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federal register

TUESDAY, MARCH 1, 1977

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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 program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
FPCA—National Fire Prevention and Control Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency

DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SRS—Social and Rehabilitation Service
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CA&RF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CP&D—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
O & G—Oil and Gas Office
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

A&TBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FMPO—Federal Management Policy Office
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

presidential documents

Title 3—The President

PROCLAMATION 4489

Red Cross Month, 1977

By the President of the United States of America

A Proclamation

For 96 years, the American Red Cross has symbolized the best in our society. Its hundreds of thousands of volunteers have generously given of themselves to provide a wide range of important, necessary services.

Many Americans think of the Red Cross in connection with disaster relief. It is right that they should. Last year the Red Cross responded more than 32,000 times—once every sixteen minutes, on the average—to disaster situations in our country, coping with the emergency needs of victims and doing those things that a good neighbor does in time of trouble.

But the Red Cross does much more. Through its network of blood centers and with the help of voluntary donors, the Red Cross meets over half the country's needs for blood—an essential resource for healing the sick and injured. The men and women of our armed services depend on the Red Cross for emergency contact with their loved ones, for counseling, and for financial assistance. And the Red Cross provides trusted, reliable programs to educate Americans in first aid, home nursing, and water safety.

Traditionally, March is Red Cross Month. During this period I hope all Americans will reflect on the selflessness that has led so many of our neighbors to serve the Red Cross—and their fellow Americans—with their time, their energy, and their love. We can follow their example by supporting our local Red Cross chapter.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March, 1977, as Red Cross Month. I urge all Americans to give generous support to the work of their local Red Cross chapters.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of February, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.

Jimmy Carter

[FR Doc.77-6221 Filed 2-25-77;4:04 pm]

rules and regulations

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

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

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

The rate for subscription service to all revised volumes issued for 1976 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
7 Parts:	
750–899	$1.80
14 Parts:	
1200–end	2.20

CFR Unit (Rev. as of April 1, 1976):

17	6.00
18 Parts:	
1–149	4.85
150–end	4.10
19	5.65
20 Parts:	
1–399	2.45
400–end	7.50
21 Parts:	
1–9	2.60
10–199	5.20
200–299	2.10
300–499	5.95
500–599	3.75
600–1299	2.75
1300–end	1.90
22	4.20
23	4.55
24 Parts:	
0–499	6.65
500–end	6.90
25	5.25
26 Parts:	
1 (§§ 1.0–1—1.169)	5.95
1 (§§ 1.170–1.300)	3.90
1 (§§ 1.301–1.400)	3.30
1 (§§ 1.401 to 1.500)	3.55
1 (§§ 1.501–1.640)	4.05
1 (§§ 1.641–1.850)	4.45
1 (§§ 1.851–1.1200)	6.05
1 (§§ 1.1201 to end)	6.95
2–29	4.05
30–39	3.45
40–299	5.40
300–499	3.60
600–end	2.20
27	7.70

CFR Unit (Rev. as of July 1, 1976):

Title	Price
28	$3.10
29 Parts:	
0–499	7.30
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
35	3.80
36	3.40
37	2.20
38	7.20
39	2.75
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	1.85
8	1.80
9	4.35
10–17	4.15
19–100	3.55
101–end	6.80
CFR Index	3.20

CFR Unit (Rev. as of Oct. 1, 1976):

42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
47 Parts:	
70–79	4.90
80–end	6.20
48 [Reserved]	

Title	Price
49 Parts:	
1–99	2.05
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 713—EQUAL OPPORTUNITY

Administrative Processing of Class Complaints of Discrimination

AGENCY: Civil Service Commission.

ACTION: Final Regulation.

SUMMARY: Part 713 is amended by replacing the procedures for reviewing third party allegations, allowing for consolidation of complaints, and providing a new Subpart F concerning administrative processing of class complaints.

EFFECTIVE DATE: April 18, 1977. Agencies may provide for precomplaint counseling beginning April 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Director, Federal Equal Employment Opportunity, Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415 (202–632–4420).

SUPPLEMENTARY INFORMATION: On February 24, 1976, a document was published in the FEDERAL REGISTER proposing to amend Civil Service Commission regulations to provide administrative processing of class complaints of discrimination. Interested persons were invited to participate by providing written data, views, and statements to the Director, Office of Federal Equal Employment Opportunity on or before April 30, 1976.

Comments received in response to the total proposal were generally supportive. The principal objections expressed on specific matters centered about the definitions, necessity for consent, limitation of the scope, and criteria for rejection. After consideration of the many differing views and suggestions, the Commission has further amended the original definitions to provide greater conformity with the Federal Rules of Civil Procedure concerning class actions. In like manner the definitions, scope, and criteria for rejection of class complaints have been changed to conform as closely as possible with Rule 23, Federal Rules of Civil Procedure. The role of the Complaints Examiner has been clarified based on comments received.

In addition, some commenters perceived that the elimination of the third party procedure would effectively prevent outside organizations from bringing matters of concern to the attention of the agency. To the extent that third party allegations are in reality complaints of discrimination, the Commission believes the new class complaint procedures will serve as a better means to resolve such matters. To the extent that third party allegations deal with matters other than discrimination, e.g., the adequacy of an agency affirmative action plan, the Commission believes the discrimination complaint process is not the appropriate method for dealing with such matters.

Considerable comment was received concerning the necessity for consent of the parties in consolidation of individual complaints. The procedure has been revised to require written permission of the complainants before consolidation of two or more employees.

Accordingly, 5 CFR is amended by (1) revising §§ 713.204(d)(6) and 713.212 (b); (2) revising the subheading before § 713.251 and revising § 713.251 in its entirety; and (3) adding a new Subpart F, as follows:

The table of contents is amended as follows:

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

CONSOLIDATION OF COMPLAINTS

Sec.
713.251 Joint processing and consolidation of complaints.

* * * * *

Subpart F—Class Complaints of Discrimination

AGENCY REGULATIONS FOR PROCESSING CLASS COMPLAINTS OF DISCRIMINATION

713.601 Definitions.
713.602 Precomplaint processing.
713.603 Filing and presentation of a class complaint.
713.604 Acceptance, rejection, or cancellation.
713.605 Notification and opting out.
713.606 Avoidance of delay.
713.607 Freedom from restraint, interference, coercion, and reprisal.
713.608 Obtaining evidence concerning the complaint.
713.609 Opportunities for resolution of the complaint.
713.610 Hearing.
713.611 Report of findings and recommendations.
713.612 Agency decision.
713.613 Notification of class members of decision.
713.614 Corrective action.

APPEAL TO THE COMMISSION

713.631 Appeal to the Appeals Review Board.
713.632 Reopening and reconsideration by the Commissioners.

CIVIL ACTIONS

713.641 Statutory right.
713.642 Notice of right.
713.643 Effect on administrative processing.

AUTHORITY: 5 U.S.C. 1301, 3301, 3302, 7301; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR 1969 Comp., p. 133; 42 U.S.C. 2000e–16(b), unless otherwise noted.

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

* * * * *

§ 713.204 Implementation of agency program.

* * * * *

(d) Assign to the Director of Equal Employment Opportunity the functions of: * * *

(6) Providing for the acceptance and processing and/or rejection of class complaints in accordance with Subpart F of this part;

* * * * *

§ 713.212 Coverage.

* * * * *

(b) The agency shall provide in its regulations for the acceptance of class complaints in accordance with Subpart F.

* * * * *

CONSOLIDATION OF COMPLAINTS

§ 713.251 Joint processing and consolidation of complaints.

(a) Two or more complaints of discrimination filed by employees or applicants for employment with the agency consisting of substantially similar allegations of discrimination may, with the written permission of the complainants, be consolidated by the agency or Commission.

(b) Two or more individual complaints of discrimination from the same employee or applicant for employment may, at the discretion of the agency or the Commission, be joined for processing after notifying the individual that the complaints will be processed jointly.

Subpart F—Class Complaints of Discrimination

AGENCY REGULATIONS FOR PROCESSING CLASS COMPLAINTS OF DISCRIMINATION

§ 713.601 Definitions.

(a) A "class" is a group of agency employees, former agency employees, and/or applicants for employment with the agency, on whose behalf it is alleged that they have been, are being, or may be adversely affected, by an agency personnel management policy or practice which the agency has authority to rescind or modify, and which discriminates against the group on the basis of their common race, color, religion, sex, national origin, and/or age.

(b) A "class complaint" is a written complaint of discrimination filed on behalf of a class by the agent of the class alleging that:

(1) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(2) There are questions of fact common to the class;

(3) The claims of the agent of the class are typical of the claims of the class;

(4) The agent of the class, or his/her representative, if any, will fairly and adequately protect the interests of the class.

(c) An "agent of the class" is a class member who acts for the class during the processing of the class complaint.

(d) "Age" is an inclusive term which means the ages of 40 through 64 years.

§ 713.602 Precomplaint processing.

(a) An employee or applicant who wishes to be an agent and who believes he/she has been discriminated against shall consult with an Equal Employment Opportunity Counselor within 90 calendar days of the matter giving rise to the allegation of individual discrimination or 90 calendar days of its effective date if a personnel action.

(b) The Counselor shall (1) advise the aggrieved person of the discrimination complaint procedures, of his/her right to representation throughout the precomplaint and complaint processes, and of the right to anonymity only during the precomplaint process; (2) make whatever inquiry is believed necessary; (3) make an attempt at informal resolution through discussion with appropriate officials; (4) counsel the aggrieved person concerning the issues involved; (5) inform the Equal Employment Opportunity Officer and other appropriate officials when corrective action is believed necessary; (6) keep a record of all counseling activities; and (7) summarize actions and advice in writing both to the Equal Employment Opportunity Officer and the aggrieved person concerning the issues in the personnel management policy or practice.

(c) The Counselor shall conduct a final interview and terminate counseling with the aggrieved person not later than 30 calendar days after the date on which the allegation of discrimination was called to the attention of the Counselor. During the final interview, the Counselor shall inform the aggrieved person in writing that counseling is terminated and that he/she has the right to file a class complaint of discrimination with appropriate officials of the agency.

(d) The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint nor to encourage the person to file a complaint.

(e) The Counselor shall not reveal the identity of an aggrieved person during the period of consultation, except, when authorized to do so by the aggrieved person.

(f) The agency shall ensure that full cooperation is provided by all employees to Counselors in the performance of their duties under this section. Counselors shall have routine access to personnel records of the agency without unwarranted invasion of privacy.

(g) Corrective action taken as a result of counseling shall be consistent with law, Executive order, and Civil Service regulations, rules, and instructions.

§ 713.603 Filing and presentation of a class complaint.

(a) The complaint must be submitted in writing by the agent or his/her representative and be signed by the agent.

(b) The complaint shall set forth specifically and in detail: (1) A description

of the agency personnel management policy or practice giving rise to the complaint; and (2) A description of the resultant personnel action or matter adversely affecting the agent.

(c) The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of final interview with the Counselor.

(d) The officials with whom complaints may be filed are the head of the agency, a designee of the head of the agency, and the Director of Equal Employment Opportunity.

(e) A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by an official with whom complaints may be filed.

(f) At all stages, including counseling, in the preparation and presentation of a complaint, or claim, and appeal from a decision on a complaint, or claim, the agent or claimant shall have the right to be accompanied, represented, and advised by a representative of his/her own choosing, provided the choice of a representative does not involve a conflict of interest or conflict of position. The representative shall be designated in writing and the designation made a part of the class complaint file.

(g) If the agent is an employee in an active duty status, he/she shall have a reasonable amount of official time to prepare and present his/her complaint. Employees, including attorneys, who are representing employees of the same agency in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility whenever it is not inconsistent with the faithful performance of their duties. Although there is no requirement that an agency permit its own employees to use official time for the purpose of representing employees of other agencies, an agency may do so at its discretion. If the use of official time is not granted in such cases, employees may be granted, at their request, annual leave, or leave without pay.

§ 713.604 Acceptance, Rejection or Cancellation.

(a) Within 10 calendar days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselor's report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the Commission. The Commission shall assign the complaint to a Complaints Examiner who may be an employee of the Federal Employee Appeals Authority and who is not an employee of the agency in which the complaint arose.

(b) The Complaints Examiner may recommend that the agency reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) It is not within the purview of this subpart;

(4) The agent failed to consult a Counselor in a timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the following prerequisites:

(i) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(ii) There are questions of fact common to the class;

(iii) The claims of the agent of the class are typical of the claims of the class;

(iv) The agent of the class, or his/her representative will fairly and adequately protect the interests of the class;

(c) If an allegation is not included in the Counselor's report, the Complaints Examiner shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he/she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the Complaints Examiner may recommend that the agency reject the allegation. If the explanation is satisfactory, the Complaints Examiner may refer the allegation to the agency for further counseling of the agent.

(d) If an allegation lacks specificity and detail, the Complaints Examiner shall afford the agent 15 calendar days to provide specific and detailed information. The Complaints Examiner may recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Complaints Examiner must advise the agent how to proceed on an individual or class basis concerning these allegations.

(e) The Complaints Examiner may recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his/her representative, shows that he/she was not notified of the prescribed time limits and was not otherwise aware of them or that he/she was prevented by circumstances beyond his/her control from acting within the time limit.

(f) When appropriate the Complaints Examiner may recommend that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(g) The Complaints Examiner may recommend that the agency cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after the Complaints Examiner has provided the agent a written request, including notice of proposed cancellation, that he/she provide certain information or otherwise proceed with the complaint, and the agent has failed to satisfy this request within 15 calendar days of his/her receipt of the request.

(h) An agent must be informed by the Complaints Examiner in a request under paragraphs (c) or (d) of this section that his/her complaint may be rejected if the information is not provided.

(i) The Complaints Examiner's recommendation to the agency on whether to accept, reject, or cancel a complaint shall be transmitted in writing to the agency, the agent, and the agent's representative. The Complaints Examiner's recommendation to accept, reject, or cancel shall become the agency decision unless the agency rejects or modifies the decision within 10 calendar days of its receipt. The agency shall notify the agent, the agent's representative, and the Complaints Examiner of its decision to accept, reject, or cancel a complaint. Notice of a decision to reject or cancel shall inform the agent of his/her right to proceed with his/her individual complaint of discrimination, and to appeal the final agency decision on the matter to the Appeals Review Board (ARB) and of his/her right to file a civil action.

§ 713.605 Notification and opting out.

(a) After acceptance of a class complaint, the agency, within 15 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain: (1) The name of the agency or organizational segment thereof, its location, and the date of acceptance of the complaint; (2) a description of the issues accepted as part of the class complaint; (3) an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and (4) an explanation of the binding nature of the final decision on or resolution of the complaint.

§ 713.606 Avoidance of delay.

The complaint shall be processed promptly after it has been accepted. To this end, the parties shall proceed with the complaint without undue delay so that the complaint is processed within 180 calendar days after it was filed.

§ 713.607 Freedom from restraint, interference, coercion, and reprisal.

(a) Agents, claimants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Equal Employment Opportunity Investigators, Equal Employment Opportunity Counselors, and other agency officials having responsibility for the processing of discrimination complaints shall be free from restraint, interference, coercion, and reprisal at all stages in the presentation and processing of a complaint, including the counseling stage under § 713.602, or any time thereafter.

(b) A person identified in paragraph (a) of this section, if a Federal employee or applicant, may file a complaint of

restraint, interference, coercion, or reprisal in connection with the presentation and processing of a complaint of discrimination. The complaint shall be filed and processed in accordance with provisions of Subpart B.

§ 713.608 Obtaining evidence concerning the complaint.

(a) *General.* (1) Upon the acceptance of a complaint, the agency head or his/her designee shall designate an agency representative. The agency representative shall not be an alleged discriminating official or any individual designated under § 713.204(c) of this part.

(2) In representing the agency, the agency representative shall consult with officials, if any, named or identified as responsible for the alleged discrimination, and other officials of the agency as necessary. In such consultation, the agency representative will be subject to the provisions of Civil Service regulations, rules, and instructions concerning privacy and access to individual personnel records and reports.

(b) *Development of evidence.* (1) The Complaints Examiner shall notify the agent, or his/her representative and the agency representative that a period of not more than 60 calendar days will be allowed both parties to prepare their cases. This time period may be extended by the Complaints Examiner upon the request of either party. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the complaint. Evidence may be developed through interrogatories, depositions, and requests for production of documents. It shall be grounds for objection to producing evidence that the information sought by either party is irrelevant, overburdensome, repetitious, or privileged.

(2) In the event that mutual cooperation fails, either party may request the Complaints Examiner to rule on a request to develop evidence. When the Complaints Examiner renders his/her report of findings and recommendations on the merits of the complaint, a party's failure to comply with the Complaints Examiner's ruling on an evidentiary request may be taken into account.

(3) During the time period for development of evidence, the Complaints Examiner may, in his/her discretion, direct that an investigation of facts relevant to the complaint, or any portion thereof, be conducted by an Investigator trained and/or certified by the Commission.

(4) Both parties shall furnish the Complaints Examiner all materials which they wish him/her to examine and such other material as he/she may request.

§ 713.609 Opportunities for resolution of the complaint.

(a) The Complaints Examiner shall furnish the agent or his/her representative and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(b) At any time after acceptance of a complaint, the complaint may be resolved by agreement of the agency and the agent to terms offered by either party.

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or his/her designee. A resolution may include a finding on the issue of discrimination, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided the agent.

(d) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class.

(e) If the agency does not carry out, or rescinds, any action specified by the terms of the resolution for any reason not attributable to acts or conduct of the agent, his/her representative, or class members, the agency upon the agent's written request shall reinstate the complaint for further processing from the point processing ceased under the terms of the resolution. Failure of the agency to reinstate the complaint is grounds for appeal by the agent to the Appeals Review Board.

§ 713.610 Hearing.

On the expiration of the period allowed for preparation of the case, the Complaints Examiner shall set a date for a hearing. The hearing shall be conducted in accordance with § 772.307(c).

§ 713.611 Report of findings and recommendations.

(a) The Complaints Examiner shall transmit to the agency head or his/her designee: (1) The record of the hearing; (2) His/her findings and analysis with regard to the complaint; and (3) His/her report of findings and recommended decision on the complaint, including corrective action pertaining to systemic relief for the class and any individual corrective action, where appropriate, with regard to the personnel action or matter which gave rise to the complaint.

(b) The Complaints Examiner shall notify the agent of the date on which the report of findings and recommendations was forwarded to the agency head or his/her designee.

§ 713.612 Agency decision.

(a) Within 30 calendar days of receipt of the report of findings and recommendations issued under § 713.611, the agency head or his/her designee shall issue a decision to accept, reject, or modify the findings and recommendations of the Complaints Examiner.

(b) The decision of the agency shall be in writing and shall be transmitted to the agent or his/her representative, along with a copy of the record of the hearing and a copy of the findings and recommendations of the Complaints Examiner.

(c) When the agency's decision is to reject or modify the findings and recommendations of the Complaints Examiner the decision shall contain the specific reasons in detail for the agency's action.

(d) If the agency has not issued a decision within 30 calendar days of its receipt of the Complaints Examiner's report of findings and recommendations, the findings and recommendations shall become the final agency decision. The agency shall transmit the final agency decision and the record of the hearing to the agent or his/her representative within 5 calendar days of the expiration of the 30-day period.

(e) The agency shall inform the agent or his/her representative of the right to appeal the final agency decision to the Commission's Appeals Review Board and of his/her right to file a civil action in accordance with § 713.641 of the regulations, and of the time limits applicable thereto.

(f) A final agency decision on a class complaint shall be binding on all members of the class and the agency.

§ 713.613 Notification of class members of decision.

Class members shall be notified by the agency, through the same media employed to give notice of the existence of the class complaint, of the agency decision and corrective action, if any. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within 10 calendar days of the transmittal of its decision to the agent.

§ 713.614 Corrective action.

(a) When discrimination is found, an agency must eliminate or modify the personnel policy or practice out of which the complaint arose, and provide individual corrective action to the agent in accordance with § 713.271 of this part. Corrective action in all cases must be consistent with law, Executive order, and Civil Service regulations, rules and instructions.

(b) When discrimination is found and a class member believes that but for that discrimination he/she would have received employment or an employment benefit, the class member may file a written claim with the head of the agency or the Director of Equal Employment Opportunity of the agency within 30 calendar days of notification by the agency of the decision of the agency.

(c) The claim must include a specific, detailed showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory policy or practice within not more than 135 calendar days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim for relief within 60 calendar days after the date the claim was

postmarked, or, in the absence of a postmark, within 60 calendar days after the date it was received by an official with whom claims may be filed. If the agency and claimant do not agree that the claimant is a member of the class or upon the relief to which the claimant is entitled, the agency shall refer the claim, with recommendations concerning it, to the Complaints Examiner.

(e) The Complaints Examiner shall notify the claimant of the right to a hearing on the claim and shall allow the parties to the claim an opportunity to submit evidence and representations concerning the claim. If a hearing is requested, it shall be conducted in accordance with § 772.307(c) of this chapter. If no hearing is requested, the Complaints Examiner, in his/her discretion, may hold a hearing to obtain necessary evidence concerning the claim.

(f) The Complaints Examiner shall issue a report of findings and recommendations on the claim which shall be treated the same as a report of findings and recommendations under §§ 713.611 and 713.612.

(g) If the Complaints Examiner determines that the claimant is not a member of the class or that the claim was not timely filed he/she shall recommend rejection of the claim and give notice of his/her action to the agency, the claimant, and his/her representative. Such notice shall include advice as to the complainant's right to appeal to the ARB or to file a civil action in accordance with the provisions of this part.

APPEAL TO THE COMMISSION

§ 713.631 Appeal to the Appeals Review Board.

(a) An agent may appeal to the ARB the decision of the head of the agency or his/her designee: (1) To reject or cancel his/her complaint, or a portion thereof; for reasons covered by § 713.604; (2) to refuse to reinstate the complaint for further processing in accordance with the provisions of § 713.609(e); and (3) on the merits of the complaint and/or corrective action.

(b) A claimant may appeal to the ARB from a decision of the head of the agency or his/her designee: (1) To cancel or reject a claim for individual relief in accordance with § 713.614(f) and (g); and (2) on the merits of his/her claim for individual relief.

(c) An appeal may be filed at any time after receipt of the agency's final decision, but not later than 15 calendar days after receipt of that decision except when the appellant shows that he/she or his/her representative was not notified of the prescribed time limit and was not otherwise aware of it, or that he/she or his/her representative was prevented by circumstances beyond his/her control from appealing within the prescribed time limit.

