Such a program shall be developed by the applicant to remedy all deficiencies uncovered by our review. In this regard, we may require that hiring and promotion goals be set forth to numerically demonstrate the applicant's good-faith intention to increase minority and female utilization. A numerical projection will also enable the Commission to periodically assess the progress of the licensee's corrective action program. We are guided in this course of action by statutory and case law which view goals and timetables as a method of eliminating the effects of past discrimination and guaranteeing against discrimination in the immediate future.[20] Thus, it does not appear reasonable, as many commenters urged, to require goals and timetables routinely from licensees who have demonstrated a result-oriented EEO program. Rather, in keeping with court-sanctioned employment goals and timetables, the Commission shall reserve such a remedy for employers with significantly deficient EEO programs, as indicated by the results of those programs.

45. Likewise, in those cases where it appears that a more comprehensive analysis of a particular licensee's employment practices is warranted, the Commission may consider the use of on-site investigations. In such instances, the on-site visit may consist of a complete analysis of the applicant's equal employment practices in an attempt to resolve existing differences. We must, however, hold to our conviction that unlawful discrimination is of such serious concern as to call into question the basic grant of operating authority and it may be necessary in situations where applicants differ with our evaluation of the facts to order a hearing to resolve any remaining substantial and material questions. We trust that most cases will not proceed to such extremes.

COMPLAINTS

46. Currently, the Commission's general policy is to refer complaints which allege broadcast employment discrimination to the appropriate federal, state or local agency having primary jurisdiction. This is consistent with our view (Para. 8, supra) that our responsibility is not the remedying of employment discrimination, per se, but seeing that the public interest is served within the broadcast industry. We advise complainants alleging discrimination because of race, color, religion, sex or national origin to file their grievances with the state or local agency given primary jurisdiction in such matters. Where no agency exists, complaints are referred to the U.S. Equal Employment Opportunity Commission (EEOC), which possesses jurisdiction over employers of 15 or more individuals. Age discrimination charges are referred to the Wage and Hour Division of the U.S. Department of Labor's Employment Standards Administration. Where complaints are referred to other agencies, the Commission requests notification of that agency's final determination so the Commission may decide what further action is warranted. In the event that no federal, state or local agency has jurisdiction over an individual employment discrimination complaint concerning a broadcast station, we currently invite complainants to address to the Commission their specific allegations indicating violations of our EEO rules for our determination of the appropriate action in the matter. In addition, when a complaint suggests "the need for a comprehensive review of the station's overall equal employment opportunity performance by the Commission," 54 FCC 2d at Para. 27, that examination is performed, notwithstanding the prior or simultaneous referral of the complaint to another agency of competent jurisdiction.

47. The Notice essentially proposed a continuation of the policy outlined above. However, to facilitate our consideration of such complaints, two amendments to our rules were proposed. The first would require that individual complaints be filed while the alleged act of discrimination is continuing or within 180 days from the time of the alleged discrimination. The other would require that the complaint state:

(a) The name and address of the complainant;

(b) The name and address of the licensee;

(c) A description of the alleged discriminatory acts or conduct; and

(d) Any other pertinent information—such as the names of individuals who have personal knowledge of the alleged discriminatory act or conduct—which will assist the commission in its evaluation.

48. Several commenters, including the U.S. Commission on Civil Rights, urged us to develop: Procedures for processing discrimination complaints; a standard for evaluating such complaints; a response procedure for licensees; and liaison with the EEOC to elicit its expeditious handling of certain cases. NOW and NAACP are concerned with follow-up communication, which they claim the Commission might fail to develop with referral agencies. NOW contends that neither state and local agencies nor EEOC are charged with either enforcing affirmative action in the broadcasting industry or determining a licensee's character and ability to broadcast in the public interest, both of these being within the exclusive province of the Commission. Additionally, NOW asserts that backlogs in these referral agencies will cause delay in considering a complaint.

[17] Such information was put forth, however, as an ad hoc remedial measure. 54 FCC 2d at Para. 25.

[18] "Goal" was defined in the Notice as a "numerical objective . . . which should be fixed realistically in terms of the number of job opportunities expected and the number of qualified minorities and women in the local labor market, while "timetable" was called the "period during which employment goals should be [attained]."

[19] See, Commissioner Hooks' statement concurring in the release of the Notice in this docket, 54 FCC 2d at 369.

[20] As pointed out in the Notice, in establishing goals there is no requirement that employees be displaced or that unneeded persons be hired. Further, many localized factors may distort the resemblance between minority/female employment percentages and minority/female labor market percentages, even in the absence of discriminatory employment barriers. These factors must be considered if the goals established are to be realistic and attainable. Accordingly, the licensee would be required to develop realistic goals and apply every good faith effort to meet those goals. Finally, our rules prohibit preferential treatment on the basis of race, color, religion, sex or national origin.

CCR urges the Commission to enter into an agreement with the EEOC as to means by which we follow through on complaints concerning broadcast licensees which are filed with EEOC.

49. The proposed amendment of our rules to require 180-day filing of individual complaints drew comments criticizing two aspects of the proposal. Many commenters recommended a different deadline: (a) The entire three-year license period under review, which was urged by those who thought that any allegation of discriminatory conduct within that time should be accepted; (b) A one-year cutoff period, suggested by the New York State Division of human rights; and (c) A 90-day, or three-month, deadline sought by Southern Broadcasting Company and the Association of Public Radio Stations. NOW opposed any deadline on the ground that the referral agency's criteria may differ and thus rights may be jeopardized through our adopting contradictory requirements. The other criticism of this proposal centered on the date when the cutoff period begins to run, with the National Urban League, NOW, and the Leadership Conference on Civil Rights, urging the date of the complainant's discovery of the alleged discrimination as the starting point of the cutoff term.

50. We are persuaded that a rule cutting off individual discrimination complaints, which might be desirable as a safeguard against faded memories, lost records and dispersed witnesses, should not be adopted because of the overriding importance of our need to examine licensees' performance in the EEO area and compliance with our EEO rules throughout the three-year term when we consider license renewal applications. Section 307(d) of the Communications Act of 1934, as amended, (47 U.S.C. 307 (d)), requires that we grant a license renewal application only following our determination that the public interest, convenience, or necessity be served thereby. Our finding is based upon a licensee's performance during the subject renewal term. Accordingly, we will not adopt a rule requiring that a complaint be filed while the alleged act of discrimination is continuing or within 180 days from the time of the alleged discrimination. Instead, we will continue to follow the same filing procedures as we have in the past concerning complaints alleging employment discrimination with the additional requirement that complainants set forth specific information regarding the nature of their complaint. (See paragraph 45, infra.) However, we emphasize that individual complaints of discrimination should be submitted as soon as possible after the alleged act of discrimination, since old and stale claims of discrimination may not be susceptible to any effective review.

51. Regarding the proposed amendment to require complainants to provide certain detailed information in their allegations, NOW questioned the wisdom of our establishing such disclosure requirements in light of the possible violation of the privacy rights of third parties, particularly in view of the intended dissemination of this information to the referral agencies. NOW and the Center for National Policy Review argue that citizens' groups should be allowed to bring discrimination complaints, and to withhold the identity of the victim of discrimination as well as potential witnesses, citing the applicable portion of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(b)), which permits third parties to bring such complaints on behalf of unidentified victims.[2]

52. We believe that specific information regarding discrimination complaints is of such significance in our evaluation of licensee's overall equal employment opportunity efforts that complainants should supply as much of the information set forth in our proposal as is possible. Although the Civil Rights Act of 1964 charges the EEOC with the duty of investigating complaints by third parties who do not identify the victim of discrimination, the primary regulatory objectives differ substantially between this Commission and the EEOC. Having been assigned the regulation of inter-state and foreign commerce in communications by wire and radio as our regulatory goal, the Commission does not have the staff or the expertise of the EEOC in examining individual complaints of employment discrimination. In our view, these dissimilarities justify our requesting that victims, participants and witnesses of discriminatory behavior be identified in the complaint in order to facilitate our investigation of these complaints which we do not refer to another agency for consideration. While we do not believe that we need amend our rules so as to require complainants to supply specific information, in order to enable this Commission to thoroughly look into the allegations of discrimination we encourage all complainants to supply the following information:

(a) The name and address of the complainant;

(b) The name and address of the licensee;

(c) A description of the alleged discriminatory acts or conduct; and

(d) Any other pertinent information—such as the names of individuals who have personal knowledge of the alleged discriminatory act or conduct—which will assist the Commission in its evaluation.

53. In sum, we will continue to defer individual complaints of discrimination filed with us to the appropriate federal, state or local agencies whenever possible. In this regard, we urge that these complaints be submitted to the appropriate federal, state or local agency in the first instance rather than this Commission since we lack the resources and the expertise to give them the evaluation of those agencies whose primary expertise lies in the area of discrimination complaints. Finally, if such complaints are filed with this Commission, they should be as specific as possible so that we have adequate information to evaluate the issues raised therein.

[2] The Commission dealt with a somewhat related question of licensee disclosure of complaints against it in Revision of Form 303, FCC 76-264, released May 3, 1976. There we agreed with citizens' groups that whatever rights of confidentiality or privacy are conferred by the Civil Rights Act should not operate to permit a broadcast employer's withholding of information about employment complaints in which it became involved.

Form 395

54. Finally, we requested public comment on the current Annual Employment Report (FCC Form 395). Of the comments received, the most frequently voiced concern was the need to define more narrowly the present job categories by requiring job titles and job descriptions. Two commenters suggested additionally that broadcasters should also be compelled to identify by race and sex, and to rank by salary, the incumbents for each position. Furthermore, they urged that a section be added to the form which would show the number of terminations each category has suffered in the year reported on, with a breakdown by race, sex and reason for termination. Another commenter suggested that we replace the identifications "Negro" and "Oriental" by "Black" and "Asian-American," respectively. Two others recommend that we replace the Form 395 with the EEO–1 form used by the Equal Employment Opportunity Commission.

55. In light of the action taken herein, especially our adoption of the sample EEO program, we believe that revision of FCC Form 395 is unnecessary at the present time. Section VII of the sample program provides for the filing of updated Form 395's by licensees employing less than 50 full-time employees and the filing of a workforce analysis by all employers employing more than 50 employees which must show a list of all job titles within Form 395 with male, female and minority employees designated. In addition, the other nine sections of the new sample program together with our various EEO letters of inquiry and reporting requirements will, we believe, provide us with the necessary details on job titles and functions. Finally, we believe that our instructions to Form 395 are sufficiently detailed to provide each licensee with adequate information to determine the appropriate job classifications at a particular station. Therefore, we contemplate no change in our annual employment report, FCC Form 395.

Conclusion

56. In conclusion, we believe that the sample EEO program which we have adopted herein will provide more comprehensive and clearly defined guidelines for broadcasters who are required to file written EEO programs. In the long run, this sample program should eliminate the need for time-consuming Commission letters to licensees setting forth the elements of an effective EEO program. The exemption of stations with ten or less full-time employees from filing a written EEO program will also permit us to focus our attention on those stations employing the greatest number of em-

ployees. We will continue to apply the "zone of reasonableness" standard, as we have in the past, looking at employment statistical data, equal employment opportunity programs and other relevant information regarding a licensee's employment practices and will refrain from defining the "zone" in terms of mere numbers or statistics with respect to minority and female employees. We also believe that goals and timetables will provide us with yet another means of assuring that Commission licensees comply with our EEO rules. Finally, we intend to continue our past policy with regard to discrimination complaints. Further, the requirement that complainants alleging specific instances of employment discrimination provide the Commission with detailed information will enable us to take more positive and expeditious action if we must determine the merit of the matters raised therein.

57. As set forth below, all references to Section VI of our various application forms will be deleted from our EEO Rules. While FCC Forms 303 (television renewal application) and 303R (radio renewal application) already refer to our Notice in this docket, we intend to issue a further Order which will bring these forms as well as all other broadcast application forms—i.e., FCC Forms 301, 309, 311, 314, 315, 340 and 342—in conformance with our present action. Furthermore, we expect renewal applicants to utilize all of the elements of the sample program including Sections I–V, the basic elements of the program, and VI–X, relating to the results of the program. Applicants other than renewal applicants will be expected to utilize only those sections relating to the program itself—i.e., Sections I–V—and will be expected to change the wording of the provisions of these sections, where appropriate, to note their prospective nature.

AUTHORITY AND ORDERS

58. The authority for the adoption of the amendments contained in Appendix B is set forth in sections 4 (i) and (j) and 303, 307, and 403 of the Communications Act of 1934, as amended.

59. Accordingly, *It is ordered*, That §§ 73.125, 73.301, 73.599, 73.680 and 73.793 of the Commission's rules are amended as set forth below, effective December 1, 1976. In addition, compliance with the foregoing changes is effective for all commerical and noncommercial television and radio applicants on or after December 1, 1976. Applicants who file applications before December 1, 1976 shall continue to utilize the Commission's existing rules and regulations regarding equal employment opportunities.

60. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 403, 48 Stat., as amended, 1066, 1082, 1083, 1094; 47 U.S.C. 154, 303, 307, 403.)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[1] The Statements of Commissioners Hooks and Quello were filed as part of the original document.

MODEL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

I *General policy*

It is our policy to provide equal employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It is also our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have developed an Equal Employment Opportunity Program which includes the following elements:

II *Responsibility for implementation*

_____

(Name Title)

is responsible for the administration and implementation of our Equal Employment Opportunity Program. It is also the responsibility of all persons making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III *Policy dissemination*

To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts are made:

( ) The station's employment application form contains a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, state, or federal agency if they believe they have been the victims of discrimination.

( ) Appropriate notices are posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, state, or federal agency if they believe they have been the victim of discrimination.

( ) We seek the cooperation of the unions represented at the station to help implement our EEO program and all union contracts contain a nondiscrimination clause.

( ) Other (specify)

_____
_____
_____

IV *Recruitment*

To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration in filling job vacancies, we utilize the following recruitment procedures:

( ) We attempt to maintain systematic communication, both orally and in writing, with a variety of minority and women organizations to encourage the referral of qualified minority and female applicants. Examples of such organizations contacted during the past twelve months are:

Organization/Source	Number of Referrals
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

( ) In addition to the organizations noted above, which specialize in minority and women candidates, we deal only with employment services, including state employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services contacted during the past twelve months and the number of referrals are:

_____ _____
_____ _____
_____ _____

( ) When we recruit prospective employees from educational institutions such recruitment efforts include area schools and colleges with significant minority and female enrollments. Educational institutions contacted for recruitment purposes during the past twelve months and the number of referrals are:

_____ _____
_____ _____

( ) When utilizing media for recruitment purposes, help-wanted advertisements always include a notice that we are an Equal Opportunity Employer and contain no indication, either explicit or implied, of a preference for one sex over another.

( ) When we place employment advertisements in printed media some of such advertisements are placed in media which have significant circulation or are of particular interest to minorities and women. Examples of publications utilized during the past twelve months and the number of referrals are:

_____ _____
_____ _____

( ) We encourage present employees, particularly minority and female employees, to refer minority and female candidates for existing and future job openings.

V *Training*

( ) Station resources and or needs are such that we are unable or do not choose to institute specific programs for upgrading the skills of employees.

( ) We provide on-the-job training to upgrade the skills of employees. Tangible benefits of such training to minority and women employees during the past 12 months may be briefly described as follows:

_____
_____
_____

( ) We provide assistance to students, schools or colleges in programs designed to enable minorities and women to compete in the broadcast employment market on an equitable basis:

Schools or Other Beneficiary	Form of Assistance
_____	_____
_____	_____
_____	_____

( ) Other (specify).

_____
_____

VI *Availability survey*

Based on information derived from _____, the respective minority and female workforce (percentage) in the station's recruitment area is as follows: Women ( ), blacks ( ), Oriental ( ), American Indian ( ), Spanish-surnamed ( ).

NOTE.—The following to be used only if workforce data is unavailable.

Based on information derived from _____, the respective minority and female population (percentage) in the station's recruitment area is as follows: Women ( ), blacks

( ), Oriental ( ), American Indian ( ), Spanish-surnamed.

The above information is for: ( ) S.M.S.A.; ( ) City; ( ) County; ( ) Other (specify).

VII *Current employment survey*

A. To be completed by stations with less than 50 full-time employees.

( ) There has been no change in our employment profile since the filing of our most recent Annual Employment Report.

( ) There has been a change in our employment profile since the filing of our last Annual Employment Report. Attached is an updated report identifying the incumbents under each FCC Form 395 job category for the two week period beginning _____ and ending _____.

B. To be completed by stations with 50 or more full-time employees.

( ) Attached as Exhibit No. VII B is a survey of our workforce showing a list of all job titles within each FCC Form 395 category and showing the number of incumbents who are male, female, Black, Spanish-Surnamed American, Oriental, and American Indian.

VIII *Job hires*

During the twelve month period beginning (month, day, year) and ending (month, day, year), we hired a total of ( ) persons of whom were minorities and ( ) were women.

( ) An analysis of our recruitment techniques, job applications, and new hires suggests that a sufficient number of qualified minorities and women (are) (are not) applying for available positions.

( ) We are expanding our recruitment sources to include:

IX *Promotion*

It is our policy to provide promotions on a nondiscriminatory basis. Further, to assure that minorities and women are given due consideration for promotional opportunities, special effort is taken to encourage minorities and women to qualify and apply for advancement. During the past twelve months our policy has had the following results:

X *Effectiveness of affirmative action plan*

(This section should contain a brief narrative discussion of the effectiveness of the station's efforts to ensure Equal Employment Opportunity. For example, the licensee might compare the percentage of minority employees in its own workforce with the percentage of minority persons in the licensee's labor market, also setting forth information which suggests that discrepancies which may exist are not unreasonable. The licensee may also explain any difficulties it has experienced in implementing its affirmative action plan, together with any steps it proposes to take to surmount these difficulties in the future.)

APPENDIX A

The following parties have filed comments:

Aldrich, Stephen C., Minneapolis, Minnesota
American Broadcasting Companies
American Women in Radio and Television, Inc., Washington, D.C.
Archey, Alice M., Houston, Texas
Ashdown Broadcasting, Inc., Ashdown, Arkansas
Association for the Advancement of Psychology
The Association of Public Radio Stations, Washington, D.C.
Association for Women in Psychology, New York, New York
Atlanta Community Coalition on Broadcasting, Atlanta, Georgia
Avery, L. M., Golden, Colorado
Baehr, Rev. Karl H., Garden City, New York
Bafalis, L. A. (Skip), House of Representatives, Washington, D.C.
Bates County Broadcasting Company, Butler, Missouri
Battle, Solomon O., New York, New York
Baumann, Glenn E.
Beverly, Ralph H., Washington, D.C.
Bible Broadcasting Network, Norfolk, Virginia
Bioiano, A. A., Norwich, New York
Board of Global Ministries, The United Methodist Church, New York, New York
The Board of Regents of the University of Wisconsin System
Border Broadcasters, Inc., Laredo, Texas
Boston Broadcasters, Inc., Boston, Massachusetts
Briar Creek Broadcasting, Inc., Aiken, South Carolina
Brill, Susan M., Denver, Colorado
Broadcasting Consulting Services, Inc., Kahului, Hawaii
Broadway United Church of Christ, New York, New York
Brooker, Clifton E., Philadelphia, Pennsylvania
Burns, Barbara, Des Moines, Iowa
Burroughs, Roberta F., Houston, Texas
Bursam Communications Corp., Mineola, New York
Business and Professional Women's Clubs, Inc., Washington, D.C.
Campus Christian Foundation, Newark, New Jersey
Capitol Broadcasting Corporation, Inc., Concord, New Hampshire
CBS, Inc., New York, New York
The Chesapeake Broadcasting Corp., Havre de Grace, Maryland
Chinese for Affirmatve Action, San Francisco, California
Clain, Susan J., Philadelphia, Pennsylvania
Clioel, Lydia
Communications Coalition of Philadelphia, Philadelphia, Pennsylvania
Community Change, Inc., Reading, Massachusetts
Community Coalition for Media Change (CCMC) of Sacramento, California
Coopersmith, Barbara, Denver, Colorado
D. A. Peterson, Inc., Alliance, Ohio
Delmarva Broacasting Co., Wilmington, Delaware
Dempsey and Koplovitz, Washington, D.C.
Diamond, Marylee Raymond
Douglass, J., Lakewood, Ohio
Eagle Pass Broadcasters, Inc., Eagle Pass, Texas
Ellis, Marion Schmitt, Dover, New Hampshire
Falcon Heights United Church of Christ, St. Paul, Minnesota
First Parish Congregational Church, Saco, Maine
Fletcher, Rev, James W.
Ford, Mable C., Voorhees, New Jersey
Gateway Broadcasting Company, Inc., Yazoo City, Mississippi
Geller, Laurence H., Valley Forge, Pennsylvania
Gockley, Milton E.
Golden, Toni P., Deerfield, Illinois
Hernandez, Charles, Washington, D.C.
Hewitt, Dorothy deM., Oxford, New York
Howard University, Washington, D.C.
Huff, Janet R., Hagerstown, Maryland
Immanuel United Church of Christ, Los Angeles, California
Indian River Broadcasting Co., Fort Pierce, Florida
Interfaith Center on Corporate Responsibility
Jackson Broadcasting Co., Inc., Jackson, Mississippi
Johnson County Broadcasters, Inc., Warrensburg, Missouri
KBLE, Seattle, Washington
Kiwanis Club of Phoenixville, Phoenixville, Pennsylvania
Klueter, John, Petersburg, Illinois
Krupman, William A., New York, New York
KSWM-AM-FM, Aurora, Missouri
Kuenner, L. M., Denver, Colorado
KZEE, Weatherford, Texas
Lake Powell Communications, Page, Arizona
Lee, Harold A.
Legal Aid Society of Alameda County (California)
Leventhal, Sharon, Arvada, Colorado
Linsman, M., Golden, Colorado
Lofton, John, St. Louis Post-Dispatch, St. Louis, Missouri
Long Beach Unified School District, Long Beach, California
Louisiana Association of Broadcasters
The Lower Rio Grande Valley Coalition of Community Organizations, Harlingen, Texas
McKenna, Wilkinson & Kittner, Washington, D.C.
Meroco Broadcasting Co., Greeley, Colorado
Metromedia, Inc.
Mississippi Council on Human Relations, Jackson, Mississippi
Missouri Broadcasters Association
Mount Hollywood Congregational Church, Los Angeles, California
Montgomery County Community Action Agency, Dayton, Ohio
Mullins and Marion Broadcasting Co., Mullins, South Carolina
The NAACP Legal Defense and Educational Fund, Inc. San Francisco, California.
National Association of Broadcasters, Washington, D.C.
National Association of Media Women, Inc., New York, New York
National Association for Women Deans, Administrators and Counselors, Washington, D.C.
National Black Media Coalition, Washington, D.C.
National Commission on the Observance of International Women's Year, 1975
The National Counceil of La Raza (NCLR)
National Organization for Women, Greenville, North Carolina
National Urban League, Inc., Washington, D.C.
Nelson, Edith, River Falls, Wisconsin
Neumann, Doris, Waco, Texas
New Detroit, Inc., Detroit, Michigan
New Mexico Broadcasting Company (NSL)
New York School District Alliance Committee, Oxford, New York
Northwestern College Radio, Madison, Wisconsin
The Office of Communication of the United Church of Christ, Washington, D.C.
Open Media, Minneapolis-St. Paul, Minnesota
Operation Hope, Inc., Baton Rouge, Louisiana
Parham, Thomas David, Jr., Durham, North Carolina
Paterson Coalition for Media Change, Paterson, New Jersey
Pennsylvania Association of Broadcasters
Public Broadcasting of Northwest Pennsylvania, Inc.
Public Broadcasting Service, Inc., Enid, Oklahoma
Public Communicators, Inc.
Public Interest Research Group, et al., Washington, D.C.
Rangel, Charles B., House of Representatives, Washington, D.C.
Reconciliation, Indianapolis, Indiana
Roberts, D., Arvada, Colorado
Rogers, Gordon A., Vancouver, Washington
Ryan, Elizabeth T., Oxford, New York
Rymal, S. M.
Sarasota Broadcasting Company, Sarasota, Florida
The Scarsdale Congregational Church, Scarsdale, New York
Shapiro, Lynne D., New York, New York
Sims, Claudette E., Houston, Texas
Sirjord, sa, Seattle, Washington

Somers, Marsha J., Arvada, Colorado
South Central Educational Broadcasting Council
Southern Broadcasting Company, et al., Washington, D.C.
State Gazette Broadcasting Company, Dyersburg, Tennessee
State of New York Division of Human Rights, New York, New York
St. Louis Broadcast Coalition, St. Louis, Missouri
Tarver, Janet
Union Congregational Church, Green Bay, Wisconsin
United Church Board for World Ministries, New York, New York
United Church of Christ, Midland, Michigan
United Church of Christ-Congregational, Plainfield, New Jersey
United Ministries, Spokane, Washington
United Ministries in Higher Education, Ames, Iowa
United States Commission on Civil Rights, Washington, D.C.
University of Wisconsin, Madison, Wisconsin
Verbeck, Dr. K. J. Wenrich, Golden, Colorado
Walsh, M., Lakewood, California
Washington North Idaho Conference, United Church of Christ, Seattle, Washington
WBNS–TV, Inc., Columbus, Ohio
WCET–TV, Cincinnati, Ohio
WCSC, Inc., Charleston, South Carolina
Williams, James E., Charleston, West Virginia
WNST, Huntington, West Virginia
Women's Equity Action League, Old Bridge, New Jersey
Women's Equity Action League, Washington, D.C.
Women For Media Change, Columbus, Ohio
Women's Political Caucus, New Jersey
Woodruff, Raymond, Elyria, Ohio
WSIV, Ekin, Illinois

The following parties have filed reply comments:

Adamski, Catherine
Alexander, Delores
American Broadcasting Companies, Inc.
Anne Arundel County, Annapolis, Maryland
Bennicoff, Betty
Bidwell, Elizabeth
Bladgett, Elaine
The Board of Regents of the University of Wisconsin System
Brill, Ellen Francis, Denver, Colorado
Capitol Broadcasting Co., Inc.
CBS, Inc.
Cohart, Mary, New Haven, Connecticut
Conley, Susan L.
Corporation for Public Broadcasting
Dalaker, Helen
Davies, Dawn E.
Dingenthal, Dwight, North Texas
Equal Employment Opportunity Commission, Washington, D.C.,
Fiedler, Karen
Foote, Mary E.
Gehring, Craig J.
Gockley, Milton E.
Gruel, Nancy L.
Gwathmey, Margaret
Haignere, Lois
Harris, Regina S., Wilmington, Delaware
Houston, Katherine
Howard University
Jordan, Geneva
KANG, Angwin, California
Kennedy, Carol M.
League of Women Voters of Santa Barbara, Inc.
Maroski, Barbara A.
McDonnell, Ellen V.
McKenna, Wilkinson & Kittner, Washington, D.C.
National Association of Broadcasters
National Association of Educational Broadcasters
National Black Media Coalition
National Organization for Women, Minnetonka, Minnesota
Newman, Janice
One Hundred Women for Integrity in Government, Newark, New Jersey
Public Broadcasting of Northwest Pennsylvania, Inc.
Rose, Susan Lynne
Sampieri, Joan D.
Scharnau, Ruth
Seacoast Chapter of the National Organization for Women
Shiney, Margaret L. (M.D.)
South Central Educational Broadcasting Council
Sundel, Sandra Stone
Taublib, Nita
Tweedie, Susan
Venham, Larry (D.D.S.)
WAAX Radio, WQEN Stereo
WBEN–AM–FM–TV, Buffalo, New York
WBNS–TV, Inc., Columbus, Ohio
WCSC, Inc., Charleston, South Carolina
Welch, Glynda
Wexler, Henrietta
Women's Equity Action League, Austin, Texas
Women's Legal Defense Fund

§ 73.125 [Amended]

§ 73.301 [Amended]

§ 73.599 [Amended]

§ 73.680 [Amended]

§ 73.793 [Amended]

APPENDIX B

47 CFR Part 73, paragraph (c) of §§ 73.125, 73.301, 73.599, 73.680 and 73.793 is being revised as follows:

* * * * *

(c) Applicants for a construction permit for a new facility, for assignment of license or construction permit or for transfer of control (other than pro forma or involuntary assignments and transfers), and applicants for renewal of license who have not previously done so, shall file with the Commission programs designed to provide equal employment opportunities for Negroes, Orientals, American Indians, Spanish-surnamed Americans, and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in the Commission's Report and Order, Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees, FCC 76–426, adopted June 22, 1976. A program need not be filed by any station having ten or less full-time employees or with respect to any minority group which is represented in such insignificant numbers in the area that a program would not be meaningful. In the latter situation a statement of explanation should be filed.

[FR Doc.76–21710 Filed 7–26–76;8:45 am]

[Docket No. 20702; RM–2523]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

1. The Commission has before it the Notice of Proposed Rule Making in this proceeding and responsive comments filed by Hatfield and Dawson Consulting Engineers, Robert Lee Price, P. H. Lee Associates, Inc. and Larry King. All commenting parties are engineering consultants, and all support the proposed assignment of educational FM Channel 216 to Moorpark, California.[1] Ordinarily, educational channel use is governed by a demand system that does not involve a Table of Assignments. However, because of the proximity of Moorpark to the Mexican Border, use of the channel is dependent on its being assigned in the Table of Educational FM Assignments set forth in Section 73.507 of the Commission's rules and regulations.

2. When we issued the Notice of Proposed Rule Making we observed that the Moorpark proposal viewed by itself was entirely consistent with applicable criteria called for by the United States-Mexico FM Broadcast Agreement.[2] The concurrence of the Mexican government also is required and has since been obtained. Even though the proposal itself did not present problems, we observed in the Notice that there were other issues of possible relevance to the proposal that might also require consideration. Comments were sought on these issues so that we might be in a position to properly judge the merits of the proposed assignment.

3. We pointed out that viewed in its own light, assigning the channel to Moorpark would be expected to serve a useful function. Not only would a first local educational service be provided to this community of 3,380 persons, the station would bring the first educational service originating in Ventura County, which has a population of 378,497 persons. Service from elsewhere is limited. Terrain factors, as well as distance, restrict the service which otherwise would be available from educational stations licensed to Los Angeles, 42 miles to the southeast. Clearly, the service is needed, and, unless other considerations outweigh such a course of action, providing such a first service would be in the public interest. The problem in cases like this one comes from deciding just what other considerations to include and what weight to give them.

4. The Notice focused on a range of issues relating to preclusion; that is, the impact the proposal would have on otherwise possible assignments. The decision to assign a channel in one place can be expected to restrict or even foreclose assignments elsewhere. This raises the question of the relative need for the assignment proposed as compared to those foreclosed. This question is not considered for educational stations (which are assigned on a demand basis) the way they are for commercial assignments listed in the FM Table. In this case, we had to consider if we should follow procedures, particularly regarding preclusion, like those employed for commercial FM assignment proposals. Although we hoped to obtain full information on these issues, the information

[1] The antenna site must be located 11 miles west of Moorpark to meet the spacing requirement to Channel 216C at Tijuana, Baja California, Mexico.

[2] The Agreement and the Commission's rules implementing it apply to the area within 199 miles of the United States-Mexico border.

which has been provided does not provide a basis for an evaluation of the amount and importance of preclusion in this case. In fact, the information is really not dispositive of the question of whether it is a relevant consideration in educational FM assignment cases. We recognized the possibility that it might not necessarily be determinative as these proposals may be judged on their own terms alone, without recourse to a preclusion study.[3]

5. A recent action by the Commission has an important bearing on the resolution of the questions raised here. A Notice of Proposed Rule Making in Docket No. 20735, 41 FR 16973 (1976), was adopted in order to explore the entire range of issues relating to educational FM assignment policies. The broad scope of that proceeding need not be described here in any detail; we need only note that it includes within it the issues raised here. Now that a proceeding of this scope has been begun, there is neither sense nor utility in attempting to resolve some of the same issues here on, what would amount to, a piecemeal basis. Clearly, they are better resolved in that proceeding where they and the other related issues could be considered together. This necessitates a decision on what to do in the meantime. While we could simply defer action in this proceeding, such a step, with its attendant delays, is not necessary. All available information supports use of the channel at Moorpark. Even on the subject of preclusion, we do not have any indication that the level of such preclusion would be such as to militate against favorable action. Nor are there other impediments to favorable action. Since the public interest would be served by the commencement of a first educational service in Ventura County, we shall proceed to make the assignment so that the channel could be put to use promptly.

6. Accordingly, pursuant to sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations, *It is ordered*, effective August 30, 1976, That § 73.507 of the Commission's rules and regulations, the Table of Educational FM Assignments is amended as follows:

City:	Channel No.
Moorpark, Calif	216

7. *It is further ordered*, That this proceeding *is terminated*.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083 (47 U.S.C. 154, 155, 303, 307).)

Adopted: June 22, 1976.

Released: July 26, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-21711 Filed 7-26-76;8:45 am]

[3] The reasons for considering this possibility as well as the difficulties and intricacies of preclusion studies are discussed in paragraph 4-7 of the Notice.

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. No. 1248]

PART 1033—CAR SERVICE

Norfolk and Western Railway Company Authorized To Operate Over Tracks of Burlington Northern Inc.

At a Session of the Interstate Commerce Commission, Railroad Service Board held in Washington, D.C., on the 21st day of July, 1976.

It appearing, That the Norfolk and Western Railway Company (N&W) operates to and from Quincy, Illinois, over tracks of the Burlington Northern Inc. (BN) between East Hannibal, Illinois, and Quincy; that a portion of these BN tracks between East Hannibal and Marblehead, Illinois, is unserviceable because of track conditions; that an alternative route exists using BN trackage on the west bank of the Mississippi River between Hannibal, Missouri, and Quincy, via West Quincy, Missouri; that the N&W and the BN have agreed to the rerouting of N&W trains over the aforementioned trackage of the BN via West Quincy; that immediate operation by the N&W over these tracks of the BN via West Quincy is necessary, pending approval by the Commission of the application of the N&W seeking permanent authority to operate over such tracks; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1248 Service Order No. 1248.

(a) The Norfolk and Western Railway Company (N&W) be, and it is hereby, authorized to operate over tracks of the Burlington Northern Inc. (BN), between BN milepost 120.23 at Hannibal, Missouri, and BN mileposts 137.07 and 263.62, both at West Quincy, Missouri, and BN milepost 211.00 at Quincy, Illinois, a total distance of 18.86 miles, pending disposition of the application of the N&W seeking permanent authority to operate over these tracks.

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

(c) *Rate applicable.* Inasmuch as this operation by the N&W over tracks of the BN is deemed to be due to carrier's disability, the rates applicable to traffic moved by the N&W over these tracks of the BN shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Effective date: This order shall become effective at 12:01 a.m., July 23, 1976.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1977, unless otherwise modified, changed or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21739 Filed 7-26-76;8:45 am]

proposed rules

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 12]

SPECIAL CLASSES OF MERCHANDISE

Importation of Certain Energy-Using Consumer Products

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 623, 624, 46 Stat. 759, as amended (19 U.S.C. 1623, 1624), and section 331, 89 Stat. 928 (42 U.S.C. 6301), it is proposed to amend Part 12 of the Customs regulations (19 CFR Part 12) by adding a new § 12.92 pertaining to the importation of certain energy-using consumer products.

Pursuant to Part B of Title V of the Energy Policy and Conservation Act (42 U.S.C. 6291, et seq.), the Federal Trade Commission shall prescribe rules for the labeling of energy-using consumer products covered by the Act ("covered products") to disclose: (1) The estimated annual operating cost of the product, unless the Commission, for reasons set forth in the Act, requires the disclosure of a different useful measure of energy consumption; and (2) information respecting the range of estimated annual operating costs for covered products (unless a measure of energy consumption different from the estimated annual operating costs of the product is used, in which case the range of that measure of energy consumption of covered products shall be disclosed on the label).

Inasmuch as these labeling requirements, when prescribed, will be applicable to imported covered products, it is proposed to amend Part 12 of the Customs Regulations by adding a new § 12.92 to set forth the labeling requirements and related procedures that will apply to importations of covered products.

As proposed, § 12.92 will provide that new covered products offered for importation into the Customs territory of the United States are subject to energy-consumption labeling requirements under section 324 of the Act (42 U.S.C. 6294), and will be refused entry unless (1) they bear labels as required by the Act, or (2) the importer or consignee of the new covered products gives a bond on Customs Form 7551, 7553, or 7595 that the products will be brought into compliance with applicable labeling requirements.

If the new covered products are imported under bond, proposed § 12.92 provides that the bond shall be in the amount required under § 113.14 of the Customs regulations (19 CFR 113.14), and requires that, within 90 days after the entry (or an additional period, if allowed by the district director of Customs), the importer or consignee supply satisfactory evidence to the district director that the new covered products have been properly labeled. The district director may require the new covered products to be labeled under Customs supervision at the importer's expense. If the satisfactory evidence is not delivered to the district director within the required time, the covered products released under bond must be redelivered to the district director, upon demand, and shall be denied entry; in the event that any such products are not redelivered within five days after the expiration of the required time, liquidated damages shall be assessed under the bond. New covered products denied entry under proposed § 12.92 shall not otherwise be released by the district director for entry into the United States and, if not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. No such disposition shall result in the introduction into the United States of any new covered products in violation of the Act.

Accordingly, it is proposed to amend Part 12 of the Customs Regulations (19 CFR Part 12) by the insertion of a new center heading and § 12.92 to read as follows:

ENERGY-USING CONSUMER PRODUCTS

§ 12.92 Importation of certain energy using consumer products.

(a) *General.* New covered products, as defined in paragraph (c)(2) of this section, offered for importation into the Customs territory of the United States are subject to energy-labeling requirements under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294), hereinafter referred to as "the Act".

(b) *Entry and release of new covered products.* New covered products subject to the labeling requirements of the Act, when offered for importation into the Customs territory of the United States, shall be refused entry unless they bear a label as required under the labeling requirements of the Act, as described in paragraph (c)(3) of this section, or unless they are accepted for entry under paragraph (d) of this section.

(c) *Definitions of terms used in this section.* (1) The term "covered product" means a consumer product (other than an automobile, as defined in section 501 (1) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2001(1))) if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(i) Refrigerators and refrigerator-freezers.
(ii) Freezers.
(iii) Dishwashers.
(iv) Clothes dryers.
(v) Water heaters.
(vi) Room air conditioners.
(vii) Home heating equipment, not including furnaces.
(viii) Television sets.
(ix) Kitchen ranges and ovens.
(x) Clothes washers.
(xi) Humidifiers and dehumidifiers.
(xii) Central air conditioners.
(xiii) Furnaces.
(xiv) Any other type of consumer product which the Administrator of the Federal Energy Administration classifies as a covered product.

(2) The term "new covered product" means a covered product the title to which has not passed to a purchaser who buys such product for purposes other than: (i) Reselling such product; or (ii) leasing such product for a period in excess of one year.

(3) The term "labeling requirements" means those rules prescribed by the Federal Trade Commission which require new covered products to bear labels disclosing: (1) The estimated annual operating cost of such products, or a different useful measure of energy consumption if the Federal Trade Commission should require disclosure of that different measure under 42 U.S.C. 6294(c)(1)(A); and (ii) information respecting the range of estimated annual operating costs for covered products, or the range of a different measure of energy consumption for covered products if the Federal Trade Commission should require disclosure of that different measure under 42 U.S.C. 6294(c)(1)(A) and (B).

(d) *Release under bond.* To entry of new covered products not bearing required labels shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 that the new covered products will be brought into compliance with applicable labeling requirements. The bond shall be in the amount required under § 113.14 of this chapter. Within 90 days after such entry, or such additional period as the district director of Customs may allow for good cause shown, the importer or consignee shall supply satisfactory evidence to the district director that the new covered

products have been properly labeled. In his discretion the district director may require the new covered products to be labeled under Customs supervision at the importer's expense. If such satisfactory evidence is not delivered to the district director at the port of entry of such new covered products within 90 days of the date of entry, or such additional period as may be allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director, upon demand, those new covered products which were released in accordance with this paragraph. The new covered products redelivered to the district director shall be denied entry. In the event that any such products are not redelivered within five days following the end of the period permitted for the submission of evidence of proper labeling, liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Customs Form 7551.

(e) *Merchandise refused entry.* New covered products denied entry under any provision of this section, shall not otherwise be released by the district director for entry into the United States.

(f) *Disposition of products refused entry into the United States or redelivered.* New covered products which are denied entry in accordance with this section and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations: *Provided, however,* That any such disposition shall not result in the introduction into the United States of any new covered products in violation of the Act.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than August 26, 1976.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

VERNON D. ACREE,
Commissioner of Customs.

Approved: July 20, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-21725 Filed 7-26-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1099]

[Docket No. AO-183-A34]

MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Paducah, Kentucky, marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Paducah, Kentucky, on April 21, 1976, pursuant to notice thereof issued on April 2, 1976 (41 FR 14768).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator of Program Operations, on June 17, 1976 (41 FR 25909) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptons thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of the hearing relates to modification of the payback months under the Louisville plan.

FINDINGS AND CONCLUSIONS

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

Modification of the payback months under the Louisville plan. The seasonal payment plan for distributing returns to producers (commonly referred to as the Louisville plan) should be modified to change the payback from the months of October through January to the months of September through December.

A Louisville seasonal payment plan has been effective in the Paducah order continuously since May 1, 1966. The plan is intended to provide an incentive for producers to produce an even milk supply throughout the year.

The Louisville plan provides for withholding from the uniform price computation in each of the months of April through June an amount computed at 50 cents per hundredweight of producer milk delivered during such month. Monies thus withheld are retained in the producer-settlement fund to be distributed to producers during the following months of October through January. One-fourth of the monies retained is added to the pool value in computing the uniform price in each of such months.

A proposal to modify the Louisville plan was made by Dairymen, Inc., a cooperative representing a substantial majority of the producers on the market. The cooperative's representative testified that the month of September is a more appropriate payback month than the month of January. He indicated that the proposed payback months comport with the seasonality of production for the Paducah market, the seasonality of Class I sales within the marketing area, and the payback months of Louisville plans effective in adjacent Federal order markets.

The National Farmer's Organization (NFO), a cooperative association representing less than 10 percent of the producers supplying milk to handlers regulated under the Paducah order, opposed the continuation of the Louisville plan now contained in the Paducah order. It was the position of that cooperative that the takeout-payback plan should be eliminated from the order, thereby permitting producers to receive the full value for their milk each month as reflected by a uniform price unaffected by any takeout or payback amounts.

NFO took the position that the proposal to change the payback months under the Louisville plan also opened up the issue of whether the Louisville plan should be continued in any form under the Paducah order. The witness for the cooperative then testified at some length relative to the deletion of the Louisville plan and the revisions necessary to add a base-excess plan to the order. Counsel for the Department eventually objected to the further receipt of testimony regarding the merits of either the Louisville plan or a base-excess plan on the basis that such testimony was beyond the scope of the hearing notice. The Administrative Law Judge sustained the objection but permitted the cooperative's witness to present additional testimony relative to the two seasonal payment plans as an offer of proof.

The witness for NFO held that the Louisville plan has certain deficiencies which render the plan inappropriate. First, producers who are not associated with the market during the spring months and who thus do not contribute to the fund, may participate in the distribution of such fund in the fall months. Secondly, the plan makes no provision for compensating or making adjustment to producers who contribute to the fund in the April–July period and are not on the market during the fall months to participate in the distribution of the fund. For these reasons, the NFO holds that the continuation of the Louisville plan in the Paducah order is not in the best interests of its members, or of Paducah producers generally.

The alleged deficiencies in the Louisville plan detailed by the NFO witness are not a basis for deleting the plan from the order. In fact, the alleged deficiencies which are the basis for the cooperative's complaint are the very characteristics that are essential if the plan is to have any positive effect in leveling out production.

The Louisville payment plan has essentially the identical effect on individual producer returns which would result from seasonal pricing. Because seasonal pricing would result in substantial changes in handler cost for milk as between the flush and short production months and such changes likely would be imperfectly reflected in resale price changes to the detriment of consumers and producers alike, the market adopted the alternative Louisville payment plan.

Under seasonal pricing producers who supplied the market in the flush production months would receive a return below that realized in other months. Conversely, producers who did not supply the market in the fall months of lowest production would not realize the higher returns in such months.

Similarly, producers who supply the market in the spring months of greatest production, but do not supply the market in the fall months of lowest production, appropriately should not share in the distribution of the Louisville funds withheld during the spring months. Conversely, producers supplying the market in the fall months should not be excluded from receiving Louisville plan funds because they did not supply the market during the spring months. To adjust payments to producers in the manner suggested by the opposing cooperative would totally destroy the intended effect of the Louisville plan since the distribution of seasonal payment funds would be contingent upon producers supplying the market during the spring months when there are ample supplies of milk rather than during the fall months when greater production is necessary to supply the fluid milk needs of the market.

No producer who supplies the market during the spring months has any inherent right to funds withheld from payment. Such funds are market funds and are distributed only to those producers who supply the market with milk in the fall months when it is most needed. In this manner, the distribution of market funds encourages a leveling of production that promotes more orderly marketing conditions. The indirect benefits of the plan are a reduction in surplus disposal costs in the spring and a minimization of transportation costs by eliminating or reducing the need to import distant milk supplies to meet fluid milk needs in the fall.

NFO in opposing continuation of the Louisville plan alternatively favored a base-excess plan as being a more desirable seasonal payment plan for producers. Its witness held that, if the proponent cooperative desired a Louisville plan to encourage more even production among its member producers, such plan could be operated outside of the framework of the order.

Its members, the opponent cooperative held, should not be subject to a Louisville plan because some other producers on the market prefer such plan. The cooperative took the position that, although NFO producers are in the minority as related to the total number of producers supplying the Paducah market, this circumstance does not mitigate the deficiencies and inequities which it held are inherent in the Louisville plan. The cooperative's witness indicated that if, despite the cooperative's objections, the Louisville plan was retained in the Paducah order, then the cooperative favored changing the payback months as proposed.

A Louisville plan should be retained in the Paducah order despite the preference expressed by a limited number of producers for amendatory action deleting such plan. Alternatively, these producers requested, in the event the Department deemed it necessary to provide some method of encouraging more even production throughout the year, that a base-excess plan be added. Both the Louisville plan and a base-excess plan are specifically authorized by the Agricultural Marketing Agreement Act. Both serve the same purpose, i.e., to promote more orderly marketing conditons by encouraging the production or an even supply of milk throughout the year. Each of these seasonal payment plans provide a disincentive for producers to increase milk production in the spring months which are the normal months of flush production. Conversely, each of the plans provide an incentive for producers to increase milk production during the fall months when milk production is normally at its lowest level.

In this instance in which either of two seasonal payment plans accomplish the same purpose and a controversy exists over which seasonal plan should be effective in the market, preference must be given to that plan favored by the majority of producers affected. The Louisville plan in this instance is favored by the majority of the producers on the Paducah market and, therefore, should be retained.

The payback months of the Louisville plan should be changed from the months of October–January to the months of September–December. The substitution of the month of September for the month of January as one of the payback months will tend to encourage production in September and to lessen the incentive for dairy farmers to produce milk in January. Consequently, such change should result in a more even milk supply throughout the year.

Data presented by the proponent cooperative shows that September is one of the 4 months of the year when milk production in the Paducah market it at its lowest level. Average daily producer milk deliveries during the most recent 5-year period were lowest during the month of October followed by the months of November, December, and September. The month of January ranked seventh.

Other data presented at the hearing also confirms the shortness of the milk supply during September. The average daily milk production marketed per farm by months for the last 3 years shows that January milk production exceeds milk production for the preceding month of September. For the 3-year period daily deliveries per farm averaged 1,335 pounds for the month of September and 1,415 pounds for the following month of January.

A further reason for changing the payback months of the Paducah order is so that the September and January minimum pay prices to producers under the Paducah order will more closely correspond with minimum pay prices due dairy farmers located in the same general area but who are producers under other Federal orders. Variations in blend prices received by dairy farmers in this general area have been a source of dissatisfaction to members of proponent coperative. Currently, the payback months of the Paducah order do not coincide with the payback months of several nearby Federal order markets. The payback months of the St. Louis-Ozarks, Southern Illinois, and Louisville-Lexington-Evansville orders are September, October, November and December whereas the payback months of the Paducah order are the months of October–January. As a consequence, producers under the St. Louis-Ozarks, Southern Illinois, and Louisville-Lexington-Evansville order receive a blend price for the months of September reflecting not only the utilization value of the milk in their market but also a portion of the Louisville fund of that market. Paducah producers, however, receive during the month of September only the utilization value of their milk. Conversely, Paducah producers receive a portion of the Louisville fund as well as the utilization value of their milk during the month of January whereas the producers in the other three markets receive only the utilization value of their milk. Consequently, the alignment of the payback months of the Paducah order with the payback months of the surrounding Federal order markets will insure more compatibility in month-to-month returns as among producers in a common supply area with alternative outlets in several markets and thus will provide greater assurance of continuing orderly marketing.

Rulings on Proposed Findings and Conclusions

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

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the afore-

said order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

RULINGS ON EXCEPTIONS

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

NFO excepted to the retention of the Louisville plan in the Paducah milk order on the basis that the recommended decision is "without substantial justification for the continued effectiveness of the 'takeout-payback' plan in Order 99". The reasons for continuing the plan are fully detailed in the recommended decision and exceptor advanced no basis other than that previously considered by the Department in arriving at its decision to retain the Louisville plan.

In further support of its position that the Louisville plan should be terminated, exceptor requests the Secretary to take official notice of the "disorder that is now resulting in the Ohio Valley Order market, Order 33, from the operation of the 'takeout-payback' plan in that order . . .". Exceptor indicates that the same disorder can develop in the Paducah market under the 'takeout-payback' plan now effective in the Paducah order. There is no indication on this record that disorderly marketing conditions would result as a consequence of the continued operation of the Louisville plan in the Paducah market. With respect to exceptor's request for official notice of marketing conditions in the Ohio Valley market, the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders do not provide for the taking of official notice at any stage in such proceedings subsequent to the issuance of the recommended decision. For these reasons, the exception is denied.

MARKETING AGREEMENT AND ORDER

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

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

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

June 1976 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Paducah, Kentucky, marketing area is approved or favored by producers, as defined under the terms of the order as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 22, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

Order [1] amending the order, regulating the handling of milk in the Paducah, Kentucky, marketing area.

FINDINGS AND DETERMINATIONS

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

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

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

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

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

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

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator of Program Operations, on June 17, 1976, and published in the FEDERAL REGISTER on June 23, 1976 (41 FR 25909) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1099.61, paragraph (h) is revised to read as folows:

§ 1099.61 Computation of uniform price (including weighted average price).

* * * * *

(h) For each of the months of September, October, November, and December, add one-fourth of the total amount substracted pursuant to paragraph (g) of this section.

[FR Doc.76-21733 Filed 7-26-76;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 381]

DEFINITIONS AND STANDARDS OF IDENTITY OF COMPOSITION

Standards for Cooked Poultry Sausages

• The purpose of this document is to propose standards for poultry frankfurters, poultry franks, poultry furters, poultry hotdogs, poultry weiners, poultry

vienna, poultry bologna, poultry garlic bologna, poultry knockwurst, and similar cooked poultry sausages. •

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending the poultry products inspection regulations, pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), for the purpose set forth above.

STATEMENT OF CONSIDERATIONS

During recent years the poultry industry has developed cooked sausages fabricated from poultry products. Such products which are marketed under approved labeling clearly showing the species, such as "Turkey Franks" or "Chicken Wieners," are organoleptically pleasing to consumers and are gaining market acceptance. A recent survey indicated that at the present time, there are at least 344 approved labels for these products which are produced by 66 plants.

The Department has beeen considering for some time, and has now been petitioned by the poultry industry and poultry industry associations to establish standards for cooked poultry sausages in order to assure uniformity and consistency in such products.

Pursuant to such requests, the Department hereby proposes standards for cooked poultry sausages, cooked poultry sausages with giblets, and cooked poultry sausages with binders, as set forth below. These proposed standards appear to provide those characteristics that consumers asssociate with such products.

Accordingly, it is proposed that a new § 381.171 be added to Subpart P of the poultry products inspection regulations to read as follows:

§ 381.171 Cooked sausage.

(a) A poultry frankfurter, poultry frank, poultry furter, poultry hotdog, poultry wiener, poultry vienna, poultry bologna, poultry garlic bologna, poultry knockwurst, and similar cooked poultry sausages are comminuted, semi-solid sausages prepared from one or more kinds of raw or cooked poultry meat with or without poultry skin in no more than natural proportions, and poultry fat. Poultry giblets may be used in accordance with paragraph (b) of this section, and the binders listed in paragraph (c) of this section may be used in accordance with paragraph (c) of this section. Poultry sausages are seasoned and cured using one or more of the curing agents as provided for in § 381.147(f)(3) of this subchapter, and may or may not be smoked. The finished product shall contain not more than 25 percent fat and not less than 12 percent protein, and shall have a ratio of moisture to protein of not more than 5.0 parts moisture to 1.0 part protein.

(b) If giblets are used in the formulation of the product, the term "with giblets" must be included as part of the product name, e.g., "chicken frankfurter with giblets." Such product must contain at least 50 percent poultry meat in the formulation, excluding added water.

(c) If binders are used in the formulation of the product, the name of the binder or binders must be included as part of the product name, e.g., "chicken frankfurter, calcium reduced dried skim milk added." One or more of the following binders may be used in cooked poultry sausages: Dried milk, calcium reduced dried skim milk, nonfat dry milk, cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, and isolated soy protein. Such binders, singly or collectively, may not exceed 3 percent of the finished product, except that 2 percent of isolated soy protein shall be considered equivalent to 3 percent of any of the other binders.

Any person wishing to submit written data, views, or arguments concerning the proposed amendment may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, or if the material is deemed to be confidential, with the Product Labels, Packaging and Standards Staff, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, by October 25, 1976.

Persons desiring opportunity for oral presentation of views should address such requests to the Staff identified in the preceding paragraph, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

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

Done at Washington, D.C., on July 23, 1976.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-21801 Filed 7-26-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

PORPOISES

Methodology for Determining Date for Prohibiting Further Setting

On June 11, 1976, the Director, National Marine Fisheries Service, amended the regulations governing the incidental taking of marine mammals in the course of commercial fishing operations so as to limit to 78,000 the number of porpoise which could be killed by U.S. fishermen incidental to commercial yellowfin tuna purse seine operations in 1976 (41 FR 23680). The Director now proposes to adopt a method by which NMFS will determine when the limit will be reached and further setting on porpoise will be prohibited. Comments on the proposed methodology are hereby requested. All comments should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235; on or before August 16, 1976.

METHOD FOR DETERMINING DATE WHEN LIMIT WILL BE REACHED

The date when the 78,000 limit will be reached will be determined in two steps. In Step 1 an estimate will be made of the actual total porpoise kill through the end of the preceding month using the methodology published on April 5, 1976 (41 FR 14401) to estimate the kill through April 14, 1976. The methodology will use kill-per-trip data for complete trips carrying NMFS observers and kill-per-day data reported by radio from observed vessels at sea. Vessels participating in the NMFS/industry cooperative gear study have an average kill rate substantially below the fleet average. These 20 vessels will be separated frrom the rest of the fleet for analysis, using a kill-day methodology.

In the second step the kill will be projected for each following month and will be added to the kill computed in Step 1 until the quota level (78,000) is reached. This projection will be computed by multiplying the kill-per-ton of yellowfin tuna (from 1976 NMFS field technician data on complete trips) by the historical average monthly catch of yellowfin tuna taken in association with porpoise for each month (from IATTC records, 1972–1975). Interpolation will be used to estimate the day of the month when the quota will be reached.

The complete two-step procedure will be repeated on a monthly basis to allow refinement of the estimated date of closure. As the estimated date for reaching the quota is approached, calculations on a shorter time period may be warranted.

The following example illustrates the procedure that would be used in September. (This would be the third monthly calculation, the first being in July for the data through June 30.) Assume that the estimated kill through August 31, 1976 was 65,589 (from Step 1) or 12,411

short of the quota (78,000), and the estimated kill-per-ton of yellowfin caught on porpoise from 1976 data is 0.90. The projection of the specific date when the quota would be reached is calculated as follows:

Time period	Approximate average monthly catch (tons) of yellowfin on porpoise (1972–75)	Cumulative kill of porpoise using the most current estimated kill/ton (0.90 example)
Jan. 1 to Aug. 31		65,589
Sept. 1 to 30	8,244	65,589+7,420=73,009
Oct. 1 to 31	8,913	73,009+8,022=81,031

The kill of 78,000 is then projected to occur during the month of October (as per above schedule). The exact date of prohibiting porpoise sets may be found by interpolation within the month as follows:

$$\frac{78{,}000-73{,}009}{81{,}031-73{,}009}=\frac{X}{31 \text{ days in October}}$$

$$\frac{4{,}991}{8{,}022}=\frac{X}{31 \text{ days}}$$

$$X=19.29 \text{ days}$$

Where 73,009 is the porpoise mortality projected through September 30, 1976; 81,031 is the mortality projected through October 31, 1976, and "X" is the number of days in October until the quota is reached.

In this example, the September calculation, based on data obtained through August 31, 1976, would indicate that the quota would be reached on October 20, 1976. Fishing on porpoise would be prohibited on October 21, 1976 and for the rest of 1976. It should be emphasized that this is only an example and it would have been the third calculation of the projected closure date.

Public announcement of each calculation will be made. The effective date when fishing on porpoise will be prohibited will be published in the FEDERAL REGISTER not less than 7 days prior to that date. Section 216.24(d)(2)(i)(A) which now provides for a notice not less than 30 days prior to the date upon which the prohibition is to become effective would be amended by adoption of this proposal.

§ 216.24 [Amended]

Regulations published at 40 FR 56899, December 5, 1975 are proposed to be amended by deleting "30" and inserting "7" in the last sentence of § 216.24 (d)(2)(i)(A).

Dated, July 22, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-21690 Filed 7-26-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76N-0006]

ENFORCEMENT POLICY, PRACTICES AND PROCEDURES

Recall Policy and Procedures

Correction

In FR Doc. 76-18888 appearing at page 26924 in the issue for Wednesday, June 30, 1976, the following corrections should be made:

1. On page 26927, in the second column, in the second complete paragraph, the seventh line, the sentence starting with the word "Recently" and reading "Recently of a recall but is highly costly." should be deleted.

2. On page 26927, in the third column, in the second complete paragraph, sixth line, the words "on going" should read "ongoing."

3. On page 26929, in § 2.716(c), in the second line, delete "a" and insert the word "to" after the word "decide."

Social Security Administration

[20 CFR Parts 401 and 422]

[Regulations Nos. 1 and 22]

DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION; ORGANIZATION AND PROCEDURES

Release of Information by Title XVIII to Title XIX and CHAMPUS

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare.

The proposed amendments would permit the earliest possible exchange with an appropriate State or Federal agency of certain investigatory information, specifically:

(1) The name and address of any provider of medical services, organization, physician, or other individual being actively investigated for possible fraud in connection with title XVIII of the Social Security Act, and the nature of such suspected fraud. An active investigation exists when there is significant evidence supporting an initial complaint but there is need for further investigation; and

(2) The name and address of any provider of medical services, organization, physician, or other individual found, after consultation with an appropriate professional organization or a program review team, to have provided unnecessary services, or of any physician or other individual found to have violated assignment agreements on at least three occasions.

The information referred to in (1) and (2) above will be released by the Social Security Administration to Federal and State officials responsible for the investigation of fraud or abuse in programs funded by title XIX of the Social Security Act, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). This exchange of information would provide these agencies with information pertaining to all substantiated fraud cases and certain cases of program abuse.

Under current regulations, the Social Security Administration does not alert the title XIX agencies and CHAMPUS about title XVIII fraud and abuse cases until it refers such cases to the Department of Justice or to a State professional society or licensing board (see Regulation No. 1 § 401.3(u)(2) [20 CFR 401.3 (u)(2)] and Regulations No. 22 § 422.434 [20 CFR 422.434], as amended at 40 FR 27648 et seq.). During the period elapsing between the initiation of an investigation connected with the title XVIII program and referral of information to an agency administering the title XIX program or CHAMPUS, a suspect could have successfully defrauded the title XIX program or CHAMPUS. It would be in the mutual interest of all concerned to effectuate an earlier exchange of information. This data exchange would serve to alert other agencies involved that a provider, physician, or supplier of services is under investigation for various categories of fraud or abuse. The other agencies could then either begin an investigation themselves or institute additional review of bills received from the suspected individuals or providers. The title XVIII and title XIX programs and CHAMPUS can be alerted to the possibility of potential violations and can take action to ensure against program fraud and abuse by the same violator. Agreements would specify that the data could be released only to the agency's enforcement branch and that the agency would preserve the confidentiality of the data received and would not be permitted to disclose such data for other than program purposes.

The procedure we propose should help to meet a clear need for greater coordination between the title XVI and title XIX programs with respect to investigations of fraud and abuse, a need also noted in reports of the General Accounting Office.

The disclosures proposed in these amendments to the regulations are ex-

cepted from the consent requirement of the Privacy Act of 1974 as a disclosure for a routine use (5 U.S.C. 552a(b)(3)). The application of such an exception requires publication in the FEDERAL REGISTER of notice of such use as a routine use 30 days prior to such use (5 U.S.C. 552a(c)(4)). This requirement will be met by a proposed revision of the list of routine uses of the appropriate system of records to be published in the FEDERAL REGISTER at the earliest practicable date after the rulemaking period. The proposed revision states that in the event the system of records maintained by the Social Security Administration to carry out its program integrity and fraud operations indicates a violation or potential violation of title XVIII of the Social Security Act, the relevant records in the system of records may be referred, as a routine use, to the appropriate State or Federal agency, to assist the Social Security Administration in taking action against title XVIII fraud or abuse or to assist such State or Federal agency in taking enforcement action against fraud or abuse in the title XIX program or CHAMPUS, as appropriate.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, P.O. Box 1585, Baltimore, Maryland 21203, on or before August 26, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, and 1106 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 42 U.S.C. 405, 1302 and 1306.

(Catalog of Federal Domestic Assistance Program No. 13.800–13.803 Social Security Programs.)

Dated: March 29, 1976.

J. B. CARDWELL,
Commissioner of the Social Security.

Approved: July 16, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 401 and 422 of Chapter III of Title 20 of the Code of Federal Regulations are amended as set forth below:

1. In § 401.3 between paragraphs (s) and (u) a new paragraph (t) is added to read as follows:

§ 401.3 Disclosure of information relating to individuals.

* * * * *

(t) To any officer or employee of an agency of the Federal or a State government lawfully charged with the duty of conducting an investigation or prosecution with respect to possible fraud or abuse against a program receiving grants-in-aid under title XIX of the Social Security Act, but only for the purpose of conducting such an investigation or prosecution, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), the following information, provided that such agency has filed an agreement with the Social Security Administration that the information will be released only to the agency's enforcement branch and that the agency will preserve the confidentiality of the information received and will not disclose such information for other than program purposes:

(1) The name and address of any physician or other individual being actively investigated for possible fraud in connection with title XVIII of the Social Security Act, and the nature of such suspected fraud. An active investigation exists when there is significant evidence supporting an initial complaint but there is need for further investigation.

(2) The name and address of any physician or other individual found, after consultation with an appropriate professional association or a program review team, to have provided unnecessary services, or of any physician or other individual found to have violated the assignment agreement on at least three occasions.

* * * * *

2. Section 422.434 is revised by adding a new paragraph (c) to read as follows:

§ 422.434 Release of title XVIII information to State and Federal agencies.

* * * * *

(c) The following information may be released to any officer or employee of an agency of the Federal or a State government lawfully charged with the duty of conducting an investigation or prosecution with respect to possible fraud or abuse against a program receiving grants-in-aid under title XIX of the Social Security Act, but only for the purpose of conducting such an investigation or prosecution, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), provided that such agency has filed an agreement with the Social Security Administration that the information will be released only to the agency's enforcement branch and that the agency will preserve the confidentiality of the information received and will not disclose such information for other than program purposes:

(1) The name and address of any provider of medical services, organization, or other person being actively investigated for possible fraud in connection with title XVIII of the Social Security Act, and the nature of such suspected fraud. An active investigation exists when there is significant evidence supporting an initial complaint but there is need for further investigation.

(2) The name and address of any provider of medical services, organization, or other person found, after consultation with an appropriate professional association or a program review team, to have provided unnecessary services, or of any physician or other individual found to have violated the assignment agreement on at least three occasions.

[FR Doc.76-21572 Filed 7-26-76;8:45 am]

[20 CFR Parts 404, 405, 410, 416]

[Regulations Nos. 4, 5, 10, 16]

PROGRAMS ADMINISTERED BY THE SOCIAL SECURITY ADMINISTRATION

Time Limitations for Appeals Council Review

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. Pub. L. 94-202, enacted January 2, 1976, provided for a uniform time period of 60 days for requesting a hearing under all programs administered by the Social Security Administration. The legislatve history indicates Congressional intent that, insofar as practicable, the time period for appealing a decision from one level of administrative review to the next for programs administered by the Social Security Administration, be made uniform. These proposed amendments, which involve primarily the Appeals Council level of administrative review, are part of the Social Security Administration's efforts to achieve this uniformity. Interested parties will have 30 days from the date of this Notice of Proposed Rule Making is published in the FEDERAL REGISTER within which to submit any data, comments, or arguments.

The time period for requesting Appeals Council review of a hearing decision, or dismissal of a request for hearing, is made uniform at 60 days after the date of receipt of notice of the hearing decision or dismissal under all programs. The time period is increased under the Supplemental Security Income Program from 30 to 60 days, and, in all other programs, is changed from 60 days from the date of mailing of notice of the decision or dismissal to 60 days after the date of receipt of such notice, with a presumption of receipt within 5 days of the date of the notice. Regulations affected by these changes are §§ 404.946, 405.1562, 410.661, and 416.1462.

The time period within which the Appeals Council may review a hearing decision or dismissal of a request for hearing on its own motion is made uniform at 60 days under all programs. The own motion time period is reduced from 90 days to 60 days under all programs except that under title XVI, the own mo-

tion time period is increased from 30 days to 60 days. Regulations affected by these changes are §§ 404.947, 410.662, and 416.1463.

The time period within which a party may request vacation of a dismissal of a request for hearing is made uniform at 60 days after the date of receipt of the notice of dismissal under all programs. Previously the time period had been 6 months under title II and the black lung program, and 30 days under title XVI. Regulations affected by this change are §§ 404.938, 405.1556, 410.653, and 416.1454.

The time period within which a substitute party may request that the presiding officer preceed with the hearing where the original party has died is made uniform at 60 days under all programs. Previously, the period involved was 6 months from the date of mailing notice of a reconsideration determination or 3 months from the date of mailing notice of a dismissal of a request for hearing under all programs, except for the XVI where the time period was 30 days. Regulations affected by this change are §§ 404.937, 410.650, and 416.1451.

Prior to final adoption of the proposed amendments to the regulations consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before August 26, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 1631, 1869, and 1871 of the Social Security Act, as amended, and section 413b of the Federal Coal Mine Health and Safety Act; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 86 Stat. 1475, 79 Stat. 330, 79 Stat. 331, 83 Stat. 794; 42 U.S.C. 405, 421(d), 1302, 1383, 1395ff, 1395hh, and 30 U.S.C. 923(b).

(Catalog of Federal Domestic Assistance Programs No. 13.800—Health Insurance for the Aged and Disabled—Hospital Insurance; 13.801, Health Insurance for Aged and Disabled—Supplementary Medical Insurance; 13.802, Social Security—Disability Insurance; 13.803, Social Security—Retirement Insurance; 13.804, Social Security—Special Benefits for Persons Aged 72 and Over; 13.805, Social Security—Survivors Insurance; 13.806, Special Benefits for Disabled Coal Miners; 13.807, Supplemental Security Income for the Aged, Blind, and Disabled.)

Dated: June 29, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 21, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Chapter III of title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 404.937, the introductory text and paragraph (d) are amended to read as follows:

§ 404.937 Dismissal for cause.

The presiding officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

* * * * *

(d) *Death of party.*—Where the party who filed the hearing request dies and there is no information before the presiding officer or the Social Security Administration showing that an individual who is not a party may be prejudiced by the Social Security Administration's determination which is the subject of the request for hearing: *Provided,* That if within 60 days after the date notice of such dismissal is mailed to the original party at his last known address any such other individual states in writing that he desires a hearing on such claim and shows that he may be prejudiced by the Social Security Administration's initial determination, then the dismissal of the request for hearing shall be vacated.

2. Section 404.938 is amended to read as follows:

§ 404.938 Vacation of dismissal of request for hearing.

A presiding officer or the Appeals Council may vacate any dismissal of a request for hearing at any time for good cause shown and at the request of the party filed within 60 days after the date of receipt of such dismissal. For purposes of this section, the date of receipt of the dismissal notice shall be presumed to be 5 days after the date of such notice unless there is a reasonable showing to the contrary. In any case where a presiding officer has dismissed the hearing request, the Appeals Council may, on its own motion, within 60 days after the mailing of such notice, review such dismissal and may, in its discretion, vacate such dismissal.

3. Section 404.946 is revised to read as follows:

§ 404.946 Time and place of filing request.

The request for review shall be made in writing and filed with an office of the Social Security Administration, or in the case of an individual in the Philippines, with the Veterans' Administration Regional Office in the Philippines, or with a presiding officer or the Appeals Council, or, in the case of an individual having 10 or more years of service in the railroad industry (see Subpart 0 of this part) or an individual entitled to an annuity on the basis of an award under the Railroad Retirement Act prior to October 30, 1951, who requests in writing review with respect to his application to establish a period of disability under section 216(i) of the Act, at an office of the Railroad Retirement Board. Such request shall be accompanied by whatever documents or other evidence the party desires the Appeals Council to consider in its review. The request for review must be filed within 60 days after the date of receipt of the notice of the presiding officer's decision or dismissal, except as provided in § 404.612 or § 404.954. For purposes of this section, the date of receipt of notice of the presiding officer's decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

4. Section 404.947 is amended to read as follows:

§ 404.947 Action by Appeals Council on review.

The Appeals Council may dismiss (see § 404.952) or, in its discretion, deny or grant a party's request for review of a presiding officer's decision, or may, on its own motion, within 60 days after the date of the notice of such decision, reopen such decision for review or for the purpose of dismissing the party's request for hearing for any reason for which it could have been dismissed by the presiding officer (see §§ 404.935 through 404.937). Notice of the action by the Appeals Council shall be mailed to the party at his last known address.

5. In section 405.1562, paragraph (a) is amended to read as follows:

§ 405.1562 Time and place of filing requests for review.

(a) The request for review shall be made in writing and filed with the Appeals Council. The request shall be accompanied by whatever additional documents or other evidence the requesting party desires the Appeals Council to consider in its review and must be filed within 60 days after the date of receipt of notice of the presiding officer's dismissal or decision except where the time is extended for good cause. For purposes of this section, the date of receipt of notice of the presiding officer's dismissal or decision shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

* * * * *

6. In section 410.650, the introductory text and paragraph (d) are revised to read as follows:

§ 410.650 Dismissal for cause.

The presiding officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

* * * * *

(d) *Death of party.*—Where the party who filed the hearing request dies and there is no information before the presiding officer or the Social Security Administration showing that an individual who is not a party may be prejudiced by the Social Security Administration's determination which is the subject of the request for hearing: *Provided,* That if, within 60 days after the date notice of such dismissal is mailed to the original party at his last known address any such other individual states in writing that he desires a hearing on such claim and shows that he may be prejudiced by

the Social Security Administration's initial determination, then the dismissal of the request for hearing shall be vacated.

7. Section 410.653 is revised to read as follows:

§ 410.653 Vacation of dismissal of request for hearing.

A presiding officer or the Appeals Council may, on request of the party and for good cause shown, vacate any dismissal of a request for hearing at any time within 60 days after the date of receipt of the notice of dismissal by the party requesting the hearing at his last known address. For purposes of this section, the date of receipt of the dismissal notice shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary. In any case where a presiding officer has dismissed the hearing request, the Appeals Council may, on its own motion, within 60 days after the mailing of such notice, review such dismissal and may, in its discretion vacate such dismissal.

8. Section 410.661 is amended to read as follows:

§ 410.661 Time and place of filing request.

The request for review shall be made in writing and filed with an office of the Social Security Administration, or with a presiding officer, or the Appeals Council. Such request shall be accompanied by whatever documents or other evidence the party desires the Appeals Council to consider in its review. The request for review must be filed within 60 days after the date of receipt of notice of the presiding officer's decision or dismissal, unless the time is extended as provided in § 410.669. For purposes of this section, the date of receipt of notice of the presiding officer's decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

9. Section 410.662 is amended to read as follows:

§ 410.662 Action by Appeals Council on review.

The Appeals Council may dismiss (see § 410.667) or, in its discretion, deny or grant a party's request for review of a presiding officer's decision, or may, on its own motion, within 60 days after the date of the notice of such decision, reopen such decision for review or for the purpose of dismissing the party's request for hearing for any reason for which it could have been dismissed by the presiding officer (see §§ 410.648 through 410.650). Notice of the action by the Appeals Council shall be mailed to the party at his last known address.

10. In section 416.1451, introductory text and paragraph (d) are revised to read as follows:

§ 416.1451 Dismissal for cause.

The presiding officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

* * * * *

(d) *Death of party.*—Where the party who filed the request for hearing dies and there are no other parties and there is no information before the Social Security Administration or the presiding officer showing the existence of an eligible spouse or person contending to be an eligible spouse or if there is such a person, the person has stated in writing that he does not wish to proceed with the hearing. The dismissal shall be vacated where an eligible spouse or person contending to be an eligible spouse requests in writing such vacation (within 60 days after receipt of the dismissal notice) and shows that he may be prejudiced by the reconsidered determination or initial determination, where applicable. For the purposes of this section, the date of receipt of the dismissal notice shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

11. Section 416.1454 is revised to read as follows:

§ 416.1454 Vacation of dismissal of requests for hearing.

A presiding officer of the Appeals Council may vacate any dismissal of a request for hearing at any time for good cause shown and at the request of the party filed within 60 days after the date of receipt of the notice of such dismissal. For purposes of this section, the date of receipt of such dismissal notice shall be presumed to be 5 days after the date of such notice, unless there is reasonable showing to the contrary. In any case where a presiding officer has dismissed the hearing request, the Appeals Council may, on its own motion, within 60 days after the date of such notice, review such dismissal and may, in its discretion, vacate such dismissal and remand the case for hearing, except where it decides to render a fully favorable decision.

12. Section 416.1462 is revised to read as follows:

§ 416.1462 Time and place of filing request.

(a) The request for review shall be in writing and filed with any office of the Social Security Administration, including a hearing office, or with the Appeals Council. The request shall be accompanied by such documents or other evidence the party desires to be considered on review. The request for review must be filed within 60 days after the date of receipt of the notice of the decision or dismissal. For purposes of this section, the date of receipt of notice of the decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary. The time for filing such requests may be extended for cause shown as provided in § 416.1473.

(b) Where a consolidated hearing is conducted, as provided in § 416.1436, the request must be filed within 60 days after the date of receipt of notice of the decision in the manner and place as set forth in paragraph (a) of this section. The time for filing such request may be extended for cause shown as provided in § 404.954 and § 416.1473 of this chapter.

13. Section 416.1463 is revised to read as follows:

§ 416.1463 Appeals Council own motion review.

The Appeals Council may, on its own motion, within 60 days after the date of the notice of a decision, reopen a decision for review or for the purpose of dismissing the party's request for hearing for any reason for which it could have been dismissed by the presiding officer (see §§ 416.1449 through 416.1451). Notice of the action by the Appeals Council shall be mailed to the party at his last known address. Where a consolidated hearing is conducted, as provided in § 416.1436, the Appeals Council shall consider such cases at the same time and the Appeals Council action on such consolidated cases shall be in accordance with the appropriate procedures in accordance with Subpart J of Part 404, Subpart G of Part 405, or Subpart F of Part 410 of this Chapter.

14. Section 405.1556 is revised to read as follows:

§ 405.1556 Vacation of dismissal of request for hearing.

On the request of a party filed within 60 days after the date of receipt of the notice of dismissal, a presiding officer or the Appeals Council may, for good cause shown, vacate any dismissal of a request for hearing. For purposes of this section, the date of receipt of the notice of dismissal shall be presumed to be 5 days after the date of such notice unless there is a reasonable showing to the contrary.

[FR Doc.76-21708 Filed 7-26-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2226]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of Kutztown, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Kutztown, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the

statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Foyer of Borough Hall, 211 West Main Street, Kutztown, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Donald A. Buchman, Borough Hall, 211 West Main Street, Kutztown, Pennsylvania 19530. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Saeony Creek	Northwest corporate limit	395	160	100
	Krumsville Rd	398	60	180
	West Main St	404	300	520
	Normal Ave	406	400	700
	Southeast corporate limit	406	780	280

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: June 29, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21500 Filed 7-26-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2224]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of McKees Rocks, Allegheny County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of McKees Rocks, Allegheny County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevation (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the second floor in the Borough Building, Bell and Linden Streets, McKees Rocks.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John C. Kyle, Jr., Borough Building, Bell & Linden Streets, McKees Rocks, Pennsylvania 15136. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Ohio River	Pitt and L.E. RR	726	2,045	(1)
	River Ave	726	760	(1)
	Downstream corporate limit	725	30	(1)
Chartiers Creek	Upstream corporate limit	734	70	(1)
	Wind Gap Rd	733	75	(1)
	McKee St. (extended)	729	950	(1)
	Carson St		785	(1)

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 2, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21504 Filed 7–26–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2223]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of North York, York County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of North York, York County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, 1040 North George Street, York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Emerson D. Portner, Municipal Building, 1040 North George Street, York, Pennsylvania 17404. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Codorus Creek	Corporate limits (downstream)	363	130	(1)
	Interstate 83	363	80	(1)
	Corporate limits (upstream)	363	100	(1)

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: June 29, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21502 Filed 7–26–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2222]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of Swarthmore, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 § 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Swarthmore, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other informtion showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Library located in the Borough Administration Building, 121 Park Avenue, Swarthmore.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Charles H. Topping, Swarthmore Borough Manager, Borough Administration Building, 121 Park Avenue, Swarthmore, Pennsylvania 19081. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 120-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Crum Creek	South corporate limits	50	300	(1)
	Yale Ave	56	100	(1)
	Crum Ledge Lane (extended)	65	350	(1)
	Conrail	67	70	(1)
	North corporate limits	72	10	(1)
Little Crum Creek	Yale Ave	100	380	110
	Harvard Ave	101	70	120
	Amherst Ave	102	60	120

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 2, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21501 Filed 7-26-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2183]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Moberly, Missouri

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Moberly, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Moberly, Missouri must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 109 North Clark, Moberly, Missouri 65270.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Lionel S. Thompson, City Hall, 109 N. Clark, Moberly, Missouri 65270. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Sweet Spring Creek Tributary 1.	Fisk Ave	786	20	210
	Holman Rd	804	80	100
	Emerson St	819	60	55
	Franklin St	833	150	10
Coon Creek	Highway 63	818	170	120
	St. Charles St	833	20	190
	Bertley St	843	120	160
	Ault St	857	90	80
Coon Creek Tributary 7.	Fulton St	845	20	90
	Franklin St	855	30	70
Coon Creek	Gratz-Brown Streets	829	40	120

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: June 11, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-21503 Filed 7-26-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2225]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Township of Lower Allen, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Lower Allen, Cumberland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at Gorgas Hall, Township Building, 1993 Hummel Avenue, Lower Allen.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify R. Furman Hawley, President of the Board of Commissioners of Lower Allen Township, 1993 Hummel Avenue, Camp Hill, Pennsylvania 17011. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Breeches Creek	Upstream corporate limits	375	450	(1)
	Route 114	371	500	(1)
	Sheepford Rd	358	460	(1)
	Upstream from State correctional institution.	343	160	(1)
	Downstream from State correctional institution.	333	100	(1)
	Downstream from corporate limits	317	350	(1)

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 2, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21499 Filed 7-26-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 81, 83]

[Docket No. 20880; FCC 76-668]

LICENSEES OF VESSELS TO PROVIDE A SERVICE OF PUBLIC CORRESPONDENCE FOR THEIR PASSENGERS AND CREW

Notice of Proposed Rulemaking

1. Notice of Proposed Rulemaking in the above-entitled matter is hereby given.

2. Section 83.304 of the Commission's rules states that a public ship station shall provide a service of public correspondence to any person on board the vessel, without discrimination and upon reasonable demand. Over the years, the Commission has periodically received complaints from crew members stating that the captain or master of a vessel has refused a crew member access to the ship's radio station. In our response to these complaints, we have reiterated the requirements of § 83.304 of the rules, and in most cases the complaints have been resolved satisfactorily.

3. In investigating this matter further, it is felt that one of the causes of this problem is the ambiguity of the present rules. It appears that the present criteria for determining whether a ship station is "public" or "limited" is unsatisfactory.

4. Section 83.3(f) presently defines a public ship station as being a "ship station open to public correspondence". It then goes on to state that "public ship stations authorized for public correspondence are further classified according to their hours of service". The definition then describes the four categories of vessels as they pertain to the "hours of service" requirements contained in the international radio regulations. § 83.3(g) defines a limited ship station as a "ship station not open to public correspondence".

5. It is felt that the choice of language of these rules is unduly vague and confusing. For example, the phrase "public ship stations authorized for public correspondence" appears to be reiterative, and the converse of this statement (ship stations not authorized for public correspondence) leads to a contradiction of the original definition. The classification of public ship stations in the definition is misleading since these four categories apply only to radiotelegraph equipped vessels, whereas the definitions of public and limited ship stations apply to both radiotelephone and radiotelegraph equipped vessels.

6. Section 83.301 of the rules states that an applicant for an authorization to operate a limited ship station must request a frequency assignment on which the transmission of public correspondence is excluded; and, an applicant for a public ship station must request a fre-

quency assignment on which the transmission of public correspondence is not excluded. This is similar to the procedure used in licensing limited and public coast stations under Part 81 of the rules.

7. Notwithstanding § 83.301, the present procedure for licensing ship stations is for the applicant to indicate on the application form, the frequency band(s) on which he intends to operate (i.e., 1600 to 4000 kHz, 4000 to 23000 kHz, 156 to 158 MHz on FCC Form 502). Once the license is issued, the ship station is authorized to operate on any frequency within the band(s) indicated. Since public correspondence frequencies are available in each of the bands specified on the application forms, it could be construed that all ship stations authorized by this procedure are public ship stations. Therefore, limited ship stations, it would appear, are nonexistent.

8. It has never been the Commission's intention to require every ship station to provide public correspondence service for its passengers and crew. It is felt that the authority to utilize public correspondence channels should not in itself carry with it the requirement to provide a radio communication service to anyone on board the vessel. This is especially true in view of the large number of pleasure craft, ferries and small fishing boats that are radio equipped.

9. It is proposed that specific classes of vessels be designated, namely those required to comply with the radiotelegraph and radiotelephone requirements of Title III, Part II of the Communications Act, which will be required to provide public correspondence service for their passengers and crew on voyages of more than 24 hours. It is felt that requiring these vessels to perform this service is in the public interest, since many of these vessels are engaged on extended voyages and it is felt that the passengers and crew under these conditions have a legitimate need to use the ship's radio facilities.

10. It is further proposed that the terms "public ship station" and "limited ship station" be deleted from the rules. It is felt that the unqualified term "ship station" is more appropriate in view of our present licensing procedure. Consequently, the definition of marine-utility station was also amended to reflect this change.

11. The proposed amendments to the rules as set forth in the Appendix are issued pursuant to the authority contained in section 4(i), 303 (a), (b), (c) and (r) of the Communications Act of 1934, as amended.

12. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 30, 1976, and reply comments on or before September 9, 1976. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

13. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: July 14, 1976.

Released: July 27, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

In Section 81.3, paragraphs (l) and (m) are deleted and reserved, and paragraph (n) is revised, as follows:

§ 81.3 Maritime mobile service.

* * * * *

(l) [Reserved]

(m) [Reserved]

(n) *Marine-utility station.* A station which consists of one or more portable radiotelephone units licensed under one station authorization to operate as a ship station, or a limited coast station authorized to operate at unspecified points ashore.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.3, subparagraphs (f), (g), (h) and (i) are revoked and reserved, and subparagraph (j) is revised, as follows:

§ 83.3 Maritime mobile service.

* * * * *

(f) [Reserved]

(g) [Reserved]

(h) [Reserved]

(i) [Reserved]

(j) *Marine-utility station.* A station which consists of one or more portable radiotelephone units licensed under one station authorization to operate as a ship station, or a limited coast station authorized to operate at unspecified points ashore.

* * * * *

2. In § 83.22, subparagraphs (a) and (b) are revised, and subparagraphs (c) and (d) are deleted and reserved, as follows:

§ 83.22 Administrative classification of stations.

(a) Stations in the maritime mobile service subject to this part are licensed according to the class of station normally as designated below:

(1) Ship stations.

(2) Marine utility stations.

(3) Survival craft stations.

(b) Ship stations employing telegraphy are divided into four categories for the international public correspondence service by the international radio regulations (see Art. 25).

(c) [Reserved]

(d) [Reserved]

* * * * *

§ 83.107 [Amended]

3. Section 83.107 is amended by deleting the word "public" where it appears before the words "ship station" in paragraph (a).

4. Section 83.159 is amended to read as follows:

§ 83.159 Operator requirements for noncompulsory stations.

Description of station	*Minimum operator authorization*
Ship telegraph	T–2 or TLT
Ship telephone, more than 250 watts carrier power or 1000 watts peak envelope power	P–2
Ship telephone, not more than 250 watts carrier power or 1000 watts peak envelope power	P–3
Ship telephone, not more than 100 watts carrier power or 400 watts peak envelope power	RP
Marine-utility	RP
Ship radiolocation-test, using radar only	P–2, with ship-radar endorsement.

5. Section 83.301 is revised to read as follows:

§ 83.301 Supplemental eligibility requirements.

A ship station may be granted only to the owner or operator of the vessel, or to a subsidiary communications corporation of the owner or operator of the vessel, for which the station authorization is requested; or state or local government subdivision; or any agency of the Federal Government which is subject to the provisions of section 301 of the Communications Act.

6. Section 83.302 is revised to read as follows:

§ 83.302 Points of communication.

Subject to the conditions and limitations imposed by the terms of the particular station license or by applicable provisions of this part with respect to the use of particular radio-channels, ship stations and marine-utility stations on board ships are authorized to communicate with any station in the maritime mobile service including such other classes of stations as may be appropriately authorized in accordance with the provisions of this part for such communications.

7. Section 83.304, headnote and text, are revised to read as follows:

§ 83.304 Service requirements for Title III, Part II vessels.

Each ship station provided for compliance with Part II of Title III of the Communications Act shall, without discrimination and upon reasonable de-

mand, provide a service of public correspondence on voyages of more than 24 hours for any person who, while on board in any status requests the service covering any subject matter that legally may be transmitted by radio.

(a) Vessels subject to the radiotelegraph requirements of Part II of Title III shall provide this service during the hours the radio operator is normally on duty.

(b) Vessels subject to the radiotelephone requirements of Part II of Title III shall provide this service for at least four hours daily. The hours shall be designated by the station licensee or the master of the vessel, and shall be prominently posted at the principal operating location of the station.

§ 83.305 [Reserved]

8. Section 83.305 is deleted and reserved.

§ 83.371 [Amended]

9. Section 83.371 is amended by deleting the word "public" where it appears before the words "ship station" in the first sentence.

§ 83.372 [Amended]

10. Section 83.372 is amended by deleting the word "public" where it appears before the words "ship station" in the first sentence.

[FR Doc.76-21712 Filed 7-26-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

TEST PROCEDURES FOR THE ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Room Air Conditioners and Notice of Hearing and Publication Delay

The Federal Energy Administration (FEA) hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). The FEA will receive written comments and hold a public hearing with respect to this proposal. FEA is also giving notice of its determination, pursuant to section 323(b) of the Act, that it cannot, within the statutory time period, publish certain proposed test procedures.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances", in Chapter II of Title 10 of the Code of Federal Regulations. That notice contained the first proposed regulations applicable to the appliance program. That notice proposed a Subpart A to Part 430, containing general provisions, and a Subpart C, containing proposed energy efficiency improvement targets. Proposed Subparts A and C have not yet been finalized. Today's notice proposes to add Subpart B, entitled "Test Procedures," to proposed Part 430.

Part B of Title III of the Act mandates the implementation of an energy conservation program for consumer products other than automobiles (appliances). As part of this program, FEA is required to prescribe energy efficiency improvement targets for covered products, which are specified types of appliances in the Act. The targets are to be designed to encourage maximum feasible improvement in the energy efficiency of appliances. FEA has proposed energy efficiency improvement targets for ten types of covered products (41 FR 19977, May 14, 1976) and has held public hearings and received written comments on such proposals. The May 14 notice on targets contains definitions in proposed § 430.2, some of which are applicable to the test procedures proposed today.

Part B of Title III of the Act also requires FEA, with the assistance of the National Bureau of Standards (NBS), to prescribe test procedures for covered products under the Act. These test procedures will be used by the Federal Trade Commission in prescribing product labeling rules. Required labels will be designed to provide consumers with energy information essential to making an informed judgment in the purchase of appliances. Under certain circumstances energy efficiency performance standards may be prescribed by FEA.

Section 323(a)(3) of the Act requires that, not later than June 30, 1976, FEA shall publish proposed test procedures for the following types of covered products: Refrigerators and refrigerator-freezers, freezers, dishwashers, clothes dryers, water heaters, room air conditioners, and television sets. Section 323(a)(6) of the Act, however, provides that FEA may delay the publication of proposed test procedures for a type of covered product (or class thereof) beyond the required dates for publication if it determines that it cannot, within the applicable time period, publish proposed test procedures applicable to such type (or class thereof) which meets the requirements of subsection 323(b) and publishes such determination in the FEDERAL REGISTER.

FEA is today proposing test procedures for room air conditioners. Additionally, FEA is giving notice of its determination that it could not by June 30, 1976, publish proposed test procedures applicable to refrigerators and refrigerator-freezers, freezers, dishwashers, clothes dryers, water heaters, and television sets which meet the requirements of subsection 323(b) and, therefore, will, pursuant to section 323(a)(6) delay the publication of proposed test procedures for such products. FEA will publish proposed test procedures for such products as soon as practicable, unless it determines that test procedures cannot be developed which meet the requirements of subsection 323(b) and publishes such determination in the FEDERAL REGISTER, together with the reasons therefor.

Section 323(a)(3) requires that FEA shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures, such comment period to be not less than 45 days.

Section 323(a)(4) of the Act requires that, not later than September 30, 1976, FEA shall prescribe test procedures for the determination of (1) estimated annual operating costs of all consumer products of each of the types specified above, and (2) at least one other measure of energy consumption of such products which FEA determines is likely to assist consumers in making purchasing decisions.

Further, section 323(b) of the Act requires that such test procedures be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost during a representative average use cycle (as determined by FEA), and shall not be unduly burdensome to conduct; and, if the test procedure is one for determining estimated annual operating costs, such procedure shall be calculated from measurements of energy use in a representative average use cycle (as determined by FEA), and from representative average unit costs of the energy needed to operate the product during the cycle. FEA's determination of the representative average use cycle for room air conditioners is set forth below. Representative average unit costs of the energy needed to operate covered products during their respective cycles will be developed by FEA and supplied to manufacturers and the Federal Trade Commission before the effective date of the prescribed test procedures.

Section 321 of the Act defines certain terms used in section 323 as follows:

* * * * *

"(4) The term 'energy use' means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

"(5) The term 'energy efficiency' means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

"(6) The term 'estimated annual operating cost' means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323."

Pursuant to section 323(c) of the Act, effective 90 days after a test procedure rule applicable to a covered product is prescribed under section 321, no manufacturer, distributor, retailer, or private labeler may make any representation (1) in writing (including a representation on a label) or (2) in any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedures and such representation fairly discloses the results of such testing.

Pursuant to section 323(b)(1) of the Act, FEA issued a Notice of Opportunity for Comment (41 FR 3121, January 21, 1976) to afford interested persons an opportunity to present written data, views, and arguments with respect to

test procedures to be developed for consumer products of each of the types specified in paragraphs (1) through (13) of section 322(a) of the Act. Eighteen comments were received in response to the FEDERAL REGISTER Notice of January 21, 1976. Sixteen of these responses were from either industry trade associations or individual manufacturers. These comments addressed not only the development of test methods for consumer products, but the development of energy efficiency improvement targets, labeling, and consumer education. Most remarks addressing test procedure development encouraged the adoption of the procedures developed under the Department of Commerce Voluntary Labeling Program. For test procedures not developed under the voluntary program, FEA was encouraged to adopt either existing or proposed industry test procedures. An alternative to the Association of Home Appliance Manufacturers (AHAM) test procedures was recommended for refrigerators and refrigerator-freezers, and two different procedures were recommended for television receivers.

Section 323(a)(2) of the Act requires FEA to direct NBS to develop test procedures for the determination of the estimated annual operating costs of thirteen types of covered products and at least one other useful measure of energy consumption of such products which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS was requested to evaluate existing test procedures for measuring energy consumption of the covered products for which test procedures are proposed today. NBS has submitted to FEA its recommendations based upon its evaluations, and copies of such recommendations will be made available for inspection by interested persons as provided for later in this notice.

It is proposed that measures of energy consumption of room air conditioners be determined by application of two nationally recognized standards, (1) American National Standard (ANS) Z234.1–1972, "Room Air Conditioners," and (2) American Society of Heating, Refrigerating and Air conditioning Engineers (ASHRAE) Standard 16–69, "Method of Testing for Rating Room Air Conditioners." Sections 4, 5, 6.1 and 6.5 of ANS Z234.1–1972 define the standard test conditions used to conduct cooling capacity and electrical input tests in accordance with the test methods as set forth in ASHRAE 16–69. These standards are recognized and used by room air conditioner manufacturers and trade associations and were adopted for use by NBS under the Department of Commerce's Voluntary Labeling Program. The NBS recommended adoption of the abovementioned standards for use in the Energy Conservation Program for Appliances, and FEA today is proposing a test procedure which applies these standards.

The proposed test procedure measures the cooling capacity in British thermal units (Btu's) per hour of a room air conditioner in a room calorimeter under the following standard temperature conditions:

Room Air Temperature: 80°F (26.7C) dry bulb, 67°F (19.5C) wet bulb.
Outside Air Temperature: 96°F (35.03) dry bulb, 75°F (23.9C) wet bulb.

The room air conditioner is operated under steady state conditions. Measurements of the cooling capacity in British thermal units (Btu's) per hour are made, and the corresponding electrical input in watts required to operate the unit is recorded.

Estimated average annual operating costs, an energy efficiency ratio (EER) and average annual energy consumption can be calculated based upon the determination of the cooling capacity and electrical input in accordance with the applicable portions of the ASHRAE and ANS standards.

The estimated average annual operating cost for room air conditioners is determined by multiplying together the electrical input, a representative average use cycle, and a representative average unit cost of energy. FEA has determined that the representative average use cycle for room air conditioners is 750 hours per year. This determination is based upon NBS's recommendation to FEA. NBS's recommendation is included in its submission to FEA of its general recommendation to FEA on test procedures for room air conditioners and, along with an NBS internal report on the subject, is available for inspection as provided for later in the notice.

The EER for room air conditioners is based upon the Department of Commerce Voluntary Labeling Program and is expressed as the ratio of the cooling capacity to electrical input. The average annual energy consumption for room air conditioners is the electrical input during 750 hours of use, the representative average use cycle for room air conditioners.

While FEA is soliciting comment on all aspects of its proposal, FEA is particularly interested in receiving comments on the following matters:

(1) Any other useful measures of energy consumption for room air conditioners in addition to those proposed today;

(2) Improvements on or alternatives to the requirements proposed in § 430.23 for units to be tested which will result in testing which will not be unduly burdensome or costly to conduct.

PUBLIC COMMENT AND HEARING PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed test procedures for room air conditioners set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box IB, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Room Air Conditioners—Proposed Test Procedures". Fifteen copies should be submitted. All comments received by September 10, 1976, before 4:30 p.m., e.s.t., and all other relevant information will be considered by FEA before final action is taken on the proposed regulation.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

A public hearing in this proceeding will be held at 9:30 a.m., on September 10, 1976 in Room 2105, 2000 M Street, NW., Washington, D.C. 20461 in order to receive comments from interested persons on the proposed test procedure for room air conditioners.

Any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, must make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., on August 27, 1976. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why she or he is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through September 10, 1976. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.s.t., August 31, 1976, and must submit 100 copies of his or her statement to FEA, Regulations Management, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., September 8, 1976.

FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a re-

buttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., September 8, 1976. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS's recommendations concerning test procedures for room air conditioners will also be made available for inspection at the FEA Freedom of Information Office.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

The National Environmental Policy Act of 1969 (NEPA) requires FEA to assess the environmental impacts of any proposal by the agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, the FEA has determined that the action of prescribing test procedures by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular No. A-107 and has been determined not to require evaluation of its inflationary impact as provided for therein.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations as proposed above.

(Energy Policy and Conservation Act, Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 F.R. 231851.)

Issued in Washington, D.C., July 22, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended to add a definition of the term "basic model," as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

(1)-(5) [Reserved]

(6) With respect to room air conditioners, having the identical rating for power input, in watts, electrical current, in amperes, and cooling capacity, in Btu's per hour.

2. Part 430 is amended by adding subpart B as follows:

Subpart B—Test Procedures

§ 430.21 Purpose and Scope.

This subpart contains test procedures required to be prescribed by FEA pursuant to section 323 of the Act.

§ 430.22 Test Procedures for Measures of Energy Consumption.

(a)-(e) [Reserved]

(f) *Room air conditioners.* (1) The estimated average annual operating cost for room air conditioners, expressed in dollars per year, shall be determined by multiplying together the following three factors: (i) Electrical input in kilowatts as determined by the standards in § 430.22(f)(4), (ii) the representative average use cycle of 750 hours per year, and (iii) a representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy efficiency ratio for room air conditioners, expressed in British thermal units per watt-hour, shall be the quotient of the cooling capacity in British thermal units per hour as determined by the standards in § 430.22(f)(4) divided by the electrical input in watts as determined by the standards in § 430.22(f)(4), the resulting quotient then being rounded off to the nearest 0.1 British thermal unit per watt-hour.

(3) The average annual energy consumption for room air conditioners, expressed in kilowatt-hours per year, shall be determined by multiplying together the following two factors: (i) electrical input in kilowatts as determined by the standards in § 430.22(f)(4) and (ii) a representative average use cycle of 750 hours per year, the resulting product then being rounded off to the nearest kilowatt-hour per year.

(4) The standards for testing room air conditioners shall consist of application of the methods and conditions in American National Standard (ANS) Z234.1-1972, Room Air Conditioners, sections 4, 5, 6.1, and 6.5, and in American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 16-69, Method of Testing for Rating Room Air Conditioners, to samples selected pursuant to § 430.23.

§ 430.23 Units to be tested.

(a) Sufficient units of each basic model of each covered product, that are representative of manufactured units, shall be tested to provide a valid basis for the measurements of energy consumption pursuant to § 430.22.

(b) Basic models having dual ratings shall be separately tested at each design voltage.

[FR Doc.76-21790 Filed 7-23-76;10:18 am]

notices

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

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FISH FROM CANADA

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on April 1, 1976, alleging that payments or bestowals, conferred by the Government of Canada upon the exportation of certain fish from Canada constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Fish imports covered by this investigation are classifiable under items 110.-3560, 110.3565, and 110.5545, Tariff Schedules of the United States (TSUS).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)) the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant and a final decision within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than October 1, 1976, as to whether or not the alleged payments or bestowals, conferred by the Government of Canada upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than April 1, 1977.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended, (19 U.S.C. 1303(a)(3)) and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: July 22, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-21704 Filed 7-26-76;8:45 am]

[T.D. 76-204]

CERTAIN PLASTIC REELS USED FOR TRANSPORTATION OF RECORDING TAPES

Instruments of International Traffic

JULY 21, 1976.

It has been established to the satisfaction of the U.S. Customs Service that reels composed of polystyrene attached to a light metal core, measuring 10½ inches in outside diameter, manufactured in Decatur, Alabama, and used for the transportation of recording tape, are substantial, suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs regulations (19 CFR 10.41a(a)(1)), I hereby designate the above-described reels as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)). These articles may be released under the procedures set forth in § 10.41a, Customs regulations (19 CFR 10.41a). (101965) (BOR-7-07)

J. P. TEBEAU,
Director, Carriers, Drawback and Bonds Division.

[FR Doc.76-21728 Filed 7-26-76;8:45 am]

[T.D. 76-203]

CERTAIN STEEL RACKS USED FOR TRANSPORTATION OF LAWN MOWER HOUSINGS

Instruments of International Traffic

JULY 21, 1976.

It has been established to the satisfaction of the U.S. Customs Service that steel racks, measuring 52 inches in width by 44 inches in length, painted green and used for the transportation of lawn mower housings, are substantial, suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs regulations (19 CFR 10.41a(a)(1)), I hereby designate the above-described steel racks as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)). These articles may be released under the procedures set forth in § 10.41a, Customs Regulations (19 CFR 10.41a). (102001) (BOR-7-07)

J. P. TEBEAU,
Director, Carriers, Drawback and Bonds Division.

[FR Doc.76-21727 Filed 7-26-76;8:45 am]

Office of the Secretary

TANTALUM ELECTROLYTIC FIXED CAPACITORS FROM JAPAN

Determination of Sales at Less Than Fair Value

Information was received on September 24, 1975, alleging that tantalum electrolytic fixed capacitors from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the U.S. Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of October 17, 1975 (40 FR 48702).

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of April 23, 1976 (41 FR 16983-4).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, tantalum electrolytic fixed capacitors from Japan other than those produced and sold by Matsushita Electric Industrial Co., Ltd., are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). In the case of tantalum electrolytic fixed capacitors from Japan produced and sold by Matsushita Electric Industrial Co., Ltd., I hereby exclude said merchandise from the determination.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

A. SCOPE OF THE INVESTIGATION

It appears that approximately 85 percent of the subject merchandise from Japan was produced and sold by either Matsuo Electric Co., Ltd., Nippon Electric Co., or Matsushita Electric Industrial Co., Ltd., all of Japan. Matsuo Electric and Nippon Electric produced and sold approximately 75 percent of the subject merchandise sold in the U.S. and originally the investigation was limited to those two producers. Matsushita Electric submitted a voluntary response in relation to the investigation and has been included in the scope of the investigation.

B. BASES OF COMPARISON

For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper bases of comparison are between the purchase price and the home market price, the exporter's sales price and home market price, or the exporter's sales price and constructed value of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used for export sales which were made to an unrelated United States purchaser. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used for export sales which were made to related United States purchasers. Home market price, as defined in

section 153.3, Customs Regulations (19 CFR 153.3.), was used in all comparisons where such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165), was used in those comparisons for which no such or similar merchandise was sold in the home market or to third countries.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31 (b)), pricing information was obtained concerning imports, home market sales, and the constructed value of tantalum electrolytic fixed capacitors from Japan during the 6-month period May 1 through October 31, 1975.

C. PURCHASE PRICE

For purposes of this determination of sales at less than fair value, all merchandise purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the f.o.b. foreign port price with deductions for inland freight and royalty payments.

D. EXPORTER'S SALES PRICE

For purposes of this determination of sales at less than fair value, all of the merchandise sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, within the meaning of section 204 of the Act, the exporter's sales price has been calculated on the basis of the price to unrelated original equipment manufacturers or distributors, delivered, in the United States. Deductions have been made for transportation and other charges to the United States and in Japan, royalty payments and selling expenses and commissions, as appropriate, incurred in the United States.

The transportation and other charges which have been deducted are ocean or air freight, marine insurance, brokerage fees, clearance fees, and United States duties.

E. HOME MARKET PRICE

For purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the weighted average delivered price to original equipment manufacturers or distributors, as appropriate. Adjustments have been made to the home market price of Matsuo Electric for the following home market expenses: credit, transportation, warranty, testing services, royalty payments, selling, and packing, as appropriate, in accordance with section 153.8, Customs Regulations (19 CFR 153.8). The adjustment for packing relates to the difference in packing costs between home market and export sales. The adjustments to the home market price of Nippon Electric included all of the above except for technical services and royalty payments. In addition, Nippon Electric was granted an adjustment for travel and advertising costs. The adjustments to the home market price of Matsushita Electric included a discount, inland freight, royalty payments, selling expenses, and packing.

Adjustments for differences in circumstances of sale in accordance with section 153.8, Customs Regulations (19 CFR 153.8), for credit costs, royalty payments, travel costs, and technical services were allowed as having a direct relationship to the sales under consideration. These adjustments are based on actual costs incurred in home market sales. An adjustment for advertising expenses was allowed, since such expenses for brochures and catalogs were attributable to later sales of the merchandise. The testing expenses relate to costs incurred by the manufacturer at the request of home market purchasers. The adjustment for selling expenses was made as an offset for selling expenses and commissions, as appropriate, deducted with regard to United States sales.

Nippon Electric made various claims for adjustments which have not been allowed. The company made claims for technical services and for testing expenses which have not been shown to be directly related to the sales under consideration and therefore have not been allowed. Also, Nippon Electric made a claim for an adjustment for incentive payments to distributors. However, those payments have not been documented and thus were not allowed. In addition, Nippon Electric made a claim for the deduction of all home market selling expenses. Those expenses have not been demonstrated as being directly related to the sales under consideration and therefore were not allowed beyond an amount as an offset for expenses and commissions incurred in the United States. Finally, Nippon Electric made a claim pursuant to section 153.7. Customs Regulations (19 CFR 153.7) for differences in quantities based upon a "learning experience" curve. That claim is based upon a theoretical argument but has not been related to actual cost savings based upon specific quantities. Consequently, the claim for differences in quantities has been rejected as not fulfilling the requirements for a quantity adjustment which are set forth in section 153.7(b) Customs Regulations (19 CFR 153.7).

Matsuo also made claims for adjustments which have not been allowed. The company made a claim for certain administrative expenses which do not bear a direct relationship to the sales in question. Thus, no adjustment has been made. Matsuo also made a claim for differences in quantities, but such claim has not been allowed because of lack of documentation.

F. CONSTRUCTED VALUE

For purposes of this determination of sales at less than fair value, constructed value was based on the cost of materials, including tooling costs, and the cost of fabrication with additions for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise which is made by producers in the country of exportation, in accordance with section 206 of the Act (19 U.S.C. 165). The addition for general expenses exceeded the statutory minimum. The amount added for profit was the statutory minimum of 8 percent of the sum of the general expenses and costs. Packing was included in the costs of materials and fabrication.

G. RESULT OF FAIR VALUE COMPARISONS

In the case of Matsuo Electric and Nippon Electric and using the above criteria, the exporter's sales price was found to be lower than the home market price of such or similar merchandise, and the purchase price was found to be higher than the home market price. Comparisons were made on virtually all of the tantalum electrolytic fixed capacitors sold by those firms in the United States during the period of investigation. Margins were found on 35 percent of the sales compared and their magnitude ranged from 0.2 to 139.7 percent. The weighted average margin on those sales at less than fair value was 37.3 percent.

In the case of Matsushita Electric, and using the above criteria, comparisons were made on 100 percent of the sales during the period of investigation and revealed that the exporter's sales price was higher than the home market price or constructed value in all except one comparison. The margin which was found amounted to under 0.01 percent when weighted over 100 percent of the sales and the margin has been determined to be *de minimis* in terms of the volume of sales involved. On the basis of the foregoing, it has been determined that Matsushita Electric Industrial Co., Ltd. should be excluded from this determination of sales at less than fair value.

Nippon Electric requested that the determination made herein be severed between Series D (epoxy dipped) and Series H (hermetically sealed) tantalum electrolytic fixed capacitors. Nippon Electric, whose sales of both Series D and Series H were examined, was found not to have sales at less than fair value with respect to the Series D type. The company contended that each type or series of tantalum electrolytic fixed capacitor is used for different purposes and made to different specifications and therefore should be treated separately for purposes of this determination.

The U.S. Customs Service, however, examined at least three different types of tantalum electrolytic fixed capacitors during the course of the fair value investigation. As a result of that investigation, it has been concluded that there is no basis for the segmentation of this determination in accordance with the claim of Nippon Electric. Each type of tantalum electrolytic fixed capacitor is clear a part of the same class or kind of merchandise and therefore should be treated as such for purposes of this determination.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

JULY 22, 1976.

[FR Doc.76-21705 Filed 7-26-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL WEAPONS CENTER ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), Notice is given that the Naval Weapon Center Advisory Committee will meet on September 23 and 24, 1976, at the facilities of the Naval Weapons Center, China Lake, California 93555. Sessions of the meeting will commence at 8:00 a.m. and 1:00 p.m. and the meeting will be closed to the public. The purpose of the meeting is to elicit the advice of the committee concerning various technical programs being conducted by the Navy in connection with the national defense effort. Matters concerning these programs are classified and required to be kept secret in the interest of national defense. The Secretary of the Navy has therefore determined in writing that the public interest requires the meeting to be closed to the public because it will be concerned with matters listed in section 552(b)(1) of title 5 United States Code.

Dated: July 20, 1976.

JOHN S. JENKINS,
Assistant Judge Advocate General (Civil Law).

[FR Doc.76-21703 Filed 7-26-76;8:45 am]

REGIONAL DISCHARGE REVIEW SYSTEM

Additional Hearing Locations; Correction

In FR Document 76-20384, published on July 15, 1976, 41 FR 29190, the list of additional hearing locations contained in the third paragraph is corrected in the last line by changing "December 6-9 New Orleans, Illinois" to "December 6-9 New Orleans, Louisiana."

Dated: July 20, 1976.

JOHN S. JENKINS,
Assistant Judge Advocate General (Civil Law).

[FR Doc.76-21702 Filed 7-26-76;8:45 am]

Department of the Army

BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 11 August 1976

Place of Meeting: Capitol Building, Washington, D.C.

Time: 10:00 a.m.

Proposed Agenda: Review of and Inquiry into Academic Matters, USMA

This meeting will be concerned with matters listed in 5 U.S.C., Section 552b (2) and (6) and will be closed to the public pursuant to Section 10(d), P.L. 92-463.

For the Board of Visitors:

EDWIN V. SUTHERLAND,
Colonel, USA, Executive Secretary, Board of Visitors, USMA.

[FR Doc.76-21901 Filed 7-26-76;10:59 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: California State University, 5151 State University Drive, Los Angeles, California 90032. Dr. David L. Soltz, Assistant Professor of Biology. Dr. D. Thomas, Chairman Biology Department.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
The Warm Springs Recovery Plan(Atchmt. #1) calls for this study (Atchmt. #2) which in summary:
1. Requires controlled manipulation of vegetation in the lower pond at School Spring, and
2. Trapping (if any) fish in pond and releasing after vegetation manipulated.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Dr. David Soltz
Asst. Professor of Biology
California State University
5151 State University Drive
Los Angeles, CA 90032

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☒ MR. ☐ MRS. ☐ MISS ☐ MS.	6'0"	185
DATE OF BIRTH	COLOR HAIR	COLOR EYES
November 7, 1946	Red	Blue
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
(213) 224-3258	349-36-9113	

OCCUPATION
Assistant Professor of Biology

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
This permit needed to accomplish studies requested by the Warm Springs Pupfish Recovery Team

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Professor of Fisheries Biology
California State University System

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Ph. (213) 224-3258
Dr. Duley Thomas, Chr. Biology Dept.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
All studies to be conducted within:
T. 17 S., R. 50 E., M.D.B.M.
T. 18 S., R. 50 E., M.D.B.M.
All within Nye County, Nevada.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(*If yes, list license or permit numbers*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
Applying this date to Nevada Dept. of Fish and Game for State permit to conduct study on this specie.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
May 5, 1976

11. DURATION NEEDED
Three years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
1. Species is the Warm Springs Pupfish (Cyprinodon nevadensis pectoralis).
2. All fish (all sexes and ages) to be trapped in lower pond, then vegetation manipulated, then fish returned to pond. No collection of fish to be made. Any mortality victims to be made a part of the California State University's official collection.
3. This study is of a wild population only.

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) David L. Soltz — DATE April 30, 1976

3-200 (6/74)

David L. Soltz

Proposed Study of the Vegetation-Water Relationships at School Spring and the Effects on the Population Dynamics of the Warm Springs Pupfish; submitted by David L. Soltz, Assistant Professor of Biology California State University, Los Angeles.

The Warm Springs Pupfish, *Cyprinodon nevadensis pectoralis*, was declared an Endangered Species in 1970 by the Federal Government under the Endangered Species Preservation Act of 1966. A summary of what is known about the biology of this pupfish subspecies is contained in my introduction to the Warm Springs Pupfish Recovery Plan (see attached copy). Point 1321.3321 of the May 29, 1975 action diagram for the Warm Springs Pupfish Recovery Plan calls for the determination of the pupfish—vegetation—water relationships to aid in establishing habitat management plans. The study I am propos-

ing is designated to provide the information necessary under this point of the plan.

It is of utmost importance to accurately census the Warm Springs Pupfish population in both the School Spring habitat and the artificial visitor's pond on a routine basis for at least one full year. Censusing will be accomplished by a combination of standard mark-recapture techniques and visual counts by two or more observers. Censusing should begin in March when the populations of other Warm Springs Pupfish habitats are known to be at or near the yearly minimum before the onset of the reproductive season. Censusing will be carried out on a six week basis at least until the end of the reproductive season in October or November.