(d) An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the ARB. The Board's review will be made upon the existing record to determine if the agency decision is in accord with applicable law, Executive Order, or Civil Service rules, regulations, and instructions and is supported by substantial evidence.

§ 713.632 Reopening and reconsideration by the Commissioners.

The Commissioners may reopen and reconsider any previous decision of a Commission office on their own motion or at the request of either party in accordance with provisions of § 772.312(a)(1) of this chapter.

CIVIL ACTIONS

§ 713.641 Statutory right.

(a) An agent who has filed a complaint or a claimant who has filed a claim for relief based on race, color, religion, sex, and/or national origin discrimination is authorized to file a civil action in an appropriate U.S. district court:

(1) Within 30 calendar days of his/her receipt of notice of final action taken by his/her agency on a complaint or claim;

(2) After 180 calendar days from the date he/she filed a complaint or claim with his/her agency if there has been no decision on the complaint or claim;

(3) Within 30 calendar days of his/her receipt of the decision of the ARB on his/her appeal; or

(4) After 180 calendar days from the date he/she filed an appeal with the ARB, if there has been no ARB decision.

(b) An agent who has filed a complaint or a claimant who has filed for relief based on age discrimination, is authorized to file a civil action in an appropriate U.S. district court.

§ 713.642 Notice of right.

When the agent alleges that the agency discriminated against a class on the basis of race, color, religion, sex, national origin, and/or age, or a claimant files for relief, the agency or the Commission shall notify him/her of his/her right to file a civil action in any final action on a complaint, or claim, under §§ 713.604, 713.612, 713.614, or 713.631.

§ 713.643 Effect on administrative processing.

The filing of a civil action by an agent or claimant does not terminate agency processing of a complaint or claim or ARB processing of an appeal under this subpart.

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

[FR Doc.77-5998 Filed 2-28-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Annual Implementing Regulations

On December 21, 1976, there was published in the FEDERAL REGISTER (41 FR 55539) a notice of proposed regulations for the Summer Food Service Program for Children, established by section 13 of the National School Lunch Act, as amended by Pub. L. 94-105, enacted October 7, 1975. Annual regulations are required by subsection (f) of that section. Interested persons were given until January 14, 1977 to submit comments, suggestions, or objections regarding the proposed regulations. All communications received by January 21, however, were evaluated and considered in the formulation of final regulations.

One hundred and twenty-six communications were received. The comments, suggestions and objections made in such communications have been considered and the following changes from the proposed regulations have been made.

Many respondents objected to the deletion of the provision permitting the use of start-up funds. As indicated in the preamble to the proposed regulations, the Department removed this provision because of a lack of ultilization during last summer. Most of the comments on this matter suggested that last year's experience with start-up funds was inadequate for purposes of making such a determination. The Department is sympathetic with this argument and is, therefore, once again providing for the use of these funds (§ 225.12(b)).

Many respondents also objected to several proposed requirements dealing with the payment of advance funds to sponsors by State agencies (§ 225.13). Specifically, a number of respondents suggested that the Department would be acting improperly in requiring that sponsors request each payment of advance funds. As suggested in the preamble to the proposed regulations, the Department feels that there is need for adequate controls over these funds. Automatic payments of advance funds fails to consider the mechanics of making such payments, as well as the advisability of doing so in a program that often is affected by changes in the number of participating children and sites and by other variables which are not always easily foreseen. These advance payment requests are envisioned more as an ongoing administrative tool rather than a simple request form. Similarly, objections were raised concerning the July 15 and August 15 advance fund payment dates. Under the existing regulations, State agencies are obliged to make advance payments to sponsors on the first days of June, July and August. Because of this requirement, State agencies must frequently make advance payments for July with little information with which to evaluate a sponsor's actual operations and compare it with that which has been projected. The State agency's responsibility to review large sponsors (10 or more sites) (§ 225.5(a)(2)) generally covers the first four weeks of Program operations. For the most part, this period covers the last week or weeks in June and the first few weeks in July. Program information generated by these mandatory State agency reviews and that supplied by sponsors cannot be evaluated and translated into appropriate

adjustments in the amount of advance payments to individual sponsors by July 1. The Department feels that an additional 15 days will enable State agencies to more thoroughly perform appropriate administrative tasks.

Some respondents suggested that emphasis should be placed on thoroughly evaluating sponsors as part of the approval process and, assuming such a thorough evaluation, the automatic payment of advance funds on the first of the month should create few, if any, problems. The Department agrees that a thorough sponsor evaluation is an absolutely essential ingredient in the sponsor approval process. It presumes such activity as evidenced by the fact that the June 1 payment date remains the same. As previously suggested, however, this Program by its very nature requires close, ongoing scrutiny.

A number of respondents questioned the 65 percent maximum placed on the amount of advance funds payable to sponsors (§ 225.13(d)). Final regulations allow for advance payments to each sponsor equal to the greater of Program payments made to the sponsor in the same month last year or 65 percent of the amount the State agency estimates will be needed by the sponsor for each month in which advance funds are payable.

A sizeable number of respondents expressed concern over the 6 p.m. deadline for serving suppers (§ 225.10(a)). Many residential camps do not serve suppers until after six in an effort to fully utilize the daylight hours for recreational activities. Therefore, the regulations now provide for residential camps to be exempted from this requirement.

Several respondents expressed concern about the requirement that sponsors provide a year-round service to the community (§ 225.9(a)(3)). While for the most part they agreed that it was a good requirement, they felt that it might eliminate participation of residential camps and programs for the children of migrant workers which might find it difficult to meet such a requirement. Therefore, final regulations exempt these two groups from the requirement, recognizing their seasonal nature and that they are generally allied with organizations which do provide ongoing services to the community. In addition, final regulations address the concerns of several respondents when they allow participation by sponsors which do not provide a year-round service where eligible areas would not otherwise have a program available (§ 225.4(h)).

Several respondents objected to the requirement that a health certification for each site be submitted prior to approval. It was felt that health departments would not be able to do this work in the time allowed. Therefore, in lieu of that requirement, final regulations require that a copy of a letter submitted to the health department be provided to the State agency at the time of the application. Such a letter must include, at a minimum, a statement that the sponsor plans to provide a food service under the Program at specified times and at specified locations (§ 225.9(h)).

A number of respondents expressed concern that limiting sponsors to serving 50,000 children or operating 200 sites could in some instances be counterproductive. It was pointed out that there are several sponsors which have run successful programs of a larger size than the proposed maximums. Therefore, the final regulations retain these limitations but allow for approval in excess of these figures when, after a careful evaluation of all aspects of a sponsor's capabilities, a State agency determines that the sponsor can manage a program of a larger size (§ 225.4(e)).

A large number of respondents felt that the requirement that sponsors and food service management companies obtain performance bonds was unreasonable and would prohibit many small sponsors and food service management companies from participating. Final regulations contain no requirement for sponsor bonding but retain modified food service management company bonding requirements. Specifically, food service management companies wishing to submit a bid for food service under the Program must obtain a bid bond of 5 to 10 percent (the amount to be determined by the sponsor) (§ 225.11(e)) and a performance bond in an amount set by the State agencies but in no case less than 10 percent (§ 225.11(f)).

Several respondents raised the issue of the service of second meals to children, noting that the Department has in the past never issued any definitive policy in this regard. The Department views the Summer Food Service Program as a substitute for the National School Lunch and School Breakfast Programs which should provide continuity in the service of nutritious, well-balanced meals to needy children who are on school vacation. Accordingly, consistent with the policy in effect in those other programs, the Department sees the intent of the Summer Food Service Program to provide one meal per child at each meal service. In the past, the Department has paid reimbursement for the service of second meals where they have been limited in number and might otherwise be wasted. It seems reasonable to continue this practice, since the Summer Food Service Program is affected by many variables not found in the other child nutrition programs. Accordingly, subsection (f) has been added to § 225.12. However, as set forth in that subsection, when it becomes apparent that the service of excess meals is the rule, rather than the exception, sponsors should reduce the number of meals being prepared to more closely approximate the number of children being served. Repeated instances of uncontrolled meal preparation and service should be grounds for a determination by the State agency that reimbursement not be paid for excess meals.

A number of respondents expressed their concern that the regulations did not address the quality of food served under the Program. The point is well made that the Program will be less than successful if other than good quality food is served to children. Accordingly, final regulations (§ 225.5(q)) require State agencies to assist sponsors. It is contemplated that they will work through the standard sponsor/food service management contract and through technical assistance in order to develop specifications for food components of the meal patterns to ensure standards of quality for food.

The comments of several respondents indicated that clarification of various issues was appropriate. It was apparent that the provision to establish eligibility on an individual child basis rather than on an area basis (§ 225.9(f)) was interpreted by some as having universal application. The intent of extending this provision for eligibility beyond the residential camps to which it applied last year is to alleviate the problem encountered by sponsors which bring together needy children from a number of areas for participation in recreational or cultural activities. These sponsors have had difficulty establishing eligibility based on area served. All sponsors, other than the sponsors serving enrolled children referred to and residential camps, must establish eligibility on the basis of the area served by each of its sites.

A number of respondents requested clarification of the institutional priority system for approval of sponsors (§ 225.4(g)). Final regulations make it clearer that this provision is intended to be used only where more than one sponsor proposes to serve the same areas or the same children. In addition, the priority list in final regulations reflects the comments that on-site preparation should be given primary consideration, along with one-site operations.

Many commenters, addressing provisions such as requiring State agencies to establish minimum criteria for sponsor approval (§ 225.4(a)), requiring State agencies to establish application deadline dates (§ 225.5(g)) and allowing sponsors to appeal non-approval determinations (§ 225.4(b), § 225.5(u)), suggested that the Department should review all such decisions, policies, and procedures. The Department feels that the delegation of such responsibilities is consistent with the law which contemplates local administration of the Program. It is felt that the Program can be more effectively administered when a more intimate knowledge of local conditions exists. In turn, it is expected that greater local control will make a State agency more sensitive to Program goals as well as the needs of Program beneficiaries.

One respondent noted that there was no vehicle in proposed regulations, other than the information provided on the site information sheet, by which State agencies can accurately evaluate the capability of a site to handle the food

service proposed. Program experience shows that this is an area to which additional administrative attention should be paid. Many administrative site reviews conducted during prior Program years have made it clear that information concerning sites provided by sponsors was often inaccurate or misleading. Such sites were frequently tied to excessive meal orders, wasted food, unsanitary conditions and limited the possibilities for supervisory control.

Recognizing the need for additional administrative control in this regard, and in recognition of the fact that the great majority of cases where this a problem are associated with urban sites, the final regulations (§ 225.5(n)) require a preapproval site visit by State agency personnel to non-school sites located in urban areas with a public school enrollment of more than 75,000. The visit is envisioned as a visual inspection of the site for the purpose of assessing its capacity and adequacy for the proposed food service.

In addition, the Department feels that the State agency administrative review responsibility covering sponsors which operates 10 or more sites (§ 225.5(a)(2)) is inadequate in the monitoring of large urban programs. Accordingly, an additional provision has been added to that paragraph that requires State agencies which will receive over $250,000 in State administrative funds to review all sites located in cities with more than 75,000 public school enrollees and operated by sponsors having 10 or more sites.

It is appropriate in this preamble to note that, based on several comments received, the Department is requiring State agencies to include a statement on the Program application form, on the site information sheet, on the request for advance funds and on the Claim for Reimbursement by which the individual signing those forms acknowledges an understanding of the fact that deliberate misrepresentation may be grounds for prosecution under applicable State and Federal laws (§ 225.5(t)).

Accordingly, this Part 225 is revised and reissued as follows:

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—State Agency Provisions

225.4 Criteria for approval of sponsors and sites.
225.5 Responsibilities of State agencies.
225.6 Payments to State agencies and use of Program funds.
225.7 Distribution and use of State administrative funds.
225.8 Program management and administration plan.

Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10 Food service requirements.
225.11 Food service management companies.
225.12 Program payments.
225.13 Program payment procedures.
225.14 Claims against sponsors.

Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Other provisions.
225.18 Program information.

AUTHORITY: Sec. 13, Pub. L. 94-105, 89 Stat. 515 (42 U.S.C. 1761); secs. 7, 8, Pub. L. 91-248, 84 Stat. 211, 212 (42 U.S.C. 1759a, 1779)

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program for Children to assist States through grants-in-aid and other means to initiate, maintain and expand nonprofit food service programs for children during the summer months and at other approved times. The food service to be provided under the Program is similar to that provided under the National School Lunch and School Breakfast Programs and is intended to serve as a substitute for those programs for children who are on school vacation, except that it is primarily directed toward children from needy areas. Participating sponsors should be established organizations, experienced in the administration of public service programs, committed to the welfare of the people and based in the area which they serve. They should be able to provide a food service in a suitable, controlled setting and, where possible, integrate the food service into a cultural or recreational program for children.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative cost" means Program cost incurred by a sponsor related to planning, organizing, and managing a food service under the Program (excluding interest cost).

(c) "Area" means the geographic area from which a site draws its attendance.

(d) "Areas in which poor economic conditions exist" means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program.

(e) "CND" means the Child Nutrition Division of the Food and Nutrition Service of the Department.

(f) "Children" means persons 18 years of age or under.

(g) "Cost of obtaining food" means cost related to obtaining agricultural commodities and other food for consumption by children. Such cost may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school or school district are on a vacation for periods of 15 continuous school days or more during the period October through April.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commercial enterprise which is or may be contracted with by a sponsor to manage, or to prepare, or to deliver, or to serve, or any combination thereof, unitized meals, with or without milk, for children.

(n) "Income accruing to the program" means all monies (other than Program payments) received by a sponsor for use in its food service program from Federal, State, intermediate, or local governments; from food sales to adults; and from any other source, including cash donations or grants.

(o) "Meals" means food which is served to children during their attendance at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of flavored or unflavored 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, reconstituted or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for each milk.

(q) "Needy children" means children from families whose income is not above the Secretary's income poverty guideline.

(r) "Net program cost" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances of equipment and space, and (5) administrative cost, but excluding the cost of the purchase of land, acquisition or construction of buildings, or alteration of existing buildings and excluding interest cost and the value of in-kind donations; less income accruing to the Program.

(s) "OA" means the Office of Audit of the Department.

(t) "OI" means the Office of Investigation of the Department.

(u) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(v) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(w) "Program funds" means financial assistance made available to State agencies for the purpose of making Program payments.

(x) "Program payments" means financial assistance in the form of start-up or advance payments or reimbursement paid or payable to sponsors for net Program costs.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(aa) "Sponsor" means a nonresidential public or private nonprofit institution or a residential public or private nonprofit summer camp that conducts, during the months of May through September, a regularly scheduled program for children at site locations where organized recreational activity or food service are provided (referred to in the Act as "service institution").

(bb) "Start-up funds" means funds made available to a sponsor to enable it effectively to plan a food service under this part and to establish efficient management procedures therefor.

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

(dd) "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.

§ 225.3 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, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the Program to any sponsor in the State. FNSRO shall, in the States in which it administers the Program, assume all of the responsibilities of State agencies set forth in this part.

(c) 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 by consent of the parties.

Subpart B—State Agency Provisions

§ 225.4 Criteria for approval of sponsors and sites.

(a) The State agency shall establish criteria for approval of sponsors under the Program, and shall determine the eligibility of sponsors applying for participation in the Program. At a minimum, those criteria shall include the basic sponsor eligibility criteria outlined in § 225.9(a).

(b) The State agency shall not approve the application of any sponsor, identifiable through its corporate or other organization, or otherwise, as a sponsor which participated in the Program during any previous fiscal year and which was seriously deficient in its Program operations. Prior to issuance of a final decision regarding nonapproval under this paragraph, the State agency shall inform applicants of the opportunity for a review, as provided in § 225.5 (u) of this part. Deficiencies which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Non-compliance with the applicable bid procedure and contract requirements as outlined in Program regulations;

(2) The submission of false information to the State agency;

(3) Failure of the sponsor to return to the State agency any start-up or advance funds which exceeded the amount earned by the sponsor for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year;

(4) Program violations at a significant proportion of the sponsor's food service sites which include, but are not limited to, the following:

(i) Non-compliance with the between-meal time requirements,

(ii) Failure to maintain adequate records,

(iii) Failure to adjust meal orders to conform to variations in the number of participating children,

(iv) The simultaneous service of more than one meal to each child,

(v) The claiming of Program reimbursement for meals served to adults,

(vi) Failure to serve meals which include required quantities of all meal components,

(vii) Repeated instances of off-site meal consumption,

(viii) Continued use of food service management companies with health code violations.

(c) The State agency shall develop, in accordance with the requirements of this part and such other guidance as may be furnished by the Department, a site information sheet, on which applicant sponsors shall provide, for each site at which a food service is proposed, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing them until they are served;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographical area to be served by the site;

(7) The extent to which the site draws attendance from an area in which poor economic conditions exist or, if applicable under § 225.9(f), that at least one-third of the children enrolled in each session of operation are eligible for free or reduced price school meals.

(d) The State agency shall, when evaluating proposed sites, ensure that:

(1) The area served by the proposed site is one in which poor economic conditions exist; or, if applicable under § 225.9(f), that at least one-third of the children enrolled are eligible for free or reduced price meals.

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served or the number enrolled.

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the area and that the total number of meals, by type, served to children at all sites will not exceed the number of children residing in the area.

(e) The State agency shall not approve any site with a proposed average daily attendance of more than 300 children until the State agency visits each such site to evaluate its capability of serving the number of children expected. No sponsor shall be approved to operate more than 200 sites and no sponsor shall be approved to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size. The State agency shall not allow any sponsor to circumvent these limitations. Sponsors which document site eligibility on the basis of enrolled children shall be approved for the service of meals only to children enrolled.

(f) The State agency shall not approve the service of more than one meal per day at any food service site unless each type of meal is delivered separately within one hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(g) The State agency shall use the following order of priority in determining the sponsorship of sites which propose to serve the same area:

(1) Sponsors which operate only one site,

(2) Sponsors which prepare meals on-site,

(3) Public or nonprofit private schools with food service facilities,

(4) Public or nonprofit private sponsors which utilize local school food facilities for the preparation of meals,

(5) Other public or nonprofit private sponsors which have demonstrated ability for successful program operations

based on prior Program participation and which provide an organized activity for children,

(6) Other sponsors which have demonstrated ability for successful Program operation.

(h) State agencies may approve the application of an otherwise eligible sponsor which does not provide a year-round service to the community which it proposes to serve under the Program, only when a failure to do so would deny the Program to an eligible area or eligible enrolled group.

§ 225.5 Responsibilities of State agencies.

(a) *Program assistance.* Each State agency shall provide Program assistance as follows:

(1) Each State agency shall provide consultative, technical, and managerial personnel to administer the Program and monitor performance and to measure progress towards achieving Program goals. Such personnel shall be available in sufficient time to properly plan and implement the Program.

(2) Program assistance shall include visits prior to the approval of the application, to all applicants which have not previously participated in the Program and to all applicants which will receive more than $50,000 in Program payments, and reviews, during the first 4 weeks of operation, of all approved sponsors which operate 10 or more sites, and of 15 percent of the sites of such sponsors, 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. In addition, each State agency which expects to receive more than $250,000 in State administrative funds shall conduct reviews, during the first 4 weeks of operations, of all sponsors which operate 10 or more sites and all of the sites of such sponsors which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title), issued under title IV of the Civil Rights Act of 1964. In addition, all State agencies shall review 80 percent of the remaining sponsors and 10 percent of the food service sites of such remaining sponsors at least once during the period of the Program agreement.

(3) Documentation of Program assistance shall be maintained on file by the State agency.

(b) *Accounting procedures for sponsors.* Each State agency shall establish accounting practices under which sponsors shall report the information required in this part. The system shall be such as to permit determination of the operating balances available to sponsors.

(c) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a Claim for Reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(d) *Sponsor/food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors and food service management companies as provided for in § 225.11, unless prohibited by State law.

(e) *Advance and start-up payment procedure.* Each State agency shall establish a procedure and inform sponsors of the procedure whereby they may apply for advance Program payments as provided for in § 225.13 and, where applicable, each State agency shall establish a procedure and inform sponsors of the procedure whereby they may apply for start-up funds provided for in § 225.12.

(f) *Use of school food service facilities.* State agencies shall make a positive effort to encourage the use of school food service facilities to the maximum extent feasible in the preparation, service and delivery of meals under the Program.

(g) *Application deadline date.* Each State agency shall establish a date by which all sponsors wishing to participate in the Program shall submit a written application: *Provided, however,* That State agencies may approve the application of an otherwise eligible sponsor submitted after the date established by the State agency, when the failure to do so would deny the Program to an eligible area or eligible enrolled group.

(h) *Meal service restriction.* A State agency shall immediately restrict to one meal service per day any site determined to be in violation of § 225.10(a) and all sites under a sponsor if more than 10 percent of the sponsor's sites are determined to be in violation of § 225.10 (a).

(i) *Plentiful foods.* State agencies shall provide sponsors with information on foods available in plentiful supply, including those so designated by the Department.

(j) *Records and reports.* (1) Each State agency shall maintain current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and expenditures for operating costs. 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 any issues raised by the audit. (2) Each State agency shall report information on the use of Program funds and on Program operations to FNS on forms provided by FNS, as instructed by FNS.

(k) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. The Department shall make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(l) *Commodity distribution information.* A list of sponsors which are to receive food commodities, with accompanying information on the average daily number of meals to be served by such sponsors, shall be prepared not later than June 1 of each year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at their sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the Program. If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, this information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodities for use by sponsors shall be summarized and announced by the State agency at an early date prior to the development of menu cycles.

(m) *Training.* The State agency shall provide training for the supervisory personnel of all sponsors, at locations convenient to the areas of operation, prior to the opening of the Program and shall assist sponsors in training site personnel.

(n) *Site visits prior to approval.* The State agency shall, prior to approval, visit each proposed non-school site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(o) *Procurement provisions.* State agencies shall require sponsors to adhere to the procurement provisions set forth in § 225.15.

(p) *Management evaluations and audits.* (1) Each State agency shall ensure that the requirements of § 225.9 are met and shall provide sponsors whose total Claims for Reimbursement will exceed $50,000 with an audit guide to be used in the conduct of the audit required by § 225.9(i) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(i). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department.

(2) Each State agency shall provide for audits of all sponsors not covered under § 225.9(i) to be made with reasonable frequency. The audits may be made by State agency internal auditors, State Auditors General, State Controllers, or other comparable State audit groups, or by certified public accountants.

(3) Each State agency shall coordinate its monitoring review findings under § 225.5(a)(2) and the audit reports provided for under § 225.9(i).

(4) While OA shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on a Statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OA with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency under this part. Each State agency shall make available its records, including records of the receipt and expenditure of funds upon a reasonable request by FNS or OA. OA shall also have the right to make audits of the records and operations of any sponsor.

(6) 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.

(7) 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 State agency administered programs, does not exceed the amount established under State law, regulations or procedure as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for 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.

(q) *Food quality assistance.* Each State agency shall assist sponsors in the development of food specifications to ensure the purchase of quality food for use in the Program.

(r) *Food service management company monitoring and registration.* Each State agency shall have a responsibility to monitor food service management company facilities during the operation of the Program and may require that all food service management companies that wish to contract for food service with any sponsor in the State must register with the State agency.

(s) *Bid opening monitoring.* Each State agency shall have a representative present at the bid opening of all sponsors which expect to receive more than $100,000 in Program payments.

(t) *Sponsor certifications.* Each State agency shall require sponsors submitting a Program application, site information sheets, requests for advance fund payments and Claims for Reimbursement to certify that the information submitted on those forms is true and correct and that the sponsor is aware that deliberate misrepresentation may result in prosecution under applicable State and Federal statutes.

(u) *Sponsor review procedures.* Each State agency shall inform applicants of the procedure to be used to obtain a review by an official other than the one directly responsible for the original determination, of a denial by the State agency of an application for Program participation or a denial by the State agency of a sponsor's advance Program payment or Claim for Reimbursement. Pending the outcome of a review of a denial of an application for Program participation, the State agency shall proceed to approve other applicants without regard to the application under review, and the outcome of the review shall not affect the State agencys' responsibilities under § 225.4(d).

(v) *Advance payment estimates.* Each State agency shall, when determining the amount of advance Program payments payable to each sponsor under § 225.13(d), make a thorough analysis of the estimates submitted by such sponsor and other data available to the State agency and based on this analysis develop reasonable estimates upon which advance payments may be made.

(w) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements which are not inconsistent with the provisions of this part.

§ 225.6 Payments to State agencies and use of Program funds.

(a) Not later than May 1, June 1 and July 1 of each fiscal year the Secretary shall make available to each State Agency by Letter of Credit an advance payment of Program funds for meals to be served under the Program in the following month in an amount no less than the total payment made to the State agency for meals served in the same calendar month of the preceding calendar year or 65 per centum of the amount estimated by the State agency on the basis of approved applications, to be needed to reimburse sponsors for meals to be served in the following month, whichever is the greater. For sponsors who operate under a continuous school calendar, the Secretary shall make advance payments of Program funds to State agencies in an amount of 65 per centum of the amount estimated to be needed by such sponsor within the State by Letter of Credit on the first day of the month prior to the month during which the food service will be conducted. The Secretary shall make available any remaining Program funds due no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days shall be deducted from the next monthly advance payment to the State unless the State requests a hearing with the Secretary prior to the 180th day.

(b) Program funds shall be used by State agencies to make Program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(c) Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(d) The State agency may, with the approval of FNS, use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year.

§ 225.7 Distribution and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the Program, an amount equal to 2 percent of the total Program funds disbursed to the State: *Provided, however,* That no State shall receive less than $10,000 for any fiscal year unless the funds distributed to that State for that fiscal year total less than $50,000.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for administrative expenses set forth in their Program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 in an amount not to exceed one-third of 2 percent of the Program funds properly payable to such State agency under the Program in the fiscal year immediately preceding the fiscal year for which this initial allocation is being made, or one-third of $10,000, whichever is applicable. For States which did not receive any Program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan provided for in this part. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of 2 percent of the Program funds estimated to be needed for Program payments, or three-fourths of $10,000, whichever is applicable. The balance of the State administrative funds needed by a State, not to exceed 2 percent of the Program funds paid or estimated to be payable to the State for the current fiscal year, or $10,000 whichever is applicable, shall be paid to the State not later than July 15 of each fiscal year.

(e) Each State agency shall report to FNS information on the use in the prior fiscal year of Program funds and State

administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall then make any payment or adjustments necessary prior to February 15 of each fiscal year.

§ 225.8 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNS for approval, a Program management and administration plan for that fiscal year. Approval of the plan by FNS shall be a prerequisite to the payment of Program funds, or to the donation by the Department of any commodities for use in the Program. The plan shall include as a minimum:

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children.

(2) Estimated number of sponsors eligible to participate and estimated number of sites and average daily attendance.

(3) Estimated number of sponsors expected to participate and estimated number of sites and average daily attendance.

(4) Estimated number of sponsors which will receive $50,000 in Program payments and average daily attendance.

(5) Estimated amount of Program funds by month needed for Program payments.

(6) Estimated amount of State funds needed to operate the Program.

(7) Number of sponsor training sessions planned and number of reviews planned.

(8) The State agency budget by month on the use of Program and State administrative funds available under the Program including, but not limited to, staffing (part-time and full-time), salaries, travel, and per diem.

(9) The actions to be taken by the State agency to maximize the use of school food service facilities.

(10) The actions to be taken by the State to ensure that sites at which a Program food service is planned serve areas or children of economic need.

(11) The actions to be taken by the State to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15).

(12) The State's plan for meeting its audit and monitoring responsibilities.

(13) Data on the number of sponsors who participated in the prior fiscal year and number of reviews and audits performed as well as a detailed breakdown of how State administrative funds made available to the State under the Program were spent.

(14) Quantitative description of present service to needy children and future plans, including sponsor priority criteria, for reaching needy children not being served.

(15) The State's plan for determining the amounts and timing of advance payments to sponsors.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of receipt of the plan shall be afforded to make such comments.

(c) Significant changes in any portion of a Program plan shall be submitted for approval to FNS in the form of an amendment to the plan.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) No sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service;

(2) Has adequate supervisory and operational personnel for overall monitoring and management of each food service site including adequate personnel to visit all food service sites at least once in the first week of operation under the Program and to take promptly such actions as are necessary to correct deficiencies found at the time of the initial visit, and to review food service operations at every site at least once during the first four weeks of Program operations, and thereafter to maintain a reasonable level of site monitoring;

(3) Provides an ongoing year-round service to the community which it proposes to serve under the Program, unless it is a residential camp or a sponsor which provides a food service for the children of migrant workers or the only sponsor available to serve an eligible area or eligible enrolled group;

(4) Agrees to maintain and has the capability of maintaining children on site while meals are consumed;

(5) Certifies that all sites where it plans to conduct a food service have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(6) Is a public or private nonprofit entity;

(7) Provides documentation that its activity or food service serves an area in which poor economic conditions exist or, if applicable under § 225.9(f), documentation on an individual child basis that at least one-third of the children enrolled in each session of its operation are eligible for free or reduced price school meals;

(8) Agrees to hold training sessions for its own personnel and site personnel with regard to Program duties and responsibilities, and to allow no site to operate until its personnel have attended such training sessions;

(9) Agrees to provide for an audit to be performed by an independent certified public accountant on its food service under any Program agreement for which it will receive over $50,000 in Program payments and to submit to the State agency a copy of the letter of engagement with an accounting firm or individual which is to conduct the audit.

(b) Sponsors shall, not later than the deadline date for applications established under § 225.5(g), make written application to the State agency for participation in the Program as sponsors.

(c) Each sponsor shall submit, as part of the application, a site information sheet, as developed by the State agency, for each site where a food service operation is proposed.

(d) Applications shall include information in sufficient detail to enable the State agency to determine whether the sponsor meets the criteria for participation in the Program established by the State agency in accordance with § 225.4(a) and the extent of Program payments needed. In addition, all applicants planning to operate 10 or more food service sites shall include a management plan for review and approval by the State agency. Such a plan shall include the sponsor's budget and staffing plan.

(e) Each sponsor applying for participation in the Program shall submit to the State agency, along with its application, a plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.11, and a copy of its letter of engagement of a certified public accountant, if required under paragraph (i) of this section.

(f) Each sponsor shall submit, along with its site information sheet, documentation supporting the eligibility of each site as serving an area where poor economic conditions exist except that residential summer camps and nonresidential public or nonprofit private sponsors, which offer a regularly scheduled organized cultural or recreational activity to enrolled children for whom a daily attendance register is maintained, may instead submit with the site information sheet family-size income information which documents that at least one-third of all children enrolled in each session are eligible for free or reduced price school meals. Information on each session must be submitted at least 14 calendar days prior to the opening of the session or at such time as specified by the State agency.

(g) Sponsors selected for participation in the Program shall enter into written agreements with the State agency, or in those States in which FNSRO administers the Program, sponsors shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service for children on school vacation during the months of May through September or during the months of May through September and at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as

the meal service period by the sponsor;

(3) Serve meals without cost to all children only at sites approved for participation in the Program;

(4) Make no discrimination against any child because of race, color or national origin and make a statement to this effect available to the local news media;

(5) Claim reimbursement only for the type or types of meals specified in the agreement served to children at approved sites during the approved meal service period;

(6) Submit Claims for Reimbursement in accordance with procedures established by the State agency;

(7) Maintain, in the storage, preparation and service of food, proper sanitation or health standards in conformance with all applicable State and local laws and regulations;

(8) Purchase, in as large quantities as may be efficiently utilized in the Program, foods designated as plentiful by the State agency or the Department;

(9) Accept and use, in as large quantities as may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing and serving food;

(11) Maintain a financial management system as prescribed by the State agency;

(12) Maintain on file documentation of site visits;

(13) Upon request, make all accounts and records pertaining to the Program available to the State agency and to FNS for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of three years after the end of each fiscal year, 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 any issues raised by the audit.

(h) Sponsors selected for participation in the Program shall submit evidence to the State agency within 15 days of selection that they have advised the appropriate health department of their intention to provide a food service during a specific period at specific sites. Such evidence shall be in the form of a letter to the health department.

(i) Each sponsor whose total Program payments under any Program agreement are expected to exceed $50,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims by an independent certified public accountant. The sponsor's final Claim for Reimbursement under the agreement shall not be eligible for reimbursement until the audit has been completed and the results have been reviewed by the State agency. In addition, all such audits shall be subject to review by the Department. The costs of the audit may be considered an administrative cost.

(j) In no case shall reimbursement be claimed under Parts 210, 215, 220, or 226 of this chapter, or any other Federally funded program for meals served under the Program.

(k) Each sponsor shall, to the maximum extent feasible, utilize existing school food service facilities or obtain meals from a school food service facility, and the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(l) Sponsors shall operate their food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or by the State agency which are not inconsistent with the provisions of this part.

§ 225.10 Food service requirements.

(a) Meals which may be served under the Program shall be limited to breakfast, lunch, supper and supplemental food served between such other meals, except that supplemental food shall not be approved if the sponsor also participates in the Special Milk Program (7 CFR Part 215). Three hours shall elapse between the beginning of one meal service or supplement and the beginning of another, except that four hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 6:00 p.m. None of the preceding time restrictions of this paragraph shall apply to residential camps. The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals. No sponsor shall be approved for more than two supplements a day. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Each sponsor shall serve the type or types of meals provided for in its agreement with the State agency.

(b) Except as otherwise provided in this section and any appendices to this part, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both, or full strength fruit or vegetable juice,

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) Lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry or fish; or two ounces of cheese; or one egg; or one-half cup of cooked dry beans or peas; or four tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods. To be counted in meeting this requirement, these foods must be served as a main dish or in a main dish and one other menu item,

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement.

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, roll, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall include:

(i) One-half pint (1 cup) of milk or 8 fluid ounces of full-strength fruit or vegetable juice or 1 cup of fruit or vegetable, or an equivalent quantity of any combination of these foods,

(ii) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(c) The quantities of food specified in subparagraphs (1) and (2) of paragraph (b) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor can demonstrate to the satisfaction of the State agency that it has the capability of controlling portion size so as to ensure that variations in portion size are in accordance with the age levels of the children served.

(d) If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery thereof, the State agency may approve the service of breakfasts, lunches, suppers or supplemental food without milk during the emergency period.

(e) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency may approve the service of meals without milk: *Provided*, That an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency may approve the use of nonfat dry milk by residential summer camps in meals served to children participating in camp sponsored activities which make the service of fluid milk impracticable. Such authorization should stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(f) In American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands, the fol-

lowing variations from the meal requirements are authorized: A serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings or noodles may be substituted for the bread requirement.

(g) Substitutions may be made by sponsors in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(h) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(i) The State agency shall approve, upon request by a sponsor, the service of meals under the Program to children under 1 year of age. Sponsors approved for this type of meal service shall be required by the State agency to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

§ 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company (or other commercial enterprise) for the preparation of unitized meals, with or without milk. Any sponsor may employ a food service management company to operate its entire food service: *Provided, however*, That a sponsor that so employs a food service management company shall remain responsible for seeing that the food service operation is in conformity with its agreement with the State agency. Any sponsor whose contract with a food service management company will exceed $10,000 in value shall use a competitive bid procedure in the selection of the food service management company. Any sponsor entering into a contract with a food service management company shall use the standard form of contract developed by its State agency, shall adhere to the procurement standards set forth in § 225.15 and shall follow applicable State or local laws governing bid procedures. In addition, sponsors shall, at a minimum, when advertising for bids adhere to the following requirements:

(1) The invitation to bid shall not specify a minimum price;

(2) The invitation to bid shall contain a cycle menu upon which the bids shall be based;

(3) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are to meet the needs of the children to be served;

(4) The invitation to bid shall not provide for loans or any other monetary benefit for term or condition to be made to sponsors by food service management companies;

(5) Non-food items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(6) A copy of the health certification required in this section shall be submitted by the food service management company with each bid;

(7) Sponsors shall submit to the State agency copies of all bids received and the reason for selecting the food service management company chosen;

(8) All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. All bids in an amount which exceeds the lowest bid by more than two (2) cents per meal shall be submitted to the State agency for approval before acceptance. State agencies shall respond to such requests for approval within 5 working days of receipt;

(b) The sponsor/food service management company contract shall expressly and without exception provide that:

(1) The sponsor shall provide the food service management company with a list of approved food service sites and shall update the list as needed;

(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report thereon to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program and it shall ensure that all health and sanitation requirements are met at all times;

(4) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for a period of 3 years from the date of receipt of final payment under their contract with the sponsor for inspection and audit by representatives of the State agency, of the Department, and of the United States General Accounting Office at any reasonable time and place;

(5) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(6) Increases and decreases in the number of meal orders may be made by the sponsor, as needed, within a period of prior notice mutually agreed upon;

(7) No payment shall be made for meals that do not meet nutritional requirements, are spoiled or unwholesome at time of delivery, or do not otherwise meet the requirements of the contract;

(8) All meals shall meet the requirements of § 225.10;

(9) Nonperformance shall subject the food service management company to specified sanctions.

(c) Each proposed additional provision to the standard form of contract shall be submitted to the State agency for approval.

(d) Copies of all contracts between sponsors and food service management companies along with a certification of independent price determination shall be submitted to the State agency prior to the beginning of Program operations.

(e) Each food service management company which submits a bid under the Program shall obtain a bid bond in an amount not less than five (5) per centum nor more than ten (10) per centum, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(f) Each food service management company which enters into a food service contract with a sponsor under the Program shall obtain a performance bond in an amount equal to a specific percentage of the value of such contract. Such specific percentage shall be determined by the State agency, but in no case shall be less than ten (10) percent. Sponsors shall require the food service management company to furnish a copy of the bond within 10 days of the awarding of the contract.

(g) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.17(b).

§ 225.12 Program payments.

(a) Program payments shall be made to sponsors only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No Program payments shall be made for meals served at a food service site before the sponsor has received written notification of approval for said food service site from the State agency.

(b) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up funds not earlier than 2 months before beginning food service operations. For sponsors which received Federal funds under the Program during the preceding fiscal year, start-up funds shall not exceed 1 per centum of the amount received. For sponsors which did not receive Federal funds under the Program during the preceding fiscal year, start-up funds shall not exceed 1 per centum of the amount estimated by the State agency to be needed for Program operations during the current fiscal year. Start-up funds shall be deducted from subsequent payments made to the sponsor for allowable administrative costs.

(c) Program payments shall be made to any sponsor in whichever of the following amounts is the lesser: The net Program cost, or 92.50 cents for a lunch or supper, of which 6.75 cents may be used only for administrative cost; 51.25 cents for a breakfast, of which 3.50 cents may be used only for administrative cost; and 24.25 cents for supplemental food, of which 1.75 cents may be used only for administrative cost. In no event may Program payments include administrative cost in excess of 6.75 cents

for a lunch or supper, 3.50 cents for a breakfast or 1.75 cents for supplemental food. The last Claim for Reimbursement at the end of the sponsor's food service operation may be paid at rates in excess of the aforementioned rates: *Provided however*, That the total Program payments paid to a sponsor do not exceed the lesser of (1) rates times total meals, by type, served to children during the Program operation, or (2) the net program cost.

(d) The Secretary shall prescribe, by March 1 of each fiscal year, an adjustment to the nearest one-fourth cent in the reimbursement rates set forth in paragraph (c) of this section, to reflect changes for the preceding year ending January 31, in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(e) Sponsors who wish to claim only for the cost of obtaining food shall maintain accurate records to justify their food cost. In no instance shall Program payments for the cost of obtaining food exceed the per meal Program payment rates, minus the amount allowable for administrative costs.

(f) Sponsors shall plan for and prepare or order meals on the basis of participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals that are prepared or ordered may be served to children and may be claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service.

§ 225.13 Program payment procedures.

(a) To be reimbursed under this part, each sponsor shall submit to the State agency Claims for Reimbursement. Claims for Reimbursement shall be submitted monthly, at a minimum, but may be submitted more frequently, at the discretion of the State agency. Claims for Reimbursement shall be filed with the State agency by the 10th day following the period of operations covered by the Claim. Sponsors whose final period of operations is less than 10 days in duration shall submit a combined Claim covering the final period and the period immediately preceding the final period. Any Claim for Reimbursement not received by the State agency within 30 days after the close of the sponsor's food service operations may be disqualified from payment, except where the State agency determines that the Claim has been filed late because of circumstances beyond the control of the sponsor. Appropriate payments may be made if a valid Claim is subsequently submitted by a sponsor.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for Program reports. In submitting a Claim for Reimbursement, in addition to the certification requirements set forth in § 225.5(t), each sponsor shall certify that records are available to support the Claim.

(c) No later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance Program payments to each sponsor based upon receipt of a request for an advance Program payment from the sponsor no later than 30 days prior to the date for each advance payment: *Provided however*, That (1) the State agency shall not release the second month's advance Program payment to any sponsor which has not certified that it has held training sessions for its own personnel and the site personnel with regard to Program duties and responsibilities; and (2) no advance Program payment shall be made for any month in which the sponsor will operate under the Program for less than 10 days. Requests by sponsors for advance Program payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(d) Each month's advance Program payment shall be in an amount no less than the total Program payment, excluding any payments which may be part of a demand for recovery under § 225.14(a) or § 225.14(d), for meals served by such sponsor in the same calendar month of the preceding calendar year or 65 per centum of the amount established by the State agency to be needed by the sponsor for meals to be served in the month for which the advance is made, whichever is greater: *Provided, however*, That the advance Program payment shall in no case exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance is made. If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the period for which an advance payment has been made, the subsequent month's advance Program payment shall be withheld until such time as the State agency has received a valid claim. Program payments advanced to sponsors which are not subsequently deducted from a valid Claim for Reimbursement shall be repaid upon demand to the State agency. Sponsors may elect not to receive advance Program payments. Any interest earned on advance Program payments shall be returned to FNS.

§ 225.14 Claims against sponsors.

(a) State agencies shall disallow any portion of a Claim for Reimbursement and promptly recover any Program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowances or demand, and allow the sponsor full opportunity to submit evidence. If, in the determination of CND, a State agency has acted in conformity with the provisions of this part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect such overpayment.

(b) The 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 a 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 any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors, may be utilized, first, to make Program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of Claims for Reimbursement under the Program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(d) When FNSRO administers the Program with respect to sponsors and disallows a Claim for Reimbursement or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence or to resubmit a claim for any amount disallowed or demanded.

Subpart D—Miscellaneous Provisions

§ 225.15 Procurement provisions.

(a) All sponsors shall adhere to the following standards when procuring goods and services with Program payments for use in the Program.

(1) The sponsor shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Program funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which Program funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The sponsor, its officers, employees and agents, shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary

actions to be applied by the sponsor for violations of such standards by the sponsor's officers, employees or agent.

(2) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The sponsor should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the sponsor, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the sponsor. Any and all bids may be rejected when it is in the sponsor's interest to do so.

(3) All sponsors shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(i) Proposed procurement actions shall follow a procedure to assure the avoidance of 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.

(ii) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions 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 bidders/offerors shall be clearly specified.

(iii) Positive efforts shall be made by the sponsor 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 utilizing Program funds.

(iv) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by sponsors but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Contracts shall be made 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 or accessibility to other necessary resources.

(vi) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of the State agency.

(vii) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(viii) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(ix) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

(4) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(i) Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

(ii) All contracts in excess of $10,000 shall contain suitable provisions for termination by the sponsor including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe 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.

(iii) All contracts awarded by sponsors and their contractors having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(iv) Where applicable, all contracts awarded by sponsors in excess of $2,500 that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 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 workweek of 40 hours. Work in excess of the standard workday or workweek 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 workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(v) Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that 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 invention and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(vi) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the sponsor, 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 a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(vii) Contracts for amounts in excess of $100,000 shall contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations shall be reported to the Department and the Regional Office of the Environmental Protection Agency.

(5) For proposed contracts subject to a competitive bidding procedure sponsors shall also ensure that:

(i) All proposed contracts shall be publicly announced at least 14 days prior to the opening of bids;

(ii) The bids shall be publicly opened;

(iii) All bidders shall be notified at least five days prior to the opening of the bids of the time and place of the bid opening; and

(iv) The State agency is notified at least 15 days prior to the opening of the bids of the time and place of the bid opening.

(6) These standards do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority without recourse to the State agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the Program. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(7) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by that sponsor in accordance with § 225.17 (b).

§ 225.16 **Prohibitions.**

(a) As provided by the Act, the value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) As provided by the Act, expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

§ 225.17 **Other provisions.**

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of Federal Management Circular 74–7 of September 13, 1974, as amended, whichever is applicable.