With the March minimum population size as a base it will be possible to undertake a field experiment on vegetation—pupfish relationships in the visitor's pond. The purpose of the experiment will be to determine the effects of emergent vegetation on (1) the growth and dynamics of pupfish populations in and, (2) the carrying capacity of spring pools and artificial ponds with low flow water and shallow shoreline habitat. The methods and experimental design are as follows:

1. Immediately after the March population census, all pupfish will be removed from the visitor's pond by a combination of live-trapping, treatment with an anesthetic, quinaldine, MTS or MS-222, and draining of the pool. All fish removed will be held in live-cages in School Spring. The visitor's pond will be allowed to remain waterless for one to two weeks or it will be treated with powdered rotenone to insure that no pupfish or viable pupfish eggs remain in the pond. Any pupfish killed in these procedures will be preserved for morphological and reproductive studies.

2. The drained visitor's pond will be divided into two equal halves by installing plastic window screening mounted on wooden stakes. The screen barrier will extend one foot above the water surface and six inches into the substrate, and will span the pool extending six inches beyond the maximum shoreline on either end. The positioning of the screen barrier will attempt to optimize three important parameters: (1) Equal substrate area on each side, (2) similar quantity, distribution and types of vegetation on each side, (3) minimum shading effects of the screen barrier. The goal will be to divide the visitor's pool into two habitats of maximum similarity.

3. All emergent aquatic vegetation and any tall, dense shoreline vegetation will be completely removed with minimal modification of the underlying substrate from one half of the pool (experimental side). The other half will be left completely undisturbed. These conditions will be maintained throughout the experiment by removing vegetation from the experimental half after each population census.

4. Pupfish populations of identical size (age) structure and sex ratio will be introduced to both the experimental (vegetation removed) and control (natural vegetation) halves of the pool. If possible, the introduced individuals in each half will be marked with a different color latex injected subcutaneously.

5. Both populations will be censused every six weeks by mark-recapture technique throughout the 1976 reproductive season. All individuals captured during each census will be sexed and measured to the nearest 0.5 mm.

6. On the day before each census, observations will be made on the different size class fish in each pool. Observation will also be made on the social behavior of both populations. The location and size of male reproductive territories will be noted on grid maps of both the experimental and control habitats.

7. The end of the 1976 reproductive season will be determined by observation of cessation of reproductive behavior. This normally occurs in October in other Warm Springs Pupfish populations that I have studied. At that time, an attempt will be made to collect the entire populations from both the experimental and control habitats. The methods of collection and holding the fish will be the same as at the start of the study (see number 1), but the habitat will not be dried-up. Rather both populations will be reintroduced immediately after data are taken on size (age) structure and sex ratio.

While the study outlined above will provide much useful data needed to establish guidelines for Warm Springs and other pupfish habitat management, it would greatly add to our knowledge to continue the study for a second year. During the second year similar procedures would be followed and School Spring as well as the experimental and control habitats would be censused on a bimonthly basis.

One significant problem with this study is that it will be possible to have only one control and one experimental habitat. The small size of the visitor's pond at School Spring precludes dividing the habitat into four equal sections to provide two experimental and two control habitats. However, it may be possible to extend the study in the future to include a series of artificial ponds of differing shapes with differing types of cover.

A progress report will be submitted after the experimental regime has been established and the populations introduced. A final report will be submitted after the two populations have been collected and reintroduced at the end of the reproductive season in October or November 1976. A proposal for continuation of the study for a second year will be submitted with the final report if the results of the initial study warrant continuation.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-210-07; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1976, will be considered.

Dated: July 20, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-21653 Filed 7-26-76;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit has been received under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

Applicant: University of Montana, School of Forestry, Missoula, Montana 59801. Charles J. Jonkel.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
1. Conduct physiological studies on polar bears, especially in regard to their behavioral or heart rate reaction to attractants and deterrants.
2 & 3. Capture, mark, and radio-track polar bears to obtain information on their annual movements, feeding areas, and denning areas.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles J. Jonkel

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT	WEIGHT
	5'10"	165#
DATE OF BIRTH	COLOR HAIR	COLOR EYES
16 July 1930	Brown	Brown
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
243-2253	388-28-1648	

OCCUPATION
Research Biologist

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
School of Forestry
University of Montana
Missoula, Montana 59801

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
1. Cape Churchill, Manitoba area
2. Canadian eastern High Arctic
3. Polar Basin

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Province of Manitoba: Scientific License
Northwest Territories:Scientific License

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ --

10. DESIRED EFFECTIVE DATE: 1 October 1976

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
As attached (4)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Charles Jonkel DATE June 18, 1976

3-200
(5/74)

12. Attachments (To Federal Fish and Wildlife License/Permit Application, form OMB No. 42-T1670).

50 CFR 13.12 (b).

Marine mammal permits: Scientific research, Subpart D, 18:31 (a).

1. The purposes, techniques, and locations fall into into general categories:

(a) Cape Churchill Studies:

(1) To establish baseline physiological paramters to polar bear behavior, nutritional requirements, work loads, and environmental conditions.

(2) To measure the behavioral and physiological reactions of polar bears to various attractants and deterrants, actions of people, types of people, and physiological conditions of people by comparisons to the baseline data of No. 1 (above), and through a series of experimental laboratory tests and field tests.

(3) Relate the data from 1 and 2 (above) to practical means of reducing the conflicts between man and bears.

(4) Churchill laboratory (in co-operation with the Canadian Wildlife Service, the Province of Manitoba, and the Universities of Guelph and Oslo).

(5) October 1, 1976 through September 30, 1978.

(6) Animals to be captured by means of culvert traps and footsnares, then drugged using standard dart gun equipment.

(b) Eastern High Arctic and Polar Basin Studies:

(1) To help determine the status and movements of Baffin Bay-Kane Basin polar bears in co-operation with Canada and Denmark; the status and movements, feeding areas, denning areas, and productivity of Polar Basin and southeast Greenland polar bears; and to better relate a series of data on food chain species, currents, climate, and developments to polar bear welfare.

(2) To adapt the above data and other available data to a possible polar bear management plan and monitoring program for the entire Arctic Basin.

(3) Location: eastern Ellsmere, Devon, and Baffin island areas; Northwestern Greenland; the Polar Basin and/or the Arctic Ocean areas west and northwest of the Canadian Archipelago.

(4) October 1, 1976 through September 30, 1978.

(5) Animals to be captured by use of helicopters and standard dart gun equipment (Sernylan, Sparine, and Anectine will be the drugs utilized), marked with ear tags and lip tattoos, and some radio-collared.

2. A description of the marine mammal to be taken:

(a) Churchill: Live polar bears; about 6 animals (sub-adults, non-breeding females, and adult males). Problem animals (to be destroyed or shipped to zoos by the Province) will be used in almost all cases.

(b) Eastern Canadian Arctic and Polar Basin: Variously aged animals of both sexes, except that very small young or females in dens will not be taken. Total number of animals not likely to exceed 100.

(c) Blood samples and one premolar to be removed.

(d) Accidentally killed animals will automatically become the property of the jurisdiction where the work occurs. Parts will be salvaged for scientific purposes and native peoples' uses.

3. Description of the manner of transportation, facilities, and care:

(a) Animals will be transported in culvert traps used for animal control by the Province of Manitoba, all of which measure a minimum of 4 feet in diameter and 8 feet long. In general, bears will be transported only for very short distances from the capture site to the laboratory.

(b) In the laboratory, large holding pens have been constructed inside a cement and steel building, so they are doubly restrained. A large, steel-bar cage for holding each experimental animal prior to treadmill studies has been coinstructed by Dr. Nils Oritsland. The pen measures about 25' x 25', and has a grated floor so droppings fall through. Water and food are placed on a platform within the cage. In the treadmill and respiration chambers (under the direction of Dr. Nils Oritsland—a Norwegian National) bears are more confined, but in the case of the treadmill, experience has shown that bears readily adapt, and in fact "enjoy" working on the treadmill once trained. In the "den" respiration chamber bears are more confined, but are under those conditions only when physiologically ready for the confinement.

(c) Animals are to be fed and watered daily, pens are to be cleaned as necessary. Natural foods (ringed seals or beluga meat if available from the Province) or shopping center scraps and dog foods will be provided.

(d) The facilities meet the approval of Dr. Eric Broughton DVM, Pathology Section, Canadian Wildlife Service, Ottawa (see attachment).

4. See attached research proposals to NSF and APOA-CPA and letters.

5. See attached research proposal to NSF.

6. Please word the permit to read such that it covers U.S. citizens under direct supervision, contract, or employment by the permittee, but only to the extent necessary to accomplish the purposes outlined in this permit and the accompanying proposals.

Many aspects of the research planned will be in co-operation with foreign nationals from the other four polar bear nations. Often a fine line will be impossible to draw just where a particular activity is conducted under my direction or someone elses.

BROAD OBJECTIVES

1. To complete or initiate co-operative research (as feasible), which for various reasons has not been completed or undertaken by the five governments.

2. To initiate new, specific research programs which cannot, for various reasons, be initiated by any of the co-operating governments.

3. To initiate research programs on bears and food chain seals which reside or travel outside the jurisdiction of any of the five nations.

4. To aid co-operative programs initiated by the five nations, but which are stagnated through bureaucratic delays.

5. To aid in collating and analyzing data, especially as it applies to inter-jurisdictional management of polar bears, food chain seals, and the habitat of both; international treaties and conventions; and international law.

MAIN AREAS OF RESEARCH

A. *Polar Bear Biology.* 1. Capture-recapture programs to obtain adequate data on the various polar bear sub-populations.

(a) Origin of the southeast Greenland bears which appear to have no denning area, but which sustain an annual kill of over 100 bears; Dr. Chr. Vibe, Director of the Danish research program in this area thinks that the southeast Greenland bears originate throughout the Polar Basin, are forced out into the Polar Sea ice when young, and eventually move with the drifting ice to east Greenland. He has not been able to obtain adequate funds to test his theory (Vibe 1975, a and b, Sills 1975, and Erickson 1975).

(b) The exchange of Canadian, U.S., and Soviet bears in the Western Arctic. This program has been pursued by Canadian and American agencies (Dr. Ian Stirling, and Jack Lentfer), but has been hampered by a lack of data from the center of the Polar Sea and from adjacent U.S.S.R. (Jonkel 1974, Lentfer 1975, Stirling 1973, Uspenskii and Belikov 1975). The required work would depend on the repeat of the Fram expedition by U.S. icebreaker (proposed) or a co-operative effort with Dr. Savva Uspenskii (USSR) and Jack Lentfer (USA). Apparently space will be provided for work such as proposed here should the expedition occur. If it does not, this project is prepared to accomplish its objectives through programs co-ordinated with Alaskan and Canadian research efforts.

(c) The Polar Sea bears, via participation in the repeat of the Fram expedition: Their ranges, number, and ecology.

(d) The status and relationships of the Baffin Bay and Kane Basin polar bears: This is primarily a bilateral concern between Canada and Denmark which has never been undertaken because of an uncertainty over responsibility and recurrent funding problems, but is important because of the great increase in shipping related to fossil fuel development. I have, in the past, marked bears in nearby areas, but more recaptures are required (Jonkel 1975, Jonkel et al 1975).

2. Productivity and denning areas of the various polar bear sub-populations as required by the Polar Bear Agreement (Jonkel et al 1975, Larson 1975); status of Polar Sea polar bear denning in the pack ice. The latter will be dependent upon the aid of AIDJEX or the repeat of the Fram expedition.

3. Behavioural, physiological, and ecological inter-relationships of the various sub-populations.

(a) Lab studies: Physiological data and testing of baseline deterrants for use in oil camps, at remote stations, and by travelers.

(b) Comparative studies using other bear species to gain insight into polar bear behavior and physiology.

(c) Experimental programs in wild situations to further study behavioral, physiological, and deterrant data.

(1) Devon Island.

(2) Churchill—Nelson River denning area, Rocky Mountain area.

(3) Telemetering and re-transmittal techniques.

(4) Satellite tracking.

(d) These studies (a-c) are underway in co-operation with Dr. Nils Oritsland (U. of Oslo), with funding from WWF (Canada), the New York Zoological Society, CWS, and the Animal Protection Institute, but more funding is urgently required.

4. Computer modelling of biological, population, and ecological data. Bears have a very low reproductive increment (Craighead et al 1974), and very intricate predator-prey, hunting success, and energy balance problems (Oritsland 1974 and 1975, Bunnell 1975 a and b) which require analysis through computer modelling.

5. Designing of long-term monitoring programs to safeguard populations.

6. Relating biological data to settlement, development, shipping, and other possible environmental upsets.

7. Polar bear-people relationships: Initial studies of behavior will be centered in the Churchill lab, and would be continued by a graduate student as a behavioral study centered in the North American and Norwegian arctic.

B. *Polar Bear-Seal Relationships.* 1. Surveys (better seal population and distribution data for certain areas which have not yet been studied by national agencies, i.e. especially the Polar Sea area).

2. Predator-prey problems

(a) Evolutionary considerations (behavioral etc.)

(b) Bear and man competition for seals (i.e., critical seal population levels for the bears).

(c) Bear respiration rate, hunting effort, and caloric intake relationships.

(d) a and b would be undertaken by the student mentioned under A 7.

3. Compensatory alternatives inherent in the arctic ecosystem, or which may be induced by man. This item would be accomplished primarily through data evaluation.

C. *Related Fields.* 1. Oil and ice mechanics; other pollutants

(a) Lab studies by direct oiling of bears (Churchill lab).

(b) Facilitate work of other scientists

(1) It has been reported that oil on the surface loses toxic components and mostly smothers, but oil *under* the ice stays toxic and smothers things as well.

(2) Determine validity of item one and relate to the status of polar bear food chains.

(3) Determine the role of heavy metals in the status of polar bear food chains (Bowes and Jonkel 1975).

(4) Determine the effects of cumulative pollutants in shipping lanes as distinct from major spills or blowouts.

2. Industrial impact prediction

3. Marine vegetation and food chains

(a) Importance of seasonal occlations vs. arctic norms on carbon production

(b) Ice flora

(c) Meaning of fewer genera, lack of intertidal species, and greater tolerance of salinity and temperature (and possibly pollution) gradients by bear and seal food chain species.

4. Whales and seals

(a) Better information on population numbers, migration, and dispersion

(b) The roles of the various species as alternate food sources for polar bears

5. Currents, sea floor topography, upwellings, and bear feeding areas.

(a) Polynias and intertidal species, local variations, etc.

(b) Man-caused changes

6. Climatological baselines for local areas.

7. Ice: More data are needed on the ecological aspects of ice types, pans, ice formation, etc.

8. All items under C will be advanced to varying degrees by aiding existing studies, designing specific requests for data to responsible agencies, and, in some cases, by collecting the data directly.

D. Preparation of Management Plans based on data from A through C above.

METHODOLOGY

Data on the various polar bear sub-populations will be obtained by aiding or joining with national capture-recapture programs using ear tags, lip tattoos, and radio-tracking collars. Recaptures and radio tracking information in key geographical areas from which no data are available, such as could be obtained from the icebreaker repeating the Fram expedition, should provide much needed insight into the ecology of interjurisdictional bears. The Norsk Polarinstitutt, Canadian Wildlife Service, U.S. Fish and Wildlife Service, Soviet Division of Arctic Ecosystems and their Conservation, and Universitets Zoologiske Museum (Copenhagen), all support this unified effort to obtain final items of data, supporting data, and intervening information necessary for co-operative management of the Polar Basin (Jonkel et al. 1975)

Maternity denning areas will be located and mapped by searching for tracks in likely regions during the March-April movement of females and young to feeding areas, and the productivity for denning areas will be calculated from the total numbers of cubs emerging from an area during at least two consecutive years (Jonkel et al. 1970).

The behavioral, physiological, and ecological relationships of polar bears will be studied in the Churchill laboratory by computer modelling and studying other bear species, and by using promising laboratory techniques on wild individuals. Heart rate changes and behavioral responses will be monitored using a treatmill, possible deterrants, and a re-transmittal system currently being developed. Application of these results to the ecological relationships of bears to seals and man will depend on concurrent seal and bear-people studies, and suitable observation sites in the Arctic and in mountainous areas.

Computer modelling of bear population data can be completed using existing facilities and expertise available at the University of British Columbia. Funding merely need be made available to process existing data, and new data which will become available. The modelling of biological and ecological data may be premature, but planning and standardized data collection should be initiated. Several of these programs are underway, but underfunded.

Long-term monitoring programs will be developed from field data analyses, management program needs, and developmental impact predictions. The designing of long-term monitoring programs will be a major final objective of the research program.

Studies of seal populations, predator-prey evolutionary relationships of polar bears and seals, critical seal population levels, and energy flow will be conducted primarily by co-operating with or continuing existing similar studies. Digestive efficiency in particular will be pursued following the techniques of Mealey (1975) and Best (1975).

The relationship of oil and chemical pollutants and heavy metals to ice mechanics, polar bears, and food chains will be studied by direct oiling experiments in the Churchill lab, chemical analyses of existing tissue bank specimens, and by outlining and requesting special studies by agencies responsible for similar studies.

Better baseline data on industrial impacts, marine vegetation, arctic food chains, whales, currents, sea floor topography, upwellings, climate, and ice will be obtained by identifying specific problems, drafting outlines of the required research, requesting the responsible agencies for such studies, and funding phases of the work if necessary.

Documents and other information submitted in connection with this applica-

tion are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-260-10; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1976, will be considered.

Dated: July 22, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-21654 Filed 7-26-76;8:45 am]

Bureau of Land Management

[U-31368]

UTAH

Proposed Withdrawal and Reservation of Lands

The United States Bureau of Reclamation, Department of the Interior, has filed application for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid rights.

The applicant desires the withdrawal for reclamation purposes in connection with the Stateline Dam and Reservoir, Lyman Project, Utah-Wyoming. The lands are located within the Wasatch National Forest in Summit County near the Utah-Wyoming state boundary, approximately 65 miles east of Coalville, Utah.

All persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing by *August 12, 1976,* to the undersigned officer of the Bureau of Land Management, Department of the Interior, University Club Building, Salt Lake City, Utah 84111.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

Salt Lake Meridian, Utah

T. 3 N., R. 14 E.
Sec. 17, S½N½SW¼, S½SW¼;
Sec. 18, NE¼SE¼SE¼, S½SE¼SE¼;
Sec. 19, E½E½, E½SW¼NE¼, E½W½SE¼;
Sec. 20, N½NW¼, N½S½NW¼, S½SW¼NW¼, SW¼SE¼NW¼, NW¼SW¼, NW¼NE¼SW¼, W½SW¼SW¼;
Sec. 30, NE¼NE¼, E½NW¼NE¼, SW¼NW¼NE¼, SW¼NE¼, NW¼SE¼NE¼.

The areas described aggregate approximately 710 acres.

The lands shall continue to be administered by the Forest Service, Department of Agriculture, until such time as they or any portion thereof are needed for project purposes.

PAUL L. HOWARD,
State Director.

[FR Doc.76-21695 Filed 7-26-76;8:45 am]

[Wyoming 55746]

WYOMING

Application

JULY 20, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct two 4 inch and four 2 inch pipelines for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 12 N., R. 101 W.,
Sec. 3, E½SW¼, S½SE¼;
Sec. 10, NE¼NE¼, E½SW¼, S½SE¼;
Sec. 15, NW¼NW¼.
T. 13 N., R. 101 W.,
Sec. 25, S½NE¼.

The pipelines will transport natural gas from six Canyon Creek Unit wells to the existing Canyon Creek Gathering System in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-21696 Filed 7-26-76;8:45 am]

Bureau of Mines

ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH

Meeting

Notice is hereby given in accordance with Public Law 92-463 that the third meeting of the Advisory Committee on Coal Mine Safety Research will be held on August 9, 1976, commencing at 8:30 a.m. at the Holiday Inn, Clayton Road, Raton, New Mexico.

The Committee was established to consult with and make recommendations to the Secretary of the Interior on matters involving or relating to coal mine safety research.

The purpose of the meeting is to review Bureau of Mines planning and funding methodology and current and planned coal mine safety research activities. The agenda is set forth below. The meeting is open to the public. Space will be provided for approximately 15 persons other than committee members.

Further information concerning this meeting may be obtained from Rolland R. Reid, Deputy Assistant Secretary—Minerals, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, telephone: (202) 343-4881. Transcripts of the meeting will be available for public inspection and copying three weeks after the meeting upon written request addressed to the official above.

Dated: July 20, 1976.

THOMAS V. FALKIE,
Director, Bureau of Mines.

AGENDA

ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH; RATON, NEW MEXICO; AUGUST 9, 1976.

8:30 a.m.—(a) Discuss Bureau of Mines 5-year Plan; (b) Review of methodology for fund allocation to major research areas; (c) Criteria for fund allocation to short, medium, and long range projects.

9:30 a.m.—Presentation "Has the enforcement of regulations under the Federal Coal Mine Health and Safety Act of 1969 created a loss in productivity and has this had an effect on Safety?"

10:00 a.m.—Discussion on question of "return on investment," priorities, etc.

10:30 a.m.—Break.

10:45 a.m.—Technology Transfer-evaluation of utilization of research.

12:00 noon—Lunch.

1:00 p.m.—Discussion of methane research activity.

2:45 p.m.—Break.

3:00 p.m.—Discussion of ground control research activity.

4:00 p.m.—Plan for next meeting.

5:00 p.m.—Adjournment.

[FR Doc.76-21697 Filed 7-26-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 16,

1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 6, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Dale County

Ozark, *Claybank Log Church*, E. Andrews Ave.

ALASKA

Nome Division

Nome, *Berger, Jacob, House (Sally Carrighar House)*, 1st Ave.
Nome vicinity, *Snow Creek Placer Claim No. 1*, N of Nome at Snow Gulch.

CALIFORNIA

San Diego County

San Diego, *El Prado Complex*, Balboa Park.

GEORGIA

Carroll County

Burns Quarry.

Douglas County

Atlanta vicinity, *Sweet Water Manufacturing Site* W of Atlanta off I–20.

Elbert County

Ruckersville, *Rucker House*, GA 985.

Gwinnett County

Lilburn vicinity, *Wynne, Thomas, House.* N of Lilburn on U.S. 29.

Hancock County

Jewell vicinity, *Cheely-Coleman House*, S of Jewell off GA 123 at Ogeechee River.

Jenkins County

Camp Lawton.

Richmond County

Augusta, *FitzSimons-Hampton House*, GA 28.

Taylor County

Hartley-Posey Mound Site.
Reynolds vicinity, *Neisler Mound Site*, N of Reynolds on Flint River.

Walker County

Lane House.

KENTUCKY

Fayette County

Lexington, *Brand-Barrow House*, 203 E. 4th St.

MARYLAND

Allegany County

Cumberland vicinity, *Inns on the National Road*, E and W of Cumberland along U.S. 40 from Flintstone to Grantsville (also in Garrett County).

NEW MEXICO

San Miguel County

Las Vegas, *Our Lady of Sorrows Church*, W. National Ave.
Las Vegas, *St. Paul's Memorial Episcopal Church and Guild Hall*, 714–716 National Ave.

NEW YORK

Orleans County

Albion, *Mt. Albion Cemetery*, NY 31.

Suffolk County

Montauk vicinity, *Montauk Association Historic District*, E of Montauk off NY 27 on DeForest Rd.

PUERTO RICO

Guayama, *Iglesia Parroquial de San Antonio de Padue de Guayama*, 5 Ashford St.
Guayama, *Ingenio Azucareo Vives*, Avenida Central, Barrio Machete.
Guaynabo, *Iglesia Parroquial de San Pedro Martir de Guaynabo*, Plaza de Recreo.
Loiza Aldea, *Parroquia del Espiritu Santo y San Patricio*, Plaza de Loiza.
San German, *Convento de Porta Coeli*, Plaza Porta Coeli.
San Juan, *Carcel de Puerta de Tierra*, Avenida Ponce de Leon, Parada 8, Puerta de Tierra.

TEXAS

Collins County

Farmersville vicinity, *Sister Grove Creek Site*, 4 mi. W of Farmersville.

Dallas County

Dallas, *Gano, R. M., Log House*, 1717 Gano St., Old City Park.

El Paso County

El Paso vicinity, *Sgt. Doyle Site*, NE of El Paso.

Tom Green County

San Angelo, *Tom Green County Jail*, U.S. 67.

Zapata County

San Ygnacio vicinity, *Corralitos Ranch*, N of San Ygnacio off U.S. 83.
San Ygnacio vicinity, *San Francisco Ranch*, N of San Ygnacio off U.S. 83.

[FR Doc.76–21495 Filed 7–26–76;8:45 am]

Office of the Secretary

FRANK J. MEYER

Appointee's Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the Federal Register:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on 06–30–76, as Deputy Director, DEPA, an officer or director:

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Oklahoma Gas & Electric Company
Central & South West Company
Boston Edison Company
American Airlines
Ryder Systems, Inc.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding by appointment:

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

FRANK J. MEYER.

JULY 16, 1976.

[FR Doc.76–21698 Filed 7–26–76;8:45 am]

COMMUNICATIONS RELATING TO INTERNATIONAL AIR TRANSPORTATION CASES

Staff Coordinator

Pursuant to section 5(b) of E.O. 11920, June 10, 1976, private parties submitting oral and written communications to the Department of the Interior relating to cases under section 801 of the Federal Aviation Act, as amended (49 U.S.C. 1461) shall address such to the: Department of the Interior, Staff, Solicitor, Washington, D.C. 20240. Oral communications shall be summarized in a memorandum by the Staff Coordinator or other Department representative who receives the communication and made part of the official files of the Department of the Interior. Official files, whether compiled from written or oral communications, will be reasonably available to the public for inspection, except written communications which are publicly available at the Civil Aeronautics Board.

KENT FRIZZELL,
Under Secretary.

JULY 23, 1976.

[FR Doc.76–21878 Filed 7–26–76;9:50 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PRIVACY ACT OF 1974

System of Records

Notice is hereby given of the deletion of the records system USDA/ERS–1, Economic Characteristics of Large-Scale Wheat Farms in the Western United States, which we published on August 27, 1975, 40 FR 38912.

The System is being deleted because plans for a re-survey to examine the recent changes in these large-scale wheat farms were cancelled, therefore questionnaires and punched cards are no longer needed and will be destroyed.

Dated: July 22, 1976.

EARL L. BUTZ,
Secretary.

[FR Doc.76–21732 Filed 7–26–76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MORRO BAY AQUARIUM

Modification of Permit

Notice is hereby given, that pursuant to the provisions of Sections 216.33(d) and (c) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit issued to Morro Bay Aquarium, 596 Embarcadero, Morro Bay, California 93442, on June 11, 1975, is modified in the following manner:

The Regional Director of the Region in which the animals will be taken shall determine the size and age of the harbor seals to be taken and the date, location and manner of the animals taken as authorized by the Permit; and that after renovation of the facility and prior to receipt of a fifth animal, an inspection

of the Holder's facilities will be made by a designated agent of the National Marine Fisheries Service.

The modification will additionally extend the period of validity to June 1, 1977.

This modification is effective on July 27, 1976.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

JULY 13, 1976.

[FR Doc.76-21655 Filed 7-26-76;8:45 am]

OKLAHOMA CITY ZOO

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Oklahoma City Zoo, Route 1, Box 1, Oklahoma City, Oklahoma 73111, to take three (3) California sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with a modified gill net in the water.

The animals will be acclimated at the collector's facility then shipped to the Oklahoma facility by commercial aircraft and truck.

At the facility the animals will be displayed in a pear shaped pool with an island in the center. The pool is 50 feet long by 30 feet at its widest and 20 feet at its narrowest width, with the depth ranging from 5 to 6 feet. A fence surrounds three quarters of the pool with a holding area at one end.

The sea lions are desired to provide recreational and educational benefits to the 350,000 visitors that visit the facility annually. The facility is a non-profit organization. The zoo staff has been exhibiting sea lions since 1950.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before August 26, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

JULY 21, 1976.

[FR Doc.76-21656 Filed 7-26-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

COMMUNITY ALCOHOLISM SERVICES REVIEW

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of August 1976:

Community Alcoholism Services Review Committee, August 19-20; 1:00 p.m., Conference Room G, Parklawn Building, Rockville, Maryland, Open—August 19, 1:00-2:00 p.m., Closed—Otherwise, Contact Mr. Sidney Leopold, Parklawn Building, Room 16C-17, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4983.

Purpose.—The Committee provides initial review of applications for community services alcoholism demonstration grants for the prevention of alcoholism and the treatment and rehabilitation of special population groups with drinking problems, such as cross-population, poverty, women and youth and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda.—From 1:00 p.m. to 2:00 p.m., August 19, the meeting will be open for discussion of administrative, legislative and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, NIAAA, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301-443-3306.

Dated: July 22, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-21652 Filed 7-26-76;8:45 am]

Public Health Service

PROJECT GRANTS FOR COMMUNITY HEALTH SERVICES

Designation of Medically Underserved Areas and Population Groups

Section 330 of the Public Health Service Act (42 U.S.C. 254c) requires that projects funded under that section serve medically underserved populations. A medically underserved population is defined as "the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population designated by the Secretary as having a shortage of such services" (42 U.S.C. 254c(b)(3)).

On June 11, 1976, regulations implementing section 330 of the Public Health Service Act were published in the FEDERAL REGISTER (41 FR 23852). The regulations (42 CFR 51c.102(e)) state that medically underserved populations will from time to time be designated, through publication in the FEDERAL REGISTER, taking into consideration the following:

(1) Available health resources in relation to the size of the area and its population, including appropriate ratios of primary care physicians in general or family practice, internal medicine, pediatrics, or obstetrics and gynecology to population;

(2) Health indices for the population of the area, such as infant mortality rate;

(3) Economic factors affecting the population's access to health services, such as percentage of the population with incomes below the poverty level; and

(4) Demographic factors affecting the population's access to health services, such as percentage of the population age 65 and over.

The criteria for determining designation are substantially the same as those established for use by Health Maintenance Organizations under Section 1302(7) of the Public Health Service Act (42

U.S.C. 300e–1(7)) which are set out at 42 CFR 110.203(g). The first list of medically underserved areas designated by the Secretary pursuant to 42 CFR 110.203(g), prefaced by a full description of the methodology for determining medical underservice, was published in the FEDERAL REGISTER (40 FR 40315) on September 2, 1975. In light of the virtual identity of the criteria set forth in 42 CFR 110.203(g) and 42 CFR 51c.102(e) and the need to make such designations on a timely basis in order to make grants under the new section 330 regulations, the Secretary has determined that it would be appropriate and in the public interest to adopt the areas designated pursuant to 42 CFR 110.203(g) for purposes of 42 CFR 51c.102(e).

This notice is to inform concerned parties that the medically underserved areas designated by the Secretary in the notice of September 2, 1975, and any additions thereto or deletions therefrom in accordance with the procedures therein set forth, are hereby designated by the Secretary pursuant to 42 CFR 51c.102(e) as areas of medical underservice for purposes of grants under section 330 of the Act. This designation is effective until revised. It is expected that a revised list of medically undreserved areas, applicable to both the section 330 and health maintenance organization programs, will be published shortly in the FEDERAL REGISTER.

Dated: July 14, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-21619 Filed 7-26-76;8:45 am]

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part 13 (Alcohol, Drug Abuse, and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1654, as amended), is revised to reflect: (1) Transfer of the forms management function from the Division of Management Policy to the Division of General Services, Office of Administrative Management, and general revision of the Division of General Services functional statement, (2) revision of the National Institute of Mental Health functional statement to reflect responsibility for overseeing the operations of Saint Elizabeths Hospital, and (3) revision of the functional statement for the Division of Special Mental Health Programs, National Institute of Mental Health, to include a reference to minority group mental health and the study of prevention and control of rape authorized by Title III of Public Law 94–63, the Community Mental Health Centers Amendments of 1975.

Sec. 13–B, *Organization and Functions*, is amended as follows:

1. Delete "forms and" from item (7) under *Division of Management Policy (CA1504)*.

2. Under *Division of General Services (CA1505)*, delete the current functional statement and substitute the following: (1) Plans and coordinates the provision of general services for the Administration including procurement and materiel management, personal property management and accountability, real property management, telecommunications, space management, transportation, mail services, facilities acquisition, construction management, safety management, energy conservation, pollution control, printing management, publications management, forms management, duplicating services and equipment, and editorial services; (2) advises the Alcohol, Drug Abuse, and Mental Health Administration on policy, procedures, and other requirements in connection with these services; (3) establishes arrangements with other agencies to provide supplies, equipment, and services; (4) provides general services for those components of the Administration located in Headquarters offices.

3. Under *National Institute of Mental Health (CH00)*, add item (7) as follows: (7) Exercises administrative and policy oversight for the operation of Saint Elizabeths Hospital.

4. Under *Division of Special Mental Health Programs (CH45)*, delete item (1) and insert the following: (1) Plans and administers integrated programs of research, training, and related activities directed toward the meeting of critical national needs in social problem areas such as child and family mental health, crime and delinquency, metropolitan mental health, minority group mental health, mental health disaster assistance, mental health of the aging and the study of the prevention and control of rape.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

JULY 19, 1976.

[FR Doc.76-21706 Filed 7-26-76;8:45 am]

Office of the Assistant Secretary for Health

PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

Designation of Health Specialties, Stipend Amount and Notice of Selection Criteria for Academic Year 1976–77

Section 225 of the Public Health Service Act (42 U.S.C. 234) directs the Secretary of Health, Education, and Welfare to establish the Public Health and National Health Service Corps Scholarship Training Program to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Public Health Service. In implementation of this authority, regulations were published on May 22, 1974 (42 CFR Part 62).

Section 62.6 of such regulations provides that the Secretary will from time to time designate and publish in the FEDERAL REGISTER those health-related specialties for which the Service has need and for which such scholarship support will be available as well as the amount of the scholarship stipend. Pursuant to § 62.6 physicians were designated for this purpose, as indicated in the FEDERAL REGISTER of July 1, 1974 (39 F.R. 24259).

Notice is hereby given that dentists also are designated as health specialists for which scholarship support is available under the Public Health and National Health Service Corps Scholarship Training Program. Further, the gross stipend amount to be paid both medical (M.D. and D.O.) and dental students under the program is $6,750 for any 12-month period of scholarship award.

In determining which eligible applicants will receive scholarship support § 62.4(b) of the regulations provides that applicants will be evaluated and selected by the Secretary, taking into consideration (1) academic performance, (2) faculty recommendations, (3) work experience, and (4) relative need of the Public Health Service for particular health-related specialties.

Notice is hereby given that in applying these considerations the most important factors in selecting medical (M.D. and D.O.) and dental (D.D.S. and D.M.D.) scholarship recipients for the 1976–77 academic year will be:

1. *Graduation Date:* The needs of the Public Health Service and the number of scholarship awards available this year require that priority be given to qualified applicants who are nearest to their dates of graduation.

2. *Specialty Preference* (for M.D. and D.O. students only): The professional staffing needs of the Public Health Service require that applicants be given consideration for selection according to the following priorities of specialty interests: First Priority—Family Practice and Osteopathic General Practice Second Priority—General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, and General Psychiatry. Third Priority—All other specialties.

3. *Academic Performance and Faculty Recommendation:* Priority will be given to those applicants with a level of academic performance, clinical skills, and personal qualities, that would qualify them for primary care professional practice in an urban or rural health manpower shortage area under specific programs of the U.S. Public Health Service. This evaluation will be based on information contained in the two faculty evaluation forms which are required as part of the application.

In addition, the following secondary factors will be utilized in selecting scholarship recipients:

1. *Career Goals:* Special consideration will be given to applicants who plan to enter a primary care practice in a rural or urban health manpower shortage area, either privately or through a career in the U.S. Public Health Service.

2. *Work Experience:* Special consideration will be given to applicants with health-related work or community volunteer experience in medically under-

served rural or urban areas or minority ethnic communities.

3. *Community Experience:* Special consideration will be given to applicants who have resided in medically underserved areas or minority ethnic communities for a substantial period of time. Applicants may include a statement of minority status for consideration under the Federal Affirmative Action hiring policy established by Executive Order 11478 of August 8, 1969.

All applicants for scholarships were advised of these selection factors as part of the application process. These factors will be adjusted periodically to accommodate changes in the needs of the Public Health Service.

Dated: July 20, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

[FR Doc.76-21694 Filed 7-26-76;8:45 am]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between Federal activities and related activities of State and local governments, foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on Monday, August 23, 1976, 9:00 a.m. to 5:00 p.m. and on Tuesday, August 24, 1976, 9:00 a.m. to 12:00 noon, in the Tudor Room of the Shoreham Americana Hotel, 2500 Calvert Street, NW., Washington, D.C. At the meeting there will be a panel presentation on the Mental Retardation Research and Training Centers, and the Committee will discuss prevention, full citizenship, humane services, and public awareness as they relate to mentally retarded people.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB 3, 7th & D Streets, SW., Washington, D.C. 20201, telephone: Area Code 202—245-7634.

Dated: July 19, 1976.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc.76-21671 Filed 7-26-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-570]

BLACK FOREST

Hearing

In the matter of: Black Forest, Western Resources of America, Inc. and Robert C. Surratt, President and Director, 76-147-IS OILSR No. 0-1591-36-78 (A).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Black Forest, Western Resources of America, Inc. and Robert C. Surratt, President and Director, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Black Forest located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 26, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on August 26, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 5, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 2, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge, Department of Housing and Urban Development.

[FR Doc.76-21672 Filed 7-26-76;8:45 am]

ADVISORY COMMITTEE ON FEDERAL PAY

PROPOSED PAY INCREASE FOR FEDERAL EMPLOYEES

Report to President

The Advisory Committee on Federal Pay is preparing to write its report to the President on the proposed annual increase in pay of Federal employees covered by the General Schedule, those in the Foreign Service, and employees of the Department of Medicine and Surgery of the Veterans' Administration. In writing this report the Committee will consider the views of organizations representing Federal employees as well as officials of the Government of the United States with respect to the President's Agent's proposals with respect to the pay increase. For information, call the Advisory Committee on Federal Pay—Area Code 202-653-6193.

Comments should reach the Advisory Committee on Federal Pay, Suite 205, 1730 K Street, NW., Washington, D.C. 20006, no later than August 9. Five copies of any comments should be submitted. Comments will be available for public inspection.

JEROME M. ROSOW,
Chairman, Advisory Committee on Federal Pay.

[FR Doc.76-21776 Filed 7-26-76;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL TRADE COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director of Policy Planning and Evaluation, Office of Policy Planning and Evaluation.

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

[FR Doc.76-21638 Filed 7-26-76;8:45 am]

FEDERAL TRADE COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Serv-

ice Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Assistant to the Chairman, Office of the Chairman.

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

[FR Doc.76-21639 Filed 7-26-76;8:45 am]

FEDERAL TRADE COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Bureau of Economics.

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

[FR Doc.76-21640 Filed 7-26-76;8:45 am]

FEDERAL TRADE COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Bureau of Competition.

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

[FR Doc.76-21641 Filed 7-26-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, Office of Technical and Credit Standards, Office of the Assistant Secretary for Housing Production and Mortgage Credit.

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

[FR Doc.76-21642 Filed 7-26-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.76-21643 Filed 7-26-76;8:45 am]

DEPARTMENT OF LABOR

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Director, Office of Veterans' Reemployment Rights, Labor-Management Services Administration.

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

[FR Doc.76-21644 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Office of Policy Review, Office of the Assistant Secretary for Policy and International Affairs.

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

[FR Doc.76-21645 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, National Highway Traffic Safety Administration.

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

[FR Doc.76-21646 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Program Management, Office of the Deputy Under Secretary, Office of the Secretary.

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

[FR Doc.76-21647 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Under Secretary, Office of the Under Secretary, Office of the Secretary.

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

[FR Doc.76-21648 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Congressional and Intergovernmental Affairs, Office of the Assistant Secretary for Congressional and Intergovernmental Affairs, Office of the Secretary.

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

[FR Doc.76-21649 Filed 7-26-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary (Special Projects), Office of the Secretary.

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

[FR Doc.76-21650 Filed 7-26-76;8:45 am]

VETERANS ADMINISTRATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Veterans Admiinstration to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator, Office of the Administrator.

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

[FR Doc.76-21651 Filed 7-26-76;8:45 am]

FEDERAL TRADE COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Bureau of Consumer Protection.

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

[FR Doc.76-21730 Filed 7-26-76;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

RISING HEALTH CARE COSTS

Public Hearing

This notice is intended to provide the time, date and place of a public hearing about rising health care costs, to be held by the Council on Wage and Price Stability in San Francisco, California. This hearing will be held on August 10 and 11, 1976, in Room 503 of the United States Customhouse, 555 Battery Street, San Francisco, California, starting at 9:00 a.m. and continuing until completed.

The above hearing, and previous hearings in New York and Chicago were previously announced in a notice in the June 3, 1976 FEDERAL REGISTER. (See 41 FR 2407). As explained in that notice, the hearing will focus principally on the following topics:

(1) What factors are responsible for the rapid rise in health care costs?

(2) What can and is being done by the medical care industry, by third-party payers, by the consumer, or by labor and management in other sectors of the economy to stem the increases in costs?

The above June 3, 1976 FEDERAL REGISTER notice directed parties interested in presenting oral and/or written testimony to contact Susanne Tierney of the Council on Wage and Price Stability at Room 4002, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506 (telephone 202-456-7113).

WILLIAM LILLEY III,
Acting Director.

[FR Doc.76-21731 Filed 7-26-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL TECHNICAL ADVISORY COMMITTEE

Meeting

JULY 20, 1976.

Pursuant to provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the General Technical Advisory Committee will hold a meeting on August 19, 1976, at Oak Ridge Associated Universities, Badger Road, Oak Ridge, Tennessee, Conference Room of the Energy Building. The meeting will be open to the public and will begin at 8:30 a.m.

The following agenda items will be discussed:

8:30-8:45—Opening Remarks by Dr. William E. Shoupp, Chairman, General Technical Advisory Committee.
8:45-9:00—Welcoming Remarks by Mr. Robert J. Hart, Manager, Oak Ridge Operations Office.
9:00-9:20—Evolution and Need for Economic Assessment by Dr. Lowell C. Miller, Project Engineer, Division of Coal Conversion and Utilization.
9:20-9:40—GTAC Discussion on Evolution and Need for Economic Assessments.
9:40-10:00—Review of Criteria Considered in Establishing the Economics of Pipeline Gas from Coal by Dr. Lowell C. Miller.
10:00-10:20—GTAC Discussion on Review of Criteria Considered in Establishing the Economics of Pipeline Gas from Coal.
10:20-10:40—The Role of Guidelines in Completing Conceptual Commercial Designs of Coal Gasification Facilities by Mr. Robert Skamaser, C. F. Braun and Company.
10:40-11:00—GTAC Discussion on The Role of Guidelines in Completing Conceptual Commercial Designs of Coal Gasification Facilities.
11:00-11:20—Comparative Analyses of Various Conceptual Commercial Designs of Selected Coal Gasification Facilities by Dr. Roger Detman, C. F. Braun and Company.
11:20-1:40—GTAC Discussion on Comparative Analyses of Various Conceptual Commercial Designs of Selected Coal Gasification Facilities.
11:40-12:00—Environmental Considerations in Construction and Operation of Commercial Coal Gasification Facilities by Dr. Michael Massey, Carnegie-Mellon University.
12:00-12:30—GTAC Discussion on Environmental Consideration in Construction and Operation of Commercial Coal Gasification Facilities.
12:30-1:30—Recess for Lunch.
2:30-3:00—Discussion of Location for GTAC Can Best Help the Fossil Energy Program.
2:00-2:30—Discussion or Suitable Topics for GTAC Future Meetings.
2:30-3:00—Discussion of Location of GTAC Meetings. Consideration of Value of Projects and Laboratory Visits vs. Headquarters Discussion Type Meetings.
3:00-3:30—Discussion of Need for Review of Mitre, ECAS and NRC Type Reports.
3:30-4:00—Discussion of Need for More GTAC Program Reviews Devoted to Overall Plant Systems and Advanced Power Systems and Advanced Power Systems As Well As Fuel Supply Areas.
4:00-4:30—Should ERDA Programs Be More Programmatically Oriented or Project Oriented?
4:30-5:00—What Do You Consider to be the Most Critical Fossil Energy Problems in the Next 2 years, 5 years, 10 years and 20 years?

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 20, 1976, to Mr. George Fumich, Jr., Secretary, General Technical Advisory Committee, U.S. Energy Research and Development Administration, Fossil Energy, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on August 17, 1976, to the Office of the Secretary of the Committee on (202) 376-4644 between 8:30 a.m. and 5 p.m., eastern time.

(c) Questions at the meeting may be propounded only by members of the General Technical Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Docu-

ment Room, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee, Management Officer.

[FR Doc.76-21666 Filed 7-26-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32011A; (FRL-589-3)]

PESTICIDE PROGRAMS

Notice of Registration of Pesticide Product Containing DDT

On June 27, 1975, notice was given (40 FR 27292) that the Center for Disease Control (CDC), Public Health Service, Department of Health, Education, and Welfare, 1600 Clifton Road, Atlanta GA 30333, had filed an application (EPA File Symbol 36765-R) with the Environmental Protection Agency (EPA) to register the pesticide product DDT 50% Wettable Powder, intended for use in rabies vector control programs. This application was subsequently processed and accepted for registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 135b, and the product has been assigned the EPA Registration No. 36765-1.

Interested persons were afforded an opportunity to comment on the application received by the Agency and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within its scope.

Two comments incorrectly noted that registered alternatives to DDT were available for controlling bats which constitute a health hazard as potential rabies vectors. However, there are no such products registered with the EPA for rabies vector control. Consequently, no registered alternatives are available for such use.

One comment noted that the past practice of allowing use of unregistered pesticides, such as DDT, for vector control under the exemption provisions of Section 18 of FIFRA, as amended, to solve recurring problems such as periodic outbreaks of rabies might be an abuse of that provision of the Act. Yet another comment stated that acceptance of CDC's application for registration would be contrary to the Administrator's Order of June 14, 1972 (37 FR 13369), which cancelled certain DDT registrations. However, registration of this product is consistent with the June 1972 Order which expressly provides for the use of registered DDT products by public health officials in disease control programs if such use is approved by the U.S. Public Health Service.

The Department of Health, Education, and Welfare is responsible for disease control. In some circumstances, pesticides are used, and the responsibilities of the EPA and HEW then overlap.

At the time the 1972 Order was issued, the law was inadequate to allow regulation of the use of pesticides for beneficial uses on a restricted basis. The provision of the 1972 Order which permits the use of DDT products with the approval of the U.S. Public Health Service, by public health officials in disease control programs, indicates that the EPA cannot register DDT for use in these programs unless such use is needed and is also authorized by HEW. The registration approved for CDC allows it to control the dispensing of DDT and in effect authorize such use. This arrangement permits the U.S. Public Health Service to act during emergency outbreaks of a public health nature and allows the EPA to restrict the labeling and use of DDT in such a manner as to protect the environment. Identified need and authorized use in these circumstances is consistent with the Agency's approach to the establishment of standards of proper use to protect human health and the environment. Registration of this pesticide for restricted use only by agencies approved by CDC is suited to the degree of hazard and adverse environmental effects that could be caused by the misuse of the pesticide.

Other comments received by the Agency supported the registration of this product on a restricted use basis in the interest of the public health and the consumer who has had to accept the continued use of less than effective controls.

This application for registration was received before the promulgation of the Registration, Reregistration and Classification Procedures established under Section 3 of FIFRA, as amended (40 CFR 162), and was, therefore, processed under the regulations in force at the time of CDC's submission in accordance with 40 CFR 162.23 of the regulations promulgated on August 4, 1975 (published in the FEDERAL REGISTER July 3, 1975, 40 FR 28241). Consequently, at such time as re-registration is required pursuant to the provisions of FIFRA, as amended, and the regulations thereunder, CDC's registration for DDT 50 percent Wettable Powder will be reviewed again.

Comments received by the Agency in response to the notice of application are available for public inspection in the office of the Federal Register Section, Technical Services Division (WW-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460, between the hours of 8:30 a.m. and 4 p.m. during normal business days. Information submitted in support of this registration, as well as such other scientific information deemed relevant to the registration decision, except for such material protected by Section 10 of FIFRA, is available for public inspection in the office of the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, East Tower, Rm. EB-31, at the same address.

Dated: July 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-21745 Filed 7-26-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-703]

CABLE TELEVISION

Cost-Shared Use of Receive-Only Earth Stations

JULY 21, 1976.

The Commission has received a number of inquiries concerning the private use of domestic satellite receive-only earth stations by cable television operators who propose to serve not only their own systems but non-affiliated systems as well, pursuant to a cost-sharing arrangement. The Commission currently permits such an arrangement in licensing stations in the Cable Television Relay Service (CARS), and has authorized shared-use of earth station facilities by affiliated cable television systems. This notice is addressed to an apparent misunderstanding in the cable television industry that cost-shared use of earth station facilities intended to serve non-affiliated systems either is not permitted by the Commission's Rules, or would be unduly delayed in receiving the appropriate approval. To the contrary, there is no bar to cost-shared use of earth station facilities by cable television systems so long as the licensee for private use does not receive a profit on the transmission of signals involved. (A profit-making shared-use venture would appear to convert the arrangement to common carriage, to which different licensing provisions apply.)

Bona fide, nonprofit, cost-sharing arrangements are consistent with out policies concerning ownership and use of receive only earth stations set forth at paragraph 33 of the Second Report and Order in Docket No. 16495, *Domestic Communications-Satellite Facilities*, 35 FCC 2d 844, 855 (1972) and with Part 78 of the Commission's Rules concerning CARS. For example, in a recent action, *Hayward Cable Television, Inc.*, application File No. 331-DSE-AL-76, released July 2, 1976, the Chief, Common Carrier Bureau, pursuant to delegated authority, granted the first non-profit, shared-use authorization relating to the provision of programming to cable systems via domestic satellite. Although the ownership and use agreement contained in the application was cast in the form of a partnership, the Bureau found that "this partnership arrangement represents a bona fide proposal for the cooperative, nonprofit, cost-sharing of domestic satellite receive-only earth station facilities between eligible entities."

To facilitate processing of such applications, we have directed the staff to prepare for Commission action in the near future a ruling which would establish procedures for the processing of proposals for cooperative use or ownership of receive-only earth station facilities by cable television operators. In fashioning policies concerning the cost-sharing of earth station facilities, the precedents developed in the CARS service will be of assistance in the Commission's oversight of these arrangements in the domestic satellite service. Section 78.11 of the Rules

permits nonprofit, cost-sharing pursuant to a written contract between the parties providing "that the CARS licensee shall have exclusive control over the operation of the cable television relay stations licensed to him and that contributions to capital and operating expenses are accepted only on a cost-sharing, nonprofit basis, prorated on an equitable basis among all cable television systems being supplied with programming material in whole or in part." Section 78.11 provides for an evaluation of the proposed cost-sharing arrangement during the processing of an application for new facilities. Section 78.11 also includes a provision authorizing Commission approval of such arrangements unless the Commission notifies the CARS operator otherwise within a specified period of time after the filing of a notification that such facilities will be used to serve additional cable systems that have not been specified in a previous license application or in a prior notification to the Commission. Finally, it is our intent that the proposed ruling will make the contemplated policy applicable to existing as well as future licensees. This Public Notice is concerned with applications filed by cable television operators. In the comprehensive ruling discussed above we will also deal with sharing arrangements involving applications filed by other types of applicants and arrangements involving cable television operators and other types of applicants.

Action by the Commission July 20, 1976. Commissioners Wiley (Chairman), Lee, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-21713 Filed 7-26-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 7 Through June 11, 1976

Notice is hereby given that during the week of June 7 through June 11, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Callahan Oil Co.; Washington, D.C.; FEA-0830; Freedom of Information

*Callahan Oil Co.; Washinngton, D.C.; FEA-*pealed from the denial of a Request for Information which it submitted pursuant to the Freedom of Informationn Act. The Request for Information which it had filed requested that the FEA release certain documents which had been compiled in connection with six Applications for Assignment submitted to Region I by the firm. In its Appeal, Callahan alleged that the decisions issued by the FEA in the six assignment cases did not contain the factual or legal basis of the final Assignment Order and thus, any document which supplied the basis for the six Callahan Assignment Orders must be released to the firm as a decisional document. In considering Callahan's Appeal, the FEA determined that the Information Access Officer properly withheld several types of intra-agency documents from the firm pursuant to Section 552(b)(5) of the Act. These documents included those which related solely to FEA internal procedures utilized in analyzing the applications for assignment, drafts of FEA letters, notes and commentary written by FEA personnel concerning the six Callahan applications, summaries written by FEA officials and computations used in evaluating Callahan's applications. The FEA also determined that although the six Assignment Orders issued by the FEA in these cases were somewhat abbreviated and may not have fully disclosed the factual and legal basis of the final decisions, Callahan's right to appeal these Orders protects the firm and thus the six Assignment Orders are final orders. Accordingly, the FEA determined that the requested documents in the Callahan files are pre-decisional in nature and, as advisory documents, were properly found to be exempt from mandatory disclosure pursuant to Section 552(b)(5) of the Act. However, the FEA also determined that certain memoranda of telephone conversations between FEA personnel and parties interested in the Callahan applications were improperly withheld in their entirety. Since these memoranda contain factual information which is not protected under the fifth exemption of the Act, the factual portions of the memoranda should have been released. Accordingly, Callahan's Appeal was granted with respect to the telephone memoranda and denied in all other respects.

Energy Magazine; Stamford, Conn.; FEA-0838; Freedom of Information

On May 17, 1976, Energy Magazine (Energy) appealed from the denial of a Request for Information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552. In that Request, Energy sought copies of mailing lists which contain the names and addresses of all subscribers to two FEA publications. Energy's initial Request was denied under Section 552(b)(6) of the Act which exempts from mandatory disclosure information which if released would result in a "clearly unwarranted invasion of personal privacy." In considering Energy' s Appeal, the FEA determined that the name and address of any firm or institution and the name and business address of any individual acting on behalf of a firm or institution are not exempt from disclosure on the gorunds of personal privacy. The material involved was therefore ordered to be released, and that part of the Energy Appeal was granted. The FEA also held that the release of the remainder of the lists containing the names and home addresses of individuals was privileged under section 552(b)(6) of the Act. The Appeal was therefore denied to the extent that it requested the release of that materal.

Garden Air, Inc.; Garden City, Kans.; FEA-0759; Aviation Fuel

Garden Air, Inc. (Garden Air) filed an Appeal from a Decision and Order in which the FEA denied an Application for Exception which the firm had previously submitted. *Garden Air, Inc.*, 3 FEA Par. 83,087 (January 30, 1976). Garden Air's Appeal, if granted, would result in the issuance of orders by the FEA (i) rescinding the January 30 Order issued to the firm; (ii) increasing Garden Air's base period use of aviation gasoline from 216,000 to 264,138 gallons per year; and (iii) directing Garden Air's base period supplier to furnish the increased volumes of aviation gasoline to the firm. On Appeal, Garden Air submitted information for the first time which it had previously failed to furnish in the rior proceeding. Although it held that Garden Air had failed to demonstrate that the previous determination was in any way erroneous, the FEA nevertheless concluded that it would reconsider the entire matter in view of the new data which the firm submitted. The FEA found that the new information which Garden Air submitted indicated that the firm was experiencing increased demand for aviation gasoline as a result of a significant increase in air traffic at the Garden City Airport. The FEA further found that the firm's inability to obtain an increased supply of aviation gasoline would frustrate the goals specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended, by effectively discouraging economic expansion in the Garden City area and impairing the economic viability of agriculturally related businesses in the Garden City area. Finally, the FEA determined that Garden City has been and continues to be unable to purchase surplus product. The FEA therefore concluded that Garden Air qualifies for exception relief under the criteria established in previous FEA decisions. *See, e.g., Bowen Service Station; Winninghoff Motors, Inc.*, 2 FEA Par. 83,058 (March 13, 1975). Garden Air's Appeal was therefore granted and its base period use of aviation gasoline was established at the level requested by the firm.

National LP-Gas Assn.; Arlington, Va.; FEA-0753; Propane

The National LP-Gas Association (the Association) filed an Appeal from a Decision and Order denying its request for a class exception which would have permitted an unspecified group of propane resellers to calculate "increased costs" for purposes of the Mandatory Petroleum Price Regulations on a regional rather than a firm-wide basis as required by 10 CFR 212.92. *National LP-Gas Association*, 3 FEA Par. 83,047 (December 15, 1975). At the time the Association filed its Appeal, Section 212.92 as interpreted by the FEA required a firm which had historically maintained separate inventories of propane at various regional supply and distribution centers to aggregate the costs of those inventories in order to calculate a single firm-wide unit cost for propane. However, subsequent to the date on which the Association's Appeal was filed, the FEA amended Section 212.92 effective May 1, 1976. Under Section 212.92, as amended, a reseller or retailer may calculate its cost of product in inventory either on the basis of one firm-wide inventory computation or on the basis of separate inventories to the extent that the seller concerned has historically and consistently maintained its inventories in accordance with generally accepted accounting principles. In addition, on May 28, 1976 the FEA published a Notice of Proposed Class Exception and Public Hearing. The proposed class exception, if adopted, would permit certain resellers and retailers to comply with the price rules of Part 212, Subpart F for the period August 19, 1973 through April 30, 1976 as though the amendment permitting separate inventories had been in effect during that period. As a result of the amendment to Section 212.92, the FEA concluded that the prospective exception relief requested by the Association is no longer necessary and dismissed that portion of its Appeal which sought prospective relief. The FEA further determined that since the pending class exception proceeding concerning retroactive application of the separate inventories amendment involves issues which are identical to those raised in the Association's Ap-

peal, the portion of the Association's Appeal which requested retroactive relief should be dismissed without prejudice to a refiling within 30 days following the FEA's final determination of the proposed class exception.

South Hampton Co.; Silsbee, Tex.; FEA–0728; Refined Products

South Hampton Company (South Hampton) appealed from a Decision and Order in which the FEA denied an Application for Exception which it had previously submitted. *South Hampton Co.*, 3 FEA Par. 83,043 (December 12, 1975). The present Appeal, if granted, would result in the issuance of an Order rescinding the previous Decision and permitting the firm to allocate its increased product costs to middle distillates on the basis of its refinery yields rather than on the basis of its historical sales patterns during the period from November 1973 through February 1975. Since South Hampton's production of diesel fuel had increased substantially as a result of an expansion of its refinery and a change in the composition of its feedstocks, the firm claimed that it would be unable to recover its increased product costs if those costs were allocated on the basis of its historical sales for each product during the preceding year. The FEA found that South Hampton's method of allocating increased product costs on the basis of refinery yields, while contrary to specific FEA Regulations, was nevertheless consistent with the overriding FEA policy which requires increased product costs to be allocated on a proportionate basis. The FEA also determined that South Hampton was unable to raise its selling prices of gasoline to recover its increased product costs without jeopardizing its historical market posture. The FEA further determined that if the firm were required to make refunds to its diesel fuel customers during 1976 in order to correct for its prior misallocations of costs, its profit margin for 1976 would be substantially below its average profit margin for the preceding seven years. In view of a recent decision in *Beacon Oil Co.*, 3 FEA Par. 83,140 (March 31, 1976), and the statutory directive in Section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973 to protect the competitive viability of small and independent refiners such as South Hampton, the FEA concluded that the firm had made a compelling showing that retroactive relief was warranted. However, the FEA found that South Hampton had failed to pursue its administrative remedies in a diligent manner after receiving notice of its noncompliance from the FEA on June 30, 1974. Therefore, since approval of retroactive relief during the period from July 1974 through February 1975 could have the effect of ratifying South Hampton's noncompliance with FEA regulatory requirements, the FEA limited the relief approved in the Appeal to the period from November 1, 1973 through June 30, 1974.

REQUESTS FOR EXCEPTION

Beacon Gasoline Co.; Tulsa, Okla.; FEE–2459; Natural Gas Liquid Products

Beacon Gasoline Company (Beacon) filed an Application for Exception in which it requested that the exception relief which was granted to the firm on February 17, 1976 be extended for an additional period of time. *Beacon Gasoline Co.*, 3 FEA Par. 83,107 (February 17, 1976). In the February 17 Decision, the FEA determined that Beacon would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which permits it to increase its prices for natural gas liquid products above the maximum permissible levels determined in accordance with the provisions of Subpart K by 8.11 cents per gallon through May 31, 1976. In considering Beacon's request for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the first quarter of its 1976 fiscal year which substantially exceed the one-half cent per gallon passthrough permitted under the provisions of Section 212.165 and that based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par 83,102 (February 13, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA therefore granted the exception request and permitted Beacon to increase its maximum permissible selling prices for natural gas liquid products produced at its Minden plant by an amount not to exceed 10.4568 cents per gallon for the period June 1, 1976 through September 30, 1976.

Beacon Oil Co.; Hanford, Calif.; FEE–2380; Crude Oil

Beacon Oil Company (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements during its fiscal year ending December 31, 1976. In its submission, Beacon asserted that it would experience a serious financial hardship as a result of the rescission of Special Rule No. 6 which had previously exempted certain small refiners from the purchase requirements of the Entitlements Program with respect to the first 50,000 barrels per day of their crude oil runs to stills. The FEA indicated that, in evaluating applications by small refiners for exception relief from their entitlement purchase obligations, it would continue to utilize the criteria set forth in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975). Using this standard the FEA will generally grant exception relief to small refiners required to purchase entitlements so as to alleviate the adverse impact of the Entitlements Program which would otherwise prevent a firm from achieving the lesser of its historic profit margin or the arithmetic average of the return on invested capital which it realized during the best four of its previous seven fiscal years. The FEA determined, however, that the analysis of current financial data should be modified in certain respects and that the entitlements expense incurred by a small refiner would, for purposes of the exceptions analysis, be computed on an accrual, rather than on a cash, basis. In addition, the FEA determined that the impact of the Entitlements Program on each small refiner would be considered on the basis of the best available data for the firm's current fiscal year. Finally, the FEA observed that under Special Rule No. 6, many small refiners were exempt from entitlement purchase obligations for their crude oil runs to stills during the period between October 1975 and March 1976 and emphasized that it would not attempt under the exceptions process to recapture the benefits which those firms obtained during that period. With respect to Beacon's exception request, the FEA determined that if the firm were required to incur the cost of purchasing entitlements pursuant to the rescission of Special Rule No. 6, its 1976 profit margin and return on invested capital would be significantly lower than historical levels. The data which Beacon submitted also indicated that even if complete relief from the purchase requirements of the Entitlements Program were granted, the firm would still fail to attain its historic profit margin or its historic return on invested capital. The FEA therefore concluded that Beacon had satisfied the standards set forth in the *Delta* Decision and that exception relief should be extended to Beacon which would relieve it of any obligation to purchase entitlements for the period June through November 1976.

Consumers Power Co.; Jackson, Mich.; FEE–2267; Crude Oil

Consumers Power Company (Consumers) filed an Application for Exception from the provisions of 10 CFR 214.31 (the Mandatory Canadian Crude Oil Allocation Program). Consumers' request, if granted, would result in the issuance of an Order increasing its base period use of Canadian crude oil by 9,474 barrels per day. Consumers asserted in its Application for Exception that the quantity of Canadian crude oil which it utilized during the base period as feedstock for its synthetic natural gas (SNG) plant was substantialily less than the design capacity of that facility because the base period coincided with the start-up period of its SNG plant. Consumers claimed that as a result, its base period volume under the Canadian Crude Oil Allocation Program is unrepresentative of its current level of operations. In considering the exception request, the FEA found that Consumers had not previously demonstrated that the Canadian Crude Oil Allocation Program placed it in a substantially different position from other firms which are dependent on Canadian crude oil, and consequently Consumers had not shown that it would experience a gross inequity in the absence of exception relief. The FEA also found that contrary to the firm's assertion, the levels of its utilization of Canadian crude oil and SNG production during the base period were not unrepresentative of its current operations and substantially exceeded its average levels during the three years since the SNG plant became operational. Finally, the FEA determined that Consumers had failed to demonstrate that it would incur a serious financial hardship in the absence of exception relief. The FEA accordingly denied Consumers' Application for Exception.

Delaware Valley Propane Co., Moorestown, N.J.; FEE–2250; Propane

Delaware Valley Propane Company filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of orders by the FEA assigning Delaware Valley a new, lower-priced supplier of propane to furnish 600,000 gallons of propane per year presently supplied by Petrolane Northeast Gas Service, Inc., one of Delaware Valley's nine base period suppliers. In considering the exception application, the FEA determined that the firm has not demonstrated that it is experiencing a gross inequity merely because the price that it pays for the propane it purchases from Petrolane is higher than the price it pays another base period supplier. The FEA also found that for the month of February 1976 Petrolane's price was only 2.917 cents per gallon above Delaware Valley's overall weighted average cost for propane during that month. Moreover, since Delaware Valley failed to provide data indicating the actual volume of propane which it purchased from Petrolane or the extent to which the firm could mitigate any alleged damages by purchasing surplus propane, it was not possible to assess the actual financial impact of Petrolane's allegedly high price on Delaware Valley's operations. The exception request was therefore denied.

Diamond Shamrock Corp.; Amarillo, Tex.; FEE–2377; Natural Gas Liquid Products

Diamond Shamrock Corporation (Shamrock) filed an Application for Exception

from the provisions of Section 212.165 of the FEA Mandatory Petroleum Price Regulations which, if granted, would permit Shamrock to increase its selling prices for natural gas liquid products produced at its McKee gas processing plant. The firm also requested retroactive exception relief for the period January 1, 1976 through March 3, 1976. In support of its request for retroactive relief, Shamrock stated that it refrained from reflecting its allowable non-product cost increases in its selling prices during that period because it believed that, in view of the profit margin limitation contained in the FEA Regulations, it was not eligible to pass through those cost increases. However, on March 3, 1976 the profit margin limitation was deleted retroactive to January 1, 1976. Shamrock contended that it could not have known that it was entitled to raise its prices during the months of January and February and was therefore precluded from recovering the non-product cost increases which it should have been able to pass through. In considering Shamrock's request for prospective relief, the FEA observed that it had been held in prior Decisions that as a general rule exception relief would be granted to any gas-processing plant which could demonstrate that the non-product cost which it has incurred since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. The FEA found that the McGee plant qualified for exception relief under this standard and prospective exception relief was therefore approved. With respect to Shamrock's request for retroactive relief, the FEA held that in view of the fact that Shamrock could not possibly have been aware that it would not have been precluded by the profit margin limitation from reflecting $.005 per gallon of its non-product cost increases in its selling prices during the period January 1 through March 3, it would be grossly unfair to deny the firm the opportunity to recover at this time the cost increases which it was entitled to recover during that period. Additional exception relief was therefore granted to permit the firm to recover the revenues which it would have realized during the period January 1–March 3 in accordance with the provisions of Section 212.165.

Fairview Flying Service; Fairview, Okla.; FEE–2313 Aviation Gasoline

Fairview Flying Service (Fairview) filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would result in the issuance of an Order increasing its base period use of aviation gasoline at the Fairview Airport from 36,336 to 75,482 gallons per year. In considering the exception request, the FEA found that Fairview was experiencing an increased demand for aviation gasoline as a result of significant improvements made by the City of Fairview to the Airport since the base period for aviation gasoline. The FEA also found that the firm's inability to obtain an increased supply of aviation gasoline would frustrate the achievement of the goals specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended, by discouraging the effective use of municipal transportation facilities and economic expansion in the Fairview area. In addition, the FEA found that Fairview has been and continues to be unable to purchase surplus aviation gasoline on the spot market. On the basis of these findings the FEA concluded that Fairview qualifies for exception relief under the criteria stated in *Husker Aviation, Inc.*, 3 FEA Par. 83,081 (January 22, 1976). Exception relief was therefore approved under which the firm's base period use of aviation gasoline is increased by 48,585 gallons per year.

Farmland Industries, Inc., Kansas City, Mo.; FEE–2347 Natural Gas Liquid Products

Farmland Industries, Inc. filed an Application for Exception in which it requested that the exception relief which was granted to the firm on January 23, 1976 be extended for an additional period of time. *Farmland Industries, Inc.*, 3 FEA Par. 83,080 (January 23, 1976). In the January 23 Decision, the FEA determined that Farmland would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which would permit it to increase the prices which it charges for natural gas liquid products at its Mertzon, Lamont, Quitman and Gillette plants above the maximum permissible levels determined in accordance with the provisions of Subpart K. In considering Farmland's request for an extension of the exception relief which was previously granted, the FEA determined that: (i) the Mertzon, Lamont and Gillette plants continue to incur adjusted nonproduct unit cost increases which are substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165; and (ii) based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,102 (February 13, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA therefore granted the exception request and permitted Farmland to increase its maximum permissible selling prices for natural gas liquid products during the period June 1, 1976 through August 31, 1976 by 1.1281 cents per gallon at its Mertzon plant, 1.4130 cents per gallon at its Lamont plant and 1.9136 cents per gallon at its Gillette plant. With respect to the firm's remaining plant, the FEA determined that the adjusted nonproduct unit cost increases incurred were not material for the purposes of exception relief because they were less than $.005 per gallon. *Sun Oil Co., supra.* Accordingly, the firm's request for exception with respect to its Quitman plant was denied.

People's Gas Co.; Chicago, Ill.; FEE–2348 Crude Oil

The People's Gas Company (People's) filed an Application for Exception from the provisions of 10 CFR, Part 214, the Canadian Crude Oil Allocation Program. The Application, if granted, would permit it to purchase 3,000 barrels per day of Kaybob-type condensate produced in Canada. In considering People's exception request the FEA determined that even without the Kaybob condensate which People's wished to purchase, the firm will still be able to operate its Elmwood, Illinois synthetic natural gas (SNG) plant at 91 percent of that facility's design capacity. In contrast to several other firms which are seriously affected by the reduction of Canadian crude oil supplies, the data which People's submitted indicates that the operation of its SNG plant at a 91 percent capacity level would not seriously impair the operating efficiency of the plant or the financial posture of the firm. In addition, People's failed to demonstrate that the reduction in synthetic natural gas production which it would experience as a result of the FEA Canadian Crude Oil Allocation Program would cause an overall shortage of gas supplies to its customers or otherwise result in serious economic dislocations. People's exception application was accordingly denied.

Philcon Development Co.; Amarillo, Tex.; FEE–2338; Crude Oil

Philcon Development Company (Philcon) filed an Application for Exception from the provisions of 10 CFR, Part 212, which, if granted, would permit the firm to sell the crude oil which it produces from the Swaim No. 2 lease (Swaim well) without regard to the ceiling prices specified in 10 CFR 212.73 and 10 CFR 212.74. Alternatively, Philcon requested that it be permitted to sell crude oil from the Swaim well at upper tier ceiling prices. In considering Philcon's Application, the FEA determined that: (i) the per barrel cost of producing crude oil from the Swaim well had increased significantly since 1973 and now exceeds the lower tier ceiling price which Philcon is permitted to charge for that crude oil; (ii) consequently, Philcon does not currently have an economic incentive to continue to operate the Swaim well; and (iii) if Philcon abandons the property, a considerable amount of otherwise recoverable crude oil would be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to Philcon of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be granted in this case. An analysis of the specified financial and operating data which Philcon submitted led to the further conclusion that Philcon should be permitted to sell at upper tier ceiling prices 42.61 percent of the crude oil produced and sold for the benefit of the working interest owners.

Rickelson Oil & Gas Co.; Seminole, Okla.; FEE–2245; Crude Oil

Rickelson Oil & Gas Company (Rickelson) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to sell at upper tier prices the crude oil produced from a well which currently is inoperative. In considering Rickelson's Application, the FEA determined that: (i) a substantial investment is necessary to repair the well; (ii) this investment is uneconomic if the crude oil produced from the well is sold at lower tier prices; (iii) under current FEA regulations the crude oil produced from the well must be sold at lower tier ceiling prices; and (iv) if the well were not repaired, substantial quantities of crude oil would not be recovered from the reservoir. On the basis of these findings the FEA concluded that the working interest owners should be granted exception relief which provides a sufficient economic incentive to undertake the capital investment required to reopen the well. At the same time the relief provided should not permit the firm to earn windfall profits. The FEA concluded that these objectives would be effectuated if Rickelson were permitted to sell a total of 3,550 barrels of crude oil produced from the well at upper tier prices, and appropriate exception relief was granted permitting the firm to do so.

The Superior Oil Co.; Rio Bravo, Calif.; West Seminole, Tex.; FEE–2427, FEE–2428; Natural Gas Liquid Products

The Superior Oil Company (Superior) filed two Applications for Exception in which it requested that the exception relief granted to it by the FEA on February 27, 1976 be extended for an additional period of time. *The Superior Oil Co.*, 3 FEA Par. 83,119 (February 27, 1976). In the February 27 Order, the FEA determined that Superior would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted to the firm which would permit it to increase the prices which it

charges for natural gas liquid products at its Rio Bravo and West Seminole plants above the maximum permissible levels determined in accordance with the provisions of Subpart K. In considering Superior's requests for extensions, the FEA determined that: (i) the Rio Bravo plant incurred adjusted non-product cost increases for the most recent fiscal quarter which are substantially in excess of the one-half cent per gallon pass-through permitted under Section 212.165; and (ii) based upon the criteria set forth in *Sun Oil Co.*, 3 FEA Par. 83,102 (February 13, 1976); *Shell Oil Co.*, 3 FEA Par. 83,049 (December 15, 1975); and *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), continued exception relief is warranted. The FEA therefore granted the exception request and permitted Superior to increase its maximum permissible selling prices for natural gas liquid products produced at its Rio Bravo plant during the period June 1, 1976 through September 30, 1976 by an amount not to exceed 5.1001 cents per gallon. With respect to the West Seminole Plant, the FEA determined that the adjusted non-product cost increases which the firm incurred during the most recent period were not material for purposes of the exception process because they were less than one-half cent per gallon. *Sun Oil Co., supra.* Accordingly, the request for exception with respect to the West Seminole plant was denied.

UCO Oil Co.; Whittier, Calif.; FEE–2388; Motor Gasoline

UCO Oil Company (UCO) filed an Application for Exception from the provisions of 10 CFR 211.9, which, if granted, would result in the issuance of orders by the FEA assigning UCO a new, lower-priced supplier of motor gasoline to replace its present base period suppliers. In considering the UCO Application, the FEA determined that the price which UCO pays for motor gasoline is comparable to or higher than the price at which its competitors sell gasoline to their customers and that as a consequence, UCO's average markup in the first quarter of 1976 decreased substantially from the average markup which the firm applied in the period 1973 through 1975. The FEA further found that the firm had incurred substantial financial losses in the first quarter of 1976 in contrast to the average level of profitability which it achieved in its previous three fiscal years. The FEA therefore concluded that UCO was experiencing a serious financial hardship and that it should be granted exception relief to alleviate the financial losses which it is incurring as a direct result of the relatively high cost of motor gasoline it receives from its base period suppliers. Exception relief was therefore approved and it was directed that approximately 22.36 percent of UCO's total base period use should be supplied by a new supplier during the three month period ending in August 1976.

Wagner Gas & Electric; Gillett, Wis.; FEE–2924; Propane

On March 17, 1976, the Federal Energy Administration granted an exception to Wagner Gas & Electric (Wagner) on the grounds that the application to it of the provisions of 10 CFR 211.9 which require adherence to its base period supplier/purchaser relationship resulted in a serious hardship to the firm. *Wagner Gas & Electric*, 3 FEA Par. 83, 135 (March 17, 1976). Accordingly, the Regional Administrator of FEA Region V was directed to assign Wagner a supplier or suppliers for the months of April, May, and June 1976 whose wholesale price for propane was within the range of prices paid for propane by major marketers in the area in which Wagner operates. The Order specified that the assigned supplier(s) was to be required to furnish Wagner with 80.62 percent of its base period use of propane during this period. The Order further provided that the Regional Administrator, upon receiving a written request from Wagner, shall make a determination for any month subsequent to June 1976 as to whether Wagner will continue to experience a serious hardship unless further exception relief was approved. The Order stated that any such determination should include a recommendation to the National Office of Exceptions and Appeals regarding the need for additional assignments to Wagner. Based on a recommendation made by the Regional Administrator of the FEA, Region V, and the data which Wagner submitted to the Office of Exceptions and Appeals in support of its request, the FEA determined that adherence by Wagner to its base period supplier/purchaser relationship would continue to result in a serious hardship to the firm. As a result the exception relief which had previously been granted was extended for the months of July, August and September 1976.

REQUEST FOR STAY

J & W Refining, Inc.; Dallas, Tex.; FES–2340; Crude oil

J & W Refining, Inc. (J&W) requested that the application to it of the provisions of 10 CFR 211.67 (the old Oil Entitlements Program) be stayed pending a determination on its Application for Exception. The request for stay, if granted, would result in the issuance of an FEA Order deferring J&W's obligation to purchase entitlements in the month of June which arises from revocation of Special Rule No. 6. In considering J&W's request, the FEA determined that the assets of J&W have been placed in receivership and it is currently the subject of a reorganization proceeding under Chapter 11 of the Bankruptcy Act. As a result, the firm has unusually limited resources to prepare and submit on a timely basis the type of data which would ordinarily be necessary in order for the FEA to make a decision on the firm's exception application prior to the publication of the Entitlements Notice in June. In view of that finding and the preliminary financial data which J&W submitted, the FEA concluded that a showing was made that the firm would incur an immediate and irreparable injury if it is required to fulfill its current entitlement purchase obligations. The firm's Application for Stay was therefore granted pending a determination of its exception application.

REQUESTS FOR MODIFICATION OR RESCISSION

Getty Oil Co.; New York, N.Y.; FMR–0054; Crude Oil

The Getty Oil Company filed an Application in which it requested that the previous Decisions and Orders which the FEA issued granting exception relief to Getty, the San Joaquin Refining Company and the West Coast Oil Company be modified so as to permit West Coast and San Joaquin to deliver the heavy fuel oil which they process for Getty by a new fuel oil pipeline instead of by truck. The Decisions which the FEA previously issued permitted Getty to deduct from its crude oil receipts for purposes of the Entitlements Program certain quantities of crude oil which it delivered to West Coast. *Getty Oil Co.*, 2 FEA Par. 80,561 March 26, 1975); *San Joaquin Ref. Co.; West Coast Oil Co.*, 1 FEA Par. 20, 759 (December 30, 1974). Pursuant to the terms of a processing agreement with Getty which it entered into on May 1, 1973, West Coast and its subcontractor, San Joaquin, received crude oil from Getty which they refine into heavy fuel oil which is returned to Getty. Getty uses the fuel oil which it receives from West Coast and San Joaquin to produce steam for its secondary crude oil recovery operations. The previous exceptions were conditioned on the continuation of the terms specified in the processing agreement. In considering Getty's request, the FEA found that the proposed changes in the method of delivery of the heavy fuel oil to Getty do not substantially alter the underlying basis for the approval of the previous exception relief. The FEA therefore modified the March 26, 1975 Decision and Order to permit San Joaquin and West Coast to deliver the heavy fuel oil to Getty by pipeline.

Lincoln Land Oil Co.; Kankakee, Ill.; FMR–0049; Motor Gasoline

Lincoln Land Oil Company filed an Application for Modification of an Assignment Order issued to it by the Federal Energy Administration (Region V) on June 26, 1975. In that Assignment Order, FEA Region V established the base period use of motor gasoline for a new Lincoln retail outlet located in Kankakee, Illinois. The Application for Modification, if granted, would result in the issuance of an order increasing the base period use of motor gasoline for the Kankakee station. Prior to the date on which Region V issued the June 26 Assignment Order, the FEA had issued instructions to the Regional Offices entitled "Guidelines for Evaluation of Applications for Assignment of Base Period Use to New Gasoline Retail Outlets," 40 Fed. Reg. 20342 (May 9, 1975). The Regional Offices had been instructed that the Guidelines were to be effective immediately in considering Applications for Assignment submitted by new retail outlets. Lincoln contended that FEA Region V improperly failed to apply the Guidelines in issuing the June 26 Assignment Order to Lincoln. In considering Lincoln's request, the FEA first noted that Lincoln could have filed an appeal of the June 26 Order based upon the same issues which it now raises but failed to do so. Accordingly, the FEA could certainly have dismissed its present submission on the grounds that Lincoln should have raised the issues which it now presents in a more timely manner. However, the FEA determined that in view of the relatively small size of the Lincoln operation and its significant efforts to determine the proper administrative remedies which it might pursue, sufficient mitigating factors exist to warrant the FEA's consideration of the matter on its merits. In analyzing the submission, the FEA concluded that Region V should have applied the Guidelines in making a determination on Lincoln's Application for Assignment but failed to do so. Since the application of the Guidelines could have altered the determination reached in the June 26 Assignment Order, the Order which was previously issued was vacated and the matter was remanded to FEA Region V for reconsideration and issuance of a revised Order.

SUPPLEMENTAL ORDER

Ashland Oil Co. of California; San Francisco, Calif.; FEX–0045; Motor Gasoline

On April 30, 1976, the Federal Energy Administration issued a Decision and Order to the Ashland Oil Company of California (Ashland). In that Decision, the FEA determined that Ashland was experiencing a serious hardship as a result of the regulatory provisions requiring adherence to a supplier/purchaser relationship with its principal base period supplier, Coastal States Gas Producing Company, and apropriate exception relief was, therefore approved. The Decision was based upon the FEA's determination of Ashland's base period use of motor gasoline in the months of April through June 1976. However, subsequent to the issuance of the April 30 Decision and Order, the FEA was informed

that Ashland's base period use of motor gasoline during the period was less than the FEA had originally determined. The FEA therefore suspended the April 30 Decision and Order and provided that Ashland could reopen the proceeding by requesting that a full evidentiary hearing be conducted with respect to the matters raised in its exception application. The proceeding was reopened and that hearing was held on May 26, 1976. In considering the Ashland application for reinstatement of exception relief, the FEA determined that since the financial difficulties which Ashland was experiencing would be exacerbated unless it were assigned a lower-priced supplier during the months April through June 1976, and since Ashland was not wholly at fault for the error in determining its base period use for the period April through June 1976, it would be unfair to deny Ashland exception relief during this period. Based on the determination in the April 30 Order that 60.0 percent of Ashland's base period use of motor gasoline from Coastal States should be reassigned, the FEA determined that it would be appropriate to permit Ashland to receive from a new supplier 3,618,030 gallons of the 5,970,348 gallons of motor gasoline which Ashland was entitled to receive from Coastal States during the period April through June 1976. However, since this period had almost fully elapsed, the relief was granted instead for the period June through August 1976.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Delta Refining Co.; FEE-2437; Memphis, Tenn.
Phillips Petroleum Co.; FEE-2569; Bartlesville, Okla.
Powerine Oil Co.; FEE-2435; Washington, D.C.

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Dean's Oil Co.; FEE-2389; Pocahontas, Iowa
Pontiac Stadium Authority; FEE-2481; Pontiac, Mich.

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Norton's Tire Service; FEE-2307; Snohomish, Wash.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

JULY 21, 1976.

[FR Doc.76-21590 Filed 7-22-76;9:16 am]

FEDERAL MARITIME COMMISSION

TRAILER MARINE TRANSPORT CORP., ET AL.

Stipulation Filed

Notice is hereby given that the following stipulation 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 stipulation at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the stipulation at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on the stipulation, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 3, 1976. Any person desiring a hearing on the proposed stipulation 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 parties filing the stipulation (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by

Ronald A. Capone, Esquire, Attorney for Trailer Marine Transport Corporation, Kirlin, Campbell & Keating, The Farragut Building, 900 17th Street, NW., Washington, D.C. 20006.

and

Alan F. Wohlstetter, Esquire, Attorney for Transconex, Inc., Econocaribe Consolidators, Inc., and Twin Express, Inc., Denning and Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006.

Agreement No. DC-98, which is between Trailer Marine Transport Corporation (TMT) on the one hand and Transconex, Inc., (Transconex), Econocaribe Consolidators, Inc., (Econocaribe) and Twin Express, Inc., (Twin Express), is a settlement stipulation resulting from FMC Docket No. 76-28, *Trailer Marine Transport Corporation Proposed Increased Rates on Selected Commodities from Jacksonville and Miami, Florida to Ports in Puerto Rico*. Agreement No. DC-98 provides that: (1) Contingent upon the discontinuance of Docket No. 76-28, including the lifting of the order of suspension relating to the Freight All Kinds and all other tariff items which are the subject of Docket No. 76-28, TMT will limit the increase on Freight All Kinds in its Tariff FMC-F No. 2 (Item No. 3260, 1st Rev. p. 122) to seven and one-half percent; (2) Transconex, Econocaribe and Twin Express will withdraw their joint protect filed in Docket No. 76-28; (3) TMT, Transconex, Econocaribe, Twin Express and the Commission's Bureau of Hearing Counsel will request discontinuance of Docket No. 76-28; and (4) TMT will submit to the Commission's Bureau of Hearing Counsel, on a confidential basis, the following data on a quarterly basis, commencing with the quarter ending September 30, 1976, and for a period of one year thereafter: (a) With respect to TMT FMC-F No. 2, Items Nos. 3260, 3270, 2050, 1520, and 4070, a statement by individual commodity setting forth total volume moved pursuant to said tariff item (in total 20-foot equivalents or 40-foot trailers), and total revenues obtained therefrom, and; (b) For TMT's service between Jacksonville and Miami, Florida, and Puerto Rico, a statement of barge utilization, by individual sailing, setting forth total barge capacity and total barge utilization in 20-foot equivalent units or 40-foot trailers. Where cargo is noncontainerized, appropriate reporting of such utilization will be made.

Dated July 23, 1976.

By Order of the Federal Maritime Commission,

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-21765 Filed 7-26-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9485]

KANSAS GAS AND ELECTRIC CO.

Order Approving Settlement Agreement; Electric Rates: Settlement

JULY 21, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On April 22, 1976, Kansas Gas and Electric Company (Kansas Gas) filed a proposed stipulation and settlement agreement in this docket. The Commission finds that the proposed settlement is in the public interest and accepts and approves it subject to certain conditions as hereinafter specified.

On June 9, 1975, as completed on July 14, 1975, Kansas Gas tendered for filing proposed changes in its FPC jurisdictional Electric Service Rate Schedule Nos. 87, 89, 98, 110, 113, 126, 128, 129, 131, 132 and 134. These are schedules to Eletric Interconnection Contracts or Agreements affecting eleven wholesale customers.[1] The proposed amendments were designed to increase revenues from jurisdictional sales and service to these wholesale customers by approximately $195,080 (11.45%) based on estimated sales for

[1] The cities of Augusta, Burlington, Chanute, Coffeyville, Fredonia, Girard, Iola, Mulvane, Neodesha, Wellington, and Winfield, Kansas.

the year ending June 30, 1975. In addition, Kansas Gas filed a fuel clause adjustment rider applicable to the abovementioned FPC Rate Schedules intended to conform with Section 35.14 of the Commission's Regulations, as amended by Order No. 517.

Public notice of Kansas Gas' filing was issued June 19, 1975, with protests or petitions to intervene due on or before July 10, 1975. No response was received.

By order issued August 6, 1975, the Commission accepted the increased rates, including the fuel clause adjustment rider, for filing and suspended them for five months, to become effective January 14, 1976, subject to refund.

On December 15, 1975, and April 13, 1976, technical conferences were held in this proceeding, attended by representatives of Kansas Gas and the Commission Staff. As a result of these conferences, the parties agreed to the instant stipulation and settlement agreement. The agreement, as well as capitalization and cost of service data in support thereof, was filed by Kansas Gas on April 22, 1976. The major features of the proposed settlement include: (1) a reduction in the originally proposed increase of $195,762 by $3,049 to reflect placing all customers under the same rate, (2) elimination of potential service discrimination, and (3) revision of the fuel adjustment clause.

Public notice of the filing of the settlement agreement was issued April 29, 1976, with all comments due on or before May 14, 1976. The Commission Staff filed comments in support of the proposed agreement on May 14, 1976.

The Commission's review of the proposed stipulation and settlement agreement, as well as the capitalization and cost of service data in support thereof, indicates that the rates, terms and conditions of the proposed agreement represent a just and reasonable resolution of the issues in this proceeding. We shall therefore accept and approve the proposed stipulation and settlement agreement to become effective as of the effective date of the originally-proposed rates, January 14, 1976.

The Commission finds: The proposed stipulation and settlement agreement filed in this proceeding by Kansas Gas on April 22, 1976, is reasonable and proper and in the public interest in carrying out the provisions of the Federal Power Act and should be approved, as hereinafter ordered and conditioned.

The Commission orders: (A) The proposed stipulation and settlement agreement filed in this proceeding by Kansas Gas on April 22, 1976, is hereby accepted, incorporated herein by reference, and approved and permitted to become effective as of January 14, 1976, subject to the following conditions.

(B) Within thirty days of the issuance of this order Kansas Gas shall file appropriate amendments to its rate schedules reflecting the provisions of the proposed settlement agreement.

(C) Within thirty days after the compliance schedules ordered in paragraph (B) are accepted for filing, Kansas Gas shall make refunds of all revenues collected in excess of the settlement rates as to any customer, with interest at 9% per annum.

(D) Kansas Gas is further directed to file a report of compliance, within fifteen days of making the refunds ordered in paragraph (C), showing monthly billing determinants and revenues under prior, present and settlement rates. Such report should also show for each schedule the monthly settlement rate increase, the monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, Kansas Gas or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Kansas Gas or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21754 Filed 7-26-76;8:45 am]

[Docket No. ER76-261]

THE KANSAS POWER AND LIGHT CO.

Filing of Supplemental Data

JULY 20, 1976.

Take notice that on July 6, 1976, The Kansas Power and Light Company (KP&L) tendered supplemental data requested by an April 13, 1976 deficiency letter issued by the Secretary of the Federal Power Commission. KP&L states that it is resubmitting all the required information in order to avoid possible confusion that might arise from the several submissions of data and revisions to the filing.

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, N.E., Washington, D.C. 20426, in accordance with Sections 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 August 6, 1976. 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.76-21756 Filed 7-26-76;8:45 am]

[Docket No. ER76-204]

KENTUCKY POWER CO.

Order Approving Settlement Agreement; Electric Rates; Settlement

JULY 21, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On October 30, 1975 Kentucky Power Company (Kentucky) tendered for filing proposed changes in its FPC Electric Service Rate Schedules Nos. 12 and 13 for wholesale for resale electric service to Vanceburg Electric Light, Heat and Power System of Vanceburg, Kentucky (Vanceburg) and the City of Olive Hill, Kentucky (Olive Hill). As proposed in the original filing, the changes sought would have increased the revenues from jurisdictional sales and service by approximately $117,936 based on the 12-month period ending June 30, 1975. By order issued November 28, 1975, the Commission accepted the proposed rate increase for filing and permitted it to become effective subject to refund on February 1, 1976. Intervention was granted to Vanceburg and a hearing was ordered. Olive Hill was granted intervention by a separate Commission order issued on January 29, 1976.

On March 16, 1976 Kentucky filed its Motion to Settle Docket and Terminate Proceedings accompanied by executed letter agreements with its customers and supplemental data reflecting the revisions settled upon. The motion states that the letter agreements provide for a downward revision of the "Demand Charge" rate from $4.77 per kilowatt of monthly billing demand, to $4.046 per kilowatt of monthly billing demand. The effect of that revision is to reduce the originally filed rate increase of $117,936 by $49,696.

Notice of the motion to settle this proceeding was issued on April 9, 1976, with comments due on or before April 27, 1976. On April 27, 1976 the Commission Staff filed comments in support of the proposed settlement and requested the Commission to accept and approve the proposed letter agreements and supportive supplemental data and terminate this proceeding.

Upon review, the Commission has determined that the proposed settlement embodied in the letter agreements filed by Kentucky is supported by cost evidence and represents a just and reasonable resolution of all issues in this proceeding and should be approved without modification.

The Commission finds: The proposed settlement is supported by cost evidence and should be accepted and approved as hereinafter ordered and conditioned.

The Commission orders: (A) The Motion filed by Kentucky on April 27, 1976, is hereby granted, and the letter agreements and supplemental data filed with this motion are hereby accepted, incorporated herein by reference, and approved.

(B) Within 30 days of the issuance of this order Kentucky shall file rate sched-

ules appropriate to reflect the terms of the settlement.

(C) Kentucky shall refund, within 30 days after the rate schedules required in (B), *supra* are accepted for filing, all amounts collected in excess of the settlement rates with interest at 9% per annum.

(D) Within 15 days after appropriate refunds have been made, Kentucky shall file with the Commission a compliance report. This compliance report should detail (1) monthly billing determinants and revenues by customers under the prior, originally proposed, and settlement rates; (2) the monthly settlement rate increase, refund, and interest computation for each customer, together with a summary of such information for the total refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Kentucky or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Kentucky or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21753 Filed 7-26-76;8:45 am]

[Docket Nos. G-18314, CP66-121, CP70-25]

Notice of Petition To Amend

JULY 21, 1976.

Take notice that on June 22, 1976, Midwestern Gas Transmission Company (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. G-18314, CP66-121, and CP70-25, a petition to amend further the Commission's orders, as amended, in said dockets issued pursuant to Section 3 of the Natural Gas Act by authorizing Petitioner to pay TransCanada Pipelines Limited (TransCanada) for gas purchased by Petitioner the increased prices announced by the Government of Canada, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that Petitioner purchases natural gas from TransCanada at a point on the international boundary near Emerson, Manitoba, under three gas purchase contracts. It is further indicated that under Contract No. 1, as amended, Petitioner purchases 222,360 Mcf of gas per day, that under Contract No. 2 it purchases 116,332 Mcf of gas per day, and that under Contract No. 3 it purchases 7,200 Mcf of gas per day. The petition shows that the importation of these volumes was authorized by the Commission's orders and opinions issued in the subject dockets.[1]

Petitioner states that these three contracts with TransCanada provide the total gas supply for its Northern System sales. It is indicated that the present purchase price of all such gas $1.60 per million Btu's.

It is asserted that on June 10, 1976, the Minister of Energy, Mines, and Resources of the Government of Canada issued a statement that the Canadian Government has further instructed the National Energy Board to amend all existing export licenses applicable to the sale of gas by TransCanada to Petitioner to establish a new border export price of $1.80 per million Btu's effective September 10, 1976, and to adjust further that price upward to $1.94 per million Btu's on January 1, 1977. By the instant petition to amend, Petitioner is requesting the Commission to amend its three import authorizations in the subject dockets to authorize the continued importation of natural gas under Petitioner's Contract Nos. 1, 2, and 3 at these increased prices.

Petitioner states that it is essential in order for it to continue the long-term importation of natural gas from Canada that the Commission grant the amended import authorizations sought and that if such amendatory authorizations are not timely issued, Petitioner would be faced with the termination of imports of gas from TransCanada, the sole supplier of gas to Petitioner's Northern System.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21751 Filed 7-26-76;8:45 am]

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[1] Opinion No. 331 and order, issued October 31, 1959, in Docket No. G-18314 (22 FPC 775), as amended by Opinion No. 469 and order (34 FPC 457), pertains to Contract No. 1; Opinion No. 521 and order, issued June 20, 1967, in Docket No. CP66-121 (37 FPC 1070) pertains to Contract No. 2; and Opinion No. 577 and order, issued April 30, 1970, in Docket No. CP70-25 (43 FPC 635) pertains to Contract No. 3.

[Docket No. CP76-431]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition for Declaratory Order

JULY 20, 1976.

Take notice that on July 2, 1976, Natural Gas Pipeline Company of America (Natural) filed with the Commission in Docket No. CP76-431 a petition for an order declaring and confirming that Natural has authority under its existing certificate issued in Docket No. G-771 to transport increased shrinkage volumes contemplated by a proposed amendment filed by Dorchester Gas Producers Company on June 9, 1976 as a supplement to its FPC Gas Rate Schedule No. 2.

Natural purchases gas from Dorchester in the Hugoton Field, Texas County, Oklahoma, under the terms of a gas purchase contract dated December 1, 1946, as amended. By an Amendment dated May 6, 1976, and filed with the Commission June 9, 1976, Natural and Dorchester have agreed to amend their contract as follows:

1. To limit Dorchester's removal of hydrocarbons from the gas stream to 25% of the Btu's in the gas stream delivered to Dorchester's gasoline plant.

2. To replace the existing price provision, that provides for a 10% reduction in price in the event the Btu's in the stream delivered to Natural fall below 960 Btu's per cubic foot and a 20% reduction if the Btu's are delivered at 950 Btu's with a proportional adjustment in price if the Btu's per cubic feet are more or less that 965 Btu's per cubic foot.

Natural states that under the current contract, Dorchester must deliver gas at a minimum Btu level of 950 Btu's per cubic foot. Natural further states that if Dorchester were to increase the efficiency of its gasoline plant, Dorchester could remove approximately 33% of the Btu's in the gas stream and still meet the minimum Btu per cubic foot level. Under the amendment, removal of the Btu's in the gas stream would be limited to 25%, however delivery would be at a level lower than the minimum Btu per cubic foot level.

The gas purchased by Natural is transported from the Hugoton Field by Dorchester to Natural's Compressor Station No. 101. Natural Compresses the gas and transports it approximately ⅕ of a mile through Natural's 26-inch Hooker lateral to a gasoline plant owned and operated by Dorchester. Then, Dorchester processes and dehydrates the gas and redelivers the stream to Natural at the outlet of the gasoline plant. The compressor station and 26-inch lateral were certificated by the Commission by Order issued January 28, 1947 in Docket No. G-771. Natural states that it is unclear whether Natural is authorized to transport the increased shrinkage volumes which will result from Dorchester's

increase in processing efficiency. Natural, therefore, requests the Commission to issue an order declaring that Natural is authorized under its existing certificate issued in Docket No. G–771 to transport the increased shrinkage volumes contemplated by the proposed amendment.

Due to the fact that the amendment cannot become effective until a determination by the Commission as to the proprietary of the declaratory order requested, we believe that Natural has shown good cause to permit an expedited notice period.

Any person desiring to be heard or to make any protest with reference to the said application should on or before July 29, 1976 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 protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21752 Filed 7-26-76;8:45 am]

[Docket No. ER76-523]

NIAGARA MOHAWK POWER CORP.

Order Granting Petition To Intervene and Petition for Declaratory Relief; Electric Rates: Intervention

JULY 21, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On February 23, 1976, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an initial power agreement with the Power Authority of the State of New York (PASNY). On March 15, 1976, the Town of Massena, New York, (Massena) petitioned to intervene in the proceeding and petitioned for a declaratory order interpreting the Niagara Mohawk-PASNY contract. Massena's petitions are herein granted.

Niagara Mohawk's February 23, 1976, filing [1] provided for the sale of unsupported firm power to Niagara Mohawk from PASNY's Fitzpatrick Nuclear Plant; for the sale of excess power, when available, to Niagara Mohawk from the Fitzpatrick Plant; for the sale of supporting energy to PASNY by Niagara Mohawk; and for the transmission of Fitzpatrick power by Niagara Mohawk to high load factor manufacturers and priority customers supplied by PASNY with power from the Fitzpatrick plant where such customers can be supplied through the system of Niagara Mohawk. Niagara Mohawk requested waiver of the Commission's notice requirements to permit the agreement to become effective on July 28, 1975, the date of the contract.

Notice of the filing was issued on February 27, 1976, with comments, protests or petitions to intervene due on or before March 15, 1976. On March 15, 1976, a timely petition to intervene was filed by Massena. On March 25, 1976, the Commission accepted the Niagara Mohawk-PASNY agreement for filing and permitted it to become effective, as requested on July 28, 1975.

In its March 15, 1976, petition, Massena requested that we issue a declaratory order determining whether the Niagara Mohawk-PASNY contract requires Niagara Mohawk to transmit Fitzpatrick Plant power only to priority customers which were being supplied by PASNY as of July 28, 1975, or whether the contract requires Niagara Mohawk to transmit Fitzpatrick power to future priority customers of PASNY.[2] This question is of importance to Massena insofar as Massena plans, according to its petition, to become a priority customer of PASNY. Massena avers that on February 10, 1976, PASNY reaffirmed its commitment to supply Massena as a preference customer with fifteen megawatts of electric energy once Massena has the legal and physical capacity to receive the power.

We interpret the Niagara Mohawk-PASNY contract to provide that Niagara Mohawk shall transmit PASNY power to both past and future priority customers of PASNY. The Rules and Regulations of PASNY define "priority customers" as being "* * * entities entitled to preference under 16 USC 836 (b)(1)." Section 836(b)(1) of 16 USC, taken from the Niagara Redevelopment Act, 71 Stat. 401, provides:

> In order to assure that at least 50 percentum of the project power shall be available for sale and distribution primarily for the benefit of the people as consumers, particularly domestic and rural customers, to whom such power shall be made available at the lowest rates reasonably possible and in such manner as to encourage the widest possible use, the licensee in disposing of 50 percentum of the project power shall give preference and priority to public bodies and nonprofit cooperatives within economic transmission distance.

The Niagara Redevelopment Act, in providing that preference shall be given to "public bodies and nonprofit cooperatives within economic transmission distance", made applicable to the Niagara project the long-standing Federal preference policy [3] which accords priority in power marketing to public distribution systems and nonprofit cooperatives.[4] It would be contrary to the legislative intent underlying that policy to construe the clause regarding preference power in 16 USC 836 as being inappliacble to public distribution systems and nonprofit cooperatives which do not presently have a capability to utilize preference power.[5] The use of the term "priority customer" in the instant contract, as defined by the Rules and Regulations of PASNY to mean entities entitled to prefernce under 16 USC 836 (b)(1), thus mlst be taken to indicate that the parties to the contract contemplated that benefits of the transmission provision of the contract would run to future preference customers. It would be unreasonable to assume that the parties would use the term "priority customer", with its fixed legal meaning, if they had intended otherwise.

In its petition, Massena requests that the Commission determine whether "other" Niagara Mohawk-PASNY contracts permit both past and future preference customers to benefit from the contracts. Due to the absence of any references by Massena to specific clauses of particular contracts, we shall deny this request for an interpretation of con-

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[1] *Designated:* Niagara Mohawk Power Corporation. Rate Schedule FPC No. 95.

[2] The Niagara Mohawk-PASNY contract clause in question provides as follows: J. *Transmission Service by Customer.* Customer (Niagara Mohawk) hereby agrees to transmit power for Authority (PASNY) over its transmission system to high load factor manufacturers and priority customers supplied by Authority with power from the Fitzpatrick plant, where the customers can be supplied from the system of the Customer as follows: * * * (b) for all priority customers and for high load factor manufacturers located beyond 30 miles of the Niagara Falls switchyard: the transmission to be from the points of delivery of service to Customer in effect under this application to the points of delivery to such customers, for which service Customers shall be compensated in transmission fees and allowance for losses in transmission at the rates in effect under Part Five of Contract NS–1.

[3] For a review of the policy's history, see: S. Rep. No. 1408, 84th Cong., 2nd Sess. (1956).

[4] H.R. Rep. No. 862, 85th Cong., 1st Sess. (1957).

[5] *See:* 41 Op. Atty. Gen. 236 (1955). In rendering an opinion on whether the Secretary of the Interior must contract with a preference customer when the Secretary has before him two competing offers to purchase power, one from the preference customer and the other from a non-preference customer, and the preference customer does not have at the time the physical means to take and distribute power, the Attorney General stated:

> I cannot conceive, in the face of a plain mandate for preference to public bodies and cooperatives and the congressional concern, as evidenced in related statutes, for protection of their preferential status, that it is possible to say apropos of Section 5 [of the Flood Control Act of 1944] that the Congress intended a preference purchaser to demonstrate its present ability to take and distribute the power in order to avail itself of its statutory privilege. It is reasonable to attribute to the Congress that enacted Section 5 the same solicitude for preference customers that had been recognized as necessary on other occasions * * * To read into the Section 5 grant of a preference to public bodies and cooperatives the requirement of a presently existing ability to take and distribute the power would, in the usual case, constitute its emasculation; and it is well-settled that such a construction of a statute should not be taken where a construction is possible which will preserve its vitality and the utility of the language in question. Ibid., at 245 (citations omitted).

tracts other than that filed in the instant docket.

On March 25, 1976, Niagara Mohawk filed an answer to Massena's March 15, 1976, petition.[6] Niagara alleges, first, that Massena has no standing to intervene in the instant proceedings since neither is it a municipal electric system nor does it ever any pro bono publico standing. Having reviewed Massena's petition to intervene, we conclude that Massena has an interest in this proceeding which is sufficient to warrant its intervention herein.

Niagara Mohawk alleges, secondly, that the Commission is without jurisdiction to grant the declaratory relief requested by Massena. Insofar as the Niagara Mohawk-PASNY contract provides for, inter alia, the sale of supporting energy by Niagara Mohawk to PASNY, the contract is within the Commission's jurisdiction. Massena's petition for an interpretation of the Niagara Mohawk-PASNY contract is a petition for a declaratory order to remove uncertainty. Full provision for such orders is made in Section 1.7(c) of the Commission's Rules of Practice and Procedure, as formulated under authority of Section 309 of the Federal Power Act.

The Commission finds: (1) It is desirable and in the public interest to allow Massena to intervene in these proceedings.

(2) Good cause exists to grant Massena's March 15, 1976, petition for a declaratory order removing uncertainty about the Niagara Mohawk-PASNY contract filed February 23, 1976.

(3) Good cause exists to Deny Massena's petition for a declaratory order regarding Niagara Mohawk-PASNY contracts other than that filed on February 23, 1976.

The Commission orders: (A) Massena is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Federal Power Commission; Provided, however, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the notice of intervention; and Provided, further, that the admission of such intervenor shall not be construed as recognition by the Federal Power Commission that it might be aggrieved because of any order or orders of the Federal Power Commission entered in this proceeding.

(B) Massena's March 15, 1976, petition for a declaratory order removing uncertainty about the Niagara Mohawk-PASNY contract filed February 23, 1976, is hereby granted and that contract is hereby interpreted to provide that Niagara Mohawk shall transmit PASNY power to both past and future priority customers of PASNY.

(C) Massena's petition for a declaratory order regarding Niagara Mohawk-PASNY contracts other than that filed on February 23, 1976, is hereby denied.

[6] A reply by Massena to Niagara Mohawk's answer was filed on March 25, 1976.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21755 Filed 7-26-76;8:45 am]

[Docket No. ER76-620]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Notice of Filing of Supplemental Data

JULY 20, 1976.

Take notice that on July 8, 1976, the parties to the Pennsylvania-New Jersey-Maryland (PJM) Interconnection Agreement tendered supplemental data intended to complete the original filing of April 19, 1976 of Schedule 6.01 to that Agreement. The supplemental filing is in response to a May 26, 1976 deficiency letter issued by the Secretary of the Federal Power Commission.

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, N.E., Washington, D.C. 20426, in accordance with Sections 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 August 6, 1976. 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.76-21757 Filed 7-26-76;8:45 am]

[Docket No. E-7719]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Conference

JULY 21, 1976.

Public notice is hereby given that a conference will be held on August 10, 1976, at 10:00 a.m. in Room 5200 of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 with Commission Staff concerning the investigation of proposed headwater benefits payments for the Upper Colorado River Basin.

The conference will involve a discussion of the investigation into benefits in the form of energy gains accruing to the Public Service Company of Colorado Shoshone Hydroelectric Plant.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21758 Filed 7-26-76;8:45 am]

FEDERAL RESERVE SYSTEM

CENTURY FINANCIAL CORPORATION OF MICHIGAN

Proposed Acquisition of Century Life Insurance Company of Michigan

Century Financial Corporation of Michigan, Saginaw, Michigan, has 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 (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Century Life Insurance Company of Michigan, Phoenix, Arizona. Notice of the application was published on:

Date	Newspaper	City and state
May 21, 1976	The Arizona Republic	Phoenix, Ariz.
May 29, 1976	The Saginaw News	Saginaw, Mich.
May 20, 1976	The Bay City Times	Bay City, Mich.

Applicant states that the proposed subsidiary would engage *de novo* in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by the holding company's credit granting subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

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 August 18, 1976.

Board of Governors of the Federal Reserve System, July 20, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21714 Filed 7-26-76;8:45 am]

CB&T BANCSHARES, INC.

Acquisition of Bank

CB&T Bancshares, Inc., Columbus, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank

Holding Company Act (12 U.S.C. 1842 (a)(3)) to acquire 51 percent or more of the voting shares of Commercial Bank, Thomasville, Georgia. 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 offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 19, 1976.

Board of Governors of the Federal Reserve System, July 21, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21715 Filed 7-26-76;8:45 am]

CB&T BANCSHARES, INC.

Acquisition of Bank

CB&T Bancshares, Inc., Columbus, Georgia, has applied for the Board's approval under 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 per cent or more of the voting shares of La Grange Banking Company, La Grange, Georgia. 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 offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 19, 1976.

Board of Governors of the Federal Reserve System, July 21, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21716 Filed 7-26-76;8:45 am]

DESERET BANCORPORATION

Formation of Bank Holding Company

Deseret Bancorporation, Pleasant Grove, Utah, 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 100 per cent or more of the voting shares of Bank of Pleasant Grove, Pleasant Grove, Utah; State Bank of Lehi, Lehi, Utah; Mountain View Bank, American Fork, Utah; and Geneva State Bank of Orem, Orem, Utah, a proposed new bank. The factors 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 offices of the Board of Governors or at the Federal Reserve Bank of San Francisco any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 19, 1976.

Board of Governors of the Federal Reserve System, July 21, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21717 Filed 7-26-76;8:45 am]

GAYLORD BANCSHARES, INC.

Formation of Bank Holding Company

Gaylord Bancshares, Inc., Gaylord, Kansas, 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 80 per cent or more of the voting shares of The First National Bank of Gaylord, Gaylord, Kansas. 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 offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 18, 1976.

Board of Governors of the Federal Reserve System, July 20, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21718 Filed 7-26-76;8:45 am]

HASTINGS STATE CO.

Order Approving Formation of Bank Holding Company

Hastings State Company ("Applicant"), Hastings, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act ("Act") (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of Hastings State Bank ("Bank"), Hastings, Nebraska.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company through the acquisition of shares of Bank. Upon acquisition of those shares Applicant would control one of the smaller banking organizations in Nebraska with total deposits of approximately $13.5 million, representing 0.2 per cent of total deposits held by commercial banks in the State.[1] Bank, which is the third largest of five banks in the relevant banking market,[2] holds 8.1 per cent of the deposits held by commercial banks in that market.

Applicant's principals are also principals of Harvard State Bank ("Harvard Bank"),[3] Harvard, Nebraska, which is located 15 miles east of Bank in a different banking market. It does not appear that consummation of the proposed transaction would materially alter the competitive relationship between Bank and Harvard Bank. Moreover, since the purpose of the proposed transaction is to transfer the ownership of shares of Bank from individuals to a corporation owned by the same individuals, it appears that consummation of the proposal would would have no adverse effect on existing or potential competition or the concentration of banking resources in any relevant area. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank, which are considered to be generally satisfactory in view of Applicant's capital commitment and its commitment that it will not declare dividends on its common stock until the debt it proposes to incur has been amortized. Although a portion of that debt bears a maturity of 15 years, Applicant has agreed to retire that debt over a twelve-year period in accordance with commitments contained in its application, as amended. Based on Bank's past earnings, it appears that Applicant will be able to meet its annual debt-servicing requirements and maintain an adequate capital position for Bank. Thus, considerations relating to banking factors are consistent with approval of the application.

It does not appear that the convenience and needs of the community to be served are not being met currently. However, as Applicant proposes to add $200,000 to Bank's capital to increase Bank's loan portfolio, considerations relating to the convenience and needs of the community lend some weight toward approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be 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 Kansas City pursuant to delegated authority.

[1] All banking data are as of December 31, 1975.

[2] The relevant banking market is approximated by Adams County, Nebraska.

[3] An application by Harvard State Company, Harvard, Nebraska, to become a bank holding company through acquisition of shares of Harvard Bank is currently pending.

By order of the Board of Governors,[4] effective July 19, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21719 Filed 7-26-76;8:45 am]

MELLON NATIONAL CORP.

Order Approving Acquisition of Local Loan Company

Mellon National Corporation, Pittsburgh, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire 100 per cent of the voting shares of Local Loan Company ("Local"), Chicago, Illinois, a company that, directly and through 19 wholly-owned subsidiaries, engages in the activities of a consumer finance company by making secured and unsecured consumer installment loans and by purchasing consumer installment sales finance contracts. Local also acts as agent or broker for the sale of credit life, accident and health insurance, directly related to its extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (9)).

Notice of receipt of the application, affording opportunity for interested persons to submit comments and views with respect to the proposed transaction, was published in the FEDERAL REGISTER (39 FR 42719) on December 6, 1974. By letter dated January 6, 1975, Mr. Anthony R. Martin-Trigona ("Protestant"), Chicago, Illinois, requested the Board to hold a formal hearing on the subject application. Applicant responded by challenging the timeliness of Mr. Martin-Trigona's request for a hearing and his standing. Following an exchange of correspondence and an informal hearing concerning Mr. Martin-Trigona's standing, the Board, by Order dated July 28, 1975 (40 FR 33072), directed that a public hearing be held with respect to the application, the issue to be considered at said hearing to be whether the proposed acquisition 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. While the Board was skeptical concerning Mr. Martin-Trigona's claim of standing as a possible entrant into the consumer finance business, the Board expressly reserved judgment on that question and determined to permit Mr. Martin-Trigona to participate in the hearing.

The hearing, held in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263), commenced on September 3, 1975, in Washington, D.C., with proceedings held thereafter on September 4–6, 29 and 30, October 1–3, 6–7, 9–10, and November 11, 1975. On November 24, 1975, the Administrative Law Judge, over Protestant's untimely objection,[1] closed the proceedings. A substantial record on the application was developed through extensive cross-examination by protestant of Applicant's witnesses and through numerous exhibits submitted by all parties to the proceedings.