(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 reasons for the termination, together with the effective date. A State agency, shall terminate a sponsor's participation in the Program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the Program. When participation in a program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may terminate the State agency's participation in the Program in whole, or in part, 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 the noncancellable obligations, properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in accordance with this paragraph.

§ 225.18 **Program information.**

Sponsors desiring information concerning the Program should write to the appropriate 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, FNS, 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, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Vahlsing Center, Robbinsville, New Jersey 08691.

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

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1823 Stout Street, Denver, Colorado 80202.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, Texas 75242.

(g) 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, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Program No. 10.559 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.

Dated: February 25, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-6203 Filed 2-28-77;8:45 am]

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

[Milk Order No. 2; Docket No. AO–71–A72]

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Order

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 the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* 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 governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 New York-New Jersey marketing area.

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

oper. 31-10 j. 90-000 folio 88 mach. 71

(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.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations spe-

cified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1002.50a, the introductory text and paragraph (a) are revised to read as follows:

§ 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives milk during any month from a cooperative association of producers which is also a handler but which does not operate the plant or the unit receiving the milk from producers shall pay the cooperative association on or before the 19th day of the following month for such milk at not less than the class prices pursuant to this section, subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81 and 1002.82(b) applicable at the location where the milk was received from producers. Any handler who purchases or receives milk during any month from a cooperative association of producers which is also a handler and which operates the plant or the unit receiving the milk from producers, shall pay the cooperative association on or before the 19th day of the following month for such milk at not less than the class prices pursuant to this section, subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82(b) applicable at the plant at which the milk was first received. Such payments to a cooperative association shall be deemed not to have been made until the payments have been received by the cooperative association.

(a) For Class I–A milk the price shall be the basic formula price for the second preceding month plus $2.40.

* * * * *

2. In § 1002.80, paragraphs (a), (b), (c), and (d) are redesignated as paragraphs (c), (d), (e), and (f), respectively, the introductory text of the section is designated as paragraph (a) and is revised, and a new paragraph (b) is added to read as follows:

§ 1002.80 Time and rate of payments.

(a) On or before the 25th day of each month, each handler shall make payment pursuant to paragraphs (b), (c), (d), (e), and (f) of this section to each producer for all pool milk delivered by such producer during the preceding month at not less than the uniform price, subject to the following adjustments:

(1) Appropriate differentials set forth in §§ 1002.81 and 1002.82;

(2) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk; and

(3) For milk received in a bulk tank unit, there may be deducted, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service (transportation) charge of up to 10 cents per hundredweight, which in no event shall exceed in the case of Class II milk on which a transportation credit is applicable pursuant to § 1002.55 the actual transportation costs in excess of 10 cents and otherwise actual transportation costs, and in either circumstance only to the extent transportation was actually provided by the handler or at his expense. Any such deduction with respect to bulk tank milk must be made by the handler not later than the date on which the producer is required to be paid for the milk involved. If authorization for such deduction is canceled by the producer or by the cooperative by notifying the handler in writing, such cancellation shall be effective on the first day of the month following its receipt by the handler.

(b) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk, each handler, on or before the date on which the payments are otherwise due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association an amount equal to not less than the total amount otherwise due such producer-members as determined pursuant to paragraph (a) of this section.

* * * * *

3. Section 1002.85 is revised to read as follows:

§ 1002.85 Payments to the producer-settlement fund.

On or before the 21st day of each month, each handler shall make full payment to the market administrator of the debit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84. Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator. If the date by which such payments must be received by the market administrator falls on a Saturday or Sunday or a national holiday, such payments shall not be due until the next day that the market administrator's office is open for public business.

4. Section 1002.86 is revised to read as follows:

§ 1002.86 Payments out of the producer-settlement fund.

(a) On or before the 22nd day of each month, the market administrator shall make payment to each handler of the credit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84. If the date by which such payments are to be made falls on a Saturday or Sunday or a national holiday, such payments need not be made until the next day that the market administrator's office is open for public business. If payments to the producer-settlement fund under § 1002.85 were delayed because the due date fell on a Saturday or Sunday or a national holiday, payments under this paragraph may be delayed by the same number of days.

(b) If the balance in the producer-settlement fund is insufficient to make the full payment required under paragraph (a) of this section, the market administrator shall reduce uniformly the payments to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received such payments in full from the market administrator shall be deemed to be in violation of §§ 1002.80 through 1002.82 if he reduces his total payments to producers for milk delivered by such producers during the preceding month by not more than the amount of the reduction in payment from the producer-settlement fund.

5. Section 1002.90 is revised to read as follows:

§ 1002.90 Payment by handlers.

As his pro rata share of the expense of administration of this part, each handler shall, on or before the date specified for making payment to the producer-settlement fund pursuant to § 1002.85, pay to the market administrator a sum not exceeding 4 cents per hundredweight on the total quantity of pool milk received from dairy farmers at plants or from farms in a unit operated by such handler, directly or at the instance of a cooperative association of producers and on the quantity for which payment is made pursuant to § 1002.70(d)(2), the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under an order issued by the Commissioner of Agriculture and Markets of the State of New York, or the Director of the Division of Dairy Industry of the New Jersey Department of Agriculture, with respect to the marketing area. Whenever verification by the market administrator discloses an error in the payment made by

any handler, such error shall be adjusted not later than the date next following such disclosure on which payments are due pursuant to this section.

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

Inflation Impact Statement. The United States Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Effective date: April 1, 1977.

Signed at Washington, D.C., on February 23, 1977.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.77–6053 Filed 2–28–77;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

This amendment quarantines portions of Charlotte County in Virginia because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Virginia before the reference to "Puerto Rico" and a new paragraph (a)(1) relating to the State of Virginia is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *Virginia.* (i) The premises of Yanik's Rainbow Aviary located on the north side of County Road 645 and east of the County Courthouse City limits in Charlotte County.

(ii) The premises of Yanik's Rainbow Aviary located at the Women's Center Building on the north side of State Road 40 W., Charlotte Court House, in Charlotte County.

(iii) The premises of Yanik's Rainbow Aviary located in the Twin Oaks Building, east of the intersection of State Roads 40 and 47, Charlotte Court House, in Charlotte County.

* * * * *

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

Effective date: The foregoing amendment shall become effective on February 24, 1977.

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 24th day of February 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–6114 Filed 2–28–77;8:45 am]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 112—PACKAGING AND LABELING

Miscellaneous Amendments

• *Purpose:* To provide an alternate statement for certain labels, to provide restrictive language for certain labels, and to clarify requirements for rabies vaccine labels. •

On July 9, 1976, a notice of proposed amendments to Part 112 was published in the FEDERAL REGISTER at 41 FR 28311. Comments on this proposal were solicited and seven responses were received.

STATEMENT OF CONSIDERATIONS

Section 112.2(a)(10)(i) of the regulations (9 CFR 112.2(a)(10)(i) presently requires the statement, "No U.S. Standard of Potency", on labels of products for which a standard requirement for evaluating potency has not been developed. In the case of a product containing more than one fraction, if a standard requirement for potency has been established for one or more such fraction, the statement, "U.S. Standard of Potency for (name of fraction) Fraction(s) Only" is required. In addition to comments received on the proposed amendments, the statement, "No U.S. Standard of Potency for the (name of fraction) Fraction(s)," was submitted as a suggested alternative for the statement presently required. This suggestion has been accepted.

Objections to removal of the reference to the Center for Disease Control (CDC), U.S. Department of Health, Education, and Welfare publication pertaining to accidental human exposure to vaccine virus from § 112.7(d)(5) were also received, although the CDC publication does not contain information necessary to properly handle all cases of human exposure to live rabies vaccine viruses.

Subsequent to publication of the proposed amendments, CDC has transferred their responsibilities for the publication of a rabies vaccine compendium to the Association of State Public Health Veterinarians (ASPHV), P.O. Box 13528, Baltimore, MD 21203. This organization is in the process of developing a rabies vaccine compendium which should contain the information needed to handle human exposure cases to animal rabies vaccine viruses.

Final action on amendments to § 112.7(d)(5) is being withheld until suitable recommendations to appear on the labels are developed.

A suggested change in label policy to permit a claim on one label that a product is limited to veterinarians while the same product would be sold to anyone under another label was received in comments from a licensee. This procedure could create false and misleading labeling and the suggested change in policy has been rejected.

Proposed paragraph 112.2(d)(1) contains prescribed statements to be used on the product license and labels when the nature of the product is such that it should be "used by or under the direction of a veterinarian." Suggestion was received from one licensee that the wording be changed to "used by or on the order of a licensed veterinarian."

This suggestion was rejected on the basis that the term "licensed veterinarian" would be unnecessarily restrictive when unlicensed State, county, municipal, and retired veterinarians could satisfactorily administer a biological product. Desirable restriction of a product to "veterinary supervision" would not be fulfilled if the veterinarian "ordered" it to be used on a farm or ranch many miles away.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice of rulemaking, the suggestions received from the comments, and pursuant to the authority contained in the Virus - Serum - Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendments of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice are hereby adopted and are set forth herein subject to the following noted modifications:

An alternate statement regarding U.S. Standard of Potency has been added to § 112.2(a)(10)(i) to save label space and facilitate label preparation.

The proposed amendment to § 112.7(d)(5) has been withheld at this time.

1. Section 112.2 is amended by revising paragraph (a)(10)(i) and paragraph (d) to read:

§ 112.2 Final container label, carton label, and enclosure.

* * * * *

(a) * * *

(10) * * *

(i) In the case of a biological product for which a standard requirement for evaluating potency has not been established, a statement, "No U.S. Standard of Potency," shall so appear. In the case of a multiple fraction product for which a standard requirement for potency has been established for one or more fractions of such product, the statement, "U.S. Standard of Potency for (name fraction) Fraction(s) Only" or alternatively, "No U.S. Standard of Potency for the (name fraction) Fraction(s)" shall so appear:

* * * * *

(d) Carton labels and enclosures shall be subject to paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(1) The statement, "Restricted to use by or under the direction of a veterinarian" or "Restricted to use by a veterinarian," shall be used on all carton labels and enclosures when such restriction is prescribed on the product license.

(2) If the licensee states on the carton labels and enclosures of a product that its sales are restricted to veterinarians, then the entire production of that particular product in the licensed establishment shall be so restricted by the licensee.

(3) The statement "For veterinary use only" or an equivalent statement may appear on the carton labels and enclosures for a product if such statement is being used to indicate that the product is recommend specifically for animals, and not for humans.

* * * * *

2. Section 112.7 is amended by revising the introductory portion of paragraph (c); by revising paragraphs (c)(1) and (c)(2); by adding paragraphs (c)(3) and (c)(4); by revising paragraph (d)(1); and by adding two new paragraphs, (d)(6) and (d)(7), to read:

§ 112.7 Special additional requirements.

* * * * *

(c) In the case of a biological product containing inactivated rabies virus, carton labels, enclosures, and all but very small final container labels shall include a warning against freezing and the recommendations provided in this paragraph.

(1) A recommendation that intramuscular injection be made at one site in the thigh.

(2) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(3) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.129 (b) or (c) or both.

(4) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

(d) * * *

(1) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

* * * * *

(6) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(7) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.147 (b) or (c) or both.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477; 38 FR 19141)

Effective date: These amendments take effect March 31, 1977, except that label changes brought about by these amendments shall be made by all licensees at the next printing of labels to which these changes apply, but in all cases, not later than August 29, 1977.

Done at Washington, DC, this 23rd day of February, 1977.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-6042 Filed 2-28-77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

PART 312—OFFICIAL MARKS, DEVICES, AND CERTIFICATES

PART 322—EXPORTS

Export Inspection Marks and Certificates

• *Purpose:* The purpose of this document is to replace the paper export stamp (Form MP 412-10) with a rubber stamping device for affixing required export marks to domestic products for exportation. •

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that, pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), the Animal and Plant Health Inspection Service hereby amends Parts 312 and 322 of the Federal meat inspection regulations (9 CFR 312, 322) to eliminate serially numbered paper export stamps and substitute therefor an official rubber stamping device.

Statement of considerations. On March 19, 1976, there was published in the FEDERAL REGISTER (55 FR 11531-11532), a notice of proposed rulemaking to amend the Federal meat inspection regulations for the purpose set forth above. The regulations currently require a numbered official paper export stamp to be affixed to each outside container, except cloth wrappings, of any inspected and passed domestic product intended for export. The proposal would allow for the substitution of an official rubber stamping device for such paper export stamps.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No objections have been received and the proposed regulations are hereby adopted without change as set forth below.

1. In § 312.8 paragraph (a) would be amended to read as follows:

§ 312.8 Official export inspection marks, devices, and certificates.

(a) The official export meat inspection mark required by Part 322 of this subchapter shall be in the following form as hereinafter specified: [1]

Any rubber stamp approved by the Administrator, in the manner provided for in Part 317 of this subchapter, and bearing the official mark prescribed in this paragraph shall be an official device for the purposes of the Act.

* * * * *

2. In § 322.1, paragraphs (c) and (d) would be deleted, and paragraphs (a) and (b) would be revised to read as follows:

§ 322.1 Manner of affixing stamps and marking products for export.

(a) The outside container (including cloth wrappings) of any inspected and passed product for export, except ship stores and small quantities exclusively for the personal use of the consignee and not for sale or distribution, shall be marked with an official export stamp, as shown in § 312.8 of this subchapter, bearing the number of the export certificate.

(b) Each tank car of inspected and passed lard or similar edible product, and each door of each railroad car or other closed means of conveyance, containing inspected and passed loose product shipped directly to a foreign country, shall be marked with an official export

[1] The number "529893" is given as an example only. The number of the official export certificate will be shown in lieu thereof.

stamp, as shown in § 312.8 of this subchapter, bearing the number of the export certificate.

3. Section 322.2 would be amended by revising the section heading. This change would be reflected in the Table of Contents for Part 322. Also, paragraphs (b) and (h) would be amended. These revisions would read as follows:

§ 322.2 Export certificates; instructions concerning issuance.

* * * * *

(b) Official export certificates shall be issued with serial numbers and in triplicate form. Quadruplicate certificates may be issued for any exportation on request of the exporter. Each certificate shall show the names of the exporter and the consignee, the destination, the number and types of packages, the shipping marks, the kinds of products, and the weight of the products in accordance with § 317.2 of this subchapter.

* * * * *

(h) Upon request, official export certificates may be issued by inspectors for export consignments of product of official establishments not under their supervision, provided the consignments are first identified as having been "U.S. inspected and passed" and are found to be neither adulterated nor misbranded, and marked as required by § 322.1.

* * * * *

In order to allow time to diminish present inventories of the paper export stamps and to procure and distribute the new rubber stamping devices provided by these amendments, the amendments are being made effective May 31, 1977.

Done in Washington, D.C., on January 19, 1977.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-5963 Filed 2-28-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-WA-1]

PART 73—SPECIAL USE AIRSPACE

Designation of Prohibited Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a prohibited area at Plains, Ga. The U.S. Secret Service has requested that aircraft flight be prohibited in the vicinity of President Carter's residence for the security of the President.

Public interest in the President may attract numerous aircraft over the Presidential residence for sight-seeing and photographic purposes. In order to provide adequate safeguards for the protection of the President and persons or property on ground, it is necessary to designate certain airspace above the Presidential residence at Plains, Ga., as a prohibited area. Under the provisions of § 73.83 no person may operate an aircraft within that area without permission from the FAA as the using agency. Requests for such permission may be made through Air Traffic Control.

Since there is a requirement for the immediate adoption of this regulation, further notice and the public procedure are impracticable and good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended by adding a new § 73.88 effective March 1, 1977 as hereinafter set forth.

In § 73.88 (42 FR 705) the following is added:

P-77 PLAINS, GA.

Boundaries. That airspace within one mile each side of a line extending from latitude 32°02'00" N., longitude 84°23'28" W.; to latitude 32°01'03" N., longitude 84° 25'25" W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C.

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

Issued in Washington, D.C., on February 18, 1977.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.77-6233 Filed 2-28-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-986, Amendment 26; Doc. 27106]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Payroll, Employment Statistics; Revision of Form 41 Schedule P-10

Effective: May 20, 1977.

Adopted: February 22, 1977.

In a Supplemental Notice of Proposed Rulemaking, dated March 25, 1976 (EDR-280B, March 31, 1977; 41 FR 13616), the Board proposed to amend Part 241 of its Economic Regulations (14 CFR Part 241) to revise Form 41 Schedule P-10 "Payroll" to provide the Board with various employment statistics which would be used by the Board's staff in performing various trend, productivity, and cost analyses.

Initially, EDR-280 was issued to require the submission of substantially more detailed work force data for use by the Board's staff in the execution of its regulatory functions. In addition, EDR-280 was also issued to correct certain inherent deficiencies in the present payroll data collection system. While the proposed rule would have succeeded in achieving these two goals, a substantial number of the comments we received regarding the proposal questioned whether the Board itself has an actual need for such extensive work force data, and expressed concern as to whether our regulatory need for the proposed additional data is commensurate with the burden which would be placed on the air carriers required to submit such data.

After reviewing the comments submitted in response to EDR-280, we performed a comprehensive, searching self-appraisal of the Board's regulatory need for expanded work force data. Our analysis disclosed that the regulatory benefits derived from the collection of such data do not outweigh the burden which would be imposed on the air carriers which would be required to file the proposed data. In light of these findings, the Board issued a Supplemental Notice of Proposed Rulemaking, EDR-280B, which would relieve the carriers from the burden of filing additional work force data; however, the Supplemental Notice would still correct the deficiencies inherent in the current payroll data collection system. At the same time, the Supplemental Notice proposed a reduction in the current level of reporting by eliminating the reporting of payroll compensation data and reducing the filing frequency for schedule P-10 from quarterly to annually.

The issuance of the Supplemental Notice was thus reflective of the Board's continual concern over the amount of reporting burden imposed on the air carriers. All proposed reporting requirements are reviewed from the standpoint of regulatory need, with burden being weighed against the resultant benefits. Through this process, we are striving to achieve a uniform system of reports which will provide the data required for the Board's regulatory decisionmaking processes at a minimum of burden to the industry. In seeking this goal, we are doing everything possible to assure that reports which no longer support a regulatory need are eliminated while those that are retained are kept to a minimum level of burden.

Comments in response to the Supplemental Notice were received from the Air Line Pilots Association, International (ALPA), Eastern Air Lines, Inc. (Eastern), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), Transport Workers Union of America, AFL-CIO (TWU), and United Air Lines, Inc. (United).

A majority of the responses received supported the proposed rule, either completely or partially. Some comments question the relevance of certain portions of the data to be submitted under the proposed reporting requirements while two of the comments maintain that the proposed rule does not go far enough in obtaining meaningful employment data.

Upon full consideration of the relevant matter contained in the comments, we have decided to adopt the rule substantially as proposed. Therefore, except as modified herein, the tentative findings set forth in the Explanatory Statement

to the proposed rule are incorporated by reference and made final. The comments submitted and other matters are discussed below.

The Air Line Pilots Association, International, has expressed concern over the elimination of the financial information relative to payroll from the current schedule P–10. ALPA has recommended that, in the event of the proposed changes to schedule P–10 being finalized, the Board should require the air carriers to report the number of employees for each labor expense account on schedules P–5.1, P–5.2, P–6, P–7, and P–8. The data which would be submitted under ALPA's recommendation is very similar to that which will be required on the revised schedule P–10. The employment data reported on schedule P–10 will enable the Board and other interested parties to relate the number of employees reported for the various labor categories on schedule P–10 to the labor expense data reported on the various profit and loss schedules of CAB Form 41 which include the schedules listed in ALPA's comments.

One of the methods which the Transport Workers Union of America (TWU), AFL–CIO uses to evaluate employee productivity is to relate operating revenue to payroll expense by labor category. TWU has indicated that it is concerned that the elimination of the reporting of payroll costs on schedule P–10 will prevent the comparison of operating revenue to payroll expense by labor category; however, this should not present a problem for TWU since payroll expense data by labor category is currently being reported on other profit and loss schedules (e.g., schedules P–5.1, P–5.2, P–6, P–7, and P–8).

In addition, TWU has also commented that it feels that schedule P–10 should be filed on a quarterly instead of an annual basis. TWU maintains that quarterly data is necessary in order to make schedule P–10 data available in a timely manner for use in various productivity analyses; however, the purpose of collecting this data is primarily for use in the various annual expense analyses conducted by the Board's staff. This annual requirement by the Board for the P–10 data coupled with the fact that TWU was the only respondent who expressed concern over the proposed filing frequency for P–10 data leads us to believe that there is no need for such data other than on an annual basis.

In another comment, Eastern objected to the Board's proposal to amend schedule P–1(a) to require the monthly reporting of the aggregate number of employees for the system operations. While Eastern supports the revisions to schedule P–1(a), Eastern's main concern relents should also be used in reporting the total number of employees on schedule P–(a). Eastern's main concern revolves around the fact that reporting a weighted average number of full-time employees on schedule P–10 and a headcount total number of employees on schedule P–1(a) would tend to distort the reported schedule P–1(a) data for those carriers with a significant number of part-time personnel. The primary purpose for obtaining monthly employment statistics is for use in trend analysis related to industry employment levels. This headcount measure of total employment would maintain a consistency in comparisons with prior periods; moreover, computing a monthly headcount is a relatively simple calculation when compared to computing the total number of full-time equivalent employees on a monthly basis. While these factors, coupled with the fact that no other carriers objected to the collection of this data on schedule P–1(a), have caused us to adopt the reporting of a monthly headcount figure as proposed, Eastern's points regarding a possible distortionary impact on the reported data are well taken. Therefore, in order to provide the benefits of a monthly headcount total and avoid the distortions pointed out by Eastern, we are amending the reporting instructions for schedule P–1(a) to require that the monthly submission of the total number of employees be reported as total full-time and total part-time employees.

In a related matter, one comment expressed doubt as to the feasibility of using schedule P–1(a) for reporting the monthly employment statistics. The Uniform System of Accounts and Reports (USAR) provides that schedule P–1(a) need not be filed for the third month of any calendar quarter if schedule P–1.1 or P–1.2 for the quarter is received on the due date prescribed for schedule P–1(a). A review of the third quarter filings of the subject schedule reveals that nine route air carriers are currently taking advantage of this filing option. Since a significant number of carriers are not filing schedule P–1(a) during the third month of the calendar quarter, it would be needlessly burdensome to require such carriers to file schedule P–1(a) for the sole purpose of collecting the number of full-time and part-time employees. After reviewing the alternatives available for collecting the monthly employment statistics during the third month of each quarter, the Board has decided that the least burdensome method of collecting the required data is still through the use of schedule P–1(a); however, so that those carriers taking advantage of the third-month filing option may continue to do so, schedule P–1.1 or schedule P–1.2 can be used to submit the required total number of full-time and part-time employees for the system operations. Accordingly, we have modified the reporting instructions applicable to schedules P–1.1 and P–1.2 to require those carriers which do not file schedule P–1(a) for the third month of any calendar quarter to report the total number of full-time and total number of part-time employees by typing in the required statistics in the bottom margin of schedule P–1.1 or P–1.2 for any such month.