In a Recommended Decision dated March 11, 1976, the Administrative Law Judge concluded that consummation of the proposed acquisition of Local by Applicant "can reasonably be expected to produce benefits to the public that outweigh possible adverse effects within the meaning of section 4(c)(8) of the (Bank Holding Company) Act." Accordingly, the Administrative Law Judge recommended that the Board of Governors approve the subject application.

The Board, having considered the entire record of the hearing, including the transcript, exhibits, rulings, briefs filed in connection with the hearing, and the Recommended Decision filed by the Administrative Law Judge, together with Protestant's Exceptions and Applicant's and Board Counsel's response thereto, has determined that the Administrative Law Judge's findings of fact, conclusions and recommendations, as modified and supplemented herein, are fully supported by the evidence of record and should be adopted as the findings and conclusions of the Board. Accordingly, the Board now makes its findings as to the facts, its conclusions drawn therefrom, and its Order.[2]

Applicant is the largest banking organization in Pennsylvania and the sixteenth largest banking organization in the United States. Applicant controls Mellon Bank, N.A., Pittsburgh, Pennsylvania, ("Bank"), which holds domestic deposits of $5.1 billion, representing approximately 12 per cent of the total deposits in commercial banks in Pennsylvania.[3] Applicant controls no other banking subsidiaries but does control nonbanking companies engaged in equipment leasing on a full pay-out basis, real estate financing and mortgage banking.

Local, the seventieth largest consumer finance company in the country in terms of capital funds, is a moderately sized, multi-regional consumer finance company with net consumer finance receivables of $82.4 million. Local engages principally in making direct installment loans to individuals. Of its total receivables, 82 per cent are derived from this activity. The balance of its receivables consist of purchased consumer installment sales finance contracts.

Local operates 124 offices in twelve States,[4] with approximately 55 per cent of its business generated in the four western States of California, Colorado, Oregon, and Washington in which Local has 72 of its offices. Local derives an additional 30 per cent of its business from the States of Illinois and Wisconsin, in which it has 32 offices. The balance of Local's business is derived from 20 offices in Florida, Indiana, Kentucky, Minnesota, Nebraska and New York.

The relevant product lines to be considered in evaluating the competitive effects of this proposal are direct personal installment loans and purchased consumer sales finance contracts. The geographic market for direct personal installment loans is considered to be local in nature.[5] Although it is possible to engage in the purchasing of sales finance contracts over an unlimited geographic area, Local generally purchases such contracts from dealers located in Local's service areas as a means of attracting new customers for its direct loan services. In view of the limited nature of Local's credit-related insurance activities, the Board finds that no significant existing or potential competition with respect to such insurance activities would be eliminated upon consummation of this proposal.

Applicant, through the 102 branch offices of Bank, makes substantially all of its consumer loans in the six-county metropolitan area of Pittsburgh,[6] some 350 miles distant from the closest Local service area. Bank also purchases con-

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[1] See Appendix to this Order, pp. 4–5.

[2] Protestant's numerous objections to the manner and conduct of the administrative proceedings as well as certain other matters raised by Protestant in motions and petitions to the Board are dealt with in the Appendix to this Order. The Appendix is incorporated herein and made a part of this Order.

[3] Unless otherwise noted, all financial data are as of June 30, 1975.

[4] In four States (California, Illinois, Kentucky and Indiana), Local solicits direct consumer loans by mail through its subsidiary, Mario Finance Company.

[5] Protestant has excepted to the Administrative Law Judge's acceptance of Applicant's delineation of Local's 38 service areas as overbroad, contending that the relevant geographic markets are the narrowly localized or directly impacted areas. The Board is satisfied from its review of the technique Applicant used to define the markets that the Administrative Law Judge's findings as to the geographic boundaries of the markets are substantially correct. In this regard, the Board has previously determined consumer finance markets to be roughly equivalent to commercial banking markets. Measured against this standard, the Administrative Law Judge's market definitions appear in certain cases to be too narrow, rather than as Protestant suggests overbroad. With respect to the Administrative Law Judge's definition of the Los Angeles, California market, to which Protestant specifically objects, the Board has previously determined that market to be even broader than that found by the Administrative Law Judge. In any event, any error in market definition is viewed by the Board as insignificant in light of its findings with respect to the overall competitive effects of the proposal.

[6] Applicant's subsidiary Mellon National Mortgage Company of Ohio, while engaged primarily in mortgage banking, also engages to a very limited extent (less than .1 percent of its total assets) in consumer loan activities through its second mortgage lending operations. All of these loans are on properties located in Ohio, and Local has no market that extends into Ohio.

sumer sales finance contracts from dealers outside its market. However, none of these dealers, except for mobile home servicing companies,[7] is located in any of the markets Local serves. As of June 30, 1974, Bank's total consumer credit extensions amounted to $360 million, representing approximately 4 percent of its total assets and 9 percent of its total loans. Of this amount, about $1 million (including both direct consumer loans and purchased sales finance contracts) or less than .5 percent of Bank's total consumer credit resulted from loans extended to residents of Local's markets. In addition, none of these consumer loans was directly solicited by Bank, but rather was the result of Bank borrowers moving from the Pittsburgh banking market to a Local service area or resulted from credit accommodations being granted to users of Bank's other services residing in Local's markets. Thus, since there is no meaningful geographic overlap between the services offered by Applicant and Local, consummation of the proposal would not eliminate any significant existing competition in any relevant market.

With respect to the question of whether consummation of the proposal would eliminate any significant competition in the future, Applicant has evidenced within the past few years a desire to expand its activities. This has been manifested in its establishment of a corporate management team to plan and guide expansion, the sizeable growth and diversification of the subsidiary bank's activities both domestically and in the foreign area, and Applicant's entry, either de novo or by acquisition, into a number of nonbanking endeavors. Furthermore, considering Applicant's extensive resources, its stated view as to the importance to its structure of a consumer finance subsidiary, and the relatively low barriers to entry into the industry, the Board believes it reasonably likely that, absent approval of the instant application, Applicant might well within the foreseeable future enter the consumer finance business, if not de novo,[8] then through the acquisition of one or more smaller consumer finance companies, coupled with some de novo expansion.

In this connection, the Board does not agree with the Administrative Law Judge's characterization of Applicant's proposed acquisition of Local as a foothold entry into the consumer finance industry. While Local is clearly not one of the larger firms in the industry as a whole, it is one of the larger of the few remaining independent consumer finance companies in the country. In addition, Local has achieved a more than insignificant presence among consumer finance companies in certain of the markets in which it operates.[9]

While the Board cannot conclude that Applicant, absent approval of the instant application, would enter any particular market either de novo or through acquisition of a smaller consumer finance company, the Board is nevertheless of the view that consummation of the proposal would result in the elimination of some potential competition. However, that loss is regarded by the Board as very slight, since Applicant will not gain a substantial share of the consumer loan business in any of the markets presently served by Local and in view of the size and large number of financial institutions already competing in these markets as well as the number of available potential entrants and the low barriers to entry.

Each of the markets in which Local operates contains numerous competitors, including in nearly all cases many of the largest consumer finance companies in the United States as well as other finance companies larger in receivables and capital funds than Local. Moreover, in each of its markets Local competes with a significant number of credit unions and commercial banks. As a result, Local's share of the individual markets in which it operates is small, ranging from .21 per cent to 4.38 per cent, with a median of 1.37 per cent. In the Los Angeles and Chicago markets, from which Local derives about 30 per cent of its receivables and in which it operates 31 offices, Local's share of the consumer loan market (including direct consumer loans and purchased consumer sales finance contracts) is .47 per cent and .94 per cent, respectively. In no market does Local appear to have a dominant position in any product line in which it operates.

As discussed more fully below, any adverse effect of the proposal on potential competition is further and substantially mitigated by the lack of competitive aggressiveness exhibited by Local's present management and policies,[10] and the fact that the acquisition, which constitutes Applicant's initial entry into the consumer finance business, will provide it with expertise and a market position from which to successfully and vigorously complete in the industry and thereby, in the Board's view, increase competition and serve the public interest.

The Board notes that Bank, as of June 30, 1974, had credit commitments of $456 million and loans outstanding of $118 million to 59 consumer finance companies, some of which compete with Local. Since Applicant has assured the Board that Bank's lending policies toward such companies will not change if the application is approved, the Board concludes that consummation of the proposal will not result in any unfair competition.

With respect to whether consummation of the proposal would involve an unsound banking practice, the Administrative Law Judge concluded that both Applicant and Local were prudent and conservative institutions and that approval of the acquisition would not lead to unsound banking. Protestant argues, without any apparent or specified support in the record, that the proposed acquisition and Applicant's growth plans for Local will adversely affect the capital position and earnings of Applicant.

As of June 30, 1975, Applicant had total assets of $9.2 billion and equity capital and valuation reserves of $698 million. Its earnings for the first half of 1975 were $33.7 million, an increase of 14.5 percent over the comparable 1974 period. Applicant's ratio of equity capital to noncash assets is 9.5 percent, which is the second highest of the thirty largest bank holding companies in the country. Applicant's ratio of consolidated liabilities to equity capital and valuation reserves is 12.2:1 and is considered by the Board to be conservative. During the five-year period ending December 31, 1974, Applicant's consolidated assets increased by 90 percent, its consolidated net income by 26 percent, its domestic and foreign deposits by 71 percent and its total equity capital by 21 percent. During the same period, Applicant maintained one of the highest equity to asset ratios of the nation's large bank holding companies.

Applicant also ranks high among comparable bank holding companies in terms of certain other generally accepted standards for measuring capital adequacy, earnings performance and loan loss coverage and experience. In 1974, Bank, which accounts for about 96 percent of Applicant's consolidated assets, was first among the nation's 18 banks with deposits in excess of $5 billion in terms of its ratio of earnings to assets. In this group, Bank also had the second highest ratio of equity capital and reserves to assets and to risk assets, and the highest loan loss coverage and lowest ratio of net charge-offs to total loans. During the period 1970–1974, Applicant's ratio of net charge-offs to average loans outstanding was .16, the fourth lowest in its peer group.

Applicant proposes to pay $30 million in cash for 100 percent of Local's out-

[7] Local does not operate in this product sub-market.

[8] Applicant has submitted evidence indicating that although it has studied in detail the feasibility of a de novo entry into the industry, it has rejected such entry as unwise and imprudent because of the need to hire and train a large staff, the problems and difficulties of locating growth sites for offices, licensing requirements, its lack of experience in the industry, and the significant funds and time required to implement such entry, much less reach a breakeven point. The Administrative Law Judge concluded that the record would not warrant a finding that Applicant should be perceived as a de novo entrant into the industry. However, Applicant's study and rejection of de novo entry into the consumer finance industry does not preclude Applicant's entry by foothold acquisition. Indeed, following rejection of de novo entry, Applicant's corporate planning group considered and studied the acquisition of some 15 consumer finance companies prior to focusing attention upon Local.

[9] While Local's presence among consumer finance companies is viewed as more than insignificant in certain of its markets, Local's share of the consumer loan business in any such market is small because of the additional competition from banks and credit unions.

[10] In view of Local's almost complete lack of geographic expansion over the last decade or more, the Board concludes that Local should not be perceived as a potential entrant into Bank's market.

standing stock from funds already allocated by Applicant for this purpose and derived from its sale in March 1974 of $125 million in capital notes. Local, an established and consistently profitable business,[11] had, as of June 30, 1975, total consolidated assets of $93 million, including $82.4 million in net receivables, total equity capital of $28.6 million, and an allowance for loan losses of $5.9 million. Local is a well capitalized institution, with a debt to equity ratio (exclusive of loan loss reserves) of 2.3:1, which is significantly lower than the industry average or the average for consumer loan firms of comparable size. In these circumstances, Applicant's acquisition of Local and its plans to expand Local's lending operations by approximately 100 percent over a five-year period, while maintaining a debt to equity ratio no higher than the consumer loan industry average, would not, in the Board's opinion, significantly affect Applicant's capital position.[12]

Moreover, according to Applicant, the proposed acquisition does not involve a high business risk and is a prudent way for it to enter the consumer finance industry because of the small premium involved in the proposed acquisition, the high quality of Local's receivables resulting from its conservative loan policies, Local's more than adequate loan loss reserve, and the ability and experience of Local's management. Applicant's assessment of the quality of Local's receivables and the adequacy of its loan loss reserve is fully borne out by the fact that Local's loan reserve as a percentage of its net receivables (4.7 per cent) is significantly higher than the industry average (3.9 per cent) or the average for consumer finance companies of Local's size (3.4 per cent), while Local's rate of net loan write-offs has been less than average from 1970 through 1973. In addition, Local's loan loss reserve has in recent years been more than adequate to cover its actual loan losses, despite Local's policy of charging off as worthless at year end generally all installment receivables on which no payment has been received in the 90-day period ending November 30 of each year.

In connection with managerial considerations the Board notes that Local's present management has demonstrated its ability to operate a conservatively run and profitable institution in a highly competitive industry. The acquisition will not, therefore, constitute a drain upon Applicant's managerial resources and will provide Applicant with a competent and experienced management upon which to base its growth plans for Local.

In view of the foregoing and other facts of record, the Board concludes that the ovall financial aspects of the proposal are not adverse and that consummation of the proposal, as the Administrative Law Judge correctly found, will not involve unsound banking practices. The Board is also of the view, from its examination of the evidence of record, that consummation of the proposal will not result in an undue concentration of resources, conflicts of interests or any other adverse effects on the public interest.

As the Administrative Law Judge correctly points out, in order for the Board to approve an acquisition under section 4(c)(8) of the Bank Holding Company Act, it must determine that approval 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. Thus, the basic balancing test of section 4(c)(8) requires a showing of positive public benefits that outweigh any possible adverse effects associated with the proposed acquisition.

In seeking to meet its burden of demonstrating that the proposed acquisition will be in the public interest, Applicant asserts that consummation of the proposal would result over a five-year period in a 100 per cent expansion in Local's consumer lending activities with a corresponding increase in competition and greater convenience to the public. Applicant contends that these results can be achieved through geographic expansion and a significant broadening of the types of services Local offers the public. Applicant proposes to market more aggressively the small direct loans currently being made by Local and, at the same time, to expand the volume of larger size and longer maturity direct loans in Local's portfolio by offering a wide variety of new consumer loans and services such as loan consolidation programs, second mortgage loans, mobile home loans, recreational vehicle and boat loans, insurance premium financing and home modernization loans. Applicant also proposes to open de novo some 50 to 57 consumer loan offices within the next five years, within the States where Local presently operates. A majority of these new offices will be in markets not presently served by Local.

Additionally, Applicant contends that consummation of the proposal will provide Local with ready access to funds at generally lower rates and with greater assurance of availability, primarily through Applicant's access to the commercial paper market. Local currently does not utilize commercial paper markets, but relies for short-term financing primarily on bank loans, which is generally slightly more expensive than commercial paper operations. Finally, Applicant contends that consummation of the proposal will avoid a significant reduction in the number of Local's offices and the amount of its outstanding receivables. This contraction in operations has been planned by Local's management as a method both to improve Local's declining profitability and, following the death of Mr. Fred B. Snite, Local's founder and controlling stockholder,[13] to provide his estate (through redemption of Mr. Snite's Local stock) with the necessary liquidity to meet an estate and inheritance tax liability.

In his Exceptions to the Recommended Decision, Protestant asserts that the proposed public benefits were "fraudulent and designed to induce approval of the application."[14] In addition, Protestant argues that Local presently is offering or could offer the additional services proposed by Applicant, and that, in any event, the benefits proposed to flow from the acquisition will inure to the benefit of Applicant and Local rather than to the public.

The Board has carefully reviewed the evidence offered by Applicant to support its claimed public benefits, including the testimony of Mr. Barnes, Applicant's vice president in charge of corporate planning, that the application before the Board fully represents Applicant's plan for Local, the testimony of Mr. Kalchik, Local's president, that he anticipates substantial growth in Local's operations upon its affiliation with Applicant, and the application itself, the execution and delivery of which were authorized by Applicant's Board of Directors. On the basis of its examination of the record and in agreement with the Administrative Law Judge's findings on this point, the Board concludes that the evidence of record reflects a firm policy commitment by Applicant to Local's growth to be achieved through more aggressive marketing of the services Local presently offers, introduction of new consumer loan services, and de novo expansion into new geographic markets. Such growth in Local's operations can reasonably be expected to result in increased competition in the consumer fi-

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[11] As discussed hereinafter, Local's profits have, however, been declining in recent years.

[12] Applicant acknowledges that its growth plans for Local will be tempered and coordinated with the needs and requirements of its other subsidiaries, particularly Bank.

[13] Mr. Snite, presently 91 years of age, owns individually 28.6 per cent of Local's outstanding capital stock and, through his private foundation, members of his immediate family and related trusts, control an additional 70 percent.

[14] Protestant's assertion is based primarily upon the contrasts between Applicant's plans for Local as set forth in its application to the Board and certain assumptions underlying financial projections found in a position paper presented to Applicant's Board of Directors at the time Applicant's Board approved Local's acquisition. The projections in the position assumed an expansion of Local's receivables by 100 percent without the establishment of new offices or services, a significant reduction in Local's cash and loan loss reserve, and an immediate dividend payment to Applicant of Local's excess capital, with a concomitant increase in Local's debt to equity ratio to 8:1. The position paper, however, does not purport to represent Applicant's plan for Local. It was prepared to advance of the application solely to assist Applicant's Board in assessing the merits of the acquisition. In the Board's view, the Administrative Law Judge properly determined that the discrepancies between the position paper's assumptions and Applicant's formal proposal as reflected in its application to the Board are logically explained as evolutionary stages in Applicant's plan for Local.

nance industry and benefits to the public, including increased convenience and improved services. Moreover, the Board is of the view that this proposed expansion in Local's services to the public is not likely to occur absent approval of this application.

Local's management is presently dominated by the highly conservative and nonexpansionary policies of Mr. Snite. According to Mr. Kalchik, Local's president, these policies, which have prevented Local from expanding geographically and into new service lines, have placed Local at a competitive disadvantage within the consumer finance industry, as evidenced by a decline in its profits and efficiency and inadequate service to its markets. Again according to Mr. Kalchik, this situation is not likely to improve, absent Local's sale to Applicant in light of Mr. Snite's attitude and since the other members of Mr. Snite's family, who are not active in the company's management,[15] are interested in security and earnings rather than in the development and growth of Local. The Board's review of the record indicates that Mr. Kalchik's view as to Local's present position within the consumer finance industry is correct, that Local is essentially a defensive, nonaggressive competitor. This is demonstrated by Local's highly conservative loan policies, its lower than average growth rate, its less than average net income per office, and principally by the fact that Local has not expanded into new product lines within the past few years or entered a new State since 1945, a new market area since 1953, or opened a new office (as opposed to a spin-off of accounts from an existing office) since 1959.

In these circumstances, the Board concludes that substitution of Applicant, which is committed to a policy of revitalization and growth in the volume, scope and character of Local's services to the public and which has the financial resources to adequately support that growth, for Local's present owners represents a public benefit sufficient in and of itself to outweigh the slightly adverse effects associated with the proposal.[16]

Furthermore, affiliation with Applicant would provide Local with access to a broad range of financial services, including the commercial paper market. While industry statistics indicate that Commercial paper represents approximately 18.8 percent of the total liabilities, capital and surplus of consumer loan companies, Local has been principally dependent upon bank loans for short-term financing. Applicant's plan to rely extensively on commercial paper for Local's short-term financing should result in the long run in less costly debt financing as well as an increase in Local's loanable funds. Affiliation with Applicant will also provide Local with access to a staff sophisticated in planning, marketing, financial analysis and economics which, as the Administrative Law Judge found, should strengthen Local's competitive position within the consumer finance industry.

Consummation of the proposal would also avoid the significant contraction in Local's operations planned by Local's management as a method to improve Local's declining profit performance through elimination of some 26 of Local's less profitable offices and tightening of Local's credit standards to reduce loan losses. The plan formulated as an alternative to affiliation with Applicant contemplates the reduction of Local's staff by 140 and its net receivables by approximately $20 million and is expected to result in an increase in its profits from $446,000 to $714,000. The proposed contraction in operations would also enable Local after Mr. Snite's death to redeem Mr. Snite's stock while maintaining Local's traditionally low debt to equity ratio.

Protestant contends that such a contraction in Local's operations will not occur and that Local's loan agreements prohibit such a course of action. While Local's loan agreements prohibit a reduction in Local's liquid net worth below a certain amount, they do not prohibit the planned closing of its less profitable offices or a reduction in its receivables. Moreover, since at least 1966, Local's agreements with its lenders have contemplated and expressly permitted a significant redemption of Local's stock after the death of Mr. Snite for the purpose of making available to Mr. Snite's estate funds for the payment of his estate and inheritance taxes. Local's recent loan agreements limit the amount of such a redemption to $8 million.[17]

The Board is satisfied from its review of the evidence of record, including the testimony of Mr. Kalchik concerning Local's need to consolidate its operations to improve its efficiency and its earnings, with the correctness of the Administrative Law Judge's finding that the planned contraction of Local's operations is not a "mere sham", as Protestant argues. In this regard, the Board notes that the plan Local's management has formulated to increase Local's earnings is not at all unreasonable in view of Local's rejection of growth and expansion and its lower than average ratios of net income per office and receivables per employee. Since the proposed contraction in Local's operations would result in a decrease in Local's services to the public as well as a decrease in the amount of competition within the consumer finance industry, the prevention of that contraction through consummation of Applicant's proposal represents a further benefit to the public.

During the course of the hearing in this matter and in a collateral lawsuit challenging the conduct of these proceedings, Protestant raised a question concerning the environmental impact of Applicant's proposal. In view of the nature and extent of the activities involved in Applicant's proposal and the fact that the proposal involves merely a transfer of the ownership of Local and its presently existing 124 offices, the Board concludes that its approval of the instant application would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). Thus, the Board has determined that the requirements of that section are inapplicable to the Board's action in this case.

With respect to Applicant's plans to establish de novo 50 new Local offices in as yet unspecified locations over the next five years, the Board notes that its action on this application does not constitute approval of the opening of those offices. Under the Board's Regulation Y (12 CFR 225.4(b)(1) and (c)(2)), Applicant must obtain the Board's approval prior to establishing any such individual office. However, since those offices will be located in leased premises on already established commercial sites, where there exists a probable public need or demand for the services offered by such offices and considering the low volume and essentially non-environmental nature of such services, the Board does not believe that any action it may take on those future applications would constitute a major Federal action significantly affecting the quality of the human environment.

On the basis of all the facts of record, including Applicant's commitment to and ability to support an expansion of Local by means of new and improved services to the public, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) of the Bank Holding Company Act is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's author-

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[15] Except for Local's vice-chairman who is about to retire.

[16] While Local may, as Protestant suggests, presently possess the ability to provide new services and enter new market areas, the record is clear that it has not in fact done so. Nor is there any reason to believe that, absent approval of the instant application, Local would alter in any material respect its nonexpansionary policies. On the contrary, as discussed more fully below, Local's management has formulated a plan to significantly contract Local's operations in the event this application is denied.

[17] Local's loan agreements do, however, as Protestant points out, require the redemption payment to be made in ten equal and annual installments in the event Mr. Snite's estate and inheritance taxes could under section 6166 of the Internal Revenue Code of 1954 be paid in such installments. In the event section 6166 were applicable, the fact that the redemption of Mr. Snite's stock would take place over a ten-year period rather than at one point in time does not mean, as Protestant argues, that the planned contraction in Local's operations is prohibited or would not occur. The Board notes that the planned contraction in Local's operations does not rest solely on Local's needs to provide liquidity to Mr. Snite's esate but also upon Local's need to improve its declining earnings.

ity to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not 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 Cleveland.

By order of the Board of Governors,[18] effective July 19, 1976.

APPENDIX

In his Exceptions to the Administrative Law Judge's Recommended Decision and by various motions and petitions to the Board, Protestant has raised a number of objections to the manner and conduct of the administrative proceedings and has requested the Board to vacate the Recommended Decision, remove the Administrative Law Judge and remand the application for "proper proceedings." In particular, Protestant asserts that in the conduct of the hearing due process was violated as a result of the refusal of the Administrative Law Judge and the Board "to allow [P]rotestant to present his case or indeed to present any case in rebuttal to [A]pplicant's case" and by their further refusal to order the production of certain documents and witnesses requested by Protestant. In addition, Protestant contends that due process was further violated by "repeated ex parte contacts on behalf of [A]pplicant to the Board staff and the examiner, and further violated when the Board, staff and examiner refused to disclose the extent of these ex parte contacts."

The Board has carefully examined the record of these proceedings and finds that they were conducted by the Administrative Law Judge fairly, properly, and in full compliance with both the requirements and spirit of the Administrative Procedure Act and the Board's Rules of Practice for Formal Hearings and that in no respect was Protestant denied a fair hearing. Accordingly and for the reasons set out hereinafter, the Board affirms in all respects the Administrative Law Judge's conduct of the proceedings and denies Protestant's requests to vacate the Administrative Law Judge's decision, remove the Administrative Law Judge, and remand the application for additional proceedings.

Protestant's contention that he was denied the opportunity to present his case is apparently based on the series of events surrounding the Administrative Law Judge's rulings on November 7 and 11, 1975, denying Protestant a postponement of the hearing from November 11, 1975, until December 8, 1975, and the Administrative Law Judge's decision on November 11, 1975, to proceed with the hearing to its close following Protestant's withdrawal from the hearing room after his request for a postponement was denied. Those events occurred generally as follows.

At the close of the thirteenth day of hearings, on October 10, 1975, Protestant requested and received a postponement of the hearing until October 21, 1975, because of health and business reasons. On October 20, 1975, Protestant notified the Administrative Law Judge that because of health reasons he would not be able to proceed on October 21, 1975. On the same date, Applicant also sought from the Administrative Law Judge a postponement of the hearing. With the consent of all parties to the proceeding, except Board Counsel, who objected to any further delays, the Administrative Law Judge scheduled the hearing to reconvene on November 11, 1975, and indicated that the hearing would proceed thereafter to its conclusion.

However, by letter dated October 31, 1975, Protestant requested of the Administrative Law Judge a further postponement of the hearing from November 11, 1975, until December 8, 1975, because of business reasons and in order that he might "reflect on and assess" his position in the proceedings. By Order dated November 7, 1975, the Administrative Law Judge denied Portestant's request. The hearing reconvened on November 11, 1975, at which time Protestant renewed his request for a postponement for the reasons stated in his letter of October 31, 1975, and, in addition, because of the unavailability of Mr. Suskin, a Federal Estate Tax expert and the only witness Protestant had indicated he would call. The Administrative Law Judge denied Portestant's request and directed Protestant to continue with his cross-examination of Dr. Shay, Applicant's final witness. The Administrative Law Judge did, however, indicate that the matter of postponements to obtain expert testimony would be taken up at the time Protestant was to proceed with his case.

Protestant then informed the Administrative Law Judge that he intended to leave the hearing room to prepare and file with the Board an appeal from the Administrative Law Judge's ruling and, thereafter, to return to Illinois for business reasons. The Administrative Law Judge informed Protestant that he could file his appeal with the Board during the noon recess and advised Protestant that the hearing would proceed in his absence. On six separate occasions the Administrative Law Judge directed Protestant to proceed with his cross-examination of Dr. Shay. Protestant refused to proceed and withdrew from the hearing room.[1] Thereafter, the hearing continued with cross-examination of Dr. Shay by Board Counsel and the introduction into evidence by Board Counsel of numerous documents and exhibits. Applicant and Board Counsel then rested their cases.

On November 12, 1975, the Administrative Law Judge issued to all parties to the hearing a notice to show cause by the close of business November 18, 1975, why the hearing should not be closed. At Protestant's request, the time limit to respond to the notice was extended to November 21, 1975. On November 24, 1975, the Administrative Law Judge closed the hearing and rejected as untimely Protestant's response to the Show Cause Order.[2]

On November 13, 1975, Protestant filed with the Board's Secretary a "Petition to the Board" seeking special permission of the Board pursuant to § 263.10(e) of its rules of practice (12 CFR 263.10(e)) to appeal "from the ruling or refusal of the Administrative Law Judge to continue the hearings to the week of December 8, 1975." By Order dated November 18, 1975, the Board denied Protestant special permission to appeal (40 FR 55720) on the grounds that the Administrative Law Judge's decision involved a matter committed to his sound discretion by both low and regulation.

By undated motion received by the Administrative Law Judge on December 16, 1975, Protestant in addition to requesting the removal of the Administrative Law Judge, requested that the hearing be reopened to take the testimony of Mr. Suskin and unspecified "others," which testimony Protestant alleged "was muzzled by the current judge without rhyme or reason." By Order dated January 7, 1976, the Administrative Law Judge denied Protestant's motions but permitted him to submit the affidavit of Mr. Suskin, the only prospective witness named by Protestant in response to the Show Cause Order. Mr. Suskin's affidavit was later accepted into evidence by the Administrative Law Judge.

As the Board has previously indicated in its Orders of October 8, and November 18, 1975, denying Protestant special permission to appeal from rulings of the Administrative Law Judge, the decision to grant or deny a continuance in and to otherwise regulate the course and conduct of an administrative hearing are matters committed to the sound discretion of the Administrative Law Judge under both the Board's rules of practice and the Administrative Procedure Act. In addition, the Board's rules of practice impose upon the Administrative Law Judge the duty and responsibility to take all neecssary action to avoid delay in the disposition of the proceedings. Considering all of the relevant circumstances the Board is unable to conclude that the Administrative Law Judge abused his discretion or acted without regard to the convenience and necessity of the parties in denying Protestant's additional request for a further postponement of the hearing on November 11, 1975, and thereafter proceeding with the hearing to its close in the self-imposed absence of Protestant.

In the Board's view, the record clearly demonstrates that the Administrative Law Judge throughout the course of the lengthy and protracted hearings fairly accommodated Protestant. At the hearing session on November 11, 1975, Protestant had nearly four weeks in which to "reflect on and assess" his position and make necessary preparations for the hearing. Applicant's final witness, whom Protestant had already cross-examined for two days, as well as a previous witness, Mr. Barnes, whom Protestant had asked to be made available for use as his own witness, were both present at the hearing, the former at considerable expense to Applicant. Rather than proceed in an orderly manner with his questioning of these two witnesses, Protestant chose to withdraw from the hearing room in direct contravention of the Administrative Law Judge's express and repeated or-

[18] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] Similarly, during the course of the hearing session on October 3, 1975, Protestant withdrew from the hearing room following an adverse ruling from the Administrative Law Judge, without the Administrative Law Judge's permission and despite the Administrative Law Judge's direction to Protestant, repeated four times, to proceed with his cross-examination of Applicant's witness. On that occasion, Protestant filed with the Board's Secretary a "Petition to the Board" for special permission to appeal from the ruling of the Administrative Law Judge denying Protestant's request that hearing sessions not be held on Saturdays. By Order dated October 8, 1975, the Board denied Protestant special permission to appeal and affirmed the authority of the Administrative Law Judge to regulate the course and conduct of the administrative proceedings. The hearing session scheduled for Saturday, October 4, 1975, was cancelled when at the close of the hearing on Friday, October 3, 1975, Protestant indicated that he had become ill and planned to consult with a physician on Saturday morning. Thereafter, no further Saturday sessions were scheduled.

[2] The Board has reviewed Protestant's response to the Show Cause Order and finds that it principally restates Protestant's earlier arguments for a continuance.

der to proceed with his cross-examination and with the full and clear knowledge that the hearing would continue in his absence. In these circumstances, Protestant's contention that he was deprived of the right to present his case is, in the Board's view, wholly without merit. This is especially so in view of the fact that the Administrative Law Judge later permitted Protestant to file the affidavit of Mr. Suskin.

Protestant next contends that the administrative proceedings were defective as a result of the refusal of the Administrative Law Judge to order the production of certain documents and witnesses. During the course of the hearing, Protestant demanded of Applicant the production of a large number of documents, including the desk calendar of Mr. Barnes, Applicant's complete correspondence file on the proposed acquisition, Local's profit and operating plans, Applicant's formal analyses of the proposed acquisition of Local and the feasibility of *de novo* entry into the consumer finance industry, Local's long and short term loan agreements, documents and memoranda presented to Applicant's Board of Directors concerning the proposed acquisition as well as related Board minutes, the wills, trust agreements and estate plans of Mr. Fred B. Snite, and current financial information for Bank and Local (as of January 30, 1976). Protestant further demanded the production of some 19 witnesses, including many of Applicant's directors and executive officers, virtually every individual who was identified during the course of the hearing as having any connection whatsoever with the application, Local's three senior officers as well as Dr. Willis J. Winn, the President of the Federal Reserve Bank of Cleveland.

The Administrative Law Judge declined to order the production of the witnesses and documents requested by Protestant, concluding that the Board, and therefore any Administrative Law Judge appointed pursuant to its Rules of Practice, lacked authority to require by subpoena or by order under section 5(b) of the Bank Holding Company Act the attendance of witnesses or the production of documents in an administrative hearing held under the provisions of the Act. While the Board fully agrees with the Administrative Law Judge's conclusion that the Board lacks subpoena power under the Act, the Board in the circumstances of this case need not and does not determine the extent of its authority to order the production of documents and witnesses under section 5 of the Act, since, in the Board's view, the issuance of an order such as requested by Protestant would for the reasons stated hereinafter be neither appropriate nor warranted.

In response to Protestant's far-ranging requests for the production of documents, Applicant, at Board Counsels' request, voluntarily and in a more than reasonable effort to accommodate Protestant produced the great bulk of the documentary material demanded, included Applicant's analyses of and position papers on the proposed acquisition, minutes of its Board of Directors, its feasibility studies on *de novo* entry into the consumer finance business, and Local's loan agreements. With respect to those items not produced, Protestant's requests were not supported by any statement as to the scope or general relevance of the materials sought. Moreover, the Board's review of Protestant's few unsatisfied demands indicates that those demands, including, for example, Local's profit and operating plans, Applicant's complete correspondence file on the proposed acquisition, and Mr. Barnes' office calendar, were either only remotely relevant and material to the issues in the hearing, unreasonable and excessive in scope, or cumulative of evidence already in the record or otherwise available to Protestant.[3] In the latter regard, the Board notes that both Mr. Barnes and Mr. Kalchik were fully available for examination by Protestant and that both did, in fact, testify at length concerning many of these matters.

With respect to the wills and estate plans of Mr. Snite, Protestant contends that these documents were necessary in order to accurately calculate the Federal Estate Tax Liability on Mr. Snite's estate. The Administrative Law Judge noted that while no evidence had been produced on the full extent of Mr. Snite's estate, none was necessary to support his conclusions with respect to the anticipated contraction of Local's operations projected to occur on Mr. Snite's demise. The Board fully agrees with the Administrative Law Judge's analysis and conclusion on this aspect of Protestant's request.

In addition to the documentary materials made available to Protestant, Applicant also produced two of the witnesses Protestant requested. With respect to the remaining witnesses demanded by Protestant, the Board concludes from its examination of Protestant's demands therefor that Protestant either failed to establish the need, materiality and relevance of the testimony sought to be elicited or that such testimony would be unduly repetitious of testimony and evidence actually produced by Applicant. With respect to Dr. Winn, the Board has considered his affidavit to the effect that he has never analyzed or seen an analysis of the subject application or made any recommendation with respect thereto. His conversations with officials of Applicant in late 1974 were confined to the capital position of Bank, and his knowledge of the same was derived from the report of examination of Bank prepared by the Office of the Comptroller of the Currency. In these circumstances and in view of the Comptroller's refusal to permit the Report of Examination of Bank to be introduced or used in the proceedings and the inability of Dr. Winn to testify concerning matters contained in that report absent permission from the Office of the Comptroller of the Currency,[4] the Board does not consider any testimony Dr. Winn could give as relevant or necessary to this proceeding.

In connection with its review of Protestant's demands for the production of documents and witnesses, the Board has also considered the fact that the Administrative Law Judge, while recognizing the ability of the Board to draw adverse inferences from an applicant's refusal to produce "substantial relevant and material evidence," declined to draw any such inference in this case. The Board concludes from this that the Administrative Law Judge did not deem Protestant's unsatisfied demands to be sufficiently material or relevant to warrant such action.

In view of the foregoing and all other relevant circumstances, the Board concludes that the Administrative Law Judge's action in declining to order the production of those documents and witnesses requested by Protestant and not voluntarily produced by Applicant was completely proper and justified and further that Protestant was not thereby denied a fair hearing.

With respect to Protestant's allegation of *ex parte* contacts between the Administrative Law Judge and counsel for Applicant, the Board notes that Protestant in failing to file a timely and sufficient, or indeed any affidavit of personal bias or other disqualification in connection with his assertions did not comply with § 263.6(a) of the Board's rules of practice and the Administrative Procedure Act, 5 U.S.C. § 556(b). In addition, even assuming the alleged communication between the Administrative Law Judge and Applicant's counsel took place, which communication Applicant's counsel denies, such a communication, involving merely a statement by the Administrative Law Judge that he expects to render his decision within the 45-day period provided under the Board's rules of practice is not viewed by the Board as improper and does not concern "any fact in issue" within the meaning of § 263.6(a) of the Board's rules of practice and the Administrative Procedure Act, 5 U.S.C. 554(d).[5]

In its consideration of Protestant's Exceptions, the Board has also reviewed Protestant's motions to remove the Administrative Law Judge filed with the Administrative Law Judge on December 16, 1975, and February 10, 1976. The former motion sought the Administrative Law Judge's removal because of the pendency of a lawsuit filed against the Administrative Law Judge by Protestant on December 12, 1975, in the United States District Court for the Northern District of Illinois (Civil Action No. 75 C 4238).[6] In that lawsuit Protestant challenged the Administrative Law Judge's rulings on Protestant's requests for discovery and continuances, as well as his impartiality and qualifications to sit in a banking case. On January 7, 1976, the Administrative Law Judge denied Protestant's motion because of the absence of good cause shown.[7]

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[3] Protestant's request for the year-end 1975 financial information for Local and Applicant was filed after the close of the hearing, indeed after Applicant had submitted its Proposed Findings of Fact and Conclusions of Law to the Administrative Law Judge. Applicant had, however, during the course of the hearing, submitted such information for the first half of 1975, the most recent data then available. Under these circumstances, the Board deems Protestnt's request to be wholly improper and unreasonable.

[4] See 12 CFR 4.18(b).

[5] The Board's examination of the record has revealed no basis whatsoever to support Protestant's allegations of *ex parte* contacts between Applicant and Board staff or other alleged misconduct. The Board considers such allegations to be wholly unwarranted.

[6] This lawsuit was subsequently dismissed.

[7] By unsigned motion dated January 30, 1976, Protestant petitioned the Board pursuant to 12 CFR 263.10(e) for special permission to appeal the Administrative Law Judge's Order of January 7, 1976. In that petition, Protestant also requested the removal of the Administrative Law Judge because of alleged *ex parte* contacts between the Administrative Law Judge and counsel for Applicant. In addition, Protestant requested the Board to direct the Administrative Law Judge to rule on his discovery requests.

On February 10, 1976, the Board's Secretary advised Protestant that his motion to remove the Administrative Law Judge did not comply with § 263.6(a) of the Board's rules of practice, and that his petition for an order directing the Administrative Law Judge to rule on unspecified demands for the production of documents and witnesses was premature. As noted above, the Administrative Law Judge in his Recommended Decision subsequently declined to order the production of the documents and witnesses requested by Protestant.

Protestant's December 16, 1975 motion sets forth no legal or factual basis constituting sufficient ground or cause for the removal of the Administrative Law Judge. Moreover, the Board's examination of the record, including the procedural rulings to which Protestant's lawsuit was directed, indicates that the Administrative Law Judge's actions were at all times proper, consistent with good practice, and, in fact, demonstrated remarkable patience and restraint on his part in dealing fairly with Protestant. The Board believes Protestant's charges to be utterly baseless and his motion was properly denied.

Protestant's unsigned and undated motion received by the Administrative Law Judge on February 10, 1976, sought the Administrative Law Judge's removal because of the Board's alleged failure to comply with 5 U.S.C. 3105, the section of the Administrative Procedure Act dealing with the appointment of Administrative Law Judges. In his Recommended Decision, the Administrative Law Judge denied Protestant's motion. The Board is also of the view that Protestant's belated challenge to the appointment of the Administrative Law Judge is unmeritorious and without validity. The Administrative Law Judge was properly appointed pursuant to 5 U.S.C. 3105 and was properly selected to conduct the instant hearing pursuant to 5 U.S.C. 3344 by the Director, Office of Administrative Law Judges, United States Civil Service Commission, with the consent of the Administrative Law Judge's employing agency, the Department of Housing and Urban Development.

On March 26, 1976, Protestant filed with the Board a "Motion to Reopen Hearings for taking of testimony of Snite and S. P. Mellon." Protestant asserts that Mr. Snite "is being held incommunicado and under quasi sedation in California * * * to silence his opposition to sale of Local Loan Company * * *". With respect to Mr. Mellon, Protestant desires to inquire "relative to his state of mind and views of legal procedures applicable to a civilized society." Protestant's motion being wholly unsupported by affidavits or any relevant evidence is hereby denied.

On March 26, 1976, Protestant also filed with the Board a motion to dismiss the application as moot, contending that the Stock Purchase Agreement between Local and Applicant expired on March 31, 1976. On March 31, 1976, Applicant filed with the Board and served upon Protestant a copy of a letter agreement extending the closing date under the Stock Purchase Agreement from March 31, 1976, to August 31, 1976. Accordingly, Protestant's motion is hereby denied.

In his Exceptions to the Recommended Decision, Protestant requested oral argument before the Board as provided for in § 263.14 of the Board's rules of practice (12 CFR 263.14). Protestant's request, made in a summary fashion, does not show that any purpose would be served by allowed oral argument. Protestant's request is hereby denied.

By motions dated May 26, 1976, Protestant requested the Board to strike Board Counsel's Response to Protestant's Exceptions and to reopen the proceedings. For the reasons stated in its letter of June 8, 1976, to Protestant, the Board returned those pleadings to Protestant without considering their substance and with leave to Protestant to resubmit the same in acceptable form. Protestant has not, however, seen fit to do so. Rather, on June 24, 1976, Priotestant filed a lawsuit against the Board in the United States District Court for the District of Columbia (Civil Action No. 76-1168) seeking "[m]andamus relief to see that the documents are filed insetanter." In addition, by letter dated June 24, 1976, Protestant requested the Board's Secretary to include in the record on this application a copy of that complaint with the objectionable pleadings attached. Protestant's request is hereby denied.

Having carefully reviewed the evidence of record in this matter, including the Administrative Law Judge's findings and conclusions, the Board finds that all other motions, demands, and exceptions made by Protestant are without merit, and they are hereby denied.

Board of Governors of the Federal Reserve System, July 19, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21720 Filed 7-26-76;8:45 am]

MIDWESTERN SERVICES, INC.

Formation of Bank Holding Company

Midwestern Services, Inc., Hay Springs, Nebraska, 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 87.5 per cent of the voting shares of First National Bank of Hay Springs, Hay Springs, Nebraska. 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 offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 16, 1976.

Board of Governors of the Federal Reserve System, July 20, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21721 Filed 7-26-76;8:45 am]

RAINWOOD CORP.

Formation of Bank Holding Company

Rainwood Corporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95 per cent or more of the voting shares of Valley State Bank, Rock Valley, Iowa. 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 offices 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 August 19, 1976.

Board of Governors of the Federal Reserve System, July 21, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21722 Filed 7-26-76;8:45 am]

ROYAL TRUST CO. AND ROYAL TRUST BANK CORP.

Acquisition of Bank

The Royal Trust Company, Montreal, Quebec, Canada, and its wholly-owned subsidiary, Royal Trust Bank Corp., Miami, Florida, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 per cent or more of the voting shares of Worth Avenue National Bank, Palm Beach, Florida. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 18, 1976.

Board of Governors of the Federal Reserve System, July 20, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21723 Filed 7-26-76;8:45 am]

SIBLEY BANCORPORATION

Formation of Bank Holding Company

Sibley Bancorporation, Sibley, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 96.5 per cent of the voting shares of The First National Bank of Sibley, Sibley, Iowa. 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 offices 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 August 11, 1976.

Board of Governors of the Federal Reserve System, July 19, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-21724 Filed 7-26-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 2]

BALTIMORE GAS AND ELECTRIC CO.

Proposed Intervention in Electric, Gas and Steam Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Maryland Public Service Commission concerning an application by the Baltimore Gas and Electric Company for an increase in its tariffed rates for intrastate electric, gas and steam service. The

GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Baltimore Gas and Electric Company has proposed a rate increase designed to increase its intrastate revenues by approximately $93.9 million annually. The Company states in its application that its proposed rates would result in a 17.9 percent increase in basic electric rates, 11.8 percent in gas rates, and 27.3 percent in steam rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566–0750, on or before August 26, 1976, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: July 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–21622 Filed 7–26–76;8:45 am]

[Intervention Notice No. 1]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the New York Public Service Commission concerning an application by the Consolidated Edison Company of New York, Inc., for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Consolidated Edison Company has proposed a rate increase designed to increase its intrastate revenues by approximately $249.8 million annually. The Company states in its application that its proposed rates would result in a 10.4 percent increase in basic electric rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, N.W., Washington, DC 20405, telephone (202) 566–0750, on or before August 26, 1976, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: July 14, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.6–21621 Filed 7–26–76;8:45 am]

[Intervention Notice No. 4; Docket No. U–5125]

MICHIGAN BELL TELEPHONE CO.

Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Michigan Public Service Commission concerning an application by the Michigan Bell Telephone Company for an increase in its tariffed rates for intrastate telephone service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Michigan Bell Telephone Company has proposed a rate change designed to increase its intrastate revenues by approximately $178 million annually. The Company states in its application that its proposed rates would result in an average 19.3 percent increase in rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566–0750, on or before August 26, 1976, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any such persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: July 14, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–21624 Filed 7–26–76;8:45 am]

[Intervention Notice No. 5; Docket No. 2944–u]

SOUTHERN BELL TELEPHONE AND TELEGRAPH CO.

Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Georgia Public Service Commission concerning an application by the Southern Bell Telephone and Telegraph Company for an increase in its tariffed rates for intrastate telephone service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Southern Bell has proposed a rate increase designed to increase its intrastate revenues by approximately $103 million annually. The Company states in its application that its proposed rates would result in a 21 percent increase in rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566–0750, on or before August 26, 1976, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: July 16, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–21625 Filed 7–26–76;8:45 am]

[Intervention Notice No. 3]

WASHINGTON GAS LIGHT CO.

Proposed Intervention in Gas Rate Increase Proceeding

The General Services Administration seeks to intervene in proceedings before the Maryland Public Service Commission and the Virginia Corporation Commission concerning applications by the Washington Gas Light Company for increases in its tariffed rates for intrastate gas service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Washington Gas Light Company has proposed a rate increase designed to increase its intrastate revenue by approximately $12.9 million annually in Maryland and $8.7 million annually in Virginia. The Company states that its proposed rates would result in an 11.8 percent increase in basic gas rates.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566–0750, on or before August 25, 1976, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4))).

Dated: July 13, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–21623 Filed 7–26–76;8:45 am]

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE; FELLOWSHIPS PANEL

Meeting

JULY 19, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., room 314, Washington, D.C. on August 18 and 30, 1976, from 9:00 a.m. to 5:30 p.m.

The purpose of the meeting is to review Independent Fellowship applica-

tions submitted to the National Endowment for the Humanities for 1977–78 fellowship grants.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C., 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76–21659 Filed 7–26–76;8:45 am]

ADVISORY COMMITTEE; FELLOWSHIPS PANEL

Meeting

JULY 19, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., room 314, Washington, D.C. on August 20, 1976, from 9:00 a.m. to 5:30 p.m.

The purpose of the meeting is to review Independent Fellowship applications submitted to the National Endowment for the Humanities for 1977–78 fellowship grants.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76–21658 Filed 7–26–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9335A; 812–3888]

ACACIA NATIONAL LIFE INSURANCE CO. AND ACACIA NATIONAL VARIABLE ANNUITY ACCOUNT A

Correction

JULY 20, 1976.

This is to correct an error made in Release No. 9335, issued July 1, 1976, In the Matter of Acacia National Life Insurance Company and Acacia National Variable Annuity Account A, 51 Louisiana Avenue, N.W., Washington, D.C. 20001 (812–3888). Said release erroneously indicated that the period for requests for a hearing would expire on July 7, 1976. The Commission will accept requests for a hearing until July 27, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21632 Filed 7–26–76;8:45 am]

THE BOSTON STOCK EXCHANGE

Order Approving Proposed Rule Change

[Release No. 12646; SR–BSE–76–10]

JULY 20, 1976.

On June 3, 1976, the Boston Stock Exchange, 53 State Street, Boston, Massachusetts, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The purpose of the proposal was to amend Article VIII of the Exchange's constitution to change the composition and term of office of the Exchange's Nominating Committee.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12533 (June 10, 1976)) and by publication in the FEDERAL REGISTER (41 FR 24781 (June 18, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21630 Filed 7–26–76;8:45 am]

[Release No. 12626; File No. SR–CBOE–76–10]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

On May 19, 1976, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to prescribe minimum fidelity bonding standards under Rule 9.22 of the CBOE Rules for members subject to the Rule and extend the Rule's applicability to CBOE members which are also members of the Options Clearing Corporation.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 12466 (May 20, 1976)) and by publication in the FEDERAL REGISTER (41 FR 21849 (May 28, 1976)). On July 13, 1976, the CBOE made certain technical revisions in the proposed rule change.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76–21634 Filed 7–26–76;8:45 am]

[File No. 500–1]

EQUITY FUNDING CORP. OF AMERICA AND ORION CAPITAL CORP.

Suspension of Trading

JULY 19, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Equity Funding Corporation of America, including Orion Capital Corporation, being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from July 20, 1976 through July 29, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21635 Filed 7–26–76;8:45 am]

[File No. 500–1]

MAPI, INC.

Suspension of Trading

JULY 19, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of MAPI, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:55 a.m. (EDT) on July 19, 1976 through July 28, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21637 Filed 7–26–76;8:45 am]

[Release No. 12644; SR–MSRB–76–3]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

JULY 20, 1976.

On March 3, 1976, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") as amended by Pub. L. No. 94–29 section 16 (June 4, 1975), and Rule 19b–4 thereunder, 17 CFR 240.19b–4, proposed rules G–2 through G–6 to establish standards of operational capability and professional competence for municipal securities brokers, municipal securities dealers, and individuals associated with such firms.

On March 8, 1976, the Commission published rules G–2 through G–6 for comment pursuant to Section 19(b)(1) of the Act.[1] Notice of that action was published in the FEDERAL REGISTER on March 12, 1976 and the period for public comment expired April 11, 1976.[2] On July 15, 1976, the MSRB filed amendments to its filing SR–MSRB–76–3 concerning proposed rules G–3, G–5, and G–6. The Commission is currently reviewing proposed rules G–2 through G–5, as amended, in light of the requirements of the Act.

With respect to proposed rule G–6, which establishes a fidelity bonding requirement for municipal securities brokers and non-bank municipal securities dealers, the Commission finds that the proposed rule change, as amended on July 15, 1976, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of section 15B, 15 U.S.C. 78o–4 as amended by Pub. L. No. 94–29 section 13 (June 4, 1975), and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That MSRB proposed rule G–6, as modified on July 15, 1976, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21631 Filed 7–26–76;8:45 am]

[Release No. 12642; File No. SR–SCCP–76–2]

STOCK CLEARING CORP. OF PHILADELPHIA

Order Approving Rule Change Regarding Liens on Members' Securities

JULY 19, 1976.

On May 26, 1976 the Stock Clearing Corporation of Philadelphia ("SCCP"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, submitted a series of proposed rule changes pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act") clarifying the status of SCCP's liens on stock carried in SCCP's members' accounts in order to comply with Rules 8c–1(g) and 15c2–1(g) under the Act. SCCP also proposed procedures whereby SCCP members could use the depository facility of SCCP to hypothecate securities with participating banks by means of book entry pledges. In connection with the proposed rule change, SCCP requested that the Commission continue its previous finding pursuant to paragraph (g) of Rules 8c–1 and 15c2–1 under the Act that the agreements, provisions and safeguards established by SCCP are adequate for the protection of investors.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder the rule changes were published in the FEDERAL REGISTER (41 FR 23802, June 11, 1976), and the public was invited to submit comments until July 2, 1976. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–12511, July 3, 1976. No letters of comment were received.

The Commission has reviewed the SCCP submission and finds that the agreements, provisions and safeguards established by SCCP are adequate for the protection of investors. The Commission finds also that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–SCCP–76–2 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21633 Filed 7–26–76;8:45 am]

[Release No. 9358; File No. (812–3977)]

SWISS AMERICAN SECURITIES INC.

Application for Exemption

JULY 20, 1976.

Notice is hereby given that Swiss American Securities Inc. ("SASI"), 100 Wall Street, New York, New York 10005, has filed an application pursuant to Section 9(c) of the Investment Company Act of 1940 (the "Act") for an order exempting SASI from the provisions of Section 9(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

SASI, a New York corporation, is a registered broker-dealer under Section 15 of the Securities Exchange Act of 1934 and is a member corporation of the Midwest Stock Exchange, Inc. and certain other national securities exchanges. Swiss American Corporation, a New York corporation, which is a wholly-owned subsidiary of Swiss Credit Bank, owns 100% of the voting stock of SASI. Among its activities, SASI may wish to act as a principal underwriter to investment companies registered under the Act.

On November 25, 1975, the Commission commenced an action in the United States District Court for the District of Columbia entitled *Securities and Exchange Commission* v. *American Institute Counselors, Inc., et al.* (75 Civ. 1965) against various defendants, including Swiss Credit Bank, alleging violations of various provisions of the federal securities laws. Swiss Credit Bank, without admitting or denying any of the allegations of the complaint, stipulated to the entry of a Final Order terminating the action against it, with prejudice, and entered into a Stipulation and Undertaking with the Commission.

The Final Order provides that Swiss Credit Bank shall not, directly or indirectly, make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell, offer to buy or sell, or carry or cause to be carried securities of the Progress Group (as defined in the Final Order) except in accordance with the provisions of Section 5 of the Securities Act of 1933. The Order further provides that Swiss Credit Bank shall not transact business with any member of the Progress Group when such member is acting as a broker-dealer or investment adviser or is engaging in investment company activities unless such member

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[1] Securities Exchange Act Release No. 12177 (March 8, 1976).

[2] 41 FR 10686 (1976). The MSRB has consented to an extension, until July 31, 1976, of the time within which the Commission is required, under Section 19(b)(2) of the Act, to approve rules G–2 through G–6 or to institute proceedings pursuant to Section 19(b)(2)(B) of the Act.

has complied with the applicable registration requirements of the securities laws of the United States.

Section 9(a) of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or distributor of any registered investment company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application, the Commission by order shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

SASI submits pursuant to Section 9(c) that the prohibitions of Section 9(a) of the act, to the extent applicable by virtue of the entry of the Final Order against Swiss Credit Bank, would be unduly and disproportionately severe as applied to SASI since (i) it would deprive SASI of the opportunity to serve as principal underwriter to investment companies registered under the Act and (ii) SASI did not participate in any of the alleged misconduct by Swiss Credit Bank and hence its conduct has been such as not to make it against the public interest or the protection of investors for the Commission to grant a permanent exemption from the provisions of Section 9(a) of the Act.

Notice is further given, That any interested person may not later than August 22, 1976 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should 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 SASI at the address set forth 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. At any time after said date, as provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further development in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-21636 Filed 7-26-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

NATIONAL TRAINING AND EMPLOYMENT EFFORT

Program for Selected Population Segments

1. *Purpose.* The purpose of this notice is to announce a national training and employment effort for selected population segments.

2. *Scope and Program Initiation.* The Employment and Training Administration, ETA, under title III of the Comprehensive Employment and Training Act, CETA, has initiated a program known as the National Program For Selected Population Segments. This effort is being undertaken through competitive procurement procedures at the regional level of the Employment and Training Administration.

3. *The Selected Population Segments.* CETA title I prime sponsors in the 50 States and Territories have been advised that funds are available for innovative and replicable projects to serve the following groups; women, youth, handicapped individuals, rural labor force members, and other groups having special disadvantages in the labor market.

4. *Eligibility for a Grant.* Only CETA title I prime sponsors are eligible to apply for a grant however, prime sponsors may subgrant or contract all or part of the program operations to other organizations which are capable of serving the selected population segment. Organizations or groups which are interested in participating in this program may contact the prime sponsor in which that organization or group is located.

5. *Application Procedures.* A grant application was mailed to each prime sponsor by the appropriate ETA regional office on or before June 25, 1976. Prime sponsors which have not received a grant application may contact their ETA regional office.

6. *Inquiries.* Prime sponsors may direct inquiries as to submittal deadlines and related matters to the Regional Administrator for Employment and Training in the 10 regional offices listed below.

REGIONAL ADMINISTRATORS EMPLOYMENT AND TRAINING ADMINISTRATION

Luis Sepulveda, Acting Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1703, J. F. Kennedy Building, Boston, Massachusetts 02203.

Lawrence W. Rogers, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 3713, 1515 Broadway, New York, New York 10036.

J. Terrell Whitsitt, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, P.O. Box 8796, Philadelphia, Pennsylvania 19101.

William S. Harris, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 316, 555 Griffin Square Building, Dallas, Texas 75202.

Richard G. Miskimins, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Federal Building, Room 1000, 911 Walnut Street, Kansas City, Missouri 64106.

Robert J. Brown, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 16122 Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.

Juliam O. Colquitt, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 405, 1371 Peachtree, N.E., Atlanta, Georgia 30309.

Richard C. Gilliland, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 6th Floor, 230 South Dearborn, Chicago, Illinois 60604.

William J. Haltigan, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Box 36084, San Francisco, California 94102.

Jess C. Ramaker, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1145, Federal Office Building, 909 First Avenue, Seattle, Washington 98174.

7. *Allocations of Funds.* A total of $20,011,678 has been provided for this program. The funds are allocated on a regional basis as follows:

Region I, $1,252,608; Region II, $2,875,428; Region III, $2,122,234; Region IV, $3,232,888; Region V, $3,989,398; Region VI, $1,933,390; Region VII, $908,524; Region VIII, $500,000; Region IX, $2,462,782; Region X, $734,426.

Signed at Washington, D.C. this 20th day of July, 1976.

PIERCE A. QUINLAN,
Administrator, Office of Comprehensive Employment Development.

[FR Doc.76-21593 Filed 7-26-76;8:45 am]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Fiscal Year 1977 State Planning Estimates, Programs and Areas To Be Renewed Without Recompetition, and Areas Open for Competition; Correction

In FR DOC. 19199, Vol. 41, No. 129—Friday, July 2, 1976, (41 FR 27452) the name of Jim Hogg County, Texas was inadvertently omitted from the list of counties served by Associated City-County Economic Development Corporation. The correct listing for Associated City-County Economic Development Corporation reads as follows: Counties of Hidalgo, Cameron, Willacy, and Jim Hogg.

Signed this 23d of July 1976, at Washington, D.C.

PIERCE A. QUINLAN,
Administrator, Office of Comprehensive Employment Development.

[FR Doc.76-21809 Filed 7-26-76;8:45 am]

Office of the Secretary

[TA-W-971]

ATLAS TILE AND MARBLE WORKS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On June 30, 1976, the Department of Labor received a petition dated June 3, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the International Association of Marble, Slate, and Stone Polishers on behalf of the workers and former workers of Atlas Tile and Marble Works, Inc., New Rochelle, New York (TA-W-971). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the polishing of marble slabs for installation of walls and floors provided by Atlas Tile and Marble Works, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing wth the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of June 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-21594 Filed 7-26-76;8:45 am]

[TA-W-987]

CARDINAL SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On July 8, 1976, the Department of Labor received a petition dated June 7, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Cardinal Shoe Company, Lawrence, Massachusetts (TA-W-987). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's footwear produced by Cardinal Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigtion to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of July 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-21595 Filed 7-26-76;8:45 am]

[TA-W-818]

CHAMPION RIVET DIVISION, CHAMPION COMMERCIAL INDUSTRIES, INC., EAST CHICAGO, INDIANA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-818: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel rivets at the Champion Rivet Division, East Chicago, Indiana plant of the Champion Commercial Industries, Inc., Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20943). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Champion Rivet Division of the Champion Commercial Industries Inc., the International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed during the Department's investigation reveals that imports of rivets declined both absolutely and relatively in 1975 compared to 1974. Imports of rivets declined from 4.1 million in 1974 to 2.7 million in 1975. The ratios of rivet imports to rivet production and consumption decreased from 3.3

and 3.3 percent, respectively in 1974 to 3.2 and 3.1 percent, respectively, in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced at the East Chicago, Indiana plant of the Champion Rivet Division of the Champion Commercial Industries, Inc., Cleveland, Ohio are not being imported in increasing quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21596 Filed 7-26-76;8:45 am]

[TA-W-843]

CHICAGO PNEUMATIC TOOL COMPANY, INC., UTICA, NEW YORK

Notice of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-843: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers formerly producing pneumatic tools at the Utica, New York plant of the Chicago Pneumatic Tool Company, Inc., New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20944). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Chicago Pneumatic Tool Company, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increasing quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment declined by 6 percent from 1973 to 1974 and declined by 28 percent from 1974 to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of pneumatic tools at the Utica plant increased by 1.6 percent from 1973 to 1974 and declined by 6.0 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of pneumatic handtools in terms of value increased absolutely each year from 1972 through 1975 with the exception of 1974. The ratios of imports to domestic production and consumption have increased each year except for 1974 from 1.5 percent and 1.6 percent, respectively in 1972 to 4.0 percent and 4.5 percent, respectively in 1975.

CONTRIBUTED IMPORTANTLY

In order to meet increased demand for the less expensive handtools Chicago Pneumatic began importing air tools in 1973 to replace more expensive domestically made tools. Imports of their own handtools increased 320 percent from 1973 to 1974 and 41 percent from 1974 to 1975. In addition, customers have switched purchases from Chicago Pneumatic to distributors which offer less expensive imported air tools.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with pneumatic handtools produced at the Utica, New York plant of the Chicago Pneumatic Tool Company plant contributed importantly to the total or partial separations of the workers at that plant. Section 223(b)(2) of the Trade Act of 1974 provides that a certification of eligibility to apply for workers adjustment assistance may not apply to any worker last separated from the firm or subdivision more than one year before date of the petition. In accordance with this provision of the Act, I make the following certification:

All hourly and salaried workers at the Utica, New York plant of the Chicago Penumatic Tool Company, Inc., who became totally or partially separated from employment on or after April 25, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21597 Filed 7-26-76;8:45 am]

[TA-W-874]

CHRYSLER CORP., HAZELWOOD, MISSOURI

Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 19, 1976 in response to a worker petition received on that date which was filed on behalf of workers employed at the Hazelwood Missouri sales office of Chrysler Corporation.

Notice of the investigation was published in the FEDERAL REGISTER on June 18 1976, (41 FR 24794). No public hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at the Hazelwood sales office occurred on or before January 3, 1975. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is March 25, 1976 and, thus, workers laid off prior to March 25, 1975 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 8th day of July 1967.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-21598 Filed 7-26-76;8:45 am]

[TA-W-863]

DELTA METAL-FORMING DIVISION, KEYSTONE CONSOLIDATED INDUSTRIES, INC., GREENVILLE, MISSISSIPPI

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-863: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing specialty fasteners at Keystone Consolidated Industries, Incorporated, Delta Metal-Forming Division, Greenville, Mississippi.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20949). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delta Metal-Forming Division, its customers, the U.S.

International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether either of the other criteria has been met, criteria (3) and (4) have not been met.

The evidence developed in the Department's investigation reveals that imports of specialty fasteners are negligible. Customers of specialty fasteners produced by Delta Metal-Forming Division do not purchase imports of such products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that specialty fasteners like or directly competitive with those produced by the Delta Metal-Forming Division of Keystone Consolidated Industries, Greenville, Mississippi are not being imported in increasing quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21590 Filed 7-26-76;8:45 am]

[TA-W-813]

EMPIRE SHOE MANUFACTURING CO., INC., ELIZABETHTOWN, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-813: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 26, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers engaged in the production of women's and girls' casual shoes at Empire Shoe Manufacturing Co., Inc., Elizabethtown, Pa.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20042). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Empire Shoe Mfg. Co., Inc., its customers, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers decreased 33 percent in the fiscal year March 1, 1975 to February 28, 1976 compared to the like period in the previous year.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production declined 46 percent in the fiscal year March 1, 1975 to February 28, 1976 compared to the like period in the previous year.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear with leather uppers increased in 1972 compared to 1971, declined in 1973 and 1974 and rose 7 permen in 1975 compared to 1974. The ratio of imports to domestic production increased from 70.6 percent in 1974 to 72.1 percent in 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they reduced their purchases of women's and girls' casual shoes from Empire Shoe Manufacturing Co., Inc. and switched to offshore producers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and girls' casual shoes produced at Empire Shoe Manufacturing Co., Inc., Elizabethtown, Pa. contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of women's and girls' causal shoes at Empire Shoe Manufacturing Co., Inc., Elizabethtown, Pennsylvania who became totally or partially separated from employment on or after April 26, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21600 Filed 7-26-76;8:45 am]

[TA-W-841]

ERIE BOLT CORP., ERIE, PENNSYLVANIA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-841; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed on behalf of workers and former workers producing standard and special steel fasteners at Erie Bolt Corporation, Erie, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20946). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Erie Bolt Corporation and its customers, the International Trade Commission, the U.S. Department of Commerce, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistace, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important that any other cause.

The investigation has revealed that although the first two criteria have been met, the third and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 2 percent in 1975 compared to 1974. The average number of production workers declined 22 percent in the last quarter of 1975 compared to the last quarter of 1974, and decreased 37 percent in the first quarter of 1976 compared to the like period in 1975.

SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

Erie Bolt Corporation produces threaded fasteners. This product category includes hot forged, large diameter standard and special bolts and studs and special machined parts. This last product is made to customer specifications and is frequently one of a kind. About 10 percent of total sales consists of studs. Sales and production data are not available by product line.

Sales and production of threaded fasteners decreased 1 percent and 13 percent respectively, in 1975 compared to 1974. Sales and production declined 20 percent and 45 percent, respectively, in the last quarter of 1975 compared to the like quarter of 1974, and declined 30 percent and 44 percent, respectively, in the first quarter of 1976 compared to the like quarter of 1975.

CONTRIBUTED IMPORTANTLY

Imports of iron and steel bolts increased in absolute terms from 1971 through 1974. In 1971, 128.9 million pounds were imported. Imports increased through 1974 when 226.5 million pounds were imported. The ratio of imports to domestic production was 19.3 percent in that year. In 1975, imports declined to 140.6 million pounds and the ratio of imports to domestic production remained unchanged at 19.3 percent.

The bolts and studs produced by Erie Bolt Corporation are used in heavy machinery and equipment. Customers contacted in business related to construction and road building stated that decreased activity in these industries had caused reductions in their own sales which resulted in declining purchases from Erie Bolt. Other customers cited domestic competition in bolts and their own high inventory levels as reasons for reduced purchases from Erie Bolt. All customers stated that they have not been switching to imported bolts or studs.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with standard and special steel fasteners produced at Erie Bolt Corporation, Erie, Pennsylvania did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 16th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21601 Filed 7-26-76;8:45 am]

[TA-W-782]

GENERAL ELECTRIC CO., LIVERPOOL, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-782: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 2, 1976 in response to a worker petition received on April 2, 1976 which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing color picture tubes at the General Electric Company, Liverpool, New York.

The notice of investigation was published in the FEDERAL REGISTER on April 23, 1976 (41 FR 17033). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the General Electric Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 28.6 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the General Electric Company, Liverpool, N.Y., decreased 34.1 percent in quantity in 1975 compared to 1974. Company sales decreased 30.1 percent in quantity in 1975 compared to 1974.

INCREASED IMPORTS

U.S. imports of color picture tubes increased 93.5 percent in quantity in 1975 compared to 1974. The ratios of imports to domestic production and imports to domestic consumption increased from 0.6 and 0.6 percent, respectively, in 1974 to 1.7 percent and 1.9 percent, respectively, in 1975. Imports increased in 1971 and 1972, decreased in 1973 and 1974, then increased in 1975. The ratios of imports to domestic production and imports to domestic consumption increased from 1970 to 1971, decreased each year from 1972 through 1974, then increased in 1975.

Imports of color television sets increased 184 percent in the first quarter of 1976 compared to the first quarter of 1975, and the ratio of imports to domestic production increased from 13.4 percent in the first quarter of 1975 to 34.0 percent in the first quarter of 1976.

Although imports of color television sets decreased 10.7 percent in 1974 compared to 1973, and 21.7 percent in 1975 compared to 1974, the ratio of imports to domestic production increased from 19.0 percent in 1973 to 21.7 percent in 1974, and from 21.7 percent in 1974 to 23.4 percent in 1975.

CONTRIBUTED IMPORTANTLY

The General Electric Company has an integrated production process. The Portsmouth plant is the only G.E. color television set assembly plant and they purchase all their color tubes (a necessary component of color television sets) from the Liverpool plant. The Portsmouth plant is by far the largest customer of the Liverpool operation. The workers at the Portsmouth plant were certified eligible to apply for adjustment assistance, July 7, 1975 (TA-W-22). The relative increase in aggregate imports of color television sets has caused production, sales, and employment at G.E.'s Liverpool plant to decline.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that increases of imported color television sets contributed importantly to the total or partial separation of workers at the General Electric Company, Liverpool, New York. In accordance with the provision of the Act, I make the following certification:

All workers at the General Electric Company, Liverpool, New York, who became totally or partially separated from employment on or after March 26, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21602 Filed 7-26-76;8:45 am]

[TA-W-778]

GTE SYLVANIA, INC., OTTAWA, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-778: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 2, 1976 in response to a worker petition received on April 2, 1976 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing color and monochrome picture tubes at GTE Sylvania, Inc., Ottawa, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on April 23, 1976, (41 FR 17033). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of GTE Sylvania, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average annual plant employment of production workers declined 28.6 percent in 1975 compared to 1974 and declined 37.7 percent in the first quarter of 1975 compared to the first quarter of 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company production of color television sets declined 43.6 percent in 1975 compared to 1974.

Company production of color picture tubes declined 29.2 percent in 1975 compared to 1974 and declined 60.2 percent in the first quarter of 1975 compared to the first quarter of 1974.

INCREASED IMPORTS

The ratio of imports of color televisions to domestic production and consumption increased each year in quantity from 18.8 percent and 16.1 percent, respectively, in 1972 to 23.4 percent and 19.5 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation indicates that imports of color television sets have increased in recent years. Purchases by GTE Sylvania of color television picture tubes represented a substantial portion (47.6 percent) of the Ottawa plant's total sales of color picture tubes in value in 1975. Those tubes purchased by GTE Sylvania are incorporated into finished television sets which carry the Sylvania label. Imported television picture tubes are not interchangeable with tubes produced by GTE Sylvania without modification. Picture tubes are imported as replacement parts for imported television sets. For the above reason and due to the fact that the Ottawa plant participates in an integrated production process where the end product is a color television set, imports of color television sets are considered to be more indicative of the influence of imports upon the production and employment at the Ottawa plant.

Customers of Sylvania's color television sets have increased purchases of imported color television sets and have reduced purchases of color televisions from Sylvania. Sylvania has therefore reduced production of color picture tubes at the GTE Sylvania, Ottawa plant.

After careful review of the facts obtained in the investigation, I conclude that imports of color televisions have contributed importantly to the total or partial separations of workers at GTE Sylvania, Inc., Ottawa, Ohio. In accordance with the provisions of the Act, I make the following certification:

All employees at GTE Sylvania, Inc., Ottawa, Ohio plant who become totally or partially separated on or after March 15, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 15th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21603 Filed 7-26-76;8:45 am]

[TA-W-786]

GOODYEAR TIRE AND RUBBER CO., NEW BEDFORD, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-786: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 9, 1976 in response to a worker petition received on that date which was filed by the United Ruber Workers of America on behalf of workers and former workers producing bicycle tires and tubes at the Goodyear Tire and Rubber Company, New Bedford, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on April 27, 1976 (41 FR 17644). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Goodyear Tire and Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof; and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers engaged in production of bicycle tires and tubes at Goodyear Tire and Rubber Company declined one percent in 1974 compared to 1973, 20 percent in 1975 compared to 1974, and 16 percent in the first quarter of 1976 compared to the same period in 1975.

SALES AND PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of bicycle tires and tubes declined 79 percent in 1975 compared to 1974 and declined three percent in the first quarter of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of bicycle tires increased 80 percent in 1972 compared to 1971. The import/production and import/consumption ratios increased from 147.4 percent and 59.6 percent, respectively, in 1971 to 229.3 percent and 69.6 percent, respectively, in 1972 and continued to increase to 234.6 percent and 70.1 percent, respectively, in 1973. Imports continued to represent approximately two-thirds of the domestic tire market in 1974 and 1975, and increased 31 percent in the first quarter of 1976 compared to the same period in 1975. The import/production and import/consumption ratios increased from 222.5 percent and 69.0 percent, respectively, in the first quarter of 1975 to 240.2 percent and 70.6 percent, respectively, in the same period of 1976.

Imports of bicycle tubes increased relative to domestic production and consumption in 1975 compared to the 1971–1974 average. In the first quarter of 1976 imports of bicycle tubes increased 56 percent compared to the same period in 1975.

CONTRIBUTED IMPORTANTLY

Sharp declines in bicycle sales in late 1974 and in 1975 resulted in excess inventories of imported tires and tubes by domestic original equipment manufacturers (OEM) and distributors of such products. Thus, increased use of imports by domestic customers of tires and tubes are not reflected in aggregate 1975 import data since the distributors and original equipment manufacturers were reducing inventories. Continued increased demand for bicycle tires and tubes in the first quarter of 1976 caused imports of tires and tubes to increase significantly in absolute terms.

In 1975 imported bicycle tires and tubes represented 70 percent of total sales to domestic original equipment manufactures compared to 63 percent in 1974. Two-thirds of Goodyear's total sales of bicycle tires and tubes are to original equipment manufacturers. Customers of Goodyear indicated that they have been increasing purchases of imported bicycle tires and tubes while decreasing purchases of the same products from Goodyear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with bicycle tires and tubes produced by Goodyear Tire and Rubber Company contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of bicycle tires and tubes at Goodyear Tire and Rubber Company, New Bedford, Massachusetts who became or will become totally or partially separated from employment on or after April 6, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-21604 Filed 7-26-76;8:45 am]

[TA-W-713]

HENRY I. SIEGEL CO., INC., DICKSON, TENNESSEE

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-713: investigation regarding certification of eligibilty to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's dress pants, jeans, jackets, tailored clothes, women's skirts, dresses, jeans, and dress slacks at the Dickson, Tennessee plant of the Henry I. Siegel Company.

The notice of investigation was published in the FEDERAL REGISTER on April 20, 1976 (41 FR 16621). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Henry I. Siegel Company, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Employment of production workers increased 5.9 percent in the fiscal year ending March 31, 1976 compared to the fiscal year ending March 31, 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Dickson, Tennessee, plant of the Henry I. Siegel Company, Inc., have not become nor are threatened with becoming totally or partially separated and are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21605 Filed 7-26-76;8:45 am]

[TA-W-714]

HENRY I. SIEGEL CO., INC., FULTON, KENTUCKY

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-714: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's dress pants, jeans, jackets, tailored clothes, women's skirts, dresses, jeans, and dress slack at the Fulton, Kentucky, plant of the Henry I. Siegel Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 20, 1976 (41 FR 16622). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Henry I. Siegel Company, Inc., the U.S. Depart-

ment of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met.

Employment of production workers increased 6.0 percent in the fiscal year ending March 31, 1976 compared to the fiscal year ending March 31, 1975.

Production increased 10.8 percent in the fiscal year ending March 31, 1976 compared to the fiscal year ending March 31, 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Fulton, Kentucky plant of the Henry I. Siegel Company, Inc., have not become nor are threatened with becoming totally or partially separated and are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July, 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21606 Filed 7-26-76;8:45 am]

[TA-W-725]

HERCULES TROUSER CO., INC., COLUMBUS, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-725: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers shipping men's dress pants and leisure suits at the Hercules Trouser Company's plant located in Columbus, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15488). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Hercules Trouser Co., its customers, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first and third criteria have been met, the second and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment declined 11 percent from 1974 to 1975. All separations which occurred were a consequence of normal labor force attrition, no workers were separated because of lack of work.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales from the Columbus plant increased in value from 1974 to 1975. The Columbus plant serves as the warehouse for Hercules five manufacturing plants. It is not engaged in production.

INCREASED IMPORTS

Imports of men's and boys' dress and sport trousers and shorts increased from 1971 to 1972, decreased from 1972 through 1974, and increased 39 percent from 1974 to 1975. Imports of men's and boys' tailored suits, including leisure suits, increased in each year from 1971 through 1975, increasing 27 percent from 1974 to 1975.

CONTRIBUTED IMPORTANTLY

Imports did not contribute importantly to separations. The workforce decreased by attrition in 1975 as inventories were reduced from unusually high levels in 1974. The separations which did occur in 1975 or in the first quarter of 1976 were due to separations for cause or quits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers of the Hercules Trouser Company plant located in Columbus, Ohio have not become, and are not threatened with becoming, totally or partially separated from employment at that plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21607 Filed 7-26-76;8:45 am]

[TA-W-827]

NATIONAL SCREW AND MANUFACTURING CO., CULLMAN, ALABAMA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-827: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of former workers at the National Screw and Manufacturing Company plant located in Cullman, Alabama.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20955). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the National Screw and Manufacturing Company, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened with becoming totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The Department's investigation revealed that the Cullman plant's sole products were welded and weldless chain and spokes and nipples used for bicycles and motorcycles.

Imports of welded and weldless chain declined 45 percent in quantity and 28 percent in value from 1974 to 1975. The ratio of imports to domestic production (both given in dollars) for welded and weldless chain declined from 9.8 percent in 1974 to 8.2 percent in 1975. Chain production data in quantity are not available.

Spokes and nipples are not separately identified in the Tariff Schedules of the United States Annotated. Spoke and nipple production, export, import, and consumption data (in value, but not in quantity) can, however, be found in the two basket categories of motorcycle parts and bicycle parts (including frames, hubs, saddles, pedals, spokes and nipples, and related parts). Import data for spokes and nipples used on bicycles are contained in the even more specific category of bicycle parts other than frames, hubs, saddles, and pedals. Production, export and consumption data for this more specific category are not available.

Imports of motorcycle parts declined 33 percent in value from 1974 to 1975. The ratio of imports to domestic production (both given in dollars) for motorcycle parts declined from 157.1 percent in 1974 to 119.4 percent in 1975.

Imports of bicycle parts declined 60 percent in value from 1974 to 1975. The ratio of imports to domestic production (both given in dollars) for bicycle parts declined from 105.2 percent in 1974 to 84.2 percent in 1975.

Imports of bicycle parts other than frames, hubs, saddles, and pedals declined 61 percent in value from 1974 to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the National Screw and Manufacturing Company plant in Cullman, Alabama are not being imported in increased quantities, either actual or relative to domestic production, and therefore workers at that plant are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21608 Filed 7-26-76;8:45 am]

[TA-W-748]

REPUBLIC STEEL CORP., BIRMINGHAM, ALABAMA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-748: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1976, in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing specialty steel at the Birmingham, Alabama plant of Republic Steel Corporation. The investigation revealed that the Birmingham plant produces only coke.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 17646) on April 27, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, the U.S. Department of the Interior, the Department of Commerce, the International Trade Commission and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met. The evidence developed in the Department's investigation reveals that the Birmingham, Alabama plant of Republic Steel Corporation produces only coke. Imports of coke fell from 3,540 thousand tons in 1974 to 1,819 thousand tons in 1975. The ratios of imports to domestic production and consumption decreased from 5.8 percent and 5.5 percent, respectively, in 1974 to 3.2 percent and 3.2 percent, respectively, in 1975.

The coke produced at the Birmingham plant is utilized within Republic Steel's Southern District in the production of iron. Approximately 85 percent of the Southern District's production is carbon steel of which this iron is a basic raw material.

Imports of carbon steel products in 1975 were at their lowest level in the past five years. Imports decreased 3.6 percent in 1972 compared with 1971, decreased 14.6 percent in 1973 compared with 1972, increased 5.4 percent in 1974 compared with 1973 and decreased 25.9 percent in 1975 compared with 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with coke and carbon steel products produced by the Birmingham, Alabama plant of Republic Steel Corporation are not being imported in increased quantities, either actual or relative, to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of July 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for International Affairs.

[FR Doc.76-21609 Filed 7-26-76;8:45 am]

[TA-W-749]

REPUBLIC STEEL CORP., STEEL AND TUBES DIVISION, CLEVELAND, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-749: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless and specialty steels at the Republic Steel Corporation, Steel and Tubes Division, Cleveland Works plant, Cleveland, Ohio. The Department's investigation revealed that the plant produced primarily carbon steel.

The notice of the investigation was published in the FEDERAL REGISTER on April 23, 1976 (41 FR 17036). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, its customers, the International Trade Commission, the Department of Commerce, the American Iron and Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased aboslutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threa thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production and maintenance workers at the Cleveland Works plant declined 18.0 percent in 1975 compared with 1974 and has continued to decline through the first quarter of 1976, by 42.1 percent compared with the first quarter of 1975.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Since 1973, carbon steel mechanical tubing has constituted 92 to 96 percent of the plant's annual total production. Stainless steel pipe and tubing have constituted 4 to 8 percent of the plant's annual total production.

Shipments in quantity of mechanical tubing declined 30.1 percent in 1975 compared with 1974 and has declined 19.3 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of mechanical tubing declined 30.2 percent in 1975 compared with 1974 and has declined 15.1 percent in the first quarter of 1976 compared with the first quarter of 1975.

Shipments in quantity of stainless steel pipe and tubing declined 24.5 percent in 1975 compared with 1974 and declined 73.9 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of stainless steel pipe and tubing declined 5.5 percent in 1975 compared to 1974 and declined 67.0 percent in the first quarter of 1976 compared with the first quarter of 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing decreased 0.3 percent in 1972 compared with 1971, decreased 10.9 percent in 1973 compared with 1972, increased 13.1 percent in 1974 compared with 1973 and decreased 13.4 percent in 1975 compared with 1974 to their lowest level in five years. The ratios of imports to domestic shipments and consumption increased from 21.5 to 19.2 percent, respectively, in 1974 to 22.8 and 20.8 percent, respectively, in 1975.

Imports of stainless steel pipe and tubing decreased 36.7 percent in 1972 compared with 1971, deceased 34.6 percent in 1973 compared with 1972, increased 60.4 percent in 1974 compared with 1973 and increased 28.2 percent in 1975 compared with 1973. The ratios of imports to domestic shipments and consumption increased from 16.0 and 16.3 percent, respectively, in 1974 to 25.7 and 24.0 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Customers of the plant's carbon steel mechanical tubing and stainless steel pipe and tubing indicated that reductions in purchases were not attributable to imported pipe and tubing. Reductions in these purchases were made strictly in response to lower levels of activity than had been anticipated. This resulted in declines in all domestic purchases of pipe and tubing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe and tubing and carbon steel mechanical pipe and tubing produced at the Steel and Tubes Division, Cleveland works plant, Republic Steel Corporation, Cleveland, Ohio did not contribute importantly to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 12th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21610 Filed 7-26-76;8:45 am]

[TA-W-815]

NVF CO., SHARON STEEL CORP., FARRELL, PENNSYLVANIA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-815; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 26, 1976 in response to a worker petition received on April 26, 1976 which was filed by the United Steelworkers of America on behalf of workers formerly producing carbon, alloy and stainless steel at the NVF Company, Sharon Steel Corporation, Farrell, Pennsylvania plant.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 20046) on May 14, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sharon Steel Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although criteria one, two and three have been met, criterion 4 has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 33.1 percent in 1975 compared to 1974. Average employment of production workers declined in each quarter of 1975 and the first quarter of 1976 compared to the same quarter of the previous year.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production in terms of quantity of all steel products from the Farrell plants decreased 9.7 percent in 1974 compared to 1973 and 47.1 percent in 1975 compared to 1974.

Production of carbon steel sheet and strip decreased 15.0 percent in 1974 compared to 1973 and 55.4 percent in 1975 compared to 1974.

Production of forging quality carbon steel ingots, blooms, billets, and slabs increased 27.9 percent in 1974 compared to 1973 and declined 5.0 percent in 1975 compared to 1974.

Production of alloy steel sheet and strip increased 29.2 percent in 1974 compared to 1973 and declined 45.0 percent in 1975 compared to 1974.

Production of alloy steel ingots, blooms, billets, and slabs increased 19.6 percent in 1974 compared to 1973 and 12.5 percent in 1975 compared to 1974.

Production of stainless steel declined 70.9 percent in 1974 compared to 1973 and declined 87.8 percent in 1975 compared to 1974. Stainless steel production was only 0.4 percent of Sharon's total steel production in 1974 and 0.1 percent in 1975.

INCREASED IMPORTS

In absolute terms, imports of carbon steel sheet and strip declined steadily from 1971 to 1975. Imports declined 15.8 percent in 1973 compared to 1972, 3.1 percent in 1974 compared to 1973, and 23.3 percent in 1975 compared to 1974. The ratios of imports to domestic shipments and consumption increased only slightly from 13.3 percent and 12.1 percent, respectively, in 1974 to 14.9 percent and 13.0 percent, respectively, in 1975.

In absolute terms, imports of carbon steel ingots, castings, blooms, billets, slabs and sheet bars decreased in 1972 by 5.3 percent compared to 1971. Imports decreased in 1973 by 45.7 percent compared to 1972 and increased in 1974 by 40.0 percent compared to 1973. In 1975, imports increased by 32.8 percent compared to 1974. The ratios of imports to domestic production and consumption have never exceeded 0.2 percent.

Imports of alloy steel sheet and strip decreased by 69.6 percent in 1972 compared to 1971. Imports decreased in 1973 by 61.0 percent compared to 1972, and increased in 1974 by 53.5 percent compared to 1973. In 1975, imports decreased by 29.4 percent compared to 1974. The ratio of imports to domestic shipments remained at 1.3 percent in 1974 and 1975. The ratio of imports to domestic consumption decreased from 1.4 percent in 1974 to 1.3 percent in 1975.

Imports of alloy steel ingots, castings, blooms, billets, slabs and sheet bars decreased in 1972 by 0.6 percent compared to 1971. Imports decreased in 1973 by 13.5 percent compared to 1972 and again in 1974 by 37.1 percent compared to 1973. In 1975, imports increased by 10.0 percent compared to 1974. The ratio of imports to domestic production and consumption have never exceeded 0.75 percent.

CONTRIBUTED IMPORTANTLY

Customers of the Sharon Steel Corporation indicated that they did not switch their purchases of steel products to imports. Customers cited declines in their own business as the major factor in their decisions to decrease purchases. Customers also mentioned that they had shifted purchases from Sharon to other domestic competitors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon, alloy and stainless steel produced at the Farrell, Pennsylvania plant of the NVF Company, Sharon Steel Corporation did not contribute importantly to the total or partial separations of the workers at the firm, as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21611 Filed 7-26-76;8:45 am]

[TA-W-795]

SIMONDS STEEL, A DIVISION OF WALLACE MURRAY CORP., LOCKPORT, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-795: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 16, 1976 in resonse to a worker petition received on April 16, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tool steel, stainless steel, thermostatic steel, heat resistant steel, high temperature steel and magnet steel at Simonds Steel, a division of Wallace Murray Corporation, located in Lockport, New York.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20048). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Simonds Steel, its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 44 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production are equivalent because Simonds produces only for customer orders. About 65 percent of total sales and production is specialty steel, specifically, tool steel and stainless steel. Sales and production of tool steel declined 48 percent in 1975 compared to 1974. Sales and production of stainless steel declined 67 percent in 1975 compared to 1974.

INCREASED IMPORTS

Imports of stainless steel declined 4 percent inabsolute terms in 1975 from 1974. In 1975, the ratios of imports to domestic shipments and consumption increased to 22.0 percent and 19.2 percent, respectively, from the 1974 ratios of 13.0 percent and 12.4 percent.

Imports of alloy tool steel increased in absolute and relative terms in 1975 compared to 1974. In 1975, 19.1 thousand tons were imported, a 40 percent increase over the previous year's imports of 13.7 thousand tons. The 1975 ratios of imports to domestic shipments and consumption, at 27.7 percent and 23.4 percent, respectively, were about twice the ratios of 1974.

CONTRIBUTED IMPORTANTLY

Simonds' specialty steel customers indicated that they had reduced purchases of domestic stainless and tool steel in 1975 while increasing purchases of imported steel.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports like or directly competitive with tool steel and stainless steel produced at Simonds Steel, a division of Wallace Murray Corporation contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification.

All workers at Simonds Steel, a division of Wallace Murray Corporation, located in Lockport, New York, who became totally or partially separated on or after March 22, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21612 Filed 7-26-76;8:45 am]

[TA-W-805]

SKF TEXTILE PRODUCTS, INC., NORTH ATTLEBORO, MASSACHUSETTS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-805: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 23, 1976 in response to a worker petition received on April 23, 1976 which was filed on behalf of workers and former workers producing textile spindles at the North Attleboro, Massachusetts plant of SKF Textile Products, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20046). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of SKF Textile Products, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria one and two have been met, criteria three and four have not.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 16.4 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production and sales, in quantity, declined 33.3 percent in 1975 compared to 1974. Production of textile spindles accounted for 100 percent of production in 1975.

INCREASED IMPORTS

Imports of textile spindles increased, in value, from $6.0 million dollars in 1971 to $7.8 million dollars in 1972. Imports of textile spindles declined in each year from 1972 to 1975 when total imports were valued at $5.7 million.

The ratio of imports to domestic production (in value) increased from 51.3 percent in 1971 to 60.9 percent in 1972. The ratio of imports to domestic production declined in each year from 1972 to 1974 when the ratio was 42.6 percent. The ratio of imports to domestic production increased in 1975 to 43.5 percent.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that customers of textile spindles manufactured by SKF Textile Products, Inc. have not increased purchases of textile spindles from foreign sources except one which imported a very small order of spindles in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with textile spindles produced at the North Attleboro, Massachusetts plant of SKF Textile Products, Inc. did not contribute importantly to the total or partial separation of the workers at the above mentioned location.

Signed at Washington, D.C. this 14th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21613 Filed 7-26-76;8:45 am]

[TA-W-928]

TABIN & PEARLMAN CLOTHES, INC., NEW YORK, NEW YORK

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-928 investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1976 in response to a worker petition received on June 7, 1976 which was filed on behalf of workers and former workers of Tabin and Pearlman Clothes, Inc., New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24797). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tabin and Pearlman Clothes, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in *Pan American World Airways* (TA-W-153; 40 FR 54639).

Tabin and Pearlman Clothes, Inc., performs the services of merchandising and selling men's suits and furnishings. The store was not involved in the production of an article within the meaning of Section 222(3) of the Trade Act.

After careful review of the issues involved, I hereby determine that the workers of Tabin and Pearlman Clothes, Inc., New York, New York, are not eligible to apply for adjustment assistance.

Signed at Washington, D.C. this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21614 Filed 7-26-76;8:45 am]

[TA-W-844]

TELEDYNE EFFICIENT INDUSTRIES, CLEVELAND, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-844: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing tools, dies, jigs and fixtures at Teledyne Efficient Industries, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20966). No public

hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne Efficient Industries, its customers, the United Automobile, Aerospace and Agricultural Implement Workers of America, the U.S. International Trade Commission, the U.S. Department of Commerce and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth crierion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 9 percent in 1974 compared to 1973 but then decreased 16 percent in 1975 compared to 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Cleveland plant increased 35 percent in 1974 compared to 1973 but then decreased 21 percent in 1975 compared to 1974.

INCREASED IMPORTS

When compared with each preceding year, U.S. imports of tools, dies, jigs and fixtures increased, in terms of value, in 1972, 1973, and 1974 and then decreased in 1975. The ratio of imports to domestic production increased from 1.18 percent in 1974 to 1.69 percent in 1975, which was above the 1971–1974 average of .80 percent.

CONTRIBUTED IMPORTANTLY

Customers reflecting the majority of Teledyne Efficient Industries, Cleveland, Ohio plant's sales did not buy any imported tools, dies, jigs and fixtures in 1974 or 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with tools, dies, jigs and fixtures produced by the Cleveland, Ohio plant of Teledyne Efficient Industries did not contribute importantly to the total or partial separation of workers of that plant.

Signed at Washington, D.C. this 19th day of July 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-21615 Filed 7-26-76;8:45 am]

[TA-W-849]

TEXTRON, INC., WEST NEWTON, PENNSYLVANIA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-849; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed by the United States Steelworkers on behalf of workers formerly producing washers at the West Newton, Pennsylvania plant of Textron, Inc., Providence, Rhode Island.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 21381) on May 25, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the U.S. International Trade Commission, the U.S. Department of Commerce, Textron, Inc., its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria one, two, and three have been met, criterion four has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 26.9 percent from 1973 to 1974 and declined 30.3 percent from 1974 to 1975. Employment declined each of the last three quarters of 1975 and in the first quarter of 1976, compared to the same quarter of the previous year.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales of washers increased 12.0 percent in value from 1973 to 1974 and declined 17.2 percent from 1974 to 1975. Quarterly sales declined in each of the last three quarters of 1975 and in the first quarter of 1976, compared to the same quarter of the previous year.

Annual sales of industrial fasteners increased 46.2 percent in value from 1973 to 1974, and decreased 32.2 percent from 1974 to 1975. Sales declined in each quarter of 1975 compared to the same quarter of the previous year. Sales increased 11.6 percent in the first quarter of 1976 compared to the same quarter of 1975.

Annual production of washers increased 16.7 percent in quantity from 1973 to 1974 and declined 47.3 percent from 1974 to 1975. Quarterly production declined in each of the last three quarters of 1975 and in the first quarter of 1976 compared to the same quarter of the previous year.

INCREASED IMPORTS

Imports of washers increased in quantity in 1972 by 50.0 percent compared to 1971. Imports decreased in 1973 by 23.8 percent compared to 1972 and increased in 1974 by 37.5 percent compared to 1973. In 1975, imports decreased by 4.5 percent compared to 1974. The ratio of imports to domestic production and consumption increased from 5.9 percent and 5.7 percent, respectively, in 1974 to 7.3 percent and 6.9 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation revealed that Fabco's customers did not purchase imported idustrial fasteners or washers. They cited service and quality as reasons for purchasing from domestic rather than foreign suppliers. Customers indicated that decreased purchases resulted from a decline in the metal building industry in 1975 compared to 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that increases of imports like or directly competitive with washers produced at the West Newton, Pennsylvania plant of Textron, Inc., did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 15th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21616 Filed 7-26-76;8:45 am]

[TA-W-829, TA-W-830]

TOWNSEND FASTENING SYSTEMS, DIVISION OF TEXTRON, INC., ELLWOOD CITY, PENNSYLVANIA; FALLSTON, PENNSYLVANIA

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-829 and TA-W-830: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steel Workers of America on behalf of workers and former workers producing specialty fasteners and solid rivets at plants of Townsend Fastening Systems, Division of Textron, Inc. located in Ellwood City, Pennsylvania, and Fallston, Pennsylvania.

The notices of investigation were published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20968). No public hearings were requested and none were held.

The information upon which the determination was made was obtained principally from officials of Townsend Fastening Systems, Diviscion of Textron, Inc., the Department of Commerce, the International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

There are no known identifiable imports of specialty fasteners.

Imports of solid rivets decreased 33.7 percent in 1975 compared to 1974. The ratio of imports to domestic production decreased from 3.3 percent in 1974 to 3.2 percent in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the Ellwood City, Pennsylvania plant and the Fallston, Pennsylvania plant of Townsend Fastening Systems, Division of Textron, Inc., are not being imported in increased quantities, either actual or relative to domestic production and therefore workers at the Ellwood City, Pennsylvania plant and the Fallston, Pennsylvania plant of Townsend Fastening Systems, Division of Textron, Inc. are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-21617 Filed 7-26-76;8:45 am]

[TA-W-716]

UNIVERSITY CLOTHING CORP., CAMBRIDGE, MASSACHUSETTS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-716: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 26, 1976 in response to a worker petition received on March 26, 1976 which was filed on behalf of workers and former workers producing men's raincoats at University Clothing Corp., Cambridge, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15494). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of University Clothing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other two criteria have been met, criteria three and four have not been met.

Imports of men's and boys' raincoats decreased both absolutely and relatively from 1971 to 1972, then increased absolutely and relatively from 1972 to 1973. Imports decreased absolutely and relatively in each year from 1973 to 1975. The ratio of imports to domestic production and consumption decreased from 11.5 percent and 10.4 percent respectively, in 1974 to 8.1 percent and 7.5 percent, respectively, in 1975.

The evidence developed by the Department indicated that customers of University Clothing have not switched to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by University Clothing Corporaton, Cambridge, Massachusetts are not being imported in increased quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of July 1976.

JAMES F. TAYLOR,
Director Planning and Evaluation Staff.

[FR Doc. 76-21618 Filed 7-26-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 100]

ASSIGNMENT OF HEARINGS

JULY 22, 1976.

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.

MC 133194 (Sub-No. 3), Woodline, Inc., now assigned September 13, 1976, at Little Rock, Ark. is canceled and transferred to Modified Procedure.

MC 56640 (Sub-No. 35), Delta Lines, Inc., now assigned August 9, 1976 at Eugene, Oregon, August 16, 1976 at Medford, Oregon, September 13, 1976, at San Francisco, Calif. and September 20, 1976, at Los Angeles, Calif. is postponed indefinitely.

MC 136640 Sub 11, Robert L. Allen, DBA Allen Transport, now being assigned October 13, 1976 (1 day), at Boston, Massachusetts, in a hearing room to be later designated.

MC 141932 Sub 1, Polar Transport, Inc., now being assigned October 14, 1976 (2 days), at Boston, Massachusetts, in a hearing room to be later designated.

MC–F–12802, Terminal Transport Company, Inc. Purchase—Goguen Transportation Co., Inc. and MC 22229 (Sub-No. 108), Terminal Transport Company, Inc., now being assigned October 18, 1976 (1 week), at Boston Massachusetts, in a hearing room to be later designated.

MC–F–12630, D. Q. Wise & Co., Inc.—Purchase—E. L. Beakley (Barbara Ann Brewer, Independent Executrix), MC 42011 (Sub-No. 20), D.Q. Wise & Co., Inc., MC–F–12685, William E. Lewis, Inc.—Purchase (Portion)—E. L. Beakley (Barbara Ann Brewer, Independent Executrix) and MC 99314 (Sub-No. 2), William E. Lewis, Inc., now being assigned for continued hearing on August 4, 1976, at the offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–21740 Filed 7–26–76;8:45 am]

[I.C.C. Order No. 172–A Under Rev. S.O. No. 994]

REROUTING TRAFFIC

To all railroads: Upon further consideration of I.C.C. Order No. 172 (Vermont Railway, Inc.), and good cause appearing therefore:

It is ordered, That: I.C.C. Order No. 172 be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 15, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76–21741 Filed 7–26–76;8:45 am]

[No. MC–F–12706]

ART PAPE TRANSFER, INC.—PURCHASE—MILLER'S TRUCKING AND RENTAL, INC.

Supplemental Order

At a Session of the Interstate Commerce Commission, Review Board Number 5, held at its office in Washington, D.C., on the 16th day of June, 1976.

Upon consideration of the record in the above-entitled proceeding, including the order issued by the Commission, Review Board Number 5, on January 5, 1976, and served January 13, 1976, which authorized the temporary lease under section 210a(b) of the Interstate Commerce Act (Act), by Art Pape Transfer, Inc., herein called lessee, of the operating rights and properties of Miller's Trucking and Rental, Inc., herein called lessor, and of the letter petition, dated April 9, 1976, seeking a modification of the said order of January 6, 1976; and

It further appearing, That, by orders issued prior to the institution by applicants of this proceeding, lessor was granted certain temporary operating rights pursuant to section 210a(a) of the Act in No. MC–134400 (Sub-Nos. 9TA, 11TA, 14TA, and 18TA) pending final determination of the corresponding permanent authority applications in No. MC–134400 (Sub-Nos. 10, 12, 17, and 19) respectively; that by "corrected order" served February 13, 1976, the prior order served January 13, 1976, was modified to allow lease of the authorities in No. MC–134400 (Sub-Nos. 9TA, 11TA, 14TA, and 18TA) pending determination of the corresponding permanent authority applications; and that the order served February 13, 1976, was improperly issued;

It further appearing, That on March 30, 1976, in No. MC–134400 (Sub-No. 10), a permit was issued to lessor authorizing the service previously conducted under the temporary authority granted in No. MC–134400 (Sub-No. 9TA);

It further appearing, That by order of the Motor Carrier Board issued February 3, 1976, in No. MC–134400 (Sub-No. 20TA), lessor was granted further temporary authority pending determination of the corresponding permanent authority application in No. MC–134400 (Sub-No. 19); and

It further appearing, That the emergency which warranted the temporary lease of the then-current permanent operating rights of lessor persists; that failure to include the previously-issued temporary authority is No. MC–134400 (Sub-Nos. 11TA, 14TA, and 18TA) and the subsequently-issued authority in No. MC–134400 (Sub-Nos. 10 and 20TA), may result in destruction of, or injury to, the said rights, or interfere substantially with their future usefulness in the performance of adequate and continuous service to the public; and that, accordingly, the said order of January 5, 1976, served January 13, 1976, should be modified to include said rights:

It is ordered, That the letter petition be, and it is hereby, granted, and that the said order of January 5, 1976, served January 13, 1976, be, and it is hereby, modified and supplemented to include the lease by Art Pape Transfer, Inc., of the operating rights covered by Permit No. MC–134400 (Sub-No. 10), and of the operating rights covered by temporary authority granted under section 210a(a) of the Act, in No. MC–134400 (Sub-Nos. 11TA, 14TA, 18TA and 20TA) pending final determination of the corresponding permanent authority applications;

It is further ordered, That, except as herein modified, the said order of January 5, 1976, served January 13, 1976, shall remain in full force and effect; and that the corrected order of January 5, 1976, served February 13, 1976, shall be, and it is hereby, vacated; and

It is further ordered, That this order be published in the FEDERAL REGISTER; and that said order shall be effective on the date it is so published.

By the Commission, Review Board Number 5, Members Krock, Pohost, and Taylor. (Except for the requirement to publish in the FEDERAL REGISTER and to vacate the prior corrected order served February 13, 1976 in this proceeding, Member Pohost agrees with the findings in this order in all other respects.)

NOTE.—This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act. of 1969.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–21742 Filed 7–26–76;8:45 am]

federal register

TUESDAY, JULY 27, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

NATIONAL HEALTH SERVICE CORPS PERSONNEL

Grants to Assist Entities

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 23—NATIONAL HEALTH SERVICE CORPS

Grants To Assist Entities With Assigned National Health Service Corps Personnel

On January 26, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 3821–24) proposing to add a new Subpart B to Part 23 of Title 42, Code of Federal Regulations to implement section 329(d)(2) of the Public Health Service Act, as amended by section 802 of Pub. L. 94–63, which provides that the Secretary may make grants up to $25,000 to entities with approved applications for assignment of National Health Service Corps personnel. Such grants are to assist in meeting the costs of establishing medical practice management systems for Corps personnel and acquiring supplies and equipment for their use in providing health services, and for other expenses related to the provision of health services. Such notice also proposed that the present Part 23, which relates to the assignment of Corps personnel, be redesignated as Subpart A.

Interested persons were afforded the opportunity to submit written comments or suggestions on the notice of proposed rulemaking. Five comments were received. Following are summaries of the recommendations and notations of changes in the regulations.

1. Two comments expressed concern that because, under the proposed regulations, an entity may receive a grant before the assignment of specific Corps personnel, an entity might receive and spend grant funds but never receive a Corps assignee, thus resulting in a waste of Federal funds. The comments suggested that § 23.112(a) be modified to require assignment of specific Corps personnel to the site before funding the site's grant application.

While the Secretary recognizes this concern, one purpose of a grant under section 329(d)(2) of the Public Health Service Act is to provide the funds necessary to enable an entity to be prepared to begin operations upon arrival of Corps assignees. It would in some instances defeat this purpose if an entity's receipt of a grant was delayed until the assignment of specific Corps personnel because this may not allow a sufficient period for preparation before the arrival of Corps personnel at the site. The suggested modification has not, therefore, been included. The Secretary will however exercise due caution so that an entity will be reasonably certain of being assigned Corps personnel before he makes a grant award.

2. Three comments suggested that § 23.114(a)(2) be amended to allow more than one grant to a critical health manpower shortage area or to amend § 23.114(b) to raise the $25,000 limit for a grant, or both. The comments noted that the $25,000 per grant limitation would create an extreme hardship for an area in which more than one Corps physician or dentist is utilized and that the one grant per area limitation penalized large areas that contain more than one Corps site. The legislative authority under which entities will receive grants however limits the number of grants to one grant for each critical health manpower shortage area and sets a maximum of $25,000 for the amount of a grant. The suggested amendments cannot therefore be adopted. Prospective applicants for grants however may request, if appropriate according to the criteria for designating critical health manpower shortage areas (42 CFR 23.4), that a large area containing more than one Corps site be divided into two or more critical health manpower shortage areas.

3. One comment recommended a change in the definition of "medical practice management systems" (§ 23.111(c)) to explicitly refer to "psychological services" as well as "medical and dental services" to clarify that psychological services are also offered by Corps personnel. Psychological services will in this context be considered a part of medical services, and therefore the recommendation was not adopted.

4. A recommendation was made to add "clinical laboratory technologist" to the definition of "Corps personnel" in § 23.111(b) to specify by title the level of personnel designated to supervise laboratory personnel. It is desired however to establish the § 23.111(b) definition of "Corps personnel" in identical language to the "Corps personnel" definition utilized for Subpart A in § 23.2. Further, the definition in providing that assigned personnel include but is not limited to the named categories already provides the needed flexibility to include all appropriate health or health-related personnel, including clinical laboratory technologists, in assignments under the Corps program.

5. One comment expressed concern that § 23.116(b)(1) allowed an entity to use grant funds to purchase laboratory services from laboratories which did not meet the existing Federal regulations for laboratories and recommended that the regulations require an entity receiving assistance under this grant program to purchase laboratory services only from laboratories which meet these requirements. To assure that entities utilize only properly qualified laboratories for necessary laboratory services, § 23.116(b)(1) was amended to require that grant funds may be used to purchase laboratory services only from laboratories, hospitals or physicians who may under Federal standards perform such services.

6. One comment expressed concern that the copyright clause in § 23.118 of the proposed regulations might be interpreted to subject Corps assignees, who are Federal employees, to the publication and copyright provisions applicable to grantees instead of the appropriate publication and copyright provisions applicable to other Federal employees. Therefore, a technical amendment was added to insure that Corps assignees are subject to the appropriate Federal employee publication and copyright provisions.

Accordingly, the present Part 23 of Title 42 of the Code of Federal Regulations is redesignated as Subpart A of Part 23 and a new subpart B is added to Part 23 with the above changes as set out below.

Effective date: These regulations are effective on July 27, 1976.

Dated: June 16, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: July 16, 1976.

MARJORIE LYNCH,
Acting Secretary.

1. The present provisions of Part 23 are redesignated as: Subpart A—Assignment of National Health Service Corps Personnel.

2. A new Subpart B is added as follows:

Subpart B—Grants to Assist Entities With Assigned National Health Service Corps Personnel

Sec.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Sec. 329(d)(2), 89 Stat. 353 (42 U.S.C. 254b).

Subpart B—Grants To Assist Entities With Assigned National Health Service Corps Personnel

§ 23.110 Applicability.

The regulations of this subpart are applicable to grants under section 329(d)(2) of the Public Health Service Act (42 U.S.C. 254b) to entities with approved applications for the assignment of National Health Service Corps personnel to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and for other expenses related to the provision of health services.

§ 23.111 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "National Health Service Corps personnel" or "Corps personnel" means health or health related personnel of the National Health Service Corps, including, but not limited to, physicians, dentists, psychologists, nurses, paramedical personnel, medical services administrators or planners, and medical and psychiatric technicians, who are assigned, in accordance with section 329 of the Act and the regulations in this part, to an area to provide needed health care or services.

(c) "Medical practice management system" means the total system consisting of personnel, equipment, supplies, facilities, administrative methods and formal agreements with other entities, by which the delivery of effective medical/dental services by professional providers of such care is effectuated.

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of that Department to whom the authority involved has been delegated.

(e) "State" means any of the several States, the District or Columbia, Puerto Rico, the Virginia Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 23.112 Eligibility.

(a) *Eligible applicants.* Any entity whose application has been submitted to the Secretary for the assignment of Corps personnel, as authorized under section 329 of the Act and subpart A of this part, is eligible to apply for a grant under this subpart.

(b) *Eligible projects.* Grants may be made by the Secretary under section 329 of the Act to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and other expenses related to the provision of health services.

§ 23.113 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary in such form and manner and at such time as the Secretary may prescribe.

(b) The application shall contain a budget and narrative plan of the manner in which the applicant intends to use the funds provided under this subpart, including an itemized list of all equipment proposed to be purchased and a narrative justification for such purchases. The application shall contain a full description of the present and estimated future financial resources of the applicant.

(c) Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the regulations of this subpart, or any additional terms or conditions of the grant.

§ 23.114 Evaluation and grant award.

(a) *General.* (1) Within the limits of funds available for such purposes, the Secretary may award grants to those applicants whose project will, in his judgment, best promote the purposes of section 329 of the Act and the regulations of this subpart taking into account among other pertinent factors:

(i) The reasonableness of the budget for the proposed medical practice management system, the supplies and equipment, and the other expenses related to the provision of health services in relation to the number of persons to be served and the services to be provided by the entity;

(ii) The need of the entity for financial assistance, as determined by the Secretary's evaluation of the entity's financial situation; and

(iii) The extent to which the applicant proposes to utilize resources in or near the area to be served for the purpose of acquiring supplies, equipment or services to be used in the approved activity.

(2) Not more than one grant shall be made with respect to any one critical health manpower shortage area designated under section 329(b)(1) of the Act.

(3) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds shall be available for obligation. Such period may not exceed the duration of the agreement entered into with the applicant for the assignment of Corps personnel in accordance with § 23.10.

(b) *Determination of grant amount.* The amount of any grant, which may not exceed $25,000, shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the approved project plus an additional amount for the indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all or a designated portion of the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs.

§ 23.115 Grant payments.

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the performance of the project, or in advance for expenses to be incurred in the performance of the project, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 23.116 Use of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 329(d)(2) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Funds granted pursuant to this subpart may be expended for:

(1) The costs of establishing medical practice management systems for Corps personnel, including the cost of ancillary personnel such as receptionists and bookkeepers; the cost of obtaining assistance on the methods of preparing and using medical and fiscal records; and the costs incurred pursuant to an agreement with other providers or support agencies for supplemental services such as speciality referrals and treatment, billing and collection, and laboratory work performed by a laboratory, hospital, or physician that may perform such laboratory services under section 353 of the Public Health Service Act as amended (Clinical Laboratories Improvement Act of 1967) or a laboratory, hospital, or physician that may receive reimbursement under Title XVIII of the Social Security Act as amended for performing such laboratory services.

(2) The cost of acquiring supplies and equipment for the use of Corps personnel in providing health services; and

(3) Other expenses related to the provision of health services, including alteration and renovation of office and laboratory space, payment for primary and support staff during developmental and initial stages of operation, and the continuing professional education of Corps personnel up to a maximum of $500 a year per individual.

(c) Prior written approval by the Secretary is required whenever a revision in the budget will result in a significant change in the scope or nature of project activities.

§ 23.117 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such Act which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

(c) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, and the applicable rules, regulations and procedures prescribed pursuant thereto.

§ 23.118 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government as defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable material developed or resulting from the activity supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is

not a State or local government as so defined, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publication, films or similar materials developed or resulting from an activity supported by a grant under this subpart, subject, however, to a royalty-free, nonexclusive, and irrevocable license in the Department to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

(c) *Corps assignees.* Corps assignees are subject to the publication and copyright requirements applicable to Federal personnel.

§ 23.119 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided,* That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant, shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government as defined in 45 CFR 74.3, royalties shall be accounted for as provided in 45 CFR 74.44.

(2) *Grantee other than State and local governments.* Where the grantee is not a State or local government as so defined royalties shall be accounted for as follows:

(i) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Secretary and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of publishing or producing the materials shall be distributed in accordance with Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual.[1]

(c) *Grant closeout.* (1) *Date of final settlement.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) and (b) of this section; and

(ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 23.120 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in 45 CFR 74.3. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart	
A	General.
B	Cash Depositories.
C	Bonding and Insurance.
D	Retention and Custodial Requirements for Records.
F	Grant Related Income.
K	Grant Payment Requirements.
L	Budget Revision Procedures.
M	Grant Closeout, Suspension, and Termination.
O	Property.
Q	Cost Principles.

§ 23.121 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

[FR Doc.76–21214 Filed 7–26–76;8:45 am]

[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

federal register

TUESDAY, JULY 27, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Programs

■

ENDRIN

Rebuttable Presumption Against Registration

ENVIRONMENTAL PROTECTION AGENCY

[FRL 586-5; OPP-30000/4]

PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Endrin

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing endrin (hexachloroepoxy, octahydro-endo, endo - dimethanonaphthalene).