TWA objected in their comments to the proposed revision of schedule P–10. Essentially, the main thrust of TWA's objections relate to the Board's need for the revised schedule P–10 data and the degree of burden on the air carriers required to submit such data. Regarding the need for the proposed data, this data will be utilized by the Board and other interested parties in various expense analyses which would relate the total number of employees per labor category, as contained in schedule P–10, to the expenses shown on the other profit and loss schedules of CAB Form 41. Without the schedule P–10 data, the Board would have no breakdown as to the number of employees per labor category. In the area of burden, the labor categories for which the number of employees are to be reported are the same as those used in the current schedule P–10. Also, the allocation of employees to the various entities is to be made on a basis consistent with that used in the allocation of salaries for Form 41 financial reporting purposes. Thus, the allocation of employees shall follow the allocation of their salaries to the various entities. Based on these facts, we feel that the burden of reporting the revised schedule P–10 data should be minimal on the route carriers. It is interested to note that TWA was the only respondent who objected to the revision of schedule P–10 on the basis of burden; moreover, TWA is the only respondent who questioned the need for such data while other respondents to the proposed rule have indicated their need and support for such data.

In the process of finalizing the proposed rule, we have added to schedule P–10 a new labor category designated as "Other." This new category will be for employees other than those whose salaries are charged to the various salary accounts contained in the USAR. For example, "Other" would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. The addition of this labor category will better enable the reporting carriers to categorize their employees for the purpose of schedule P–10 reporting.

In the past, we have observed certain inconsistencies in the reporting of payroll data during labor strikes. These inconsistencies have arisen in the quarterly reporting of the number of employees on schedule P–10. Since schedule P–10 will now become an annual report of the weighted average number of employees by labor category, these inconsistencies will become moot; however, the problem in the reporting of strike data will still exist for the monthly reporting on schedule P–1(a) of the aggregate number of employees for the system operations. Therefore, we are taking this opportunity to clarify this situation by providing that, in the case of strikes, the total number of employees shall reflect only those employees that worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month.

This rule will become effective May 20, 1977. In order to provide for an or-

derly transition in the filing of schedule P-10 and schedule P-1(a) data, the transition shall be accomplished as follows: (1) Old schedule P-10 should be submitted for the first calendar quarter of 1977; (2) revised schedule P-1(a) should be filed beginning with the report for April 1977; (3) schedule P-10 need not be filed for the second or third calendar quarters of 1977; and (4) the revised schedule P-10 shall be filed at the 1977 year end.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective May 20, 1977, as follows:

1. Amend Section 22—General Reporting Instructions as follows: (A) By revising the title and filing frequency of scheduled P-10 in the list in paragraph (a), titled "List of Schedules in CAB Form 41 Report," the revised list in pertinent part to read as follows; and

(B) By revising the due dates of schedule P-10 in the list in paragraph (a), titled "Due dates of schedules in CAB Form 41 report," the revised list to read in pertinent part as follows:

Section 22—General Reporting Instructions

(a) * * *

List of schedules in CAB form 41 report

Schedule No.	Schedule title	Filing frequency
*	* * * * * *	*
P-9.2	Distribution of Ground Servicing Expenses by Geographic Location—Group II and Group III Air Carriers.	Do.
P-10	Employment Statistics by Labor Category	Annually.
P-11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.	Quarterly.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services	Do.
*	* * * * * *	*

Due dates of schedules in CAB form 41 report

Due date: [1]	Schedule No.
Jan. 20	* * *.
Jan. 30	* * *.
Feb. 10 [2]	A, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-11(a), P-11(b).
Feb. 20	* * *.
Mar. 1	* * *.
Mar. 20	* * *.
Mar. 30	A-2, B-1, B-2, [3] B-41, B-43, B-44, B-46, P-1(a), P-10, P-13, G-41, G-42, G-43, G-44, T-1, T-7.
Apr. 20	* * *.
Apr. 30	* * *.
May 10	A, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-11(a), P-11(b).
May 20	* * *.
May 30	* * *.
June 20	* * *.
June 30	* * *.
July 20	* * *.
July 30	* * *.
Aug. 10	A, A-1, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-11(a), P-11(b).
Aug. 20	* * *.
Aug. 30	* * *.
Sept. 20	* * *.
Sept. 30	* * *.
Oct. 20	* * *.
Oct. 30	* * *.
Nov. 10	A, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-11(a), P-11(b).
Nov. 20	* * *.
Nov. 30	* * *.
Dec. 20	* * *.
Dec. 30	* * *.

[1] Due dates * * *.
[2] B and P reporting dates are extended * * *.
[3] * * *.

2. Amend Section 24—Profit and Loss Elements as follows: (A) By revising paragraph (b) of schedules P-1.1 and P-1.2; and (B) by changing the title and adding new paragraphs (d) and (e) to Schedule P-1(a), "Interim Income Statement,"; and (C) by deleting the title and instructions to Schedule P-10 "Payroll" and inserting a new title and instructions in its place, to read as follows:

Section 24—Profit and Loss Elements

SCHEDULE P-1.1—STATEMENT OF OPERATIONS—GROUP I AIR CARRIERS

SCHEDULE P-1.2—STATEMENT OF OPERATIONS—GROUP II AND GROUP III AIR CARRIERS

(a) * * *

(b) Separate statements of operation shall be filed for each separate operating entity of the air carrier and for the overall, or system, operations of the air carrier. Any air carrier which does not file a schedule P-1(a) in accordance with the filing option described in Section 22—General Reporting Instructions shall, for the third month of any calendar quarter during which the option is exercised, type in the bottom margin of the system statement of operations the total number of full-time and the total number of part-time employees to be labeled as such and calculated in accordance with paragraph (d) of the reporting instructions for schedule P-1(a).

* * * * *

SCHEDULE P-1(a)—INTERIM STATEMENT OF OPERATIONS

* * * * *

(d) Other Information, "Total number of full-time employees" and "Total number of part-time employees" shall reflect for the overall or system operations of the air carrier the total number of full-time and part-time employees, respectively, who worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month. For the purpose of this Part, "part-time employees" shall include all employees hired to work less than customary or standard hours.

(e) In the event of a labor strike, the "number of employees" to be reported on this schedule shall be determined on an actual payroll basis. Actual payroll shall be determined in accordance with paragraph (d) of these reporting instructions.

SCHEDULE P-10—EMPLOYMENT STATISTICS BY LABOR CATEGORY

(a) This schedule shall be filed annually by all route air carriers.

(b) Separate sets of this schedule shall be filed for each operating entity of the air carrier. Employees will be allocated to the reporting entities on a basis consistent with that used in the allocation of salaries for Form 41 financial reporting purposes.

(c) Column 3, "Number of Employees," shall reflect, for each category in column 1, the weighted average number of full-time employees who received pay for any part of the calendar year. In determining the weighted average, all temporary or part-time employees shall be restated, based on their hours paid, as an equivalent number of full-time employees. The calculation shall be based on a standard full-time 2,080/hour year with overtime hours excluded from the computation.

(d) Labor category description—"Other" shall include all employees

whose salary is not chargeable to one of the various salary accounts contained in this Uniform System of Accounts and Reports. For example, "other" would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. The number of employees reported as "other" shall be calculated in accordance with paragraph (c) of these reporting instructions.

3. Amend CAB Form 41 as follows:

A. By amending Schedule P-1(a) "Interim Statement of Operations" to include data on "Employment Statistics," as shown in Exhibit A attached hereto and made a part hereof.[1]

B. By deleting the present Schedule P-10 "Payroll," and adding a new Schedule P-10 "Employment Statistics by Labor Category," as shown in Exhibit B attached hereto and made a part hereof.[1]

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 766, as amended, 49 U.S.C. 1324(a) and 1377).)

By the Civil Aeronautics Board:

NOTE.—The Civil Aeronautics Board has decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-5959 Filed 2-28-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13280; File No. S7-611]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Missing, Lost, Stolen and Counterfeit Securities Program and Reporting and Inquiry Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Rule Amendment.

SUMMARY: This release amends certain requirements of the Commission's lost and stolen securities program and delays the effective date of § 240.17f-1. The amendments and the delay in the effective date are intended to implement this program in a more efficient manner.

DATES: Effective date: July 1, 1977. Comments on or before May 1, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1390.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain technical amendments to 17 CFR § 240.17f-1 under Section 17(f) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) concerning missing, lost, stolen or counterfeit securities and postponed the effective date of Section 140.17 f-1 at least until July 1, 1977.

BACKGROUND

On December 10, 1976, the Commission adopted Section 240.17f-1 establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1] In that release, the Commission stated that it would consider modifications in the Section to implement the program in an efficient manner.

EXEMPTION OF CERTAIN SECURITIES FROM REPORTING AND INQUIRY

The Commission amended § 240.17f-1 to add thereto paragraph (e) providing that registered securities for which a Federal Reserve Bank or Branch is the appropriate instrumentality or counterfeits of such securities are not the subjects of required reporting and inquiry. Reports with respect to such securities should continue to be made to the transfer agent, and where a stolen security is involved reports are required to be made to the appropriate law enforcement agency.

Comments were received which urged this change since these securities appear to be adequately protected by present procedures and do not constitute a problem at this time. Such securities, if lost or stolen, should continue to be reported to the U.S. Treasury Department or the Federal Reserve Bank of New York, in accordance with outstanding Treasury instructions and current practices in the financial community.

The Commission also announced certain interpretive clarifications of this section. First, this section does not require bond coupons to be the subject of report or inquiry. Second, for purposes of the pilot program, transactions involving securities of less than $10,000 face value in the case of bonds and market value in the case of stocks will be exempt from inquiry. Finally, municipal securities as well as corporate securities not have CUSIP numbers are exempt from required reporting and inquiry during the pilot program.

ADOPTION OF FORM X-17F-1A

The Commission also adopted Form X-17F-1A which was proposed in Securities Exchange Act Release No. 12030 (January 10, 1976) with certain technical modifications. This form shall be used for all reports pursuant to paragraph (b)(6) of Section 240.17f-1.

SECTION 240.17f-1 EFFECTIVE DATE DELAY

The Commission has received several plans in response to its solicitation of implementation programs from persons desiring to act as the Commission's designee to receive reports and respond to inquiries for which the Commission is the appropriate instrumentality. The Commission expects to announce its designation shortly. In order to allow the Commission's designee sufficient time to establish a system which can implement § 240.17f-1 in an efficient and effective manner, the Commission has changed the effective date of this section and the pilot program from March 1, 1977 to July 1, 1977. However, if the Commission determines that the entity it designates to receive reports and inquiries for which the Commission is the appropriate instrumentality requires additional time to implement the system in an efficient manner, it may delay the start-up date further.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The amendments to § 240.17f-1 and the lost and stolen securities program are adopted pursuant to Sections 2, 17(f) and 23 of the Securities Exchange Act of 1934, as amended.

With respect to the delay in effectiveness of § 240.17f-1 and the adoption of paragraph (e) thereof, the Commission finds, in accordance with the Administrative Procedure Act [15 U.S.C. 553(b)(3)(B)], that since the modifications of the rule make the rule less restrictive or are technical in nature, notice and public procedure are unnecessary as a prerequisite to the adoption of the amendment and the delay in effectiveness of the section, and that the amendment should be adopted, effective immediately, in accordance with the Administrative Procedure Act [5 U.S.C. 553(d)(3)] in order to enhance the efficient implementation of the lost and stolen securities program.

The Commission further finds that the amendment and the delay in effectiveness of this section are not inconsistent with the public interest or the protection of investors.

REQUEST FOR COMMENTS

The Commission solicits comments from all interested persons on the amendment to § 240.17f-1, and the adoption of Form X-17F-1A. Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and must be received on or before May 1, 1977. Comments should refer to File No. S7-611 and will be available for public inspection at the Commission's Public Reference Room.

1. Part 240 is amended as follows:

Pursuant to Sections 2, 6, 10, 15, 17(f) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 240.17f-1 in Chapter II of Title 17 of the Code of Federal Regulations by adding paragraph (e) to read as follows:

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[1] Exhibits A and B are filed as part of the original document.

[1] Securities Exchange Act Release No. 13063; 41 FR 54923 (December 16, 1976).

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

* * * * *

(e) *Exemptions.* Registered securities of the United States Government, any agency or instrumentality of the United States Government, the International Bank for Reconstruction and Development, the Inter-American Development Bank, or the Asian Development Bank, and counterfeit securities of such entities are not subject to the provisions of this section relating to reporting and inquiry with the appropriate instrumentality.

* * * * *

2. Part 249 is amended as follows:

Pursuant to Section 17(f) of the Securities Exchange Act of 1934, the Securities and Exchange Commission adopts § 249.1200 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

Subpart M—Forms for Reporting and Inquiry With Respect to Missing, Lost, Stolen, or Counterfeit Securities

§ 249.1200 FormX–17F–1A Report for Missing, Lost, Stolen or Counterfeit Securities.

FORM X-17F-1A

MISSING/LOST/STOLEN/COUNTERFEIT SECURITIES REPORT

Date _____

File No. _____

REPORTING INSTITUTION: NAME _____

ADDRESS _____

_____

ATTENTION: _____

FINS/IDENTIFIER NUMBER _____

REPORT OF ☐ LOSS ☐ RECOVERY DATE OF LOSS/RECOVERY _____

TYPE OF SECURITY _____

NAME OF ISSUER _____

REGISTERED NAME _____

CUSIP NUMBER _____ INTEREST RATE _____ MATURITY DATE _____

CERTIFICATE NUMBER(S)	DENOMINATION	ISSUE DATE

☐ CRIMINALITY INDICATED

☐ COUNTERFEIT _____

If Counterfeit - Distinguishing Characteristics

REPORTS FILED WITH:

☐ DATA BANK ☐ ISSUER/TRANSFER AGENT ☐ LAW ENFORCEMENT

_____ _____

AUTHORIZED SIGNATURE DATE

INSTRUCTIONS TO FORM X–17F–1A

NOTE.—Section 240.17f–1 does not require reporting of coupons. Municipal or corporate securities not assigned CUSIP numbers are not required to be reported during the pilot program.

1. Reporting Institution—Enter reporting institution name, address and FINS or identifier number.

2. Check block to indicate whether report is for loss or recovery.

3. Date of Loss/Recovery—Enter date when loss was noticed or theft occurred or when security was found or recovered.

4. Enter type of security which most precisely describes the security.

5. Issuer—Clearly print, on lines provided, the complete name of issuing company, agency or organization as set out on the security even though the security may have been lost, stolen, or missing prior to being "issued" by appropriate authority.

6. Registered Name—Clearly print, on line provided, the full name of person the security is registered to (person, company, bank, brokerage house, etc.) exactly as it appears on the security. Enter the word "Bearer" when document is a "bearer" security.

7. CUSIP Number—Enter CUSIP number.

8. Interest Rate—If interest rate was indicated, enter this information.

9. Maturity Date—Enter maturity date, if applicable.

10. Serial Number—Fill in complete serial number including any letters which are part of the number.

11. Denomination—Fill in information as provided below:

(a) Enter in numerical form the amount of money represented by bonds, debentures, notes and other securities (excluding those in (b), (c) and (d), below), as indicated thereon. If amount was not indicated on the security, enter the word "Blank."

(b) Enter in numerical form the number of shares represented by stock certificates. (Do not enter par value of the stock.) If number of shares was not indicated on the stock certificate, enter the word "Blank."

(c) With respect to warrants and rights, enter in numerical form the number of new securities which the document entitles the owner to purchase.

12. Issue Date—Enter date of issue of security, if applicable.

13. Criminality Indicated—Check when a substantial belief of criminality is indicated in loss.

14. Counterfeit—Check when reporting counterfeit securities and indicate distinguishing characteristics, if any.

15. Reports Filed With—Check each entity with whom Form X–17F–1A was filed. If the Form was filed with the transfer agent, fill in the name and address of the transfer agent in the space provided.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 18, 1977.

[FR Doc.77-5836 Filed 2-28-77;8:45 am]

Title 25—Indians

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

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Miscellaneous Indian Irrigation Projects, Nevada and Arizona

On page 3319 of the FEDERAL REGISTER of January 18, 1977, there was published a notice of proposal to modify § 221.105 of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessments against lands to which water can be delivered under the Pyramid Lake Irrigation Project in Nevada, and the San Carlos Reservation Irrigation Project in Arizona.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions or objections were received, and the proposed revision is hereby adopted without change, as set forth below:

The revised section will read as follows:

§ 221.105 Charges.

Pursuant to the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210, 25 U.S.C. 385, 387), the annual basic charges against the lands to which water can be delivered under the respective irrigation systems of the projects listed in this section are hereby fixed in the following amounts for non-Indian owned lands, Indian owned lands leased to non-Indians, and Indian owned and operated lands, for the calendar year 1977 and for each succeeding calendar year thereafter until further notice:

Annual per acre assessment

Project	Non-Indian-owned land	Indian-owned land leased to non-Indians	Indian-owned and operated land
Duck Valley:			
Subjugated lands	$3.40	$3.40	$3.40
Native hay lands	3.40	3.40	1.00
Pyramid Lake	20.00	20.00	1.00
San Carlos Reservation	35.23	35.23	5.50
Warm Springs	2.00	2.00	0

CHARLES D. WORTHMAN,
Assistant Area Director.

[FR Doc.77-5911 Filed 2-28-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 50—STATEMENTS OF POLICY

Antitrust Division Business Review Procedure

AGENCY: Department of Justice, Antitrust Division.

ACTION: Statement of Policy.

SUMMARY: This statement of policy amends the Antitrust Division's business review procedure, pursuant to which the Division will, in certain circumstances, review proposed business conduct and state its enforcement intentions. The amendments modify certain procedures followed by the Division in responding to business review requests.

EFFECTIVE DATE: March 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Office of Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-739-5361).

By virtue of the authority vested in me by Subpart H of Part O of Chapter I of Title 28, Code of Federal Regulations, § 50.6 of Part 50 of Chapter I of Title 28, Code of Federal Regulations is revised as follows:

1. A new paragraph 3 is added.

2. Paragraphs 3 and 4 are renumbered paragraphs 4 and 5 respectively.

3. Paragraph 5 is renumbered paragraph 6 and the last sentence is amended.

4. Paragraph 6 is renumbered paragraph 7(a) and the first sentence amended by deleting the phrase in parentheses "(except in the case of bank mergers or acquisitions)."

5. A new paragraph 7(b) is added.

6. Paragraph 7 is renumbered paragraph 8 and the last sentence is deleted.

7. Paragraph 8 is renumbered paragraph 9.

8. Paragraph 9 is renumbered paragraph 10. The new paragraph 10 will have five subparagraphs (a) through (e).

9. Paragraph 10 is renumbered paragraph 11 and the last sentence is amended by deleting the last four words "purposes of antitrust enforcement" and substituting the words "governmental purposes."

The revised 50.6 Antitrust Division Business Review Procedure is set forth as follows.

DONALD I. BAKER,
Assistant Attorney General, Antitrust Division.

§ 50.6 Antitrust Division business review procedure.

Although the Department of Justice is not authorized to give advisory opinions to private parties, for several decades the Antitrust Division has been willing in certain circumstances to review proposed business conduct and state its enforcement intentions. This originated with a "railroad release" procedure under which the Division would forego the initiation of criminal antitrust proceedings. The procedure was subsequently expanded to encompass a "merger clearance" procedure under which the Division would state its present enforcement intention with respect to a merger or acquisition; and the Department issued a written statement entitled "Business Review Procedure." That statement has been revised several times.

1. A request for a business review letter must be submitted in writing to the Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530.

2. The Division will consider only requests with respect to proposed business conduct, which may involve either domestic or foreign commerce.

3. The Division may, in its discretion, refuse to consider a request.

4. A business review letter shall have no application to any party which does not join in the request therefor.

5. The requesting parties are under an affirmative obligation to make full and true disclosure with respect to the business conduct for which review is requested. Each request must be accompanied by all relevant data including background information, complete copies of all operative documents and detailed statements of all collateral or oral understandings, if any. All parties requesting the review letter must provide the Division with whatever additional information or documents the Division may thereafter request in order to review the matter. Such additional information, if furnished orally, shall be promptly confirmed in writing. In connection with any request for review, the Division will also conduct whatever independent investigation it believes is appropriate.

6. No oral clearance, release or other statement purporting to bind the enforcement discretion of the Division may be given. The requesting party may rely only upon a written business review letter signed by the Assistant Attorney General in charge of the Antitrust Division or his delegate.

7. (a) If the business conduct for which review is requested is subject to approval by a regulatory agency, a review request may be considered before agency approval has been obtained only where it appears that exceptional or unnecessary burdens might otherwise be imposed on the party or parties requesting review, or where the agency specifically requests that a party or parties request review. However, any business review letter issued in these as in any other circumstances will state only the Department's present enforcement intentions under the antitrust laws. It shall in no way be taken to indicate the Department's views on the legal or factual issues that may be raised before the regulatory agency, or in an appeal from the regulatory agency's decision. In particular the issuance of such a letter is not to be represented to mean that the Division believes that there are no anticompetitive consequences warranting agency consideration.

(b) The submission of a request for a business review, or its pendency, shall in no way alter any responsibility of any party to comply with the Premerger Notification provisions of the Antitrust Improvements Act of 1976, 15 U.S.C. § 18A, and the regulations promulgated thereunder, 16 C.F.R., Part 801.

8. After review of a request submitted hereunder the Division may: state its present enforcement intention with respect to the proposed business conduct; decline to pass on the request; or take such other position or action as it considers appropriate.

9. A business review letter states only the enforcement intention of the Division as of the date of the letter, and the Division remains completely free to bring whatever action or proceeding it subsequently comes to believe is required by the public interest. As to a stated present intention not to bring an action, however, the Division has never exercised its right to bring a criminal action where there has been full and true disclosure at the time of presenting the request.

10. (a) Simultaneously upon notifying the requesting party of any Division action described in paragraph 8, the business review request and the Division's letter in response shall be indexed and placed in a file available to the public upon request.

(b) On that date or within thirty days after the date upon which the Division takes any action as described in paragraph 8, the information supplied to support the business review request and any other information supplied by the requesting party in connection with the transaction that is the subject of the business review request, shall be indexed and placed in a file with the request and the Division's letter, available to the public upon request. This file shall remain open for one year, after which time it shall be closed and the documents either returned to the requesting party or otherwise disposed of, at the discretion of the Antitrust Division.

(c) Prior to the time the information described in subparagraphs (a) and (b) is indexed and made publicly available in accordance with the terms of those subparagraphs, the requesting party may ask the Division to delay making public some or all of such information. However the requesting party must: (1) specify precisely the documents or parts thereof that he asks not be made public; (2) state the minimum period of time during which nondisclosure is considered necessary; and (3) justify the request for nondisclosure, both as to content and time, by showing good cause therefor including a showing that disclosure would have a detrimental effect upon the requesting party's operations or relations with actual or potential customers, employees, suppliers (including suppliers of credit), stockholders or competitors. The Department of Justice, in its discretion, shall make the final deter-

mination as to whether good cause for nondisclosure has been shown.

(d) Nothing contained in subparagraphs (a), (b) and (c) shall limit the Division's right, in its discretion, to issue a press release describing generally the identity of the requesting party or parties and the nature of action taken by the Division upon the request.

(e) This paragraph reflects a policy determination by the Department of Justice and is subject to any limitations on public disclosure arising from statutory restrictions, Executive Order, or the national interests.

11. Any requesting party may withdraw a request for review at any time. The Division remains free, however, to submit such comments to such requesting party as it deems appropriate. Failure to take any action after receipt of the documents or information, whether submitted pursuant to this procedure or otherwise, does not in any way limit or stop the Division from taking such action at such time thereafter as it deems appropriate. The Division reserves the right to retain documents submitted to it under this procedure or otherwise and to use them for all governmental purposes.

[FR Doc.77-6075 Filed 2-28-77;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 15—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND RELATED STATUTES

Procedures for Filing, Processing and Adjudication

AGENCY: Department of Labor.

ACTION: Correction.

SUMMARY: In Federal Register Document No. 77-6 dated December 22, 1976, and published on January 4, 1977, at 42 FR 769-773, there were inadvertently omitted from § 15.4(b) the addresses of the Associate Regional Solicitors in Alabama, Ohio, Michigan and Los Angeles, California, and the Regional Attorneys in Puerto Rico and Tennessee. The address of the Associate Regional Solicitor in Denver, Colorado, was also incorrect. In addition, § 15.6(b) is revised to indicate that the Deputy Solicitor also has exclusive authority to resolve claims involving the alleged negligence or wrongful act or omission of employees whose office of employment is the Department's national office in Washington, D.C.

EFFECTIVE DATE: These corrections are effective March 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Cornelius S. Donoghue, Jr. (202) 523-7647

Accordingly, 29 CFR Part 15 is amended as follows:

1. Section 15.4(b) is amended by designating the existing first paragraph as paragraph (b)(1) and by designating the second paragraph as paragraph (b)(2) and revising it to read as follows:

§ 15.4 Where to file.

* * * * *

(b) (1) * * *

(2) In all other cases, the claimant shall address his claim to the regional or branch office of the Office of the Solicitor having jurisdiction over the location of the office of employment. The addresses and areas of jurisdiction for each such regional and branch office are as follows:

Regional Solicitor, U.S. Department of Labor, John F. Kennedy Federal Building, Government Center—Room 1803, Boston, MA 02203.
(For claims arising in Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, and Connecticut.)

Regional Solicitor, U.S. Department of Labor, 1515 Broadway, Room 3555, New York, NY 10036.
(For claims arising in New Jersey, and New York.)

Regional Attorney, U.S. Department of Labor, 212 U.S. Court House and Federal Office Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918.
(For claims arising in Puerto Rico and the Virgin Islands.)

Regional Solicitor, U.S. Department of Labor, 14480 Gateway Building, 3535 Market Street, Philadelphia, PA 19104.
(For claims arising in Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.)

Regional Solicitor, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 339, Atlanta, GA 30309.
(For claims arising in Florida, Georgia, and South Carolina.)

Associate Regional Solicitor, U.S. Department of Labor, 1929 9th Avenue S., Birmingham, AL 35205.
(For claims arising in Alabama and Mississippi.)

Regional Attorney, U.S. Department of Labor, 280 U.S. Courthouse Building, 801 Broadway, Nashville, Tenn. 37203.
(For claims arising in Kentucky, North Carolina, and Tennessee.)

Regional Solicitor, U.S. Department of Labor, Federal Office Building, 230 South Dearborn Street, Eighth Floor, Chicago, IL 60604.
(For claims arising in Illinois, Indiana, Minnesota, and Wisconsin.)

Associate Regional Solicitor, U.S. Department of Labor, Federal Office Building, Cleveland, Ohio 44199.
(For claims arising in Ohio.)

Associate Regional Solicitor, U.S. Department of Labor, 234 State Street, Detroit, Mich. 48226.
(For claims arising in Michigan.)

Regional Solicitor, U.S. Department of Labor, 555 Griffin Square Building, Suite 707, Griffin & Young Streets, Dallas, TX 75202.
(For claims arising in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.)

Regional Solicitor, U.S. Department of Labor, 2106 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.
(For claims arising in Iowa, Kansas, Missouri, and Nebraska.)

Associate Regional Solicitor, U.S. Department of Labor, Federal Office Building, Room 16444, 1961 Stout Street, Denver, CO 80202.
(For claims arising in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.)

Regional Solicitor, U.S. Department of Labor, P.O. Box 36017 Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102.
(For claims arising in Arizona (except Southern Arizona), California (except Southern California), Guam, Hawaii, and Nevada (except Southern Nevada).)

Associate Regional Solicitor, U.S. Department of Labor, Federal Building, Los Angeles, Calif. 90012.
(For claims arising in Southern Arizona, Southern California, and Southern Nevada.)

Associate Regional Solicitor, U.S. Department of Labor, 7009 Federal Office Building, 900 First Avenue, Seattle, WA 98101.
(For claims arising in Alaska, Idaho, Oregon, Washington.)

2. By revising § 15.6(b) to read as follows:

§ 15.6 Action on Claims.

* * * * *

(b) *Authority to consider, ascertain, adjust, determine, compromise and settle claims.* The Deputy Solicitor shall have the power to consider, ascertain, adjust, determine, compromise and settle claims pursuant to the Federal Tort Claims Act which involve the alleged negligence or wrongful act or omission of an employee whose office of employment is the Department's national office in Washington, D.C., or which exceed $2,500 in amount or which involve a new precedent or a new point of law, or a question of policy. Regional Solicitors, the Associate Regional Solicitors and Regional Attorneys listed in § 15.4(b) are authorized to consider, ascertain, adjust, determine, compromise and settle, claims arising in their respective jurisdictions pursuant to the Federal Tort Claims Act which do not exceed $2,500 in amount and which do not involve a new precedent or new point of law or a question of policy.

3. By revising § 15.17 to read as follows:

§ 15.17 Claims procedures.

The Deputy Solicitor, the Regional Solicitors, Associate Regional Solicitors, and Regional Attorneys listed in § 15.4(b), are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this Act in accordance with the limitations set forth in § 15.6(b). Unless otherwise provided, the general procedural rules for the processing and settling of administrative claims under the Federal Tort Claims Act, as set forth in Subpart A above, shall be followed.

4. By revising § 15.22 to read as follows:

§ 15.22 Claims procedures.

The Regional Solicitors, Associate Regional Solicitors, and Regional Attorneys listed in § 15.4(b) are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this Act in accordance with the limitations set forth in § 15.6(b). Unless otherwise provided, the general procedural rules for the processing and settling of administrative claims under the Federal Tort Claims Act, as set forth in Subpart A above, shall be followed.

Signed at Washington, D.C., this 22nd day of February, 1977.

ALFRED G. ALBERT,
Acting Solicitor of Labor.

[FR Doc.77-6090 Filed 2-28-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7467]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Computation of International Boycott Factor

This document contains temporary income tax regulations concerning the computation of the international boycott factor.

Certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC (Domestic International Sales Corporation) are denied if a person (or a member of a controlled group that includes that person) participates in or cooperates with an international boycott. The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor".

The method of computing the international boycott factor is set forth in paragraph (c) of the regulations. The definitions of the terms used in the regulations are set forth in paragraph (b). A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d) of the regulations.

The regulations generally apply after November 3, 1976. However, in the case of binding contracts entered into before September 2, 1976, the regulations apply to such participation or cooperation after December 31, 1977. Transitional rules are set forth in paragraph (e) of the regulations.

The principal draftsperson of these regulations was John C. Holberton of the Office of International Tax Counsel. However, other personnel participated in developing the regulations, both on matters of substance and style. Mr. Holberton may be contacted at 202-566-8275 or at U.S. Treasury Department, Washington, D.C. 20220.

Adoption of amendments to the regulations. In order to prescribe temporary income tax regulations with respect to the computation of the international boycott factor under section 999(c)(1) of the Internal Revenue Code of 1954, as added by section 1064 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1643), the following temporary regulations are adopted:

§ 7.999-1 Computation of the international boycott factor.

(a) *In general.* Sections 908(a), 952(a)(3), and 995(b)(1)(F) provide that certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC are denied if a person or a member of a controlled group (within the meaning of section 993(a)(3)) that includes that person participates in or cooperates with an international boycott (within the meaning of section 999(b)(3)). The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor." Section 999(c)(1) provides that the international boycott factor is to be determined under regulations prescribed by the Secretary. The method of computing the international boycott factor is set forth in paragraph (c) of this section. A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d). Transitional rules for making adjustments to the international boycott factor for years affected by the effective dates are set forth in paragraph (e). The definitions of the terms used in this section are set forth in paragraph (b).

(b) *Definitions.* For purposes of this section:

(1) *Boycotting country.* In respect of a particular international boycott, the term "boycotting country" means any country described in section 999(a)(1)(A) or (B) that requires participation in or cooperation with that particular international boycott.

(2) *Participation in or cooperation with an international boycott.* For the definition of the term "participation in or cooperation with an international boycott", see section 999(b)(3) and Parts H through M of the Treasury Department's International Boycott Guidelines.

(3) *Operations in or related to a boycotting country.* For the definitions of the terms "operations", "operations in a boycotting country", "operations related to a boycotting country", and "operations with the government, a company, or a national of a boycotting country", see Part B of the Treasury Department's International Boycott Guidelines.

(4) *Clearly demonstrating clearly separate and identifiable operations.* For the rules for "clearly demonstrating clearly separate and identifiable operations", see Part D of the Treasury Department's International Boycott Guidelines.

(5) *Purchase made from a country.* The terms "purchase made from a boycotting country" and "purchases made from any country other than the United States" mean, in respect of any particular country, the gross amount paid in connection with the purchase of, the use of, or the right to use:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country,

(iii) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner),

(iv) Real property located in that country, or

(v) Services performed in, and the end product of services performed in, that country (other than payroll paid to a person that is an officer or employee of the payor).

(6) *Sales made to a country.* The terms "sales made to a boycotting country" and "sales made to any country other than the United States" mean, in respect of any particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) for direct use, consumption, or disposition in that country,

(ii) Services performed in that country,

(iii) The end product of services (wherever performed) for direct use, consumption, or disposition in that country,

(iv) Intangible property (other than securities) in that country,

(v) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner), or

(vi) Real property located in that country.

To determine the country of direct use, consumption, or disposition of tangible personal property and the end product of services, see paragraph (b)(10) of this section.

(7) *Sales made from a country.* The terms "sales made from a boycotting country" and "sales made from any country other than the United States" mean, in respect of a particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country, or

(iii) Services performed in, and the end product of services performed in, that country.

However, gross receipts from any such sale, exchange, other disposition, or use by a person that are included in the numerator of that person's international boycott factor by reason of paragraph (b)(6) of this section shall not again be included in the numerator by reason of this subparagraph.

(8) *Payroll paid or accrued for services performed in a country.* The terms "payroll paid or accrued for services performed in a boycotting country" and "payroll paid or accrued for services performed in any country other than the United States" mean, in respect of a particular country, the total amount paid or accrued as compensation to officers and employees, including wages, salaries, commissions, and bonuses, for services performed in that country.

(9) *Services performed partly within and partly without a country.* (i) *In general.* Except as provided in paragraph (b)(9)(ii) of this section, for purposes of allocating to a particular country:

(A) The gross amount paid in connection with the purchase or use of,

(B) The gross receipts from the sale, exchange, other disposition or use of, and

(C) the payroll paid or accrued for services performed, or the end product of services performed, partly within and partly without that country, the amount paid, received, or accrued to be allocated to that country, unless the facts and circumstances of a particular case warrant a different amount, will be that amount that bears the same relation to the total amount paid, received, or accrued as the number of days of performance of the services within that country bears to the total number of days of performance of services for which the total amount is paid, received, or accrued.

(ii) *Transportation, telegraph, and cable services.* Transportation, telegraph, and cable services performed partly within one country and partly within another country are allocated between the two countries as follows:

(A) In the case of a purchase of such services performed from Country A to Country B, fifty percent of the gross amount paid is deemed to be a purchase made from Country A and the remaining fifty percent is deemed to be a purchase made from Country B.

(B) In the case of a sale of such services performed from Country A to Country B, fifty percent of the gross receipts is deemed to be a sale made from Country R and the remaining fifty percent is deemed to be a sale made to Country B.

(10) *Country of use, consumption, or disposition.* As a general rule, the country of use, consumption, or disposition of tangible personal property (including money) and the end product of services (wherever performed) is deemed to be the country of destination of the tangible personal property or the end product of the services. (Thus, if legal services are performed in one country and an opinion is given for use by a client in a second country, the end product of the legal services is used, consumed, or disposed of in the second country.) The occurrence in a country of a temporary interruption in the shipment of the tangible personal property or the delivery of the end product of services shall not constitute such country the country of destination. However, if at the time of the transaction the person providing the tangible personal property or the end product of services knew, or should have known from the facts and circumstances surrounding the transaction, that the tangible personal property or the end product of services probably would not be used, consumed, or disposed of in the country of destination, that person must determine the country of ultimate use, consumption or disposition of the tangible personal property or the end product of services. Notwithstanding the preceding provisions of this subparagraph, a person that sells, exchanges, otherwise disposes of, or makes available for use, tangible personal property to any person all of whose business except for an insubstantial part consists of selling from inventory to retail customers at retail outlets all within one country may assume at the time of such sale to such person that the tangible personal property will be used, consumed, or disposed of within such country.

(11) *Controlled group taxable year.* The term "controlled group taxable year" means the taxable year of the controlled group's common parent corporation. In the event that no common parent corporation exists, the members of the group shall elect the taxable year of one of the members of the controlled group to serve as the controlled group taxable year. The taxable year election is a binding election to be changed only with the approval of the Secretary or his delegate. The election is to be made in accordance with the procedures set forth in the instructions to Form 5713, the International Boycott Report.

(c) *Computation of international boycott factor.* (1) *In general.* The method of computing the international boycott factor of a person that is not a member of a controlled group is set forth in paragraph (c) (2) of this section. The method of computing the international boycott factor of a person that is a member of a controlled group is set forth in paragraph (c)(3) of this section. For purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a partnership are deemed to be made or paid or accrued by a partner in that proportion that the partner's distributive share bears to the purchases and sales made by, and the payroll paid or accrued by, the partnership. Also for purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a trust referred to in section 671 are deemed to be made both by the trust (for purposes of determining the trust's international boycott factor), and by a person treated under section 671 as the owner of the trust (but only in that proportion that the portion of the trust that such person is considered as owning under sections 671 through 679 bears to the purchases and sales made by, and the payroll paid and accrued by, the trust).

(2) *International boycott factor of a person that is not a member of a controlled group.* The international boycott factor to be applied by a person that is not a member of a controlled group (within the meaning of section 993(a)(3)) is a fraction.

(i) The numerator of the fraction is the sum of the—

(A) Purchases made from all boycotting countries associated in carrying out a particular international boycott,

(B) Sales made to or from all boycotting countries associated in carrying out a particular international boycott, and

(C) Payroll paid or accrued for services performed in all boycotting countries associated in carrying out a particular international boycott by that person during that person's taxable year, minus the amount of such purchases, sales, and payroll that is clearly demonstrated to be attributable to clearly separate and identifiable operations in connection with which there was no participation in or cooperation with that international boycott.

(ii) The denominator of the fraction is the sum of the—

(A) Purchases made from any country other than the United States,

(B) Sales made to or from any country other than the United States, and

(C) Payroll paid or accrued for services performed in any country other than the United States by that person during that person's taxable year.

(3) *International boycott factor of a person that is a member of a controlled group.* The international boycott factor to be applied by a person that is a member of a controlled group (within the meaning of section 993(a)(3)) shall be computed in the manner described in paragraph (c)(2) of this section, except that there shall be taken into account the purchases and sales made by, and the payroll paid or accrued by, each member of the controlled group during each member's own taxable year that ends with or within the controlled group taxable year that ends with or within that person's taxable year.

(d) *Computation of the international boycott factor of a person that is a member of two or more controlled groups.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is a member of two or more controlled groups shall be determined in the manner described in paragraph (c)(3), except that the purchases, sales, and payroll included in the numerator and denominator shall include the purchases, sales, and payroll of that person and of all other members of the two or more controlled groups of which that person is a member.

(e) *Transitional rules.* (1) *Pre-November 3, 1976 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes November 3, 1976, or a person that is a member of a controlled group, for the controlled group taxable year that includes November 3, 1976, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, that the following adjustments shall be made:

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations—

(A) That were completed on or before November 3, 1976, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before November 3, 1976, to the governments or persons with which the agreements were made, and the agreements have not been reaffirmed after November 3, 1976, and

(ii) The international boycott factor resulting after the numerator has been modified in accordance with paragraph (e)(1)(i) of this section shall be further modified by multiplying it by a fraction. The numerator of that fraction shall be the number of days in that person's taxable year (or, if applicable, in that person's controlled group taxable year) remaining after November 3, 1976, and the denominator shall be 366.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A, a calendar year taxpayer, is not a member of a controlled group. During the 1976 calendar year, Corporation A had three operations in a boycotting country under three separate contracts, each of which contained agreements constituting participation in or cooperation with an international boycott. Each contract was entered into on or after September 2, 1976. Operation (1) was completed on November 1, 1976. The sales made to a boycotting country in connection with Operation (1) amounted to $10. Operation (2) was not completed during the taxable year, but on November 1, 1976, Corporation A communicated a renunciation of the boycott agreement covering that operation to the government of the boycotting country. The sales made to a boycotting country in connection with Operation (2) amounted to $40. Operation (3) was not completed during the taxable year, nor was any renunciation of the boycott agreement made. The sales made to a boycotting country in connection with Operation (3) amounted to $25. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, a boycotting country. Corporation A had $500 of purchases made from, sales made from, sales made to, and payroll paid or accrued for services performed in, countries other than the United States. Company A's boycott factor for 1976, computed under paragraph (c)(2) of this section (before the application of this subparagraph) would be:

$$\frac{\$10+\$40+\$25}{\$500}=\frac{\$75}{\$500}$$

However, the $10 is eliminated from the numerator by reason of paragraph (e)(1)(i)(A) of this section, and the $40 is eliminated from the numerator by reason of paragraph (e)(1)(i)(B) of this section. Thus, before the application of paragraph (e)(1)(ii) of this section, Corporation A's international boycott factor is $25/$500. After the application of paragraph (e)(1)(ii), Corporation A's international boycott factor is:

$$\frac{\$25}{\$500}\times\frac{58}{366}$$

(2) *Pre-December 31, 1977 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes December 31, 1977, or by a person that is a member of a controlled group, for the controlled group taxable year that includes December 31, 1977, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, the following adjustments shall be made:

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations that were carried out in accordance with the terms of binding contracts entered into before September 2, 1976, and—

(A) That were completed on or before December 31, 1977, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before December 31, 1977, to the governments or persons with which the agreements were made, and the agreements were not reaffirmed after December 31, 1977, and

(ii) In the case of clearly separate and identifiable operations that are carried out in accordance with the terms of binding contracts entered into before September 2, 1976, but that do not meet the requirements of paragraph (e)(2)(i) of this section, the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section shall be adjusted by multiplying the purchases, sales, and payroll clearly demonstrated to be attributable to those operations by a fraction, the numerator of which is the number of days in such person's taxable year (or, if applicable, in such person's controlled group taxable year) remaining after December 31, 1977, and the denominator of which is 365.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A is not a member of a controlled group and reports on the basis of a July 1–June 30 fiscal year. During the 1977–1978 fiscal year, Corporation A had 2 operations carried out pursuant to the terms of separate contracts, each of which had a clause that constituted participation in or cooperation with an international boycott. Neither operation was completed during the fiscal year, nor were either of the boycotting clauses renounced. Operation (1) was carried out in accordance with the terms of a contract entered into on November 15, 1976. Operation (2) was carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Corporation A had sales made to a boycotting country in connection with Operation (1) in the amount of $50, and in connection with Operation (2) in the amount of $100. Corporation A had sales made to countries other than the United States in the amount of $500. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, any country other than the United States. In the absence of this subparagraph, Corporation A's international boycott factor would be

$$\frac{\$50+\$100}{\$500}.$$

However, by reason of the application of this subparagraph, Corporation A's international boycott factor is reduced to

$$\frac{\$50+\$100\left(\frac{181}{365}\right)}{\$500}$$

(3) *Incomplete controlled group taxable year.* If, at the end of the taxable year of a person that is a member of a controlled group, the controlled group taxable year that includes November 3, 1976 has not ended, or the taxable year of one or more members of the controlled group that includes November 3, 1976 has not ended, then the international boycott factor to be applied under sections 908(a), 952(a)(3) and 995(b)(1)(F) by such person for the taxable year shall be computed in the manner described in paragraph (c)(3) of this section. However, the numerator and the denominator in that paragraph shall include only the purchases, sales, and payroll of those members of the controlled group whose taxable years ending after November 3, 1976 have ended as the end of the taxable year of such person.

(f) *Effective date.* This section applies to participation in or cooperation with an international boycott after November 3, 1976. In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, this section applies to such participation or cooperation after December 31, 1977.

Because of the need for immediate guidance with respect to the provision contained in this Treasury Decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-6064 Filed 2-24-77;2:40 pm]

Title 32—National Defense

CHAPTER XII—DEFENSE LOGISTICS AGENCY

SUBCHAPTER B—MISCELLANEOUS

[DSA Reg. 5500.7]

PART 1281—HEARING RULES FOR SANCTION PROCEEDINGS, EXECUTIVE ORDER 11246

Revocation of Part

Part 1281 of Title 32 of the Code of Federal Regulations is revoked as this part is no longer needed by the Defense Logistics Agency.

Dated: February 15, 1977.

J. J. MCALEER, Jr.,
Colonel, USA,
Staff Director, Administration.

[FR Doc.77-6067 Filed 2-28-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 684-6]

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

Medium and Heavy Trucks

This notice amends 40 CFR Part 205 by striking 40 CFR § 205.54-1(c)(1)(iv) and 205.54(c)(2)(iv). The amendment, which

will take effect May 31, 1977, is made in response to a petition for reconsideration submitted by the Jacobs Manufacturing Company.

In subpart B of 40 CFR Part 205 the Environmental Protection Agency (EPA) established noise emission standards for medium and heavy trucks. (See 41 FR 15538, April 13, 1976.) The test method which accompanies those standards was developed from a test method used by the truck manufacturing industry, SAE J366b, which included a requirement that all trucks equipped with engine brakes must be subjected to an extra passby test with the engine brake engaged. This requirement was incorporated in the federal noise emission standards, 40 CFR § 205.54–1(c)(1)(iv), 205.54–1(c)(2)(iv). On June 4, 1976, the Jacobs Manufacturing Company, manufacturer of engine brakes, petitioned the EPA to delete these provisions on the grounds that the additional test burden would likely induce truck manufacturers to stop offering engine brakes on their products, eliminating the safety and economic benefits attributable to engine brakes, and that there would be little environmental benefit because of the limited use and low noise levels of engine brakes. The petition included additional information which had not been considered during the development of the regulation.

Having studied the information and petition submitted by Jacobs Manufacturing Company, the Administrator has determined that it is appropriate to grant the petition and delete 40 CFR § 205.54–1(c)(1)(iv) and 205.54–1(c)(2)(iv). The evidence indicates that at the levels at which EPA has set the noise emission standards, 83 dBA (1978) and 80 dBA (1982), the noise contributed by engine brakes during deceleration is not high enough to be a contributing factor, and therefore the additional passby with the brake engaged adds nothing to the test. This being the case, there is no environmental benefit to offset any additional burden which the requirement may impose.

The Administrator finds no evidence to support the Jacobs Manufacturing Company's assertion that the incremental cost of the additional passby test will cause truck manufacturers to cease offering engine brakes on any of their models. The minimal amount by which this would add to the cost of testing makes such a result unlikely.

As stated on April 13, 1976 (41 FR 15543) the Administrator is considering lowering the standard for a future date beyond 1982. When this occurs, the noise from engine brakes may become a factor, and it will be necessary to consider whether the engine brake passby test should be instituted at that time. Accordingly, the Administrators' conclusions will be reviewed in full at that time based on all information then available.

Public Comment: This amendment will not take effect for ninety days (May 31, 1977). The Administrator has determined that the public should be given an opportunity to comment on the deletion of 40 CFR §§ 205.54–1(c)(1)(iv) and 205.54–1(c)(2)(iv). Accordingly, all interested parties are invited to submit comments on this amendment, including specifically the conclusions of the Administrator with respect to economic impacts of the requirement, its environment benefits, and the contribution of engine brakes to truck noise levels during testing according to EPA test procedures. Comments must be received by EPA no later than March 14, 1977. Unless information is received which merits the withdrawal of this amendment before its effective date, the amendment will take effect without further notice from EPA.

Comments should be submitted, with 5 copies when possible, to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW–471), Attention: Docket No. ONAC 77–3, U.S. Environmental Protection Agency, Washington, D.C. 20460.

The Jacobs Manufacturing Company petition and all related information together with copies of all responses received in response to this notice will be available for public inspection at the EPA Public Information Center, Waterside Mall, 4th and M Streets, S.W., Washington, D.C.

(Sec. 6 and 13, Pub. L. 92–574, 86 Stat. 1234 et seq. (42 U.S.C. 4905, 4912).)

Dated February 23, 1977.

JOHN QUARLES,
Acting Administrator.

40 CFR Part 205 is revised, effective May 31, 1977, as follows:

§ 205.54–1 [Amended]

40 CFR § 205.54–1(c)(1)(iv) and 40 CFR § 205.54–1(c)(2)(iv) are revoked.

[FR Doc.77–5979 Filed 2–28–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–203]

PART 101–34—EMERGENCY PREPAREDNESS PLANNING

Civilian Emergency Preparedness Planning

This regulation sets forth changed policy and procedures for emergency preparedness planning by civil agencies for supply support during national defense emergencies.

1. The table of contents for Part 101–34 is amended as follows:

Sec.
101–34.102 Pre-positioned stocks.
101–34.103 FSS emergency coordination centers.

2. Sections 101–34.002 and 101–34.003 are revised as follows:

§ 101–34.002 Definitions.

As used in this part the following terms shall apply:

(a) *Civil readiness levels.* The Federal Preparedness Agency, GSA, has established civil readiness levels to ensure that Federal civil agencies will be properly and accurately notified of emergency situations. These levels, described below are independent of and have no direct relationship to the Defense Readiness Conditions (DEFCONS) of the Department of Defense.

(1) *Communications watch.* Announcement of this readiness level requires normal or near normal emergency preparedness by Federal civil agencies having nonmilitary defense responsibilities.

(2) *Initial alert.* When notified of this readiness level, Federal civil agencies shall establish continuous manning of primary emergency operation centers.

(3) *Advanced alert.* This readiness level indicates the President desires achievement of the highest degree of civil emergency readiness and will result in a general and public participation in emergency and civil preparedness actions.

(b) *Defense Readiness Conditions (DEFCONS).* DEFCONS are military announcements, progressing from 5 through 1, which indicate the degree of preparedness required by national emergency conditions short of attack warning. DEFCONS 5 and 4 require continuance of normal preparedness. DEFCONS 3, 2, and 1 represent stepped-up readiness actions from moderate to maximum preparation to ensure performance of emergency functions. In support of the Department of Defense during such emergency conditions, the Federal Supply Service (FSS) will respond to DEFCON changes.

§ 101–34.003 GSA Handbook, Emergency Supply Support Operations.

Detailed instructions and guidelines on implementing GSA emergency preparedness plans are provided in the GSA Handbook, Emergency Supply Support Operations, which is issued by the Commissioner, FSS. Since the handbook identifies actions to be taken to obtain supplies, equipment, and services from or through GSA in the postattack period, agencies should pre-position copies at their emergency operation centers.

Subpart 101–34.1—Preattack Defense Emergency Plans

1. Sections 101–34.101 and 101–34.102 are revised to read as follows:

§ 101–34.101 Requisitioning instructions.

(a) Normal FEDSTRIP/MILSTRIP requisitioning procedures shall be followed during the preattack period. GSA will issue appropriate instructions if emergency conditions result in material shortages or other developments which require changes in supply methods or procedures.

(b) Requisitions shall be processed for shipment in accordance with the assigned priority designator code unless otherwise directed by a higher authority.

(c) At the time of an attack upon the United States all agency requisitions in process shall be canceled. After assessment of damages, agencies shall submit

new requisitions based on an evaluation of current requirements.

§ 101–34.102 Pre-positioned stocks.

The Federal Preparedness Agency, GSA, encourages agencies to pre-position stocks of essential supplies and equipment which will be needed for the first 15 to 30 days of operation at agency emergency operation centers. Such action will ensure availability of operating supplies in the event of a surprise attack. Agencies unable to pre-position those supplies prior to directive authority to activate the emergency operation centers shall prepare and hold requisitions which can be immediately released to the supply support activity.

2. Section 101–34.103 is retitled and revised to read as follows:

§ 101–34.103 FSS emergency coordination centers.

Upon declaration of defense emergency conditions (DEFCON 3, Initial alert, or higher), emergency coordination centers will be activated by the Federal Supply Service (GSA) at its Central Office and in each region to provide 24-hour continuous service to monitor high priority requirements. This service will include assistance for specialized procurements and expedited deliveries and determination of availability of critically needed items. At the time of activation, GSA will coordinate supply support actions with agency supply officials on record with GSA.

3. Sections 101–34.104 and 101–34.105 are revised to read as follows:

§ 101–34.104 Agency supply requirements.

To enable GSA to meet supply support demands under emergency defense conditions, agencies shall identify items for which increased requirements are anticipated. Items shall be listed by national stock number and shall show the normal annual and anticipated emergency requirements for each item. These lists shall be submitted to the General Services Administration (FP), Washington, D.C. 20406. Using this data GSA can, as appropriate and feasible, alert suppliers of the anticipated increases, arrange for increased quantities under existing contracts, provide for increased GSA inventories, or develop data on additional sources of supply.

§ 101–34.105 Agency supply liaison.

(a) GSA provides for 24-hour supply support service to process emergency or other urgent requirements which arise after normal duty hours. GSA regional offices publish in regional bulletins or notices the names and telephone numbers of persons to contact when 24-hour supply support service is needed. The GSA Supply Catalog also lists emergency telephone numbers for this purpose.

(b) GSA also provides field liaison service to military and civil agencies through the Customer Service Representative (CSR) program. CSR's are located in the GSA Central Office, regional offices, and Europe. The applicable CSR should be contacted if additional assistance is required concerning adequate supply support during national defense emergencies.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Effective date: This regulation is effective on March 1, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77–6073 Filed 2–28–77;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Approval of Charters to Aliens; Individual Voyage Approvals

The purposes of these amendments to Parts 221 and 294 of the Maritime Administration Regulations are (1) to provide for approvals of specified charters to aliens, for carrying bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics, of bulk cargo vessels operating under long-term operating-differential subsidy agreements (pursuant to Part 252); and (2) to require approval by the Maritime Subsidy Board of individual voyages in such trade with the Union of Soviet Socialist Republics.

These amendments affect operators of subsidized vessels, and are adopted without notice of proposed rulemaking under the exemption provided in 5 U.S.C. 553 (a)(2) relating to public grants.

Part 221 of Title 46, Code of Federal Regulations, is hereby amended so that paragraph (a) § 221.7 shall read as follows:

§ 221.7 Approval of charters of certain vessels to aliens.

(a) The Department of Commerce, Maritime Administration, hereby approves under sections 9, 37 and 41 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835 and 839), the charter to a person not a citizen of the United States of any vessel (including space in such vessel) documented under the laws of the United States, or the last documentation of which was under the laws of the United States, or by a corporation organized under the laws of the United States or of any State, Territory, District or possession thereof. In general, as to each vessel, the approval shall extend for a period of not more than six (6) months, or for a voyage or voyages that will probably terminate before the expiration of six months. With respect to bulk cargo vessels engaged in carrying bulk raw and processed agricultural commodities from the United States to ports in the Union of Soviet Socialist Republics or to other permissible ports of discharge, pursuant to Part 294 of this chapter, that are operating under long-term operating - differential subsidy agreements (ODSA) subject to the requirements of Part 252 of this chapter, the approval shall extend to all charters subject to such ODSA, without requirement of filing an application and payment of the application fee provided for in section 221.14 of this part. Approval will not be granted to charters of the following nature:

(1) Demise or bareboat charters.

(2) For the carriage of cargoes of any kind to or from the Union of Soviet Socialist Republics (other than the carriage of bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics or to other permissible ports of discharge, as authorized in section 294.5 of this chapter), Czechoslovakia, Hungary, Bulgaria, Albania, North Korea, the Soviet Zone of Germany, Manchuria, Communist China, the Communist-controlled area of Viet Nam, Cuba, or Southern Rhodesia.

(3) For use in the fisheries.

Part 294 of Title 46, Code of Federal Regulations, is hereby amended as follows:

By amending paragraph (a) of § 294.5 to add a sentence at the beginning of the paragraph, immediately after the heading; and by adding a new § 294.5(c) to read as follows:

§ 294.5 Voyage approval procedures.

(a) *Requests.* Prior to each subsidized voyage, all operators, including bulk operators under long-term operating-differential subsidy agreements (ODSA) provided for in Part 252 of this chapter, shall be required to obtain approval of the Board. * * *

* * * * * *

(c) *Charters to aliens.* Pursuant to § 221.7 of this chapter, United States-documented bulk cargo vessels which are operated under long-term ODSA provided for in Part 252 of this chapter, that are engaged in carrying bulk agricultural commodities to ports in the Union of Soviet Socialist Republics or to other permissible ports of discharge, have approval under sections 9, 37 and 41 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835 and 839), for specific charters to aliens for the carriage of grain to the Union of Soviet Socialist Republics or to other permissible ports of discharge. Any restrictions included in existing charter orders that prohibit the carriage of bulk agricultural commodities in such trade are waived.

Effective date: The amendment shall be effective as of November 9, 1976.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), sec. 19(b) of

the Merchant Marine Act, 1920 (46 U.S.C. 876(b)), as amended, Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by P.L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 1970 July 23, 1973).)

NOTE.—These amendments to 46 CFR Part 221 and 46 CFR Part 294 have been reviewed pursuant to Executive Order 11821 and OMB Circular A107 and have been determined to have no major inflationary impact.

Dated: February 22, 1977.

By Order of the Maritime Subsidy Board/Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-6056 Filed 2-28-77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Economics Doc. 5, Notice 2]

PART 268—REGULATIONS GOVERNING PROPOSED TRANSACTIONS SUBMITTED TO SECRETARY OF TRANSPORTATION UNDER SECTION 5(3) OF THE INTERSTATE COMMERCE ACT

Establishment of Part; Correction

In FR Doc. 77-2366, appearing at page 4982 in the FEDERAL REGISTER of Wednesday, January 26, 1977, the following changes should be made:

1. On page 4982, 1st column, 2d paragraph, line 6, the phrase "(the "Act")" should be deleted.

2. On page 4983, 1st column, 2d paragraph, line 8, a comma should be inserted after "268.29".

3. On page 4983, 3d column, 1st paragraph, line 15, the word "the" should be inserted after the word "in".

4. On page 4984, 1st column, 1st line of the AUTHORITY paragraph should read:

AUTHORITY: Sec. 5(3)(f) Interstate Commerce.

5. On page 4984, 2d column, insert a new paragraph (1) to § 268.3 which reads: (1) "Supplemental submission" means data concerning the proposed transaction submitted by the applicant for evaluation and study by the Administrator, which goes beyond the data which is required to be submitted by this part.

6. On page 4985, 1st column, § 268.9(b), line 3, insert the phrase "after the original submission" following "istrator".

7. On page 4985, 2d column, insert a semicolon in place of the period: in § 268.17(a)(2), line 8 following the word "applicable"; in § 268.17(a)(5), line 15, following the word "number"; and in § 268.17(b)(2), line 6, following the word "points".

8. On page 4985, 2d column, in § 268.17(a)(7), line 5, insert the word "and" after the semicolon.

9. On page 4986, 1st column, the section title which reads "§ 268.22" should read "§ 268.21".

10. On page 4986, 3d column, § 268.23(h), line 3, the word "projects" should read "projections".

11. On page 4986, 3d column, § 268.25(b)(1), line 3, delete the word "and".

12. On page 4986, 3d column, § 268.25(b)(2), line 4, insert a semicolon following the word "anticipated".

13. On page 4987, 1st column, insert a semicolon in place of the period: in § 268.25(b)(3), line 7, following the word "action"; in § 268.27(b)(1), line 3, following the word "lines"; in § 268.27(b)(2), line 5, after the word "shippers"; and in § 268.27(b)(3), line 4, after the word "abandonment".

14. On page 4987, 1st column, § 268.25(b)(3), line 7, insert the word "and" after the newly inserted semicolon.

15. On page 4987, 2d column, insert a semicolon in place of the period: in § 268.27(b)(4), line 5, following the word "discontinuance"; in § 268.27(e)(1), line 3, after the word "shippers"; and in § 268.27(e)(2), line 6, after the word "program".

16. On page 4987, 2d column, insert the word "and" after the newly inserted semicolon in line 5 of § 268.27(b)(4) and also in line 6 of § 268.27(e)(2).

17. On page 4987, 3d column, § 268.29(e), line 3, delete the phrase "major installations facility" and insert "other major installations or facilities".

18. On page 4988, 2d column, § 268.35(e), line 7, the word "including" should read "inclusion".

19. On page 4988, 3d column, line 8 of § 268.35(f)(1), the word "associate" should read "associated".

Dated: February 24, 1977

BRUCE M. FLOHR,
Deputy Administrator,
Federal Railroad Administration.

[FR Doc.77-6077 Filed 2-28-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1260]

PART 1033—CAR SERVICE

Substitution of Refrigerator Cars for Boxcars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

It appearing That an acute shortage of boxcars for transporting shipments of cotton exists on The Atchison, Topeka and Santa Fe Railway Company (ATSF) at stations on its lines in Texas and New Mexico; that the ATSF has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar; that use of these refrigerator cars for the transportation of cotton is precluded by certain tariff provisions, thus curtailing shipments of cotton; and that there is need for the use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of cotton; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds 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: § 1033.1260 is revised to read as follows:

§ 1033.1260 Substitution of refrigerator cars for boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) may substitute two refrigerator cars as described in paragraph (a)(2) of this section herein for each boxcar ordered for shipments of cotton from any station on the ATSF in Texas or New Mexico and destined to any other station on the ATSF, subject to the conditions provided in paragraphs (a) (2) thru (6) of this section, inclusive of this order.

(2) *List of refrigerator cars to be applied:*

SFRC 1000-1899
SFRC 2300-2799
SFRC 50000-50199

(3) *Concurrence of shipper required.* The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(4) *Exclusive ATSF movement required.* Shipments of cotton for which two refrigerator cars are substituted for one boxcar must originate and terminate at stations on the ATSF and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(5) *Minimum weights.* The minimum weight per shipment of cotton for which two refrigerator cars have been substituted for one boxcar shall be that specified in the applicable tariff. Cars must be loaded to full visible capacity.

(6) *Endorsement of billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1260.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 25, 1977.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 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 a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order 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 Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6115 Filed 2-28-77;8:45 am]

[Ex Parte No. MC 19 (Sub-No. 24)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods; Collection of Freight Charges on Household Goods Shipments Lost or Destroyed; Extension of Effective Date

On Thursday, February 17, 1977, (42 FR 9668), the Interstate Commerce Commission published in the FEDERAL REGISTER a notice that its household goods transportation regulations (49 CFR 1056) had been modified by amending § 1056.6 and by adding a new § 1056.26 to Part 1056 of Title 49 of the Code of Federal Regulations.

The Interstate Commerce Commission received a request from Alan F. Wohlstetter, attorney for Household Goods Carriers' Bureau and American Movers Conference to extend the effective date of those regulations from March 1, 1977 to May 1, 1977.

The effective date of the regulations published by the Interstate Commerce Commission in Ex Parte No. MC 19 (Sub-No. 24), Practices of Motor Common Carriers of Household Goods (Collection of Freight Charges on Household Goods Shipments Lost or Destroyed), 126 M.C.C. 250 (1977), (as published at 42 FR 9668), has accordingly been extended from March 1, 1977 to May 1, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6116 Filed 2-28-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 620—CITATIONS

Interim Regulations

Effective March 1, 1977, the Fishery Conservation and Management Act (the Act), 16 U.S.C. 1801 (sometimes called the 200 mile limit fishing law), establishes the exclusive fishery management authority of the United States (1) over all fish (except certain species of tuna) within the Fishery Conservation Zone, the body of water adjoining the U.S. territorial sea and extending 200 miles from the coastline, and (2) over all anadromous species of fish (such as salmon) and Continental Shelf fishery resources (such as lobster and certain crabs) beyond the Fishery Conservation Zone.

The Coast Guard and the National Marine Fisheries Service are responsible for enforcement of the Act. The regulations in this new Part 620 establish procedures for carrying out one of the enforcement measures contemplated by the Act, namely, the issuance of citations. A citation is defined in § 620.2 below as notice of the documentation of a violation and a warning of more severe action as to a future offense. A citation would be issued to the owner or operator of a fishing vessel found to have operated in violation of the Act in some minor or technical respect which did not, in the judgment of the issuing officer, warrant one of the other law enforcement measures authorized by section 311 of the Act, such as seizure of the vessel or arrest of its master (§ 620.5). The required finding of violation and the decision whether to issue a citation or take other enforcement action would be made by the National Marine Fisheries Service or Coast Guard enforcement officer on the scene, as provided in § 620.5(b).

The fact that a citation had been issued would be noted on any fishing permit held by the vessel under the Act and § 620.6(a) authorizes an alternative method of permit notation by later service on the vessel's owner or agent. Section 620.6(b) requires the Director of the National Marine Fisheries Service to maintain a record of all citations issued.

Finally, § 620.7 provides that the Director of the National Marine Fisheries Service may review a citation upon timely application by the person cited setting forth circumstances which make a review appropriate. Although the Act does not make provision for such a review, it is believed the interests of justice will be served by providing an opportunity for the cited person to explain the circumstances of the violation soon after the citation is issued, since a record of citations will be maintained.

As stated above, the management authority of the Act is effective on March 1, 1977. Section 311 of the Act requires these jointly issued regulations to be in effect before citations may be issued. For these reasons, and because citation authority is considered by the Coast Guard and the National Marine Fisheries Service to be a necessary and important measure to properly enforce the Act, it is hereby for good cause found that the notice, public procedure, and delayed effectiveness provisions of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective March 1, 1977, as Interim Regulations.

In the interest of public participation in the rulemaking process, comments on these regulations will be received until May 31, 1977, after which time amendments will be made as necessary to take proper account of comments received and enforcement experience gained during this period. Comments or questions may be directed to Stephen J. Powell, Assistant General Counsel, National Oceanic and Atmospheric Administration, Room 5814, Main Commerce Building, Washington, D.C. 20230, telephone (202) 377-3043; or to LCDR E. A. Blanton, Maritime Law Enforcement Branch, Coast Guard (G-000/74), Washington, D.C. 20590, telephone (202) 426-2020.

Dated: February 23, 1977.

WINFIELD H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

OWEN W. SILER,
Admiral, USCG, Commandant, U.S. Coast Guard.

FEBRUARY 25, 1977.

Chapter VI of 50 CFR is amended by adding the following Part 620:

Sec.
620.1 Purpose.
620.02 Definitions.
620.3-4 [Reserved]
620.5 Issuance of citations.
620.6 Record of citations.
620.7 Review of citations.

AUTHORITY: 16 U.S.C. 1861 and 1855.

§ 620.1 Purpose.

Regulations in this Part are published jointly by the National Marine Fisheries Service and the Coast Guard to provide uniform rules for the issuance of citations to fishing vessel owners or operators under section 311(c) of the Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801, 1861(c).

§ 620.2 Definitions.

Unless the context otherwise requires, terms in these regulations have the

meanings prescribed in sections 3 and 311(e) of the Act. In addition, the following definitions apply:

(a) *Citation.* Written notice that a violation has been documented and a warning that a future offense may be dealt with more severely.

(b) *Director.* Director, National Marine Fisheries Service, or his designee.

§ 620.5 Issuance of citations.

(a) Any authorized enforcement officer who finds that a fishing vessel is operating or has been operated in violation of any provision of the Act may issue a citation to the owner or operator of the vessel.

(b) A citation is issued in the sole discreation of the authorized officer for minor or technical violations and substitutes for other law enforcement action the officer could take under the circumstances, such as seizure of the vessel and arrest of the master.

§ 620.6 Record of citations.

(a) If the offending vessel holds a permit under the Act, the issuance of a citation shall, as soon as practicable, be noted on the permit with the date of the citation and the reason for its issuance. If notation on the permit is impracticable, notice of issuance of the citation will promptly be served personnally or by registered or certified mail, return receipt requested, on the vessel's owner, operator, or designated agent for service of process, and such service shall be deemed notation on the permit.

(b) The Director shall cause a record of citation to be maintained.

§ 620.7 Review of citations.

(a) Upon application by the persons to whom a citation was issued, the Director may review any citation issued under these regulations if:

(1) The application is filed in writing within 60 days of the date of the citation at the address of the Regional Director, National Marine Fisheries Service, nearest to the place where the citation was issued (Seattle, Washington 98102; Terminal Island, California 90731; Juneau, Alaska 98109; Gloucester, Massachusetts 01930; or St. Petersburg, Florida 33702); and;

(2) The application sets forth circumstances which in the judgment of the Director make review appropriate in the interest of justice.

(b) Upon completion of his review, the Director will notify the applicant of his action, which shall be final and unappealable.

[FR Doc.77-6323 Filed 2-28-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR PART 1804]

[FmHA Instruction 424.5]

PLANNING AND PERFORMING SITE DEVELOPMENT WORK

Miscellaneous Amendments

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of §§ 1804.62, 1804.63, 1804.64, 1804.65, 1804.66, 1804.67, 1804.68, and 1804.72, of Subpart D, Part 1804, Chapter XVIII, Title 7, Code of Federal Regulations (38 FR 4500, as amended at 39 FR 28871). The proposed amendments and additions will change the definition of a new subdivision, clarify development requirements for new and existing subdivisions, and revise approval authorities.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed amendment to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before March 31, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.).

As proposed, the various sections and paragraphs are amended as follows:

1. Section 1804.62 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1804.62 Definitions.

As used in this subpart:

(a) The term "new subdivisions" means any division of undeveloped land or property in which two or more lots or building sites are created. This applies to any subdivision in which FmHA is not lending as of January 1, 1977, and includes original subdividing as well as resubdivision of property. This also applies to expansion of existing subdivisions.

(b) The term "existing unimproved subdivisions" means any series of contiguous recorded lots or building sites which do not have the streets developed and/or all or part of the public utilities installed. Existing unimproved subdivisions will be developed according to the standards for new subdivisions.

(c) The term, "acceptable existing subdivisions" means any series of contiguous lots or building sites which have been developed to comply with all local requirements and with the existing subdivision standards of this subpart. Any existing subdivision which has not received FmHA approval prior to January 1, 1977, must meet the requirements for a new subdivision if FmHA is to make any loans for the sites.

* * * * *

2. Section 1804.63 is amended by revising paragraph (c) to read as follows:

§ 1804.63 Purpose and general policy.

* * * * *

(c) If the Department of Housing and Urban Development and/or the Veterans Administration is reported to be insuring or guaranteeing mortgages in a subdivision, evidence of their acceptance of the subdivision should be obtained before FmHA review and approval is completed.

3. Section 1804.64 is amended by revising paragraph (a) to read as follows:

§ 1804.64 Planning development.

* * * * *

(a) *FmHA advice and assistance.* On subdivisions which will have two or more building sites in the foreseeable future, builder-developers shall be encouraged to seek the advice and assistance of the FmHA before significant expenditures are made. When a County Supervisor receives an inquiry about housing financing in a proposed, new or existing subdivision of two or more sites, he will:

* * * * *

4. Section 1804.65 is amended by adding new paragraph (a) and redesignating the present paragraphs (a) through (f) without change to paragraphs (b) through (g) as follows:

§ 1804.65 Locations.

(a) Shall be in compliance with Secretary's Memorandum No. 1827 concerning preservation of prime agricultural lands. Activities which would irrevocably commit prime lands to nonagricultural uses may be approved by the Administrator only when there are no suitable alternative sites and when the action is in response to overriding public need. Submittals to the Administrator shall fully document the lack of suitable alternative sites and the overriding public need.

* * * * *

5. Section 1804.66 is amended by revising the introductory text in paragraphs (a) and (b) to read as follows:

§ 1804.66 Water and waste disposal systems.

(a) For new subdivisions, existing unimproved subdivisions and expansion of existing subdivisions:

* * * * *

(b) For existing improved subdivisions:

* * * * *

6. Section 1804.67 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1804.67 Streets.

(a) New subdivisions, existing unimproved subdivisions and expansion of existing subdivisions.

* * * * *

(b) Existing improved subdivisions and scattered sites within the subdivision shall be approved according to the requirements in paragraph (a) (1), (2), (6) and (8) of this section.

* * * * *

7. Section 1804.68 is amended by revising the headings for paragraphs (a) and (b) to read as follows:

§ 1804.68 Grading and drainage.

(a) *New subdivisions, existing unimproved subdivisions and expansion of existing subdivisions.*

* * * * *

(b) *For existing improved subdivisions and scattered sites.*

* * * * *

8. Section 1804.72 is amended by revising various paragraphs to read as follows:

§ 1804.72 Subdivision reviews.

(a) * * *

(5) The County Supervisor shall forward the proposal package to the District Director for further review and shall include his comments and recommendations in the remarks section of Form FmHA 424–20 or attach separate sheets thereto.

(i) The District Director's review of the feasibility submission shall include a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with the requirements of this Subpart and its Exhibits. When the proposed subdivision involves 10 or more sites or involves a unique problem, the District Director shall forward the proposal package to the State Director for further review. The District Director shall include his recommendations. In making his review, the State Director shall utilize the services of the State Office Architect and Engineer. The State Director shall make recommendations in writing to the District Director so that he can inform the builder-developer of the results of the review of the feasibility submission.

(b) * * *

(5) Forward the proposal package to the District Director for further review. The County Supervisor shall include his comments and recommendations.

(i) The District Director's review of the preliminary submission involving 10 or more building sites shall include a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with the requirements of this Subpart and its Exhibits. When the proposed subdivision involves 10 or more sites or involves a unique problem the District Director shall forward the proposal package to the State Director for further review. The District Director shall include his recommendations. In making his review, the State Director shall utilize the services of the State Office Architect and Engineer. The State Director shall make recommendations in writing to the District Director so that he can inform the builder-developer of the results of the review of the preliminary submission.

(c) * * *

(1) * * *

(iv) * * *

(A) One set of the subdivision proposal will remain in the County Supervisor's office.

* * * * *

(2) The County Supervisor shall forward the submission proposal with his comments and recommendations to the District Director for final review.

(i) When the District Director receives a final subdivision proposal he shall review the proposal for compliance, considering all the recommendations made on the preliminary submission and with applicable local Regional and State plans and regulations and compliance with FmHA policy, regulations and technical standards.

(ii) When the proposal involves 10 or more building sites the District Director shall forward the proposal to the State Director along with his review and recommendations. When the State Director receives a final subdivision proposal, he shall again, with the assistance of the State Office Architect and Engineer, review the proposal for compliance, considering all the recommendations made on the preliminary submission and with the applicable local, regional and State plans and regulations and the compliance with the FmHA policy, regulations and technical standards.

(iii) The State Director shall recommend to the District Director the actions to be taken in the form of one of the notification letters described in paragraph (d) of this section. The recommendations shall include any minor changes that should be considered by the builder-developer for improvement of the design.

(iv) The State Director shall retain one copy of the proposed subdivision documents and return two copies with his recommendations to the District Director.

(3) The following chart outlines the review and acceptance authority of the District Director, State Director and the National Office with respect to a subdivision proposal:

Number of building sites	Subdivision proposal acceptance authority		
	District director	State office	National office
0 to 9	Yes; the district director may accept and process a subdivision proposal.	State office may advise district director when requested.	National office may advise when requested.
10 to 25	No; for 10 or more sites submit to State office with recommendations.	State office may approve	National office may advise when requested.
More than 25	No; for more than 25 sites submit to State office with recommendations.	Yes; unless other than standard hard-surfaced streets are proposed and/or individual water and/or waste disposal systems are proposed.	Yes; when other than standard hard-surfaced streets are proposed and/or individual water and/or waste disposal systems are proposed.

(d) * * *

(1) The District Director will notify the builder-developer in writing concerning the status of the proposal at the feasibility, preliminary, and final processing review stages. This notification will consist of either:

* * * * *

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: February 18, 1977.

F. W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-6052 Filed 2-28-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

CONFORMING AMENDMENTS TO ENTITLEMENTS PROGRAM TO IMPLEMENT PURCHASE AUTHORITY FOR STRATEGIC PETROLEUM RESERVE

Proposed Rulemaking and Public Hearing; Extension of Time for Submission of Written Comments

On February 5, 1977, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking which set forth conforming amendments to the domestic crude oil allocation program (the "entitlements program") to implement the purchase authority for the Strategic Petroleum Reserve (42 FR 8382, February 10, 1977).

FEA has received several requests for an extension of the date by which written comments were required to be submitted in the February 5 notice. To accommodate these requests, FEA hereby gives notice that the closing date for submission of written comments is extended from February 25 to March 9, 1977. Data, views, or arguments with respect to the proposals set forth in the February 5 notice should be submitted by March 9 before 4:30 p.m., e.s.t., to Executive Communications, Room 3309, Federal Energy Administration, Box KF, Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Strategic Petroleum Reserve—Conforming Amendments to Domestic Crude Oil Allocation Program."

Dated: February 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-5978 Filed 2-24-77;8:49 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 108]

STATE AND LOCAL DEVELOPMENT COMPANIES

Loans

AGENCY: Small Business Administration.

ACTION: Proposed Rule.

SUMMARY: Removes reference to part 120.2(a) clarifying the use of personal assets in securing a section 502 loan, and adds the first mortgage lender as a participant for determination of availability of private sector lending.

DATES: Comments must be received on or before March 21, 1977.

ADDRESS: Comments should be addressed to: Small Business Administration, Office of Community Development, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

William B. Dean, Chief, Development Company Loan Division. (202-653-6842).

SUPPLEMENTARY INFORMATION: The economic growth of the community is the primary reason for the financial assistance to the LDC. The establishment, modernization, and expansion of a small business beneficiary have been determined to aid the economic growth of the community by providing employment opportunities, tax base, and similar general economic factors. The development company needs to assure itself that the beneficiary small business concern

has invested or is investing an economically realistic amount of its business asset in the proposed project.

To clarify this relationship, revised § 108.502-1(f)(1) would delete reference to the small business concern and; revised § 108.502-1(f)(2) would add the provision that the refusal or acceptance of a lender to participate in a project either on a first mortgage basis, or on a guaranty, or immediate participation basis with the development company will be satisfactory evidence of the availability or non-availability of such financing.

The first mortgage plan is an arrangement for joint financing whereby the lender agrees to finance a portion of the project cost and takes a first lien position with other debt including the SBA loan subordinated thereto. The percentage portion of project cost acceptable is based on the generally accepted or normal lending practice for mortgage financing in the area in which the project is located.

Revised § 108.502-1(f)(3) would clarify the use of assets other than business assets to secure SBA loan.

The Small Business Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A 107.

Proposed Amendments: Accordingly, pursuant to authority contained in section 502 of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 696 as amended, notice is hereby given that the Small Business Administration proposes to amend § 108.502-1(f) Chapter I, Title 13 of the Code of Federal Regulations to read as follows:

§ 108.502-1 Section 502 loans.

* * * * *

(f) *Other financing.* (1) A loan application will be accepted for processing if the development company shall show to the satisfaction of SBA that the desired financial assistance is not available on reasonable terms from other sources.

(2) It must be satisfactorily demonstrated that the desired financing is not available to the development company by means of sale of stock or debt securities, or both, of the development company; from funds agreed to be furnished by participating members of the development company; by means of a first mortgage participation; or by loans from a lending institution (or not less than two lending institutions where the population of the community exceeds 200,000) which has a sufficient lending limit to cover the loan applied for.

(3) Generally, the plant should constitute adequate collateral. However, SBA may require a pledge of additional assets where the use of such additional collateral is necessary for the loan to be so secured as to reasonably assure repayment.

* * * * *

(Catalog of Federal Domestic Programs No. 59.013 State and Local Development Company Loans.)

Dated: February 16, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6049 Filed 2-28-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[EDR-320, Docket No. 30539, Dated: February 23, 1977]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Proposed Amendments Concerning Overcharges

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend 14 CFR Part 221, the Board's tariff rules, in one of two ways: Either to bar an airline from charging a ticket buyer a higher fare on the basis of a proposed fare increase that has not yet gone into effect, or to make the airline take down the buyer's name, address, and flight so it can give back the extra money if the fare rise does not take place. The change is to solve the problem of people being charged too much for their tickets, with the airlines having no way of finding them to give the money back. The action was suggested by the City Attorney of Los Angeles.

DATES: Comments by April 15, 1977. Reply comments by May 2, 1977. Requests to be placed on the Service List by March 11, 1977. Proposed effective date: October 1, 1977.

ADDRESSES: Comments should be sent to Docket 30539, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, 202-673-5444.

SUPPLEMENTARY INFORMATION: The Board has recently become concerned about a sales practice that sometimes results in overcharges to scheduled service passengers. It happens in this way: A carrier applies to the Board for a fare increase and proposes that it become effective on a certain date. The carrier then sells tickets at the proposed increased fares for flights leaving on or after that date. If, however, for some reason the proposed fare increase does not become effective by the date the flight leaves, these passengers have paid too much. The carrier is required by law to refund the amount of the overcharge to the passengers.[1] In some cases, however, the carrier does not have enough information to find all the passengers, and general notices always fail to reach some portion of the public. Thus, some overcharges are not repaid.

The Board is considering two possible courses of action, which by this notice it proposes as alternatives.

The first is to prohibit the practice of collecting from passengers fare amounts that are higher than the tariff levels in effect, as of the time of sale, for the date of transportation.[2] Such a course would not be free of problems. Probably the most significant one is that if the proposed higher fare has become effective by the flight date, then the carrier would normally be required to collect the balance owed by the passenger. Such a practice might sometimes cause difficulties at flight time, although they could perhaps be helped by administrative steps by the airlines that among other things gave clear notice to passengers who might have to pay more. This course of action would, however, have the virtue of getting rid of the problem at its source, and of shifting the risk of a failure to make contact from passengers who cannot be expected to be familiar with tariff and ticketing matters, onto the airlines who are responsible for the changes.

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[1] A carrier's failure to return the amounts overcharged is a clear violation of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) and of Part 221 of the Board's Economic Regulations (14 CFR Part 221). Section 403 of the Act (49 U.S.C. 1373) provides, in pertinent part:

(b)(1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any persons any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs, except those specified therein.

A virtually identical provision is set forth in § 221.3(b) of the Board's Economic Regulations (14 CFR 221.3(b)).

[2] If adopted, this would reverse a practice specified by Resolution 001 of the International Air Transport Association (IATA), which provides that member carriers should charge fares set out in IATA resolutions even before they are approved by the governments involved. IATA Resolution 001, paragraph 11, states in part:

[A]fter commencement of the filing period (the time between the date a proposed fare agreement is submitted to the various governments involved and the proposed effective date of those fares) * * * Members may only undertake sales of transportation to be commenced on or after the intended effective date of such Resolutions at the fares or rates resulting from such Resolutions: *Provided*, That such sales shall be qualified, until all necessary Government approvals have been received, by the words "subject to Government approval."

The other possible approach proposed in his notice is to let the present practice continue (that is, let carriers collect the higher fares reflected in proposed tariffs that are not yet effective), but to make sure that passengers who pay higher fares in such cases receive prompt refunds of money legally owed to them if the proposed fares do not become effective. Specifically, this second alternative would require carriers to (1) give clear notice of a possible right to a refund to persons who buy tickets at fares that are proposed to become effective on or before the date travel begins, (2) collect their names, addresses, and flight-identifying information, and (3) where an overcharge has occurred, mail refunds within 2 weeks after the beginning of the flights in question. Under this rule, the giving out of information and the collection of names and addresses would be done by giving the ticket buyer both the required "consumer information" and a form to be returned to the carrier with the needed personal information.

The advantages of this second approach would be that it would avoid administrative problems at departure time, while still providing a way that overcharged passengers would be properly identified so that the airlines could send a refund. One disadvantage is that it would still leave the passengers with the risk, albeit a reduced one, that refunds would not reach some of them. Another disadvantage might be that such a system would require an exchange of paper between the airline and its passengers each time that a fare increase is proposed (assuming, of course, that the airline chose to follow the practice of collecting the proposed increase at the time of sale).

Overcharges could also happen in situations where a carrier applies to the Board for a fare decrease to become effective on a certain date but continues to charge the currently effective (higher) fare for flights leaving after that date, and the proposed decrease becomes effective on the anticipated date. The second method proposed by this notice (collecting information when the ticket is sold) would apply just as well to that situation. The first method (barring airlines from charging on the basis of proposed fare changes) would not solve the problem unless carriers were permitted to, and did, collect proposed fares when they were less than the current tariff levels. For that reason, the first proposal is worded so as to disallow only the collection of fares that are higher than the tariffs currently in effect.

The Board asks that carriers filing comments in this proceeding submit data on how often this overcharge situation occurs, and also that they describe their current procedures for refunding overcharges. It is also requested that carriers, and other Interested persons, comment on the question whether carriers should be required to keep records of the amounts of overcharges, the basis for the overcharges, the numbers of persons entitled to refunds, the names and addresses of persons to whom refunds have been given, and the amounts of the refunds. The Board is specifically interested in information about the cost of keeping such records and enforcement problems that might follow if they are not kept.

Proposed Rules

Accordingly, the Civil Aeronautics Board hereby proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221) as set forth either in Alternative I or Alternative II:

Alternative I

A new paragraph (d) would be added to § 221.3, to read as follows:

§ 221.3 Carrier's duty.

* * * * *

(d) *No advance collection of proposed increases.* A carrier or foreign air carrier shall not receive any payment for passenger transportation, or for any service in connection with it, that is higher than the applicable fare specified in the tariffs in effect at the time it receives the payment.

Alternative II

A new § 221.174a would be added, to read as follows:

§ 221.174a Refunds due to overcharges.

(a) Each air carrier or foreign air carrier that sells a ticket for a scheduled passenger flight whose place of departure is in the United States, for a fare that because of proposed increases or decreases may be higher than the fare in effect on the date the flight leaves, shall give the ticket buyer a form by which the buyer can give the carrier his or her name, address, and identification of the flight. The form shall have at the top these words in at least 10-point boldfaced type: "You may be entitled to a refund. Please complete and return this form so that a refund can be sent if it is owed to you."

(b) The following information, to be kept by the buyer, shall be given out with the form:

(1) That the purpose of the form is to enable the airline to pay all legally required refunds;

(2) The circumstances under which a ticket buyer may be entitled to a refund;

(3) That within 2 weeks after the buyer's departure date the air carrier or foreign air carrier will send the ticket buyer a refund if one is owed; and

(4) That a buyer who has any questions about the matter should contact the air carrier or foreign air carrier (giving the appropriate address in the United States).

(c) With respect to each flight whose place of departure is in the United States and for which an air carrier or foreign air carrier has sold tickets for scheduled passenger air transportation for fares that because of fare decreases or proposed increases were higher than the fares in effect on the date the flight left, that air carrier or foreign air carrier shall:

(1) Within 2 weeks after the date of departure, mail or otherwise give an appropriate refund to each person who can be identified as a buyer of such a ticket and found by means of information in the carrier's possession; and

(2) Promptly give an appropriate refund to any other person who can verify, by cancelled check or other similar proof, that he or she bought such a ticket.

Interested persons may take part in this rule making by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Those persons planning to file comments or reply comments who wish to be served with such comments filed by others, and are willing to serve their own coments on others, shall file with the Docket Section, at the address and by the date shown at the beginning of this notice, a request to be placed on the Service List. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or reply comments at the time of filing, and are to include proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 403, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc.77-6086 Filed 2-28-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13281; File No. S7-611]

LOST AND STOLEN SECURITIES PROGRAM

Requirements for Reporting and Inquiry

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Amendments to Rule.

SUMMARY: These amendments would alter certain reporting and inquiry requirements for registered transfer agents with respect to missing, lost, stolen and counterfeit securities. They are intended to eliminate duplicative reporting and inquiry in the implementation of the Commission's lost and stolen securities program.

DATES: Comments on or before: May 1, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202–755–1390).

SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission today announced proposed amendments to 17 CFR § 240.17f–1 under Section 17(f) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94–29 (June 4, 1975)) concerning reporting and inquiry requirements for missing, lost, stolen or counterfeit securities with respect to registered transfer agents. The proposed amendments are designed to eliminate duplication in the operation of the lost and stolen securities program.

BACKGROUND

On December 10, 1976, the Commission adopted § 240.17f–1 establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1] In that release, the Commission stated that it would consider proposals concerning methods by which duplicative reporting and inquiry by registered transfer agents may be eliminated

PROPOSED AMENDMENTS TO § 240.17f–1

Traditionally, transfer agents have had a pivotal role, through their stop transfer lists, in maintaining information regarding securities deemed to be missing, lost or stolen. Generally a transfer agent will not effect registration of a transfer unless it is satisfied from its own records and a review of its stops that the particular transfer is in all respects proper.

Despite the adoption of § 240.17f–1, the traditional practice by which persons suffering loss or theft of securities notify the transfer agent