I. Regulatory Provisions

A. General

The Environmental Protection Agency promulgated regulations (40 CFR 162) for the registration, reregistration, and classification of pesticides on July 3, 1975 (40 FR 28242). Section 162.11 of the regulations provides that a rebuttable presumption against registration shall arise if it is determined that a pesticide meets or exceeds any of the criteria for risk set forth in § 162.11(a)(3). If it is determined that such a presumption against continued registration of a pesticide has arisen, the regulations require that the registrant be notified by certified mail and that the registrant be provided an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should be provided with notice of the presumption to solicit comments and any additional information from interested parties relevant to the presumption.

A notice of rebuttable presumption against registration or continued registration of a pesticide is not to be confused with notice of intent to cancel the registration of a pesticide and may or may not lead to cancellation. The notice of rebuttable presumption is issued when the evidence related to risk meets the Agency's criteria, whereas the notice of intent to cancel is issued only after a careful consideration of both risks and benefits and a determination reached that the pesticide may generally cause unreasonable adverse effects on the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II, and in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens, (May 25, 1976, 41 FR 21402). Registrants and other interested parties may submit data on benefits which they believe would justify registration or continued registration in the event the Agency determines that the risk presumptions have not been completely rebutted. In addition, any registrant may petition the Agency to voluntarily cancel an current registration pursuant to Section 6(a)(1) of FIFRA.

B. Risk Criteria

Section 162.11(a)(4) provides that a registrant seeking continued registration may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity criteria of Section 162.11(a)(3)(i) or pursuant to the lack of emergency treatment criteria of § 162.11(a)(3)(iii), "that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget orgnanisms is not likely to result in any significant acute adverse effects";

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria of § 162.11(a)(3)(ii), "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects"; or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the critria for risk was in error."

C. Benefits Information

In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant and any preliminary EPA staff recommendations may be considered by the Administrator in determining the appropriate regulatory action. Specifically, § 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh risks," the Administrator may issue notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA rather than a notice of intent to cancel or deny registration pursuant to Section 6(b)(1) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 3(c)(6) or Section 6(b)(1) of the Act, as appropriate," Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to Section 6(c) of the Act.

II. Presumptions

Pesticide products containing endrin meet or exceed the following risk criteria set forth in 40 CFR 162.11(a)(3).

A. Chronic Toxicity

(1) *Oncogenic Effects in Test Animals.*—40 CFR 162.11(a)(3)(ii)(A) provides, "A rebuttable presumption shall arise if a pesticide's ingredient(s) * * * [i]nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *" As a further clarification of this provision, the preamble to the Interim Guidelines states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals." It is emphasized that at the time of issuing this notice of rebuttable presumption, the Agency has not formulated a complete assessment of the carcinogenic risks associated with the use of endrin. The primary function of this notice is to solicit information which refutes the evidence, adds to the evidence, or otherwise contributes to the Agency's assessment of risks.

At the time of issuing this notice, the Agency is aware of two studies which show evidence sufficient to trigger the notice of rebuttable presumption. A brief summary of these studies is given below, together with an indication of other studies which were negative or inconclusive.

(a) FDA Rat Study. In 1958, the FDA completed a rat feeding study where 300 Osborne-Mendel rats (six groups of 25 males and 25 females) were fed diets containing 25, 10, 5, 1, 0.1 or 0.0 ppm endrin. The pathological analysis of the tissue slides taken from the study was not completed until 1965. While the pathology report stated that the lowest dosage group, 0.1 ppm endrin, had the greatest number of rats with malignant tumors, the report did not call endrin a carcinogen. This conclusion apparently was based on the observation that the malignant tumors found in the exposed animals did not occur in any particular location in the body and that the incidence of malignant tumors decreased at the higher dosage levels. Comment is invited on the relevance of these observations to a conclusion of carcinogenicity. EPA would like to point out that the current practice of the National Cancer Institute is to compare incidences of total tumors in experiments as well as incidences in specific organs, and that the recently approved "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances" of NCI does not require an increase in tumors at higher dosage levels to draw a conclusion of carcinogenicity, although it states that such an occurrence provides additional evidence of a positive result.

A reassessment of the histological sections (tissue slides) made by an EPA consultant pathologist essentially confirmed the pathological findings in the FDA report; however, in addition hyperplastic nodules in the liver were reported in virtually all dose groups of both sexes. A statistical analysis performed by EPA indicated: (a) A statistically significant

incidence of malignant tumors in all locations combined in endrin-fed animals of both sexes as compared to controls, and (b) a statistically significant incidence of tumors of the liver in females as compared to controls.

Male control animals did not develop tumors at any site in the body. Eighty-one percent of males fed 0.1 ppm endrin developed malignant tumors. These were in a variety of locations. The increase is statistically significant ($p<0.001$). In males fed dosages of 1, 5, 10 or 25 ppm endrin, the incidence of male animals with tumors ranged from 11 percent to 42 percent, all higher than the controls.

In female controls, 39 percent of the animals (9 of 23) developed tumors (7 in the mammary gland and two adenocarcinomas). Eighty-seven percent of females fed 0.1 ppm endrin (20 of 23) and 96 percent of females fed 1.0 ppm endrin (22 of 23) developed malignant tumors. The latter is statistically significant ($p<0.001$). In the 5, 10, and 25 ppm groups the incidence ranged from 53 percent to 80 percent, all higher than the controls. In addition to mammary sarcomas and carcinomas which appeared in larger numbers than in the control group, there were stromal cell sarcomas of the endometrium of the uterus, reticulum cell sarcomas of the lung, Kuppfer cell sarcomas of the liver, and carcinomas of the liver, thyroid, and adrenal cortex.

The effects on the liver were also analyzed. None of 23 male or 23 female control animals developed tumors of any kind in the liver. In male rats 31 percent (5 of 16) and in females 30 percent (7 of 23) fed 0.1 ppm endrin were observed with hyperplastic nodules, carcinomas, or sarcomas of the liver. The results for females are statistically significant ($p<0.025$). The results for males are less significant ($p<0.13$) in part because fewer animals were available for examination. Tumor incidence at other dosage levels ranged from 5 percent to 17 percent for both sexes, all higher than the controls. Accordingly, a rebuttable presumption has arisen pursuant to § 162.11(a)(3)(ii)(A).

(b) Kettering Mouse Study. In 1970, Kettering Laboratory completed a mouse feeding study (for Velsicol and Shell), in which male and female mice of two different strains (C57B1/6J and C3D2F1/J) were fed diets containing 3.0 and 0.3 ppm endrin, with an equal number used as controls. The original report concluded there was no oncogenic effect in either sex of the C57B1/6J strain or in the male sex of the C3D2F1/J strain. However, 12 of the endrin-fed females of the C3D2F1/J strain (8 at the 3.0 ppm level and 4 at the 0.3 pm level) had hepatomas (liver tumors), while only 4 of the 146 female controls (3 in one control group and 1 in the other) had hepatomas. The report concluded that the excess incidence of hepatomas in the hybrid females did not represent an oncogenic effect because the first hepatoma observed in a sacrificed animal occurred in the low-dose group and among the controls, rather than in the high-dose group, and because the last portion of the high dose group sacrificed did not have any hepatomas, although the last portion of the controls did. Comment is invited on the relevance of these observations to a conclusion of carcinogenicity. EPA performed a statistical analysis of the tumor incidence (8 at 3.0 ppm, 4 at 0.3 ppm, and 1 and 3 for the two control groups at 0 ppm). The increased tumor incidence and trend in endrin-fed animals was found to be statistically significant ($p<005$). Accordingly, a rebuttable presumption has arise pursuant to § 162.11(a)(3)(ii)(A).

(c) Other Studies. Certain other tests have involved endrin fed to laboratory animals. In a 1970 study with Osborne-Mendel rats fed 2, 6, and 12 ppm endrin by Deichmann, *et al.*, no oncogenic effect was reported, but the female control animals had a very high (68 percent) tumor incidence. In a 1953 study with Carworth rats fed 1, 5, 25, 50, and 100 ppm endrin by Kettering Laboratory, no oncogenic effect was reported. The published report on the study does not contain any information on the specific histopathological observations conducted. Studies testing endrin in dogs were conducted, but only for two years, which is not normally long enough for the formation of tumors in that species.

(2) *Fetotoxic and Teratogenic Effetcs in Tests Animals*:—40 CFR 162.11(a)(3)(ii)(B) provides: "A rebuttable presumption shall arise if a pesticide's ingredients * * * [p]roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety."

In a recent study conducted by the National Institute of Environmental Health Sciences, RTP, endrin was found to produce a statistically significant incidence of fetotoxicity and teratogenicity in hamsters fed 5 mg/kg ($p<0.01$) and in mice fed 2.5 mg/kg ($p<0.01$) (January 1974). The effects included fused rib, cleft palate, webbed foot, and open eye. Only one dosage each was tested in these two species, and it was positive. Therefore, the question remains open as to what is the lowest level at which fetotoxic or teratogenic effects may be observed, and as to whether it is substantially higher than that "to which humans can reasonably be anticipated to be exposed." In the absence of a level at which there is no demonstrated effect and the subsequent choice of an "ample margin of safety," it must be presumed that current exposure may be sufficient to produce fetotoxic/teratogenic effects in humans. Accordingly, a rebuttable presumption has arisen pursuant to § 162.11(a)(3)(ii)(B).

(3) *Effects on Nontarget Organisms.*—40 CFR 162.11(a)(3)(ii)(C) provides: "A rebuttable presumption shall arise if a pesticide's ingredients * * * [c]an reasonably be anticipated to result in significant local, regional, or national population reductions in nontarget organisms, or fatality to members of endangered species." Data summarized below indicate that endrin has resulted in fatality to members of an endangered species and significant reductions in noontarget organism populations, requiring the issuance of rebuttable presumptions against continued registration or registration.

(a) Fatality to Members of an Endangered Species. By the early 1960's, the brown pelican became extinct in the State of Louisiana. This bird is on the endangered species list of the United States Department of the Interior. Efforts were undertaken to reestablish the bird in Louisiana by introducing birds from Florida; however, in the spring of 1975 a significant decline in the number of adult pelicans occurred and several were found dead by the Louisiana Wildlife and Fisheries Commission. In an effort to determine the cause of death, an analysis of pesticide body burdens was conducted by both the U.S. Department of the Interior's Patuxent Wildlife Research Center and the Louisiana State University's Feed and Fertilizer Laboratory. The analysis revealed brain tissue levels of endrin which averaged 0.37 ppm (0.18–0.70 ppm). Based upon experimental testing with other avian species, such levels are considered to be in the lethal range for endrin. While residues of other organchlorines were detected in the dead pelicans, the endrin levels were sufficiently high to have been the sole cause of fatality to the pelicans. Accordingly, since the fatality to the brown pelicans can be reasonably attributed to endrin, a rebuttable presumption pursuant to § 162.11(a)(3)(ii)(C) has arisen against the continued registration or registration of endrin.

(b) Significant Population Reductions in Nontarget Organisms. Reports submitted to EPA indicate that the use of endrin as a pesticide has caused numerous fish and wildlife kills resulting in significant local and regional population reductions of nontarget organisms. Data contained in EPA's Pesticide Episode Reporting System (PERS) indicate that since 1967 endrin has been involved in fifty-two reported fish and wildlife kills with an estimated loss of over 31 million fish of various species. In addition, endrin has been reported involved in eight episodes involving the poisoning of animals, other than wildlife, such as cattle. Thirty-seven of the fish and wildlife kills were connected with the agricultural use of endrin from the following causes: pesticide runoff (20 episodes) including most frequently runoff after treatment to cotton fields and applications for mouse control in orchards; overspray of water bodies during aerial application (4 episodes); and improper container disposal (2 episodes). PERS data also indicate five wildlife kills including 2 episodes of fatality to migratory waterfowl caused by their feeding on endrin treated seed or grain.

Thirty-three of the reported episodes involving fish and wildlife were supported by laboratory analyses showing endrin to be present, either alone or with other pesticides or their metabolites in the tissues and environmental media sampled.

The Agency has also received extensive data on the widespread fish, wildlife and

domestic animal kills and the contamination of large amounts of milk from cattle exposed to endrin which occurred in Kansas and Oklahoma in the spring of 1976 from the agricultural usage of endrin.

In addition, the Agency has recently received a report from the Patuxent Wildlife Research Center analyzing brain tissue from white pelicans found dead in the Tulelake California area in 1975. Of the eleven brain samples which could be analyzed from the thirty-six pelicans found dead, Patuxent reported that the endrin levels found in nine of the birds would have been sufficient to cause death. The U.S. Fish and Wildlife Service is currently conducting further investigation into the Tulelake episode.

Accordingly, since the available data indicate that the use of endrin can be reasonably anticipated to result in local and regional population reductions of nontarget organisms, a rebuttable presumption pursuant to § 162.11(a)(3)(ii)(C) has arisen against the continued registration of endrin.

B. ACUTE TOXICITY

40 CFR 162.11(a)(3)(i) sets forth several criteria which require that a rebuttable presumption arise because of the acute toxicity of the pesticide to humans and domestic animals [§ 162.11(a)(3)(i)(A)], and to wildlife [§ 162.11(a)(3)(i)(B)]. As discussed in the preamble to 40 CFR 162 (40 FR 28262), pesticides which meet or exceed the acute toxicity of § 162.11(a)(3)(i) must be closely scrutinized to determine if the hazard indicated by the acute toxicity characteristics of the pesticides necessitate restrictions on use, or denial or cancellation of the registrations.

Data indicate that pesticide products formulated with endrin may meet or exceed the acute toxicity criteria set forth in § 162.11(a)(3)(i)(A) and (B), depending upon the endrin concentration in a product and other characteristics of a product's specific formulation. Therefore, to determine if a specific product meets or exceeds the acute toxicity criteria of § 162.11(a)(3)(i)(A) and (B), the toxicity of each individual product and each of its uses must be determined by testing or extrapolation. Accordingly, based upon the acute toxicity studies of endrin set forth below or such other studies as the registrant selects and submits to the Agency, each registrant is directed to determine the acute toxicity of each use dilution and of each formulation and determine whether or not the criteria have been met or exceeded. The registrant shall submit to the Agency that determination for each registration, specifying the data relied upon and shall certify to the Agency whether or not the criteria of § 162.11(a)(3)(i)(A) and (B) are met or exceeded. If the criteria are met or exceeded, a rebuttable presumption against registration or continued registration shall arise and the registrant may submit rebuttal evidence pursuant to § 162.11(a)(4).

(1) *Hazards to Humans and Domestic Animals.*—Data indicate that endrin when formulated as a 19.2% weight/volume (w/v) emulsifiable concentrate has an acute dermal LD_{50} of 11.3 mg/kg, that a 20 percent emulsifiable formulation has an acute dermal LD_{50} of 10.9 mg/kg, and that a 2 percent dust has an acute dermal LD_{50} of 31.5 mg/kg for rats. Section 162.11(a)(3)(i)(A) provides that a rebuttable presumption shall be issued if: (1) The pesticide as formulated has an acute dermal LD_{50} of 40 mg/kg or less; (2) the pesticide has an acute dermal LD_{50} of 6 g/kg or less as diluted for use in the form of a mist or spray; or (3) the pesticide has an inhalation LC_{50} of 0.04 mg/liter or less as formulated. Accordingly, each registrant shall certify to the Agency the registrant's determination whether or not the formulation as well as each dilution registered for use meet or exceed the acute toxicity criteria above. The certification shall specify the acute LD_{50} or LC_{50} of the formulation and the calculations or data relied upon in making that determination. In determining if these criteria are met or exceeded, registrants are directed to the preamble discussion explaining the acute toxicity rebuttable presumption criteria which accompanies the FEDERAL REGISTER publication of the Regulations for Registration, Reregistration, and Classification Procedures (40 FR 28258–28262).

(2) *Hazard to Wildlife.*—Section 162.11(a)(3)(i)(B)(1) and (2) provides that a rebuttable presumption shall be issued if the pesticide as formulated occurs as a residue immediately following application in or on the feed of a mammalian or avian species representative of species likely to be exposed to such feed in amounts equivalent to the average daily intake, at levels equal to or greater than (1) the acute oral LD_{50} for mammalian species and (2) the subacute dietary LC_{50} for avian species.

Use of endrin as a spray on grasses and forbs of apple orchards for the control of mice and on small grains will result in residues on feed of wildlife species such as rabbits, quail, and pheasants. Accordingly, the levels of endrin feed residues for such registered uses of endrin has been calculated to determine if the criteria of § 162.11(a)(3)(i)(B)(1) and (2) are met or exceeded. Calculations indicate that orchard uses at 1.2 lbs./acre will result in estimated residues on short grass of 290 ppm and forage of 145 ppm which meet or exceed the acute oral LD_{50} of rabbits (7 mg/kg) based upon the estimated average daily intake of such feed. Such use of endrin on orchards also will result in estimated residues on seeds of 14 ppm, which equal the subacute dietary LC_{50} for quail and pheasant (14 ppm). Application to small grains at 3.2 oz. or greater per acre also will result in estimated residues which exceed the acute oral LD_{50} of rabbits.

Accordingly, registrations of formulations of endrin products for use in controlling orchard mice as a spray on grasses and forbs at 1.2 or greater lbs/acre meet or exceed the criterita of § 162.11(a)(3)(i)(B)(1) and (2) and a presumption against registration or continued registration exists. In addition, registrations of endrin products for use on small grain crops at 3.2 oz. or greater/acre meet or exceed the criteria of § 162.11(a)(3)(i)(B)(1) and a presumption against registration or continued registration exists. Each registrant of endrin containing products is hereby didirected to certify to the Agency its determination whether or not the registered product meets or exceeds either of these criteria and to certify whether or not any other registered uses will result in residues on the feed of wildlife from direct application and, if so, whether or not the residues, either estimated or measured, meet or exceed the criteria of § 162.11(a)(3)(i)(B)(1) and (2). Registrants may submit rebuttal evidence pursuant to § 162.11(a)(4) if the criteria are met or exceeded.

III. REGISTRATIONS AND PRODUCTS SUBJECT TO THE NOTICE

Each registrant and applicant for registration listed below is being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have forty-five days from the date of signature of this notice to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days in which such evidence may be submitted. Notice of such an extension, if granted, will apear in the FEDERAL REGISTER.

IV. DUTY TO SUBMIT INFORMATION ON ADVERSE EFFECTS

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time [pursuant to section 6(a)(2) of the FIFRA and 40 CFR 162.8(d)]. If any registrant of endrin has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects associated with endrin including, but not limited to effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which has not been previously submitted to EPA, it must be submitted immediately. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

V. PUBLIC COMMENTS

A Position Document, dated July 12, 1976, prepared by an Agency working group on endrin and containing references and the underlying data is available for public inspection. During the time allowed for submission of rebuttal evidence, comments on the presumptions

set forth in the notice and on the material contained in the Position Document are also solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Likewise, any studies or comments on the benefits from the use of endrin are requested to be submitted. All comments and information should be sent to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments or information should be submitted if possible to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP–30000/4". Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162 11(a) (5) (ii). Comments received after the specified time period will be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a) (5) (ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

The material contained in the Position Document is available for public inspection in the Office of Special Pesticide Review, Rm. 447, East Tower, during the same time period.

Dated: July 19, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

(00557) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 1

REGISTRANT	*NAME AND ADDRESS*
* 000557	SWIFT AGRICULTURAL CHEMICAL CORP, 111 WEST JACKSON BOULEVARD CHICAGO, IL 60604

********** PRODUCT NAME **********		
08114	SWIFTS SUPER GUARD 1,6-1,6 COTTON SPRAY	GA
08115	SWIFTS SUPER GUARD 161 COTTON SPRAY	GA

REGISTRANT	*NAME AND ADDRESS*
* 000876	VELSICOL CHEMICAL CORP 341 EAST OHIO STREET CHICAGO IL 60611

********** PRODUCT NAME **********		
08618	ENDRIN 1,6 EC AGRICULTURAL INSECTICIDE	AL
08619	ENDRIN 1,6 EC AGRICULTURAL INSECTICIDE	NM
08620	ENDRIN 1,6 AGRICULTURAL INSECTICIDE	GA
08668	ENDRIN 1,6 EC AGRICULTURAL INSECTICIDE	AR
08669	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	CA
08670	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	LA
08671	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	TX
08672	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	TN
08673	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	SC

(00876) **** PRODUCT SEARCH LISTING ****

07/12/76 PAGE 2

**CONTINUE REGISTRANT 000876

08674	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	OK
08675	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	AZ
08676	ENDRIN 1,6 EC AGRICULTRAL INSECTICIDE	MT

REGISTRANT	*NAME AND ADDRESS*
* 001208	JANSON IND PLAINSMAN AGRICULTURAL BOX 179 PLAINVIEW, TX 79880

********** PRODUCT NAME **********		
03212	PLAINSMAN BRAND ENDRIN EL 1,6 EMULSIFIABLE LIQUID	TX

REGISTRANT	*NAME AND ADDRESS*
* 001526	A G CHEM-CHEM DIST ARIZONA AGROCHEMICAL CO, P,O, BOX 21537 PHOENIX AZ 85036

********** PRODUCT NAME **********		
03798	AGRO-CHEM BRAND ENDRIN 1,6E	AZ

(01812) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 3

REGISTRANT	*NAME AND ADDRESS*
* 001812	PARRAMORE & GRIFFIN COMPANY POST OFFICE BOX 188 VALDOSTA GA 31601

********** PRODUCT NAME **********		
08825	E.M.P. EMULSIFIABLE SPRAY	GA

REGISTRANT	*NAME AND ADDRESS*
* 004841	MICRO CHEM COMPANY BOX 711 *INNSBORO LA 71295

********** PRODUCT NAME **********		
08597	MICRO BLEND ENDRIN 2.4EC	LA
08598	MICRO TRIPLE-KILL "E"	LA
08816	MICRO ENDRIN 1.6 EC	LA

(04977) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 4

REGISTRANT	*NAME AND ADDRESS*
* 004977	SOUTHEASTERN INST CORP ESTILL SC 29918

********** PRODUCT NAME **********		
08467	ATOMIC 1.6 - 1.6 ENDRIN METHYL PARATION	SC

REGISTRANT	*NAME AND ADDRESS*
* 005905	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2904 MEMPHIS TN 38137

********** PRODUCT NAME **********		
04049	HELENA ENDRIN 1.6-E	FL
08612	ENDRIN 1.6-E	FL

(06735) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 5

REGISTRANT	*NAME AND ADDRESS*
* 006735	TIDE PRODUCTS INC ATTN MW MARSH BOX 1020 EDINBURG TX 78539

********** PRODUCT NAME **********		
04808	TIDE TREE PAINT	TX

REGISTRANT	*NAME AND ADDRESS*
* 006973	SOILSERV INC PO BOX 1817 SALINAS CA 93901

********** PRODUCT NAME **********		
04743	SOILSERV ENDRIN 1,6	CA

REGISTRANT	*NAME AND ADDRESS*
* 007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330

********** PRODUCT NAME **********		
04381	ENDRIN 1,6 EC	AZ

(08773) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 6

REGISTRANT	*NAME AND ADDRESS*
* 008773	AMERICAN FERTILIZER & CHEMICAL COMPANY PO BOX 98 HENDERSON CO 80640

********** PRODUCT NAME **********		
08833	ENDRIN 1,6-E	CO

REGISTRANT	*NAME AND ADDRESS*
* 009169	SEMINOLE STORES INC P O BOX 940 OCALA FL

********** PRODUCT NAME **********		
06433	MARICO BRAND WATERMELON SEED PROTECTANT	FL
09399	WATERMELON SEED PROTECTANT	FL

(09825) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 7

REGISTRANT	*NAME AND ADDRESS*
* 009825	SORBIKIL BIRD PESTICIDE COMPANY 2404 RIDGE RD LUBBOCK TX 79403

********** PRODUCT NAME **********		
09548	SORBIKIL BIRD PESTICIDE	TX

REGISTRANT	*NAME AND ADDRESS*
* 011000	DEL NORTE COUNTY AGRIC COMMISSIONER 2650 WASH BLVD CRESCENT CITY CA 95531

********** PRODUCT NAME **********		
06429	ENDRIN 50-WP SEED PROTECTANT	CA

REGISTRANT	*NAME AND ADDRESS*
* 014775	ASGROW FLORIDA COMPANY PO DRAWER D PLANT CITY FL 33566

********** PRODUCT NAME **********		
09202	WATERMELON SEED PROTECTANT (KIT)	FL

(15575) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 8

REGISTRANT	*NAME AND ADDRESS*
* 015575	SOUTHLAND AGRICULTURAL CHEMICAL COMPANY PO BOX 6207 MONTGOMERY AL 36106

********** PRODUCT NAME **********		
05326	1,6-1 EL	AL
05333	ENDRIN-METHYL PARATHION EC	AL

REGISTRANT	*NAME AND ADDRESS*
* 032928	CHEMSPRAY, INC, 1550 E, SEVENTH STREET PAHOKEE, FL, 33576

********** PRODUCT NAME **********		
05931	ENDRIN 1,6 E	FL

(33352) **** PRODUCT SEARCH LISTING ****

07/12/76 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING ENDRIN PAGE 9

REGISTRANT	*NAME AND ADDRESS*
* 033352	CONSOLIDATED CHEMICALS INC 1000 NORTH STATE MARKET RD PAHOKEE, FL 33476

********** PRODUCT NAME **********

07633 ENDRIN 1,6E FL

********** NUMBER OF PRODUCTS LISTED: 36

(00072) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 1

****

REGISTRANT *NAME AND ADDRESS*

* 000072 MILLER CHEMICAL & FERTILIZER CORP
BOX 333
HANOVER PA 17331

********** PRODUCT NAME **********

00177 #1,6 ENDRIN LIQUID (EMULSIFIABLE)

****

REGISTRANT *NAME AND ADDRESS*

* 000148 THOMPSON-HAYWARD CHEMICAL COMPANY
BOX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

00713 DE PESTER COTTON SPRAY 1,6-1,6-0

00767 DE-PESTER COTTON SPRAY 1,6-2-0

00981 DE-PESTER ENDRIN E-1,6

01201 COTTON SPRAY 1,6-1-0

****

(00168) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 2

****

REGISTRANT *NAME AND ADDRESS*

* 000168 WASATCH CHEMICAL DIVISION ENTRADA IND INC
P O BOX 6219
SALT LAKE CITY UT 84106

********** PRODUCT NAME **********

00277 ENDRIN EMULSIBLE

****

REGISTRANT *NAME AND ADDRESS*

* 000201 SHELL CHEMICAL COMPANY
AGRICULTURAL DIVISION
1025 CONNECTICUT AVE., NW SUITE 200
WASHINGTON, D. C. 20036

********** PRODUCT NAME **********

00122 SHELL TECHNICAL ENDRIN

00181 SHELL 2% ENDRIN GRANULES

00313 SHELL ENDRIN EMULSIBLE CONCENTRATE

00330 ENDRIN-METHYL PARATHION EMULSIBLE CONCENTRATE

****

(00226) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 3

REGISTRANT *NAME AND ADDRESS*

* 000226 TOBACCO STATES CHEMICAL COMPANY
BOX 479
LEXINGTON KY 40501

********** PRODUCT NAME **********

00070 TOBACCO STATES BRAND ENDRIN EMULSION (CONTAINS 1.6 LBS. EDRIN PER GAL)

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

02031 ORTHO ENDRIN 1.6 EMULSIVE

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV.
100 NIAGARA ST.
MIDDLE PORT NY 14105

********** PRODUCT NAME **********

01814 NIAGARA ENDRIN 1.6 METHYL PARATHION 1.6 EMULSIFIABLE CODE 923

02887 NIAGARA ENDRIN MISCIBLE RODENTICIDE

(00449) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 4

REGISTRANT *NAME AND ADDRESS*

* 000449 TECHNE CORP. C/O FARMLAND IND., INC.
AGRICULTURAL CHEMICALS DIV.
P. O. BOX 7305
KANSAS CITY, MO. 64116

********** PRODUCT NAME **********

00116 WOODBURY CHEMICAL COMPANY ENDRIN EMULSIFIABLE 1.6% POUNDS

REGISTRANT *NAME AND ADDRESS*

* 000477 GRO ALL INC
DIV OF CENTRAL CHEM CORP
P. O. BOX 918
HAGERSTOWN, MD 21740

********** PRODUCT NAME **********

00288 FARMRITE ENDRIN 1.6-E

REGISTRANT *NAME AND ADDRESS*

* 000635 E-Z-FLO CHEMICAL COMPANY DIV OF KIRSTO COMPANY
P O BOX 808
LANSING MI 48903

********** PRODUCT NAME **********

00315 E-Z-FLO ENDRIN METHYL PARATHION 1.6-2 EMULSIVE

(00769) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 5

REGISTRANT *NAME AND ADDRESS*

* 000769 *OOLFOLK CHEMICAL *ORKS INC
PO BOX 938
FT VALLEY GA 31030

********** PRODUCT NAME **********

00163 SECURITY BRAND ENDRI-SOL EMULSIFIABLE LIQUID

00179 SECURITY BRAND 2% ENDRIN DUST

00260 SECURITY BRAND METHYL PARATHION ENDRI-SOL

00438 SECURITY ENDRIPHOS

REGISTRANT *NAME AND ADDRESS*

* 000802 LILLY CHAS H COMPANY MILLER RD DIV
7737 N.E. KILLINGS*ORTH
PORTLAND, OR 97218

********** PRODUCT NAME **********

00317 MILLERS ENDRIN 1.6E

(00829) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CON'AINING ENDRIN PAGE 6

REGISTRANT *NAME AND ADDRESS*

* 000829 SOUTHERN AGRI INSECT INC
PO BOX 218
PALMETTO FL 33561

********** PRODUCT NAME **********

00098 SA-50 BRAND 1.6 ENDRIN

REGISTRANT *NAME AND ADDRESS*

* 000876 VELSICOL CHEMICAL CORP
341 EAST OHIO STREET
CHICAGO IL 60611

********** PRODUCT NAME **********

00020 VELSICOL TECHNICAL ENDRIN

00127 VELSICOL ENDRIN METHYL PARATHION EMULSIFIABLE CONCENTRATE

00153 VELSICOL ENDRIN 1.6 EC

00212 ENDRIN 2.4 EC AGRICULTURAL

(01022) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 7

****

REGISTRANT *NAME AND ADDRESS*

* 001022 CHAPMAN CHEMICAL COMPANY
BOX 9158
MEMPHIS TN 38109

********** PRODUCT NAME **********

00086 GOLDEN HARVEST BRAND ENDRIN-1,6

00238 ENDRIN 1,6 METHYL PARATHION 1,6 EC

****

REGISTRANT *NAME AND ADDRESS*

* 001063 VALLEY CHEMICAL COMPANY
BOX 1317
GREENVILLE MS 38702

********** PRODUCT NAME **********

00103 VALCO BRAND ENDRIN EMULSIFIABLE NO. 1,6

00119 VALCO BRAND EN-A-ME 22

00121 VALCO BRAND GENARIN

****

(01191) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 8

****

REGISTRANT *NAME AND ADDRESS*

* 001191 CAROLINA CHEMICALS INC
PO BOX 118
W COLUMBIA SC 29169

********** PRODUCT NAME **********

00318 FLIGHT BRAND GUTHION-ENDRIN EC 1-1,6

****

REGISTRANT *NAME AND ADDRESS*

* 001202 PUREGRO COMPANY
1052 W 6TH ST
LOS ANGELES CA 90017

********** PRODUCT NAME **********

00075 GAVICIDE ENDRIN 1,6 LIQUID

****

REGISTRANT *NAME AND ADDRESS*

* 001258 OLIN CHEMICALS
OLIN CORPORATION
120 LONG RIDGE ROAD
STAMFORD, CT 06904

********** PRODUCT NAME **********

00445 MATHIESON ENDRIN 1,6 LB EMULSIFIABLE

00790 ENDRIN METHYL PARATHION 1,6 LB. - 1,6 LB.

****

(01339) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 9

REGISTRANT *NAME AND ADDRESS*

* 001339 COTTON STATES CHEM CO INC
P O DRAWER 157
* MONROE LA 71291

********** PRODUCT NAME **********

00212 ENDRIN-METHYL PARATHION EMULSIFIABLE CONCENTRATE

00216 ENDRIN-METHYL PARATHION 2/2 EMULSIFIABLE CONCENTRATE

00217 ENDRIN-METHYL PARATHION 2,5/2,5 EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 001598 FCX INC
P O BOX 2419
RALEIGH, NC 27642

********** PRODUCT NAME **********

00223 COTTON SPRAY 161

(01812) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 10

REGISTRANT *NAME AND ADDRESS*

* 001812 PARRAMORE & GRIFFIN COMPANY
POST OFFICE BOX 188
VALDOSTA GA 31601

********** PRODUCT NAME **********

00011 ENDRIN EMULSIFIABLE SPRAY

00121 ENDRIN 2-0-0

00123 ENDRIN 1 1/2

REGISTRANT *NAME AND ADDRESS*

* 001842 TRIANGLE CHEMICAL COMPANY
BOX 4528
MACON GA 31208

********** PRODUCT NAME **********

00198 TRIANGLE ENDRIN METHYL PARATHION EMULSIFIABLE CONCENTRATE

00220 20% ENDRIN EMULSIFIABLE CONCENTRATE

00250 TRIANGLE KILL-UM COTTON SPRAY

(02124) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 11

REGISTRANT *NAME AND ADDRESS*

* 002124 GRACE W R & COMPANY AGR CHEM C H TIDWELL
PO BOX 277 100 N MAIN ST
MEMPHIS TN 38101

********** PRODUCT NAME **********

00785 NACO GUTHION ENDRIN 1-1,6 EC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 002269 GOLD KIST INC
PO BOX 2210
ATLANTA GA 30301

********** PRODUCT NAME **********

00163 DOUBLE 16 COTTON SPRAY

00164 GK 116 SPRAY

(02342) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 12

REGISTRANT *NAME AND ADDRESS*

* 002342 KERR-MCGEE CHEMICAL CORP
MGR PKG & LABELING
KERR-MCGEE CENTER
OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

00939 ENDRIN-METHYL PARATHION 1,6-1,6

REGISTRANT *NAME AND ADDRESS*

* 002459 STEVENS IND INC
N MAIN ST PO BOX 272
DAWSON GA 31742

********** PRODUCT NAME **********

00046 MASTER BRAND 2% ENDRIN DUST

00170 MASTER BRAND 1,6 METHYL PARATHION 1,6 ENDRIN EMULSIFIABLE CONCENTRATE

(02737) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 13

REGISTRANT *NAME AND ADDRESS*

* 002737 PUEBLO CHEMICAL & SUPPLY COMPANY
BOX 1279 - 2200 W. ST. JOHN
GARDEN CITY, KS 67846

********** PRODUCT NAME **********

00029 PUEBLO ENDRIN EMULSIFIABLE CON 1.6 POUNDS

REGISTRANT *NAME AND ADDRESS*

* 002935 *ILBUR ELLIS CO.
146 PROGRESS PARKWAY
MARYLAND HEIGHTS, MO 63043

********** PRODUCT NAME **********

00100 RED-TOP ENDRIN 1.6 SPRAY

00352 RED TOP ENDRIN 50 SEED PROTECTANT

(03125) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 14

REGISTRANT *NAME AND ADDRESS*

* 003125 CHEMAGRO DIV OF BAYCHEM CORP
BOX 4913
KANSAS CITY MO 64120

********** PRODUCT NAME **********

00304 GUTHION PLUS ENDRIN SPRAY CONCENTRATE INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 003238 AGRICO CHEMICAL CO.
CROP PROTECTION CHEMICAL DIV.
BOX 3451
TULSA, OK 74101

********** PRODUCT NAME **********

00064 STANDARD BRAND ENDRIN 1.6 EC INSECTICIDE

00065 ENDRIN-METHYL PARATHION 1.6-1.6 EMULSIVE COTTON SPRAY INSECTICIDE

(03442) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 15

REGISTRANT *NAME AND ADDRESS*

* 003442 USS AGRI-CHEMICALS DIV US STEEL CORP
PO BOX 1685
ATLANTA GA 30301

********** PRODUCT NAME **********

00696 USS ENDRIN METHYL PARATHION 1.6-1.6 EC

REGISTRANT *NAME AND ADDRESS*

* 003743 SOUTHERN AGRICULTURAL CHEMICALS INC
PO BOX 527
KINGSTREE SC 29556

********** PRODUCT NAME **********

00273 ENDRIN-METHYL PARATHION SPRAY FOR COTTON

00282 ROYAL BRAND ENDRINE EMULSFIABLE CONCENTRATE

00294 101 BRAND ENDRIN EMULSIFIABLE CONCENTRATE

00314 ROYAL PIC MO COTTON SPRAY

(04185) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 16

REGISTRANT *NAME AND ADDRESS*

* 004185 SMITH-DOUGLASS DIV OF BORDEN CHEMICAL, BORDEN INC,
5100 VIRGINIA BEACH BLVD,
NORFOLK, VA 23501

********** PRODUCT NAME **********

00305 SMITH DOUGLASS ENDRIN 1,6 EMULSION CONCENTRATE

00522 COTTON POISON

00524 ENDRIN-METHYL PARATHION EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 004581 PENNWALT CORP
THREE PARKWAY
PHILADELPHIA, PA 19102

********** PRODUCT NAME **********

00161 MP-ENDRIN E-1,6-1,6

(04715) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 17

REGISTRANT *NAME AND ADDRESS*

* 004715 COLORADO INTERNATIONAL CORP
5321 DAHLIA ST
COMMERCE CITY CO 80022

********** PRODUCT NAME **********

00132 BEST 4 SERVIS BRAND ENPAR COTTON SPRAY

00238 BEST 4 SERVIS BRAND ENDRIN EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 005905 HELENA CHEMICAL CO
CLARK TOWER, 5100 POPLAR AVE, SUITE 2904
MEMPHIS TN 38137

********** PRODUCT NAME **********

00024 HELENA 1,6 ENDRIN

00032 HELENA BRAND ATEM 32

00060 HELENA BRAND SUPER ATEM EMULSIFIABLE INSECTICIDE CONCENTRATE

00203 HELENA BRAND LIQUIDATOR

00304 2% ENDRIN GRANULAR

00332 HELENA BRAND ENDRIN METHYL PARATHION 1,6-1,6E

00355 HELENA ENDRIN 16-E AN EMULSIFIABLE LIQUID

00358 HEL-CHEM 161 EMULSIFIABLE LIQUID

(06735) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 18

REGISTRANT *NAME AND ADDRESS*

* 006735 TIDE PRODUCTS INC
ATTN MW MARSH BOX 1020
EDINBURG TX 78539

********** PRODUCT NAME **********

00042 ENDRIN 1,6-E EMULSIFIABLE LIQUID

00090 ENDRIN METHYL PARATHION 1,6-2E

REGISTRANT *NAME AND ADDRESS*

* 007273 CROWN CHEMICAL INCORPORATED
4995 NORTH MAIN STREET
ROCKFORD IL 61101

********** PRODUCT NAME **********

00071 CHECK-PEST ENDRIN 1,6 INSECTICIDE CONCENTRATE

(07401) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 19

****

REGISTRANT *NAME AND ADDRESS*

* 007401 VOLUNTARY PURCHASING GROUP INC
PO BOX 460
BONHAM TX 75418

********** PRODUCT NAME **********

00191 HI-YIELD BRAND KILLZALL #3

00245 HI-YIELD 1,6-1,6 EC COTTON SPRAY

****

REGISTRANT *NAME AND ADDRESS*

* 007579 RID-A-BIRD INC
BOX 22
MUSCATINE IA 52761

********** PRODUCT NAME **********

00001 RID-A-BIRD CONTROL LIQUID PERCH SOLUTION

****

(07794) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 20

****

REGISTRANT *NAME AND ADDRESS*

* 007794 RED BARN CHEMICALS INC
520 SOUTH CINN
TULSA OK 74102

********** PRODUCT NAME **********

00020 RED BARN ENDRIN METHYL PARATHION 1,6-1,6 EMULSIFIABLE CONCENTRATE

00021 RED BARN ENDRIN 1,6 EMULSIFIABLE CONCENTRATE

****

REGISTRANT *NAME AND ADDRESS*

* 008521 GABRIEL CHEMICAL LTD
BOX B
ROBBINSVILLE NJ 08691

********** PRODUCT NAME **********

00053 1,6 LB ENDRIN EMULSIFIABLE CONCENTRATE

****

(08590) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 21

REGISTRANT *NAME AND ADDRESS*

* 008590 AGWAY INC
CHEMICAL DIV BOX 1333
SYRACUSE NY 13201

********** PRODUCT NAME **********

00403 ENDRIN 1,6 E

REGISTRANT *NAME AND ADDRESS*

* 008620 ESCAMBIA CHEMICAL CORP
PO BOX 467
PENSACOLA FL 32502

********** PRODUCT NAME **********

00047 BIG BOY ENDRIN 1,6 EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 008648 STAPLE COTTON SERVICES ASSOCIATION
210 W MARKET ST
GREENWOOD MS 38930

********** PRODUCT NAME **********

00005 METHYL PARATHION ENDRIN 1,6-1,6 E,C, INSECTICIDE

00014 STAPHLCOTN ENDRIN 1,6 EC INSECTICIDE

(08867) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 22

REGISTRANT *NAME AND ADDRESS*

* 008867 CLEVXLAND CHEM CO
BOX 510
CLEVELAND MS 38732

********** PRODUCT NAME **********

00005 CCC BRAND 1,6-1,6 EMULSIFIABLE INSECTICIDE CONCENTRATE

00012 CCC BRAND 1,6 ENDRIN

00019 CCC BRAND 1,6-2,0 EMULSIFIABLE INSECTICIDE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 008934 RING AROUND PRODUCTS INC
PO BOX 589
MONTGOMERY AL 36101

********** PRODUCT NAME **********

00083 RING AROUND BRAND E-G 161

(09275) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 23

REGISTRANT *NAME AND ADDRESS*

* 009275 BERRIEN PRODUCTS COMPANY INC
BOX 355
NASHVILLE GA 31639

********** PRODUCT NAME **********

00021 BERRIEN BRAND METHYL PARATHION ENDRIN EMULSIFIABLE CONCENTRATE

00025 BERRIEN 2% ENDRIN DUST

00037 BERRIEN 1.6 ENDRIN EMULSION CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 009591 NATIONWIDE CHEMICAL PRODUCTS INC
CHEM. FORMULATOR/CUSTOMS PKG.
P. O. BOX 3027
HAMILTON OH 45013

********** PRODUCT NAME **********

00020 16 LB ENDRIN EMULSIFIABLE CONCENTRATE

(09779) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 24

REGISTRANT *NAME AND ADDRESS*

* 009779 RIVERSIDE CHEM COMPANY
P.O. BOX 171199 855 RIDGE LAKE BLVD
MEMPHIS TN 38117

********** PRODUCT NAME **********

00006 RIVERSIDE 1.6-2 ENDRIN METHYL PARATHION EMULSIFIABLE CONCENTRATE

00021 RIVERSIDE 1.6-1.6

00160 KILL A PLENTY METHYL PARATHION ENDRIN 162

00192 RIVERSIDE ENDRIN 1.6

00193 RIVERSIDE GUDRIN 116

REGISTRANT *NAME AND ADDRESS*

* 010163 GOWAN COMPANY
P.O. BOX 5696
YUMA, AZ 85364

********** PRODUCT NAME **********

00004 PROKIL ENDRIN 1.6 LB. EMULSIFIABLE CONCENTRATE

(10226) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 25

****

REGISTRANT *NAME AND ADDRESS*

* 010226 ROCKWOOD CHEM COMPANY
BOX 34
BRAWLEY CA 92217

********** PRODUCT NAME **********

00031 ROCKWOOD BRAND ENDRIN 1.6 LB. E.C.

****

REGISTRANT *NAME AND ADDRESS*

* 010231 *ILLSON *ELVILLE & COMPANY
BOX 1168
FRESNO CA 93715

********** PRODUCT NAME **********

00001 MEWCO BRAND ENDRIN 1.6 LB. E. C.

****

REGISTRANT *NAME AND ADDRESS*

* 010873 TIFTON CHEMICAL COMPANY
PO BOX 5
TIFTON GA 31794

********** PRODUCT NAME **********

00012 TIFCHEM 1.6-1.6 COTTON SPRAY

00013 TIFCHEM ENDRIN 1.6 EMULSIVE

(10873) **** PRODUCT SEARCH LISTING ****

07/13/76 PAGE 26

**CONTINUE REGISTRANT 010873

00059 TIFCHEM 1.6-1 COTTON SPRAY

****

REGISTRANT *NAME AND ADDRESS*

* 012130 FARM CHEMICALS INC
PO BOX 456
ABERDEEN NC 28315

********** PRODUCT NAME **********

00005 FARM CHEM ENDRIN 1.6E

00006 FARMCHEM ENDRIN-METHYL PARATHION 1.6-1.6 E

****

REGISTRANT *NAME AND ADDRESS*

* 013166 APOLLO ENTERPRISES INC
ROUTE 1
ALTHEIMER AR 72004

********** PRODUCT NAME **********

00006 1.6-1.6

00008 1.6-2.0

00009 1.6 ENDRIN EMULSIFIABLE INSECTICIDE CONCENTRATE

****

(34704) **** PRODUCT SEARCH LISTING ****

07/13/76 REGISTRANTS OF PRODUCTS CONTAINING ENDRIN PAGE 27

REGISTRANT	*NAME AND ADDRESS*
* 034704	PLATTE CHEMICAL COMPANY 150 SOUTH MAIN GFREMONT, NB 06802

********** PRODUCT NAME **********

00011 ENDRIN EC-20

********** NUMBER OF PRODUCTS LISTED: 115

[FR Doc.76-21399 Filed 7-26-76;8:45 am]

federal register

TUESDAY, JULY 27, 1976

PART IV:

FEDERAL POWER COMMISSION

■

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

New FPC Form No. 164

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM76-25]

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

New FPC Form No. 164

JULY 12, 1976.

Notice is hereby given pursuant to the Administrative Procedure Act, 5 U.S.C. 553 and sections 3(13), 4(a), 4(b), 4(c), 301(a), 302(a), 304, 309, and 311 of the Federal Power Act, as amended, (41 Stat. 1064, 1065; 49 Stat. 839, 840, 854, 855, 856, 858, 859; 16 U.S.C. 796(13), 797(a), 797(b), 797(c), 825(a), 825a(a), 825c(b), 825c(c), 825h, 825j), that the Commission gives notice it proposes to add § 141.-67 to Part 141 of the Approved Forms under the Federal Power Act to provide that new FPC Form No. 164 be required for reporting. The proposed new form would be entitled "Financial report for municipal electric utilities and federal projects."

On September 26, 1973, in Docket No. R-438, the Commission issued Order No. 494, amending Part 2, Chapter I, Title 18 of the Code of Federal Regulations and setting forth Commission policy for the development of a fully automated computer regulatory system to provide such information. When developed and fully operative, the system will provide prompt and ready access to data contained in a central electronic data bank, eliminating the duplication of information now collected and reducing the quantity of existing manual files. This system will not only facilitate the evaluation and analysis of all data, but it will also accommodate the development of new regulatory techniques.

In Order 494, the Commission stated that all existing "hard copy" public use forms would be redesigned and consolidated to eliminate redundancies and that instructions for reporting would be clarified for use of Electronic Data Processing (EDP) Technology. Public use form information, as it is presently submitted, will be replaced by the submission of individual data elements within a general data element and code scheme. It is anticipated that this major system revision will result in the reduction of the total number of data items currently transmitted to the Commission by the respondents.

In Order No. 494, the Commission further stated that the development of the automated computer information system would be effected through the use of phased rulemaking proceedings in which various Commission reporting procedures and report forms would be restructured. To this end, Form No. 164 is designed to incorporate into a readily retrievable data processing system the information currently submitted from Federal project respondents[1] utilizing the FPC Annual Report Form No. 1[2] and from municipality respondents utilizing FPC Annual Report Form No. 1M.[3]

It is proposed herein that both the Federal projects which are presently reporting to the Commission on FPC Annual Report Form No. 1 and municipalities which are presently reporting to the Commission on FPC Annual Report Form No. 1-M would, in the future, report their financial data to the Commission, utilizing the new FPC Form No. 164 and in the same format. It is further proposed that the base of $250,000 of annual operating revenues now established as the reporting requirement for municipals[4] be extended to $1,000,000. It is believed this new base would give a broad enough spectrum to satisfy the reporting directive of section 311 of the Federal Power Act (49 Stat. 859; 16 U.S.C. 825j). Further, it is proposed that Federal projects previously classed as A ($2,500,000 of annual operating revenues) and those previously classed as B (between $1,000,-000 and $2,500,000 of annual operating revenues) would use the proposed FPC Form No. 164 under the same reporting requirements. Operational data would be incorporated under a separate report system which will be the subject of a separate rulemaking.

The general changes which are being proposed to the Commission's reporting requirements for the new Form No. 164 are as follows:

1. Duplicative data elements (data elements appearing on more than one schedule) have been eliminated to the extent feasible.

2. Certain generalized instructions have been clarified and made more specific in order to achieve better standardization, consistency, and to reduce overall filing requirements.

The schedules and instructions make reference to a newly established account numbering system, composed of accounts from the Uniform Systems of Accounts supplemented by additional account numbers. The purpose of this newly established system is to expedite the processing of the data. Municipal respondents shall disregard the references to these account numbers when completing the schedules, being concerned primarily with the title of the entry.

Specific details of the proposed reporting scheme and related procedures are included as separate attachments to this rulemaking as follows:

Attachment A contains general and specific instructions for each schedule to be submitted by the respondent.

Attachment B is a comparison and cross reference list. This list cross references current reporting requirements with these proposed, at the same time describing additions, deletions and other pecularities related to the changeover.

Attachment C contains a sample of schedules to be submitted by the respondent.

It is anticipated that at least one year of parallel reporting will be required for system evaluation. Assuming successful operation of the new system within such time period, the present FPC Form 1M and the need for Federal project respondents to use FPC Form 1 would then be eliminated.

All data and information submitted pursuant to the proposed form would be required to be subscribed and verified by a duly authorized executive officer of the respondent as being factually accurate and complete to the best of his or her knowledge according to the Commission's rules of practice and procedure (18 CFR Part 1). An original and four copies of each completed Form No. 164 would be required to be filed with the Commission.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to be received no later than September 10, 1976, data, views, comments or suggestions in writing concerning all or part of the proposed form. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Commission to discuss the proposed form. The Staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

The proposed amendments to Part 141 of the Commission's Approved Forms under the Federal Power Act would be issued pursuant to the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly sections 3(13), 4(a), 4(b), 4(c), 302(a), 304, 309, and 311 (41 Stat. 1064, 1065; 49 Stat. 839, 840, 854, 855, 856, 858, 859; 16 U.S.C. 796(13), 797(a), 797(b), 797(c), 825(a), 825a(a), 825c(b), 825c (c), 825h, 825j).

Effective for the reporting year 1976, the Commission proposes to amend Part 141, Statements and Reports (Schedules), in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.67 prescrib-

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[1] Federal Projects include those electric projects operated under supervision of the Alaska Power Administration, Bonneville Power Authority, Bureau of Indian Affairs, Colorado River Storage Project, Southwestern Power Administration, Tennessee Valley Authority, U.S. Bureau of Reclamation, and U.S. Corps of Engineers, or any other agency, authority, or instrumentality of the United States.

[2] 18 CFR 141.1 (1975).

[3] 18 CFR 141.7 (1975).

[4] Ibid.

ing new FPC Form No. 164, Financial report for municipal electric utilities and federal projects in the form set out in Attachment C hereto. New § 141.67 will read as follows:

§ 141.67 Form No. 164—Financial report for municipal electric utilities and Federal projects.

(a) The form of the annual report for municipal electric utilities and Federal projects having annual electric operating revenues of $1,000,000 or more, designated herein as FPC Form No. 164, is prescribed for the calendar year beginning January 1, 1976, or in the case of municipals for a year beginning or ending during the calendar year 1976, if an established fiscal year is other than a calendar year commencing January 1, and years thereafter.

(b) Each "municipality" as defined in section 3 of the Federal Power Act (city, county, irrigation district, drainage district, or other political subdivision or agency of a state competent under laws thereof to carry on the business of developing, transmitting, utilizing or distributing power) which is engaged in generation, transmission, distribution or sale of electric energy, however, produced, throughout the United States and its possessions, having annual electric operating revenues of $1,000,000 or more, whether or not the jurisdiction of the Commission is otherwise involved, shall prepare and file with the Commission for the calendar year beginning or ending during the calendar year 1976 if its established fiscal year is other than a calendar year commencing January 1, and for each year thereafter, on or before the last day of the third month following the close of the calendar year or other established fiscal year, an original and four conforming copies of the above designated FPC Form No. 164 as are indicated in the instructions set out in that form, all properly filled out and attested to.

(c) Each Federal project (Federal projects include those electric projects operated under the supervision of the Alaska Power Administration, Bonneville Power Authority, Bureau of Indian Affairs, Colorado River Storage Project, Southeastern/Power Administration, Southwestern Power Administration, Tennessee Valley Authority, U.S. Bureau of Reclamation, and U.S. Corps of Engineers) or any other agency, authority, or instrumentality of the United States engaged in generation, transmission, distribution or sale of electric energy, however produced, throughout the United States and its possessions having annual operating revenues of $1,000,000 or more shall prepare and file with the Commission for the calendar year beginning January 1, 1976, and for each year thereafter, on or before the last day of the third month following the close of the calendar year, an original and four conforming copies of the above designated FPC Form No. 164 as indicated in the instructions set out in the schedule to that form, all properly filled out and attested to. One copy of said report should be retained for the respondent in its files.

(d) The annual report contains the following schedules:

Balance Sheet Accounts—Parts I through III.
Income Statement Accounts.
Retained Earnings and Operating Revenue Accounts.
Operations and Maintenance Expense Accounts.
Utility Plant.
Long-Term Debt.
Taxes, Tax Equivalents, Contributions and Services During Year—Parts I and II. (See note.)
Expenditures for certain Civic, Political, and Related Activities.

NOTE.—Inactive schedules, to be activated on further notice of Commission.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
FORM 164	FINANCIAL REPORTS FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS	1 of 1

GENERAL INSTRUCTIONS

Municipal is defined to mean a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

Federal projects include those electric projects operated under supervision of the Alaska Power Administration, Bonneville Power Authority, Bureau of Indian Affairs, Colorado River Storage Project, Southwestern Power Administration, Tennessee Valley Authority, U.S. Bureau of Reclamation, and U.S. Corps of Engineers, or any other agency, authority or instrumentality of the United States.

Submission Requirements:

Respondent Category	Schedules(s)	Old FPC Form	Submission Date
Municipal having electric operating revenues of $1,000,000 or more.	190-192, 194-198, 839	1M	Annually, 3 months following close of fiscal year.
Federal Projects having operating revenues of $1,000,000 or more.	190-192, 194-198, 839	1	Annually, 3 months following close of fiscal year, usually with FY of Government.

For Municipal Electric Utilities and Federal Projects the required submission should be filled out in accordance with the individual schedule instructions which provide titles of data requirements to fit special respondent cases. Account numbers are related to each of the data titles to assist internal processing of data.

The reporting period entered by the respondent on each schedule represents the ending period (month, day, year) of the period to which the data applies, not the date the schedule was completed. An example for an annual submission would be 12/31/76.

Prior to mailing the schedules to the Commission, the respondent must complete FPC Schedule 0100, Index of Public Use Schedules Submitted, and submit it with the completed Schedule(s).

Footnotes cannot be placed directly on any public use data schedule. FPC Schedule 0000 is used for a footnote entry.

Additional statements, maps, diagrams, charts or other documentation supportive to the data schedules not otherwise specifically required should enter and submit the supplemental information utilizing FPC Schedule 1000.

All schedules should be forwarded to:

Federal Power Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426
ATTN: Office of the Secretary

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0100 INDEX OF FPC PUBLIC USE SCHEDULES SUBMITTED		1 of 2

I. DESCRIPTION

This schedule shall be used to identify the schedules which were submitted by each respondent.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all Federal Power Commission respondents.

B. This schedule shall be completed for each submission of schedules to the Federal Power Commission.

C. The report period date required on line two of this schedule shall be the final date of the period covered by the submission i.e., if data is reported on a calendar year basis, the date to be reported is December 31, 1976, in the format MMDDYY
123176.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1	Date Received in Mail Room (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
2	Date Received in DBCG (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
3 (Key)	Schedule Number (N4): Enter the schedule number of each schedule being submitted in this submission.
4	Schedule Contact Name (A35): Enter the name of the individual to contact about the schedule number reported in data field 3 above. The format for the name is: Last Name, First Name or Initial, Middle Initial. (IDNAME)
5	Schedule Contact Telephone Number (A12): Enter the area code and telephone number, in the format NNN-NNN-NNNN. Be certain to over strike the preprinted hyphens (-).
6	Number of Pages (N4) NO: Enter the number of pages submitted for the schedule reported in data field 3 above.
7	Indicate Primary Reporting Media, Hardcopy or Tape (N1): Enter "1" if hardcopy is being submitted; or enter "2" if tape is being submitted. (INETOR)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0100	INDEX OF FPC PUBLIC USE SCHEDULES SUBMITTED	2 of 2

Data Field Number	Instructions
8	Name of Attestor: Enter the legal name of the individual who is attesting to the validity of the data content being submitted on each of the schedules reported in data field 3 above. (IDNAME)
9	Signature of Attestor: Enter the attestors legal signature in this data field. (IDNAME)
10	Date of Attestation: Enter the date of attestation, in the format MMDDYY. (TMDATE)

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	1 of 8

I. DESCRIPTION

These six schedules are used to collect the end of the year balance or the amount for the year for certain accounts. These schedules replace several schedules formerly included in the Federal Power Commission Forms 1 and 1-M. These report details of:

- o Comparative Balance Sheet
- o Statement of Income for the Year
- o Other support schedules, including account balances from numerous schedules

II. GENERAL INFORMATION

A. These schedules shall be submitted by Federal Projects and Municipal Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. The data to be reported is structured into six schedules using the accounting titles from the old FPC Forms 1 and 1-M to facilitate respondent reporting. The account numbers are preprinted and are for FPC internal use only. Each schedule is identified by title, and number:

Schedule Number	Title
0190	Balance Sheet Accounts - #1
0191	Balance Sheet Accounts - #2
0192	Balance Sheet Accounts - #3
0194	Income Statement Accounts
0195	Retained Earnings and Operating Revenue Accounts
0196	Operation and Maintenance Expense Accounts

1. Balance Sheet Accounts: Respondents shall report the applicable amounts identified by descriptions below:

Account Numbers	Description	Definition Reference
	ASSETS AND OTHER DEBITS UTILITY PLANT	
107.90	Utility Plant	(h)
108.90	Accumulated Provision for Depreciation and Amortization	(i)
119.90	Net Utility Plant	

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	2 of 8

Account Numbers	Description	Definition Reference
	OTHER PROPERTY AND INVESTMENTS	
121.00	Nonutility Property	
122.00	Accumulated Provision for Depreciation and Amortization of Nonutility Property	
122.90	Nonutility Property - Net	
123.90	Advances to Governmental Entity	(a)
124.00	Other Investments	
128.70	Special Funds	
128.90	Total Other Property and Investments	
	CURRENT AND ACCRUED ASSETS	
135.90	Cash and Working Funds	
136.00	Temporary Cash Investments	
143.10	Notes and Accounts Receivable	
144.00	Accumulated Provision for Uncollectable Accounts - Credit	
144.90	Notes and Accounts Receivable - Net	
147.10	Receivables from Governmental Entity	(b)
150.00	Materials and Supplies	
165.00	Prepayments	
170.00	Miscellaneous Current and Accrued Assets	
179.90	Total Current and Accrued Assets	
	DEFERRED DEBITS	
181.00	Unamortized Debt Expense	
182.00	Extraordinary Property Losses	
186.00	Miscellaneous Deferred Debits	
189.00	Unamortized Loss on Reacquired Debt	
198.90	Total Deferred Debits	
199.90	Total Assets and Other Debits	
	LIABILITIES AND OTHER CREDITS INVESTMENT OF GOVERNMENTAL ENTITY AND SURPLUS	
208.10	Investment of Governmental Entity	(c)
209.10	Constructive Surplus or Deficit	(d)
216.00	Retained Earnings	(e)
218.90	Total Investment and Surplus	

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	3 of 8

Account Numbers	Description	Definition Reference
	LONG-TERM DEBT	
221.00	Bonds	
223.10	Advances from Governmental Entity	(f)
224.00	Other Long-Term Debt	
225.00	Unamortized Premium on Long-Term Debt	
226.00	Unamortized Discount on Long-Term Debt - Debit	
229.90	Total Long-Term Debt	
	CURRENT AND ACCRUED LIABILITIES	
230.10	Warrants Payable	
234.10	Notes and Accounts Payable	
234.20	Payables to Governmental Entity	(g)
235.00	Customer Deposits	
236.00	Taxes Accrued	
237.00	Interest Accrued	
242.00	Miscellaneous Current and Accrued Liabilities	
249.90	Total Current and Accrued Liabilities	
	DEFERRED CREDITS	
252.00	Customer Advances for Construction	
253.00	Other Deferred Credits	
257.00	Unamortized Gain on Reacquired Debt	
284.90	Total Deferred Credits	
	OPERATING RESERVES	
261.00	Property Insurance Reserve	
262.00	Injuries and Damages Reserve	
263.00	Pensions and Benefits Reserve	
265.00	Miscellaneous Operating Reserves	
269.90	Total Operating Reserves	
299.90	Total Liabilities and Other Credits	

2. Income Statement Accounts: Respondents shall report the applicable amounts identified by description below:

Account Numbers	Description	Definition Reference
	ELECTRIC UTILITY OPERATING INCOME	
400.00	Operating Revenues	
412.00	Revenues from Plants Leased to Others	
401.00	Operation Expenses	
402.00	Maintenance Expenses	
403.80	Depreciation and Amortization Expenses	
411.80	Taxes and Tax Equivalents	

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES Q190-0192 ~~Q194-0196~~	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	4 of 8

Account Numbers	Description	Definition Reference
413.00	Expenses from Plant Leased to Others	
413.80	Total Electric Operating Expenses	
413.90	Net Electric Utility Operating Income	
414.00	Other Utility Operating Income (Utility departments other than electric - specify in a footnote)	
414.90	Total Utility Operating Income	
418.90	Other Income (Explain in a footnote)	
419.10	Allowance for Funds Used During Construction	
420.90	Gross Income	
	INCOME DEDUCTIONS	
427.00	Interest on Long-Term Debt	
426.80	Other Income Deductions (Explain in a footnote)	
432.80	Total Income Deductions	
432.90	Income Before Extraordinary Items	
434.00	Extraordinary Income	(k)
435.00	Extraordinary Deductions	(k)
433.00	Balance Transferred from Net Income	

3. Retained Earnings Accounts: Respondents shall report the applicable amounts identified by description below:

Account Numbers	Description	Definition Reference
436.10	Miscellaneous Credits (Explain in a footnote)	
436.20	Authorized Cash Distribution to Governmental Entity	(l)
436.30	Miscellaneous Debits (Explain in a footnote)	

4. Other Accounts: Respondents shall report the applicable amounts identified by description below:

Account Numbers	Description	Definition Reference
	OPERATING REVENUE ACCOUNTS	
440.00	Residential Sales	
442.10	Small or Commercial Sales	(j)
442.20	Large or Industrial Sales	(j)
444.00	Public Street and Highway Lighting	
448.10	Other Sales to Ultimate Consumers	
448.90	Total Sales to Ultimate Consumers	
447.00	Sales for Resale	

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	5 of 8

Account Numbers	Description	Definition Reference
449.90	Total Sales of Electric Energy	
456.90	Other Electric Revenues	
	OPERATION AND MAINTENANCE EXPENSE ACCOUNTS	
516.70	Steam Power Generation - Operation	
516.80	Steam Power Generation - Maintenance	
516.90	Steam Power Generation - Total	
534.70	Nuclear Power Generation - Operation	
534.80	Nuclear Power Generation - Maintenance	
534.90	Nuclear Power Generation - Total	
535.70	Hydraulic Power Generation - Operation	
535.80	Hydraulic Power Generation - Maintenance	
535.90	Hydraulic Power Generation - Total	
543.70	Other Power Generation - Operation	
543.80	Other Power Generation - Maintenance	
543.90	Other Power Generation - Total	
545.70	Purchased Power - Operation	
545.80	Purchased Power - Maintenance	
545.90	Purchased Power - Total	
546.70	Other Production Expenses - Operation	
546.80	Other Production Expenses - Maintenance	
546.90	Other Production Expenses - Total	
547.70	Total Production Expenses - Operation	
547.80	Total Production Expenses - Maintenance	
547.90	Total Production Expenses - Total	
553.70	Transmission Expenses - Operation	
553.80	Transmission Expenses - Maintenance	
553.90	Transmission Expenses - Total	
576.70	Distribution Expenses - Operation	
576.80	Distribution Expenses - Maintenance	
576.90	Distribution Expenses - Total	
909.70	Customer Accounts Expenses - Operation	
909.80	Customer Accounts Expenses - Maintenance	
909.90	Customer Accounts Expenses - Total	
919.70	Sales Expenses - Operation	
919.80	Sales Expenses - Maintenance	
919.90	Sales Expenses - Total	
939.70	Administrative and General Expenses - Operation	
939.80	Administrative and General Expenses - Maintenance	
939.90	Administrative and General Expenses - Total	
949.70	Total Electric Operation and Maintenance Expense - Operation	

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	6 of 8

Account Numbers	Description	Definition Reference
949.80	Total Electric Operation and Maintenance Expense - Maintenance	
949.90	Total Electric Operation and Maintenance Expense - Total	

Definitions:

(a) ADVANCES TO GOVERNMENTAL ENTITY: This classification is designed to include the amount of loans and advances made by the utility department to the government entity or its other departments, when such loans or advances are subject to repayment but not subject to current settlement.

(b) RECEIVABLES FROM GOVERNMENTAL ENTITY: This classification is designed to include all charges by the utility department against the governmental entity or its other departments which are subject to current settlement.

(c) INVESTMENT OF GOVERNMENTAL ENTITY: This account is designed to include the investment of the governmental entity in its utility department, when such investment is not subject to cash settlement on demand or at a fixed future time. Included herein the cost of debt-free utility plant constructed or acquired by the municipality and made available for use of the utility department, cash transferred to the utility department for working capital, and other expenditures of an investment nature.

(d) CONSTRUCTIVE SURPLUS OR DEFICIT: This account is designed to include amounts representing the exchange of services, supplies, etc., between the utility department and the governmental entity and its other departments without charge or at a reduced charge. Charges to this account would include utility and other services, supplies, etc., furnished by the utility department to the governmental entity or its other departments without charge, or the amount of the reduction if furnished at a reduced charge. Credits to the account would consist of services, supplies, office space, etc., furnished by the governmental entity to the utility department without charge or the amount of the reduction if furnished at a reduced charge.

(e) RETAINED EARNINGS: This account is designed to include the balance, either debit or credit, of appropriated or unappropriated retained earnings of the utility department arising from earnings.

(f) ADVANCES FROM GOVERNMENTAL ENTITY: This account is designed to include the amount of loans and advances made by the governmental entity or it other departments to the utility department when such loans and advances are subject to repayment but not subject to current settlement.

(g) PAYABLES TO GOVERNMENTAL ENTITY: This account is designed to include amounts payable by the utility department to the governmental entity or its other departments which are subject to current settlement.

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(h) Utility Plant, Account 107.90 (Schedule 0190) equals the sum of Accounts 107.70 and 107.80 (Schedule 0197).

(i) Accumulated Provision for Depreciation and Amortization, Account 108.90 (Schedule 0190) equals the sum of Accounts 108.70 and 108.80 (Schedule 0197).

(j) Classification of Commercial and Industrial Sales according to Small (or Commercial) and Large (or Industrial) may be according to the basis of classsification regularly used by the respondent. However, if such regularly used classification is based on demand and the division between small and large is in excess of 1000 kw demand then for purposes of this report the classification shall be small, 1000 kw or less, and large, demand in excess of 1000 kw.

(k) EXTRAORDINARY INCOME: (DEDUCTIONS) These accounts are designed to include those items related to transactions of a nonrecurring nature which are not typical or customary business activities of the utility and which would significantly distort the current year's net income if reported other than as extraordinary items.

(l) AUTHORIZED CASH DISTRIBUTION TO GOVERNMENTAL ENTITY: This account is designed to include the cash distributions authorized to be made to the governmental entity out of the earned surplus of the utility department.

D. Not every data field listed in Part III, Detailed Instructions, is to be completed for every schedule. Complete data fields as they appear on the schedule format or according to the list below::

Schedule Number	Data Fields to be Completed
0190-0192	1, 2, 5
0194	1, 2, 5
0195 (upper)	1, 2, 5
0195 (lower)	1, 2, 3, 4, 5
0196	1, 2, 5

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number (N3.2): This is a preprinted data field. Refer to General Information II-C. (ACCTML)
2	Account Title (A20): This is a preprinted data field. Refer to General Information II-C. (ACCTML)
3	Megawatt Hours (N10) MWH.

R S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0190-0192 0194-0196	LIST OF ACCOUNTS - PART V (MUNICIPAL ELECTRIC UTILITIES)	8 of 8

Data Field Number	Instructions
4	Number of Customers (N6) NO: The number of customers should be reported on the basis of number of meters, plus number of flat rate accounts, except that where separate meter readings are added for billing purposes, one customer shall be counted for each group of meters so added. The average number of customers means the average of 12 figures at the close of each month. If the customer count in the residential service classification includes customers counted more than once because of special services, such as water heating, etc., indicate in a footnote the number of such duplicate customers included in the classification.
5	Total Amount (N10) DOL: Except Schedule 0196, where data field length for the total amount is (N8).

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SHEDULE 0197	UTILITY PLANT	1 of 1

I. DESCRIPTION

This schedule is used to collect information on the additions, retirements, adjustments and transfers of property included in the utility plant classified according to the accounts listed on the schedule format.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Federal Projects and Municipal Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. The account "Electric Plant Acquisition Adjustments" is designed to include the difference between (a) the cost to the respondent utility of electric plant acquired as an operating unit or system by purchase and (b) the depreciated original cost, estimated if not known, of such property.

D. The account "Total Electric Plant" (107.70) should equal the sum of accounts 101.00 through 114.00.

E. Each logical entry has two parts. In data fields 1 through 6, report details of changes in utility plant during the year by the functional breakdown set out in data field 1. The lower part of the schedule pertains to the accumulated provision for depreciation. Complete data field 1, 7 through 9, and 6 for the changes in the provision for the year.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Account Number and Account Title (A35): Preprinted data field. (ACCTML)
2	Additions During Year (N8) DOL.
3	Retirements During Year (N8) DOL.
4	Transfers (N8) DOL.
5	Adjustments (N8) DOL.
6	Balance End of Year (N8) DOL.
7	Depreciation Accruals for Year (N8) DOL
8	Net Charges for Plant Retired During Year (N8) DOL.
9	Other Debits or Credits (N8) DOL: Enter the net difference after adding all the debits and credits.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0198	LONG-TERM DEBT	1 of 1

I. DESCRIPTION

This schedule collects detailed information on long-term debt.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Federal Projects and Municipal Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Class and Series of Obligation (A30). (IDDESC)
2	Nominal Date of Issue (N6): Enter the date, in the format MMDDYY. (TMDATE)
3	Date of Maturity (N6): Enter the date, in the format MMDDYY. (TMDATE)
4	Outstanding Per Balance Sheet (N9) DOL.
5	Interest Rate (N2.3) PCT.
6	Amount of Interest (N7) DOL.

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(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0839	EXPENDITURES FOR CERTAIN CIVIC, POLITICAL AND RELATED ACTIVITIES	1 of 1

I. DESCRIPTION

This schedule is used to collect data on expenditures for certain civic, political and related activities.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Municipal Electric respondents.

B. Respondents shall complete all data fields on this schedule annually.

C. Report below all expenditures incurred by the respondent during the year for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification existing referenda, legislation or ordinaces) or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials, but do not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.

D. Advertising expenditures reported on this schedule shall be classified as follows: (a) Radio, television, and motion picture advertising; (b) newspaper, magazine, and pamphlet advertising; (c) letters or inserts in customer's bills; (d) newspaper and magazine editorial services; and (e) other advertising. The identifying character (a)-(e) should be included in the item description (data field 1). For each class of advertising expenditures report a subtotal; as the last entry in data field 1 for that class, enter the word total and enter the amount in data field 2.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Item Description (A70): State the nature and purpose of the activity. (IDDESC)
2	Amount (N10) DOL: Report expenses incurred during year.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000	FOOTNOTES TO FPC PUBLIC USE SCHEDULES	1 of 2

I. DESCRIPTION

This schedule is used to collect the text for all footnote references for a respondent submission.

II. GENERAL INFORMATION

A. This schedule shall be submitted when applicable by all respondents for reporting footnotes to FPC Public Use Schedules.

B. The footnote reference numbers must be unique within a particular submission.

C. The respondent has to indicate two major types of footnotes.

1. General Footnote - The General Footnote can refer to either the entire schedule or one data field on the schedule, i.e. all data which is reported for data field 5 on the schedule not just one specific value for data field 5.

2. Specific Footnote - The Specific Footnote can refer either to an entire logical entry, i.e. group of related data which separates as an entity on a schedule or a data item within the logical entry.

The following entries are provided as an example:

Type Footnote	Data Field 2 (Footnote No.)	Data Field 3 (Ref. ID)
1. General Footnote		
a. Entire schedule	001	GEN
b. All data values for data field 5 entries on this schedule	001	005
All data values for data field 6 entries on this schedule	001	006
2. Specific Footnote		
a. Entire logical entry	002	GEN
b. Data item entry	002	004
	002	006
	002	008

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000	FOOTNOTES TO FPC PUBLIC USE SCHEDULES	2 of 2

Data Field Number	Instructions
1 (Key)	Schedule Number (N4): Enter the number of the schedule on which the footnote reference number was assigned, e.g., 0501 or 0505.
2 (Key)	Footnote Number (N3): Enter the unique footnote reference number from 001-999 for each particular submission.
3 (Key)	Reference Identification (A3): Enter "GEN" for Type 1a and 2a footnotes, i.e., footnotes that apply to the entire schedule (or to an entire logical entry) or enter the appropriate data field number for the specific data field value being footnoted (Type 1b or 2b).
4 (Key)	Line Sequence Number (N2): Enter 01, 02 etc., for each successive line of text.
5 (Key)	System Code (N6): This data field applies only to Electric respondents reporting data by system. Enter the six digit number code for the system, from the Register of Data Standards, IDSYST.
6 (Key)	Plant ID (N5): This data field applies only to Electric respondents reporting data by plant. Enter the five digit numeric code for the plant, from the Register of Data Standards, IDPLNT.
7 (Key)	Project Development Code (A5): This data field applies only to Electric respondents reporting data by license projects. Enter the five digit numeric code for the license project, from the Register of Data Standards, IDLPRJ.
8	Text (A72): Enter the text of the footnote. Use successive lines as required for text. Repeat Data Fields 1-3, 5 or 6 as applicable, and increment Data Field 4 (Line Sequence Number) by 1.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 1000	SUPPORTING DOCUMENTATION	1 of 1

I. DESCRIPTION

This schedule is used to collect schedule related supporting documentation not required by the Public Use Schedules.

II. GENERAL INFORMATION

A. This schedule shall be submitted by any Federal Power Commission respondent who desires to provide supportive documentation or any additional information relating to the Public Use Schedules.

B. This schedule shall be completed only as deemed necessary by the respondent or where specifically requested by detailed instructions for other schedules.

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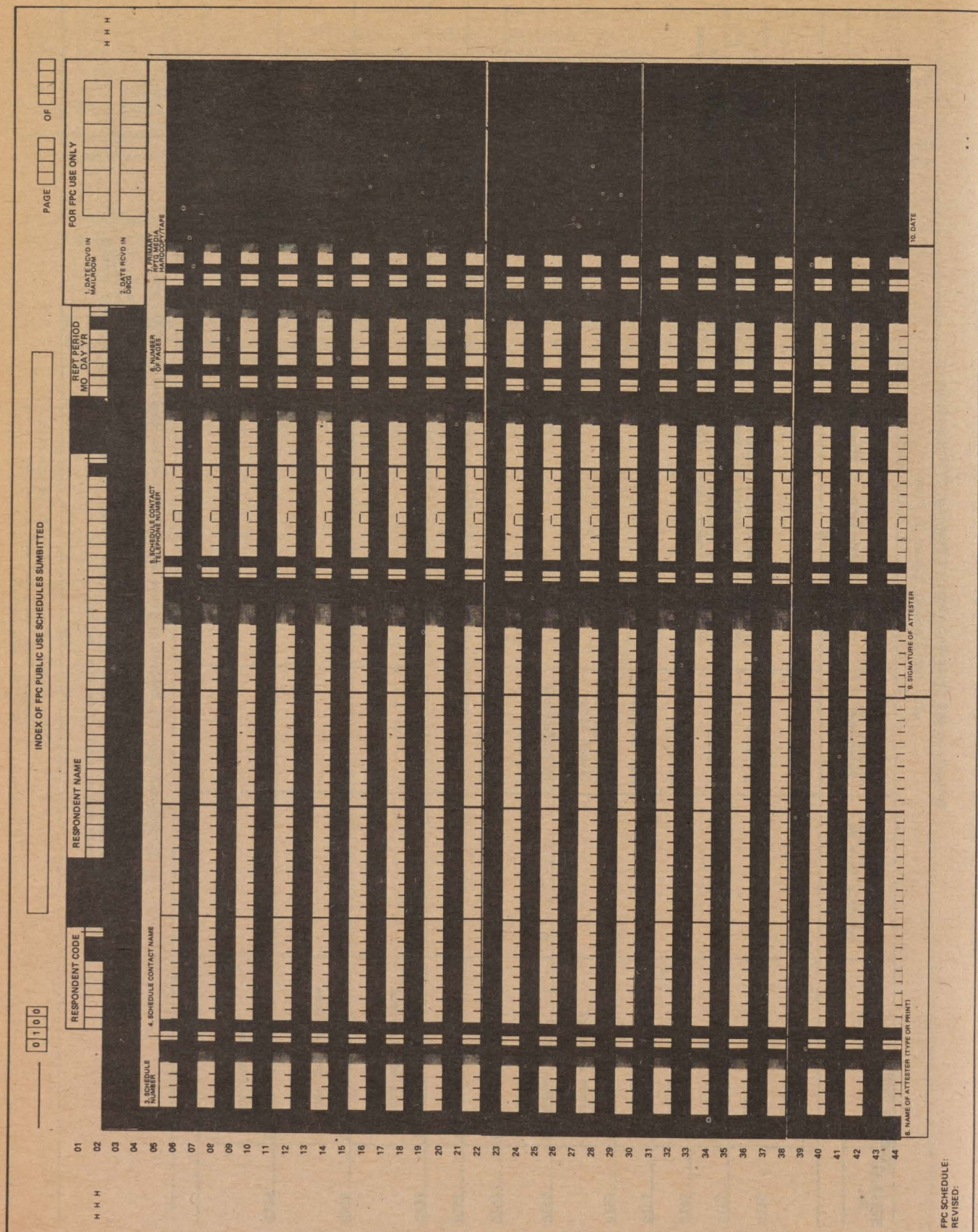
Comparison and Cross-Reference of Proposed ORIS Schedules

with FPC's Annual Report No. 1-M

Proposed ORIS Schedule No.	Title	Replaces (whole or in part) Schedule Page No.	U. S. of A. Account No. Reference	Highlights of Proposed Changes from Previous Reporting Requirements
			MUNICIPALITIES	
	List of Accounts - Part V:			
0190	Balance Sheet Accounts - I	2	Balance Sheet Accounts	Supplemental account numbers have been assigned to assist in the data processing procedures. The account numbers and names have been preprinted. Only the balance end of year or amount for year is to be reported on these proposed schedules. Additional schedules have been designed for reporting the supplemental data, see below. For proposed schedule 0195, the capacity shall be reported in Megawatt hours instead of Kilowatt hours. (Deleted reporting of General Information No. 2, classes of utility and other services furnished, from present page 1.)
0191	Balance Sheet Accounts - II	2	Balance Sheet Accounts	
0192	Balance Sheet Accounts - III	2	Balance Sheet Accounts	
0194	Income Statement Accounts	3	Income Statement Accounts	
0195	Operating Revenue and Retained Earnings	3	Operating Revenue and Retained Earnings Accounts	
0196	Operation and Maintenance Expenses	5	Operation and Maintenance Accounts	
0197	Utility Plant	6	Utility Plant Accounts	No new reporting requirements, only format.
0198	Long-Term Debt	6	-	No new reporting requirements.
0837	Taxes, Tax Equivalents, Contributions and Services During Year - Part I	7	-	Temporarily suspended until further notice.
0838	Taxes, Tax Equivalents, Contributions and Services During Year - Part II	7	-	Temporarily suspended until further notice.
0839	Expenditures for Certain Civic, Political and related Activities	4	-	No new reporting requirements, only format.
			FEDERAL PROJECTS	
	It is proposed that the Federal projects which report on an abbreviated FPC Form No. 1 will report on the above proposed schedules. The Federal projects will not be required to report the detailed data which is required for the FPC Form No. 1 Even though the Federal projects will still be required to maintain their accounting in accordance with the Commission's Uniform Systems of Accounts, this proposal should greatly reduce their reporting burden.			

(The number of copies to be filed has been changed from "original and three" to "original and four.")

ATTACHMENT B—FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS



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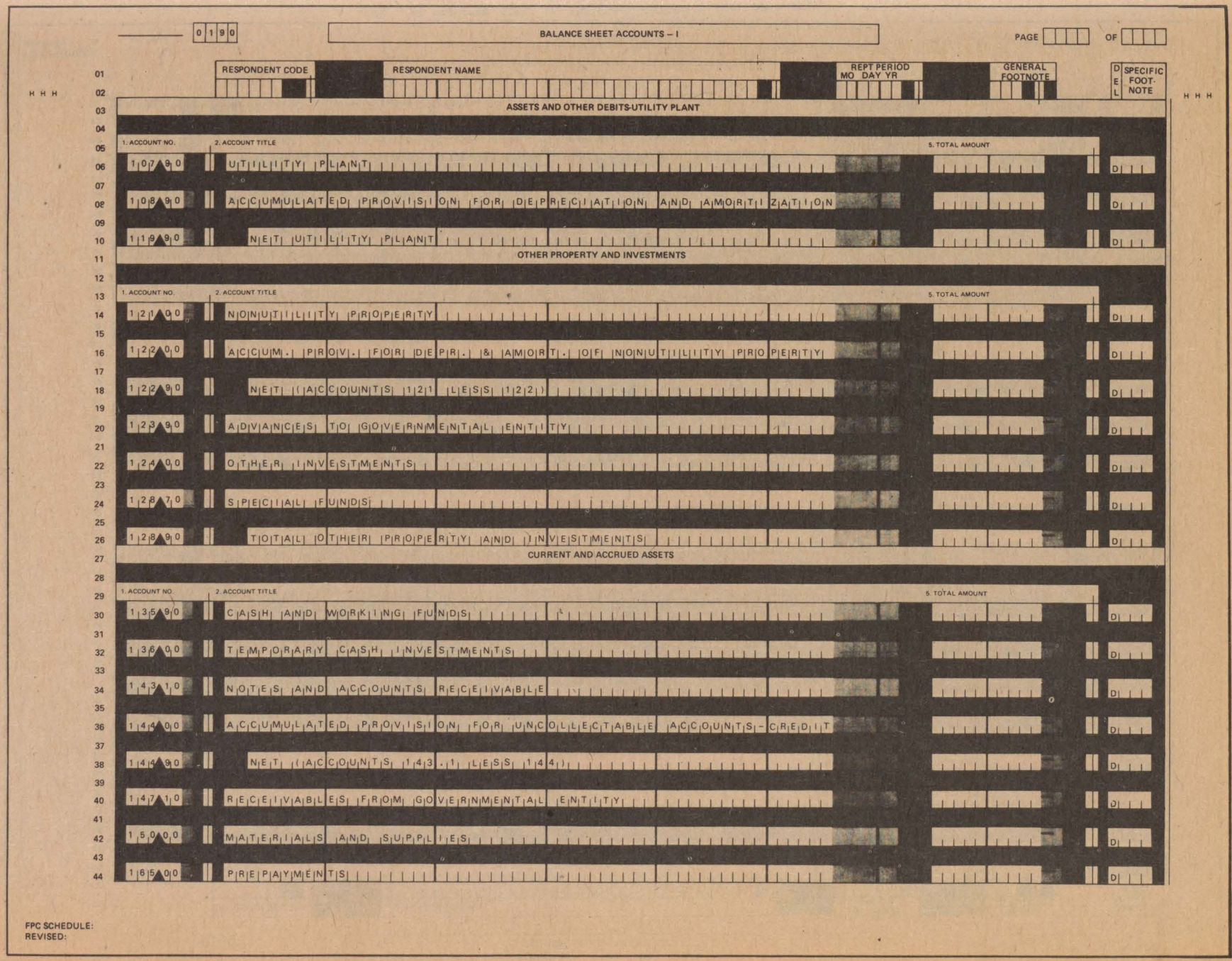


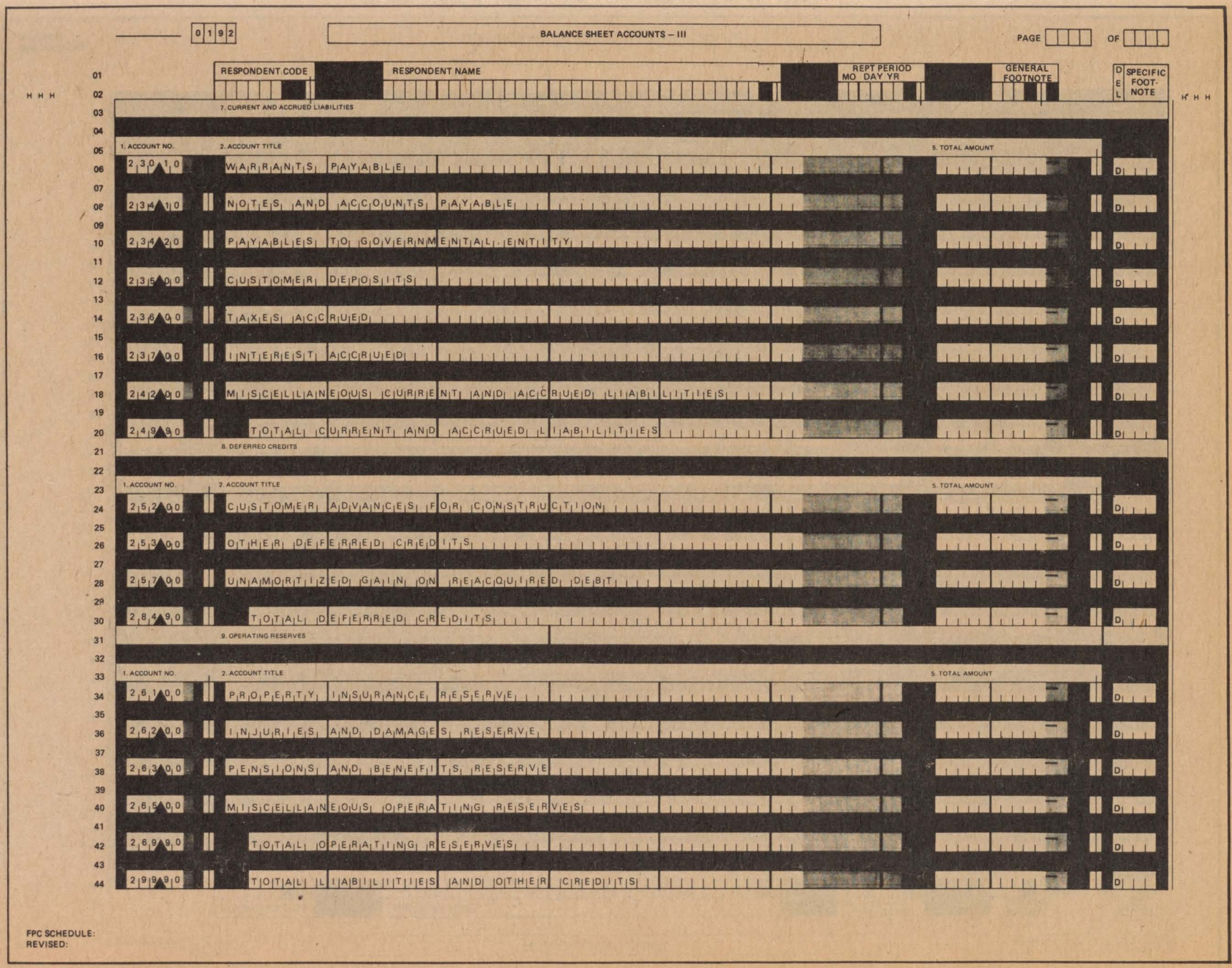
FPC SCHEDULE:
REVISED:

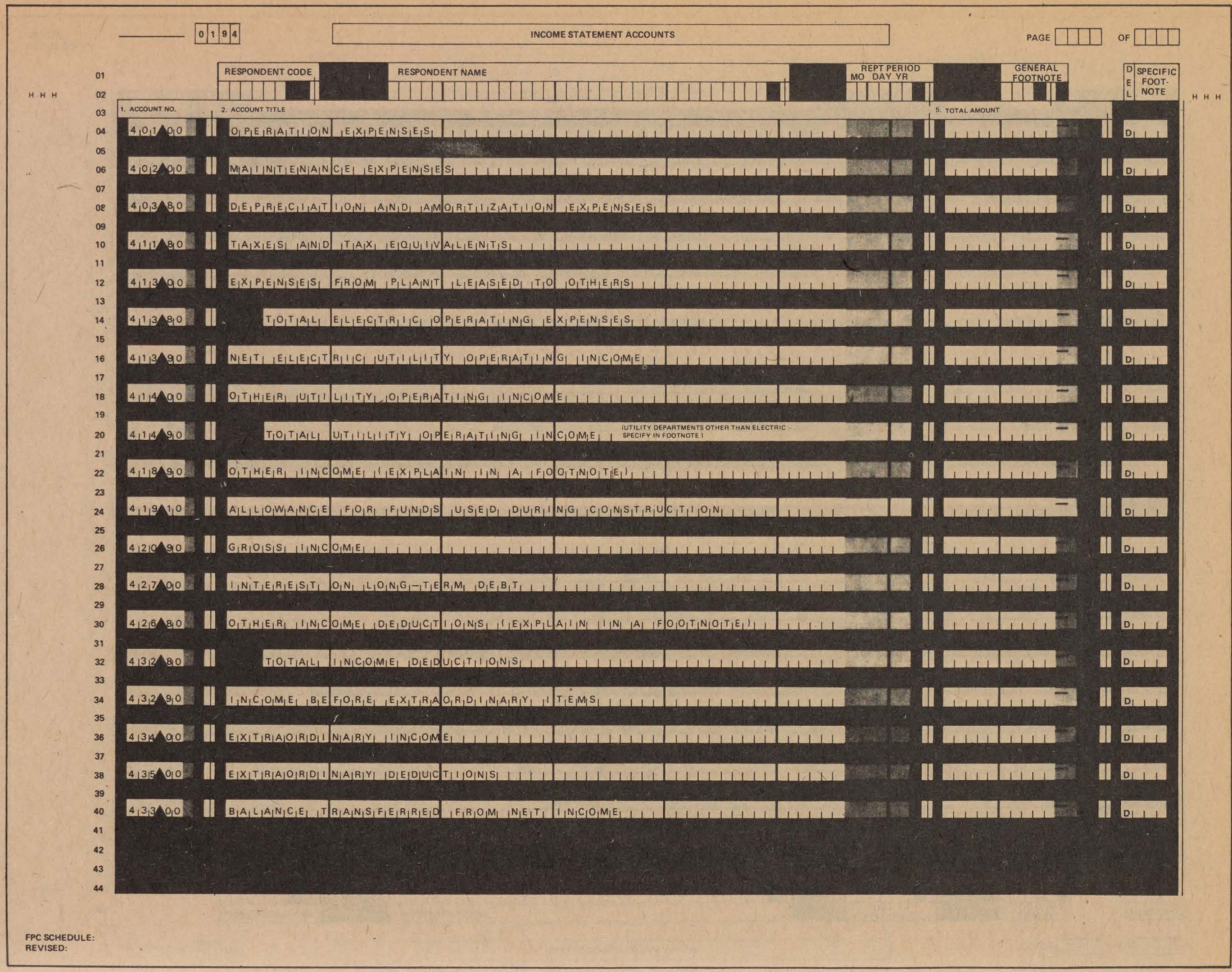
0191 — BALANCE SHEET ACCOUNTS – II — PAGE ____ OF ____

	RESPONDENT CODE	RESPONDENT NAME	REPT PERIOD MO DAY YR	GENERAL FOOTNOTE	DEL	SPECIFIC FOOT-NOTE
01						
02						

	1. ACCOUNT NO.	2. ACCOUNT TITLE	5. TOTAL AMOUNT	DEL
03				
04	1700	MISCELLANEOUS CURRENT AND ACCRUED ASSETS		D
05				
06	1790	TOTAL CURRENT AND ACCRUED ASSETS		D
07		4. DEFERRED DEBITS		
08				
09	1. ACCOUNT NO.	2. ACCOUNT TITLE	5. TOTAL AMOUNT	
10	1810	UNAMORTIZED DEBT EXPENSE		D
11				
12	1820	EXTRAORDINARY PROPERTY LOSSES		D
13				
14	1860	MISCELLANEOUS DEFERRED DEBITS		D
15				
16	1890	UNAMORTIZED LOSS ON REACQUIRED DEBT		D
17				
18	1980	TOTAL DEFERRED DEBITS		D
19				
20	1990	TOTAL ASSETS AND OTHER DEBITS		D
21		5. LIABILITIES AND OTHER CREDITS--INVESTMENT OF GOVERNMENT ENTITY AND SURPLUS		
22				
23	1. ACCOUNT NO.	2. ACCOUNT TITLE	5. TOTAL AMOUNT	
24	2081	INVESTMENT OF GOVERNMENTAL ENTITY		D
25				
26	2090	CONSTRUCTIVE SURPLUS OR DEFICIT		D
27				
28	2160	RETAINED EARNINGS		D
29				
30	2180	TOTAL INVESTMENT AND SURPLUS		D
31		6. LONG-TERM DEBT		
32				
33	1. ACCOUNT NO.	2. ACCOUNT TITLE	5. TOTAL AMOUNT	
34	2210	BONDS		D
35				
36	2231	ADVANCES FROM GOVERNMENTAL ENTITY		D
37				
38	2240	OTHER LONG-TERM DEBT		D
39				
40	2250	UNAMORTIZED PREMIUM ON LONG-TERM DEBT		D
41				
42	2260	UNAMORTIZED DISCOUNT ON LONG-TERM DEBT-DEBIT		D
43				
44	2290	TOTAL LONG-TERM DEBT		D

FPC SCHEDULE:
REVISED:





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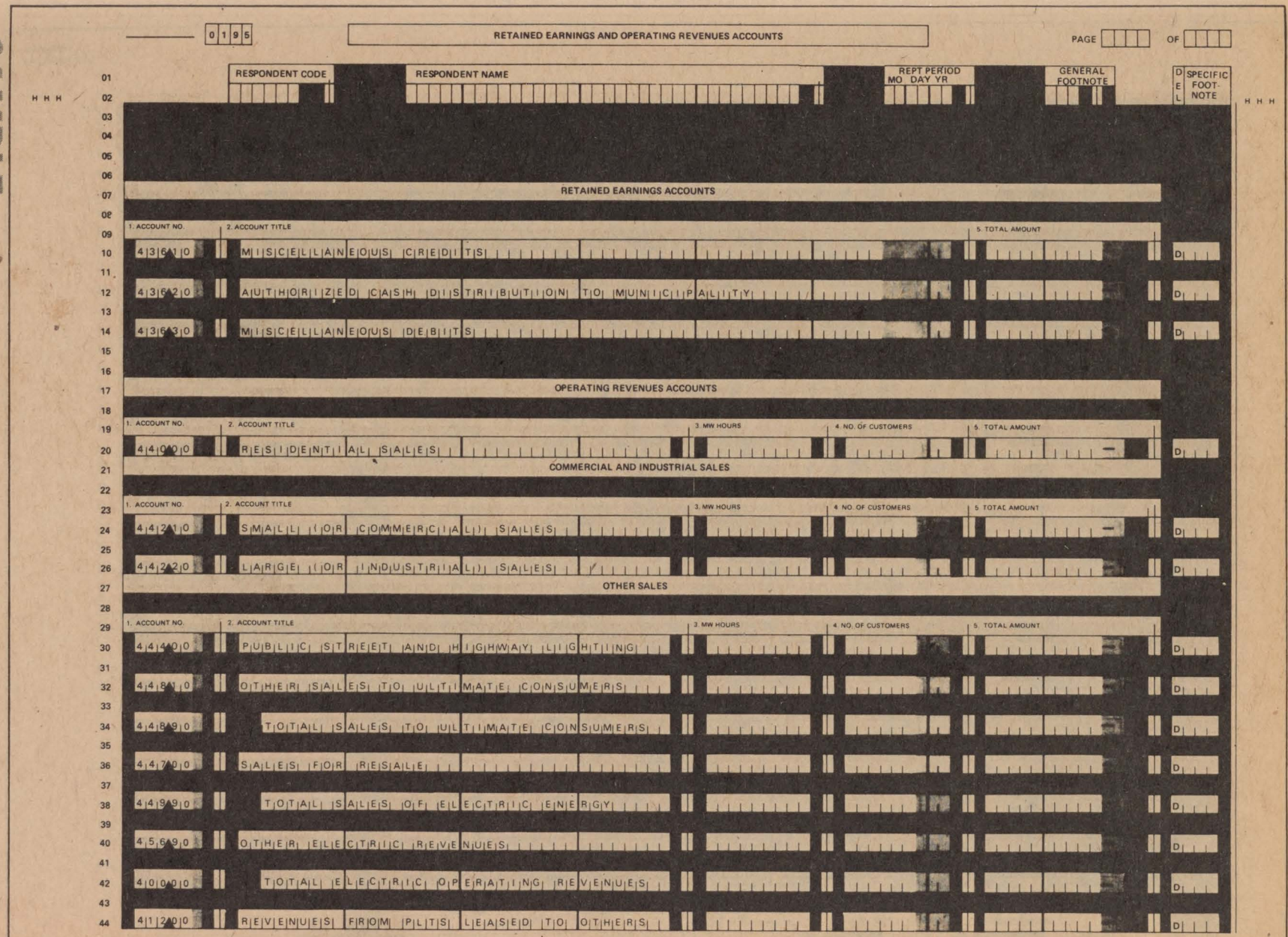
REVISED:



FPC SCHEDULE:
REVISED:

0196 — OPERATION & MAINTENANCE EXPENSES ACCOUNTS — PAGE ____ OF ____

RESPONDENT CODE | RESPONDENT NAME | REPT PERIOD MO DAY YR | GENERAL FOOTNOTE

2. ACCOUNT TITLE	1. ACCOUNT NO.	5. TOTAL AMOUNT	1. ACCOUNT NO.	5. TOTAL AMOUNT	1. ACCOUNT NO.	5. TOTAL AMOUNT	DEL	SPECIFIC FOOTNOTE
STM PWR GENERATION	516▲710		516▲810		516▲910		D	
NUCLEAR PWR GEN	534▲710		534▲810		534▲910		D	
HYDRAULIC PWR GEN	535▲710		535▲810		535▲910		D	
OTHER PWR GEN (SPECIFY IN FOOTNOTE)	543▲710		543▲810		543▲910		D	
PURCHASED POWER	545▲710				545▲910		D	
OTH PROD EXPENSES	546▲710		546▲810		546▲910		D	
TOTAL PROD EXPENSES	547▲710		547▲810		547▲910			
TRANS EXPENSES	553▲710		553▲810		553▲910		D	
DISTRIBUTION EXP	576▲710		576▲810		576▲910		D	
CUST ACCT EXP	909▲710				909▲910			
SALES EXPENSES	919▲710				919▲910		D	
ADMN AND GEN EXP	939▲710		939▲810		939▲910		D	
TOTAL OPER MAIN EXP	949▲710		949▲810		949▲910		D	

FPC SCHEDULE:
REVISED:

SAMPLE

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0197 — UTILITY PLANT — PAGE ____ OF ____

RESPONDENT CODE | RESPONDENT NAME | REPT PERIOD MO DAY YR | GENERAL FOOTNOTE | DEL | SPECIFIC FOOTNOTE

ELECTRIC UTILITY PLANT

ELECTRIC PLANT IN SERVICE

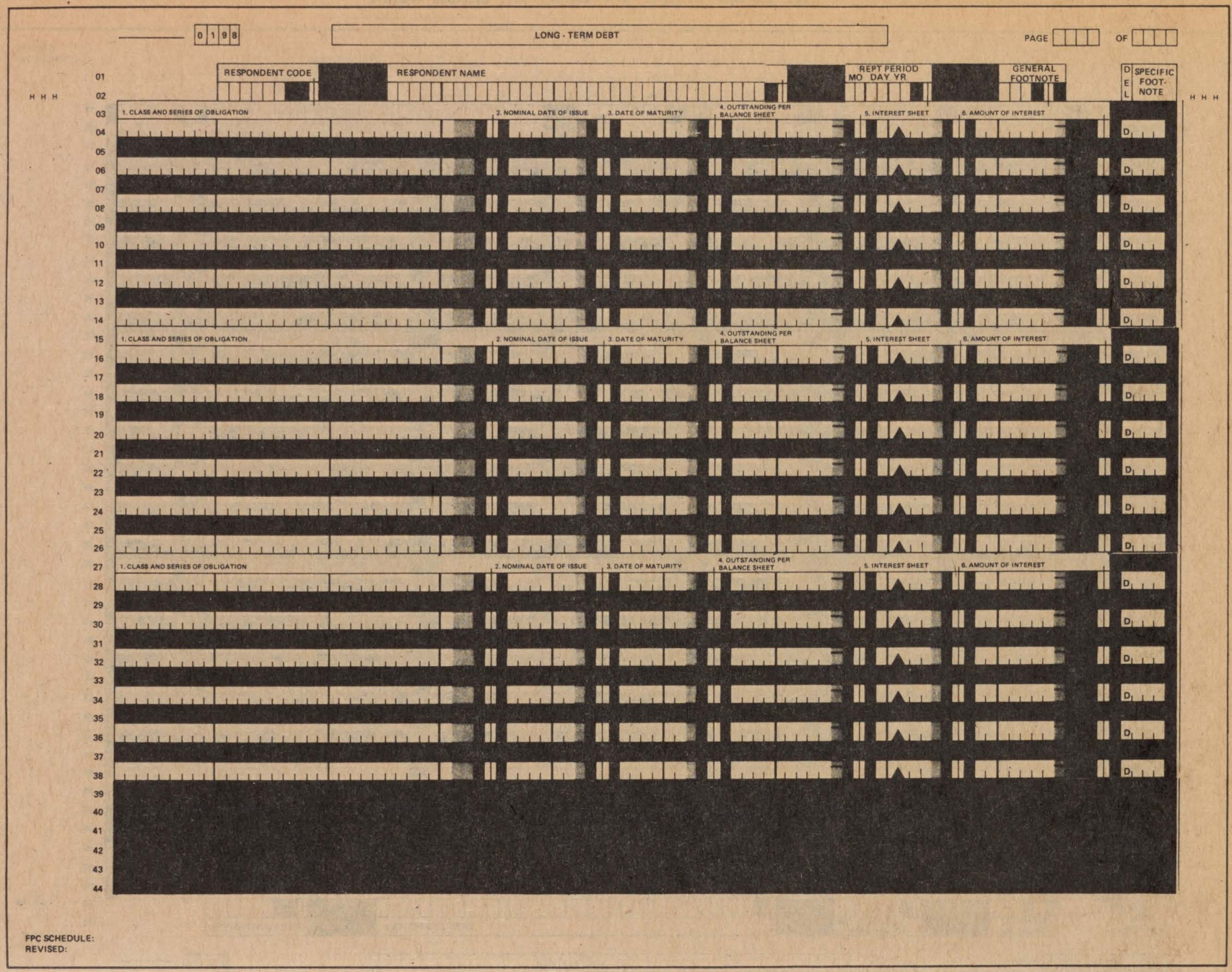
1. ACCOUNT NO.	1B. ACCOUNT TITLE	2. ADDITIONS	3. RETIREMENTS	4. TRANSFERS	5. ADJUSTMENTS	6. BALANCE END OF THE YEAR	
301.0	INTANGIBLE PLANT						D

PRODUCTION PLANT:

1. ACCOUNT NO.	1B. ACCOUNT TITLE	2. ADDITIONS	3. RETIREMENTS	4. TRANSFERS	5. ADJUSTMENTS	6. BALANCE END OF THE YEAR	
311.0	STEAM PRODUCTION						D
312.0	NUCLEAR PRODUCTION						D
313.0	HYDRAULIC PRODUCT.						D
314.0	OTHER PRODUCTION						D
314.9	TOTAL PROD. PLANT						D
350.0	TRANSMISSION PLANT						D
360.0	DISTRIBUTION PLANT						D
390.0	GENERAL PLANT						D
101.0	TOTAL ELEC PLT IN SERV.						D
104.0	ELEC PLANT-LEASED OTH						D
107.0	CONST. WORK IN PROG						D
105.0	ELEC PLANT FUTURE USE						D
114.0	ELEC PLANT ACQ. ADJU.						D
107.0	TOTAL ELECTRIC PLT						D
108.0	PLANT OTH UTIL DEPTS						D
101.0	TOTAL UTILITY PLANT						D

1. ACCOUNT NO.	1B. ACCOUNT TITLE	7. DEPRECIATION ACCRUALS	8. NET CHARGES FOR PLANT RETIRED	9. OTHER DEBITS OR CREDITS	6. BALANCE END OF THE YEAR	
108.0	ACCUM. PROV. DEPR. OF ELEC PLANT					D

FPC SCHEDULE:
REVISED:



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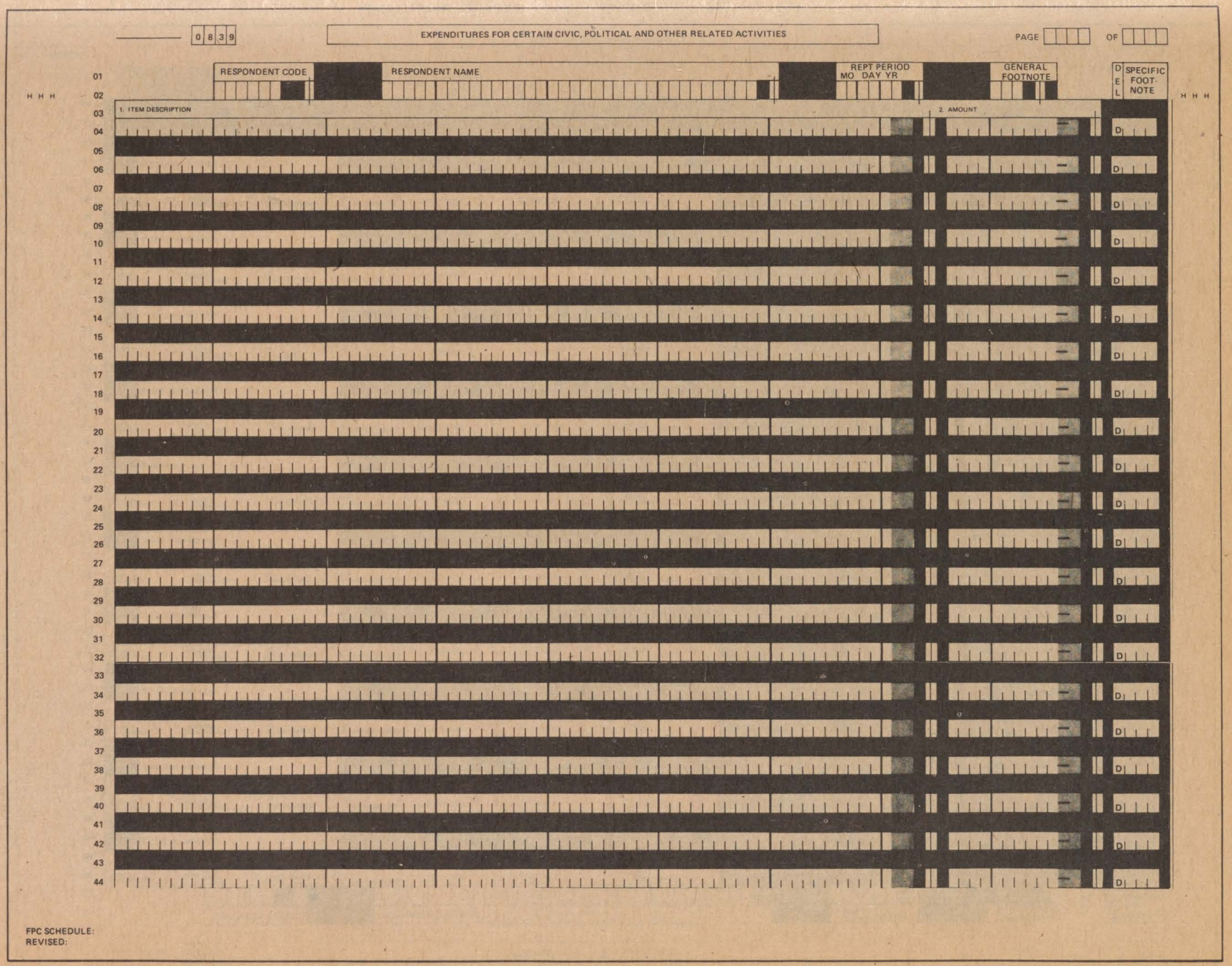

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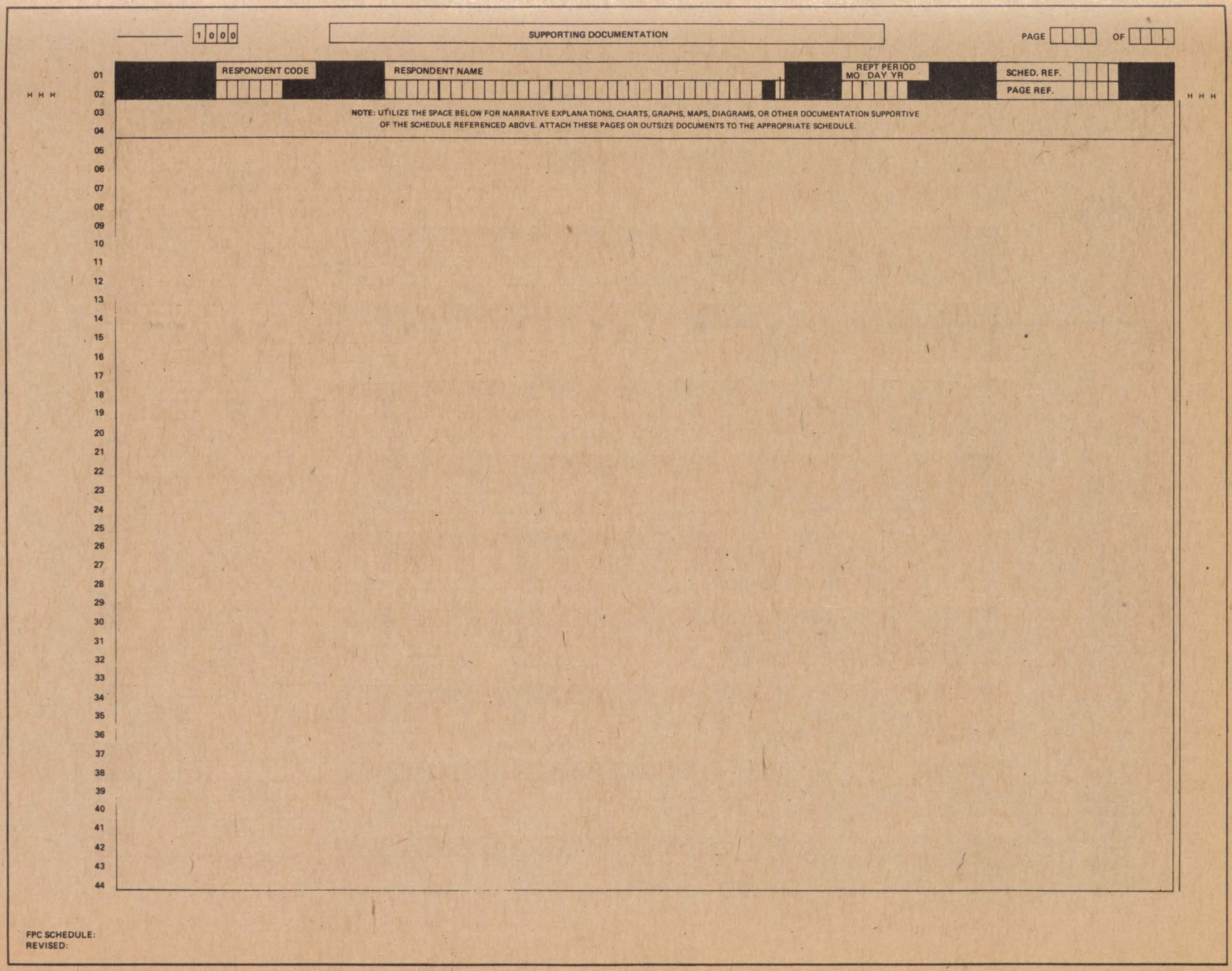

[FR Doc.76-21459 Filed 7-26-76;8:45 am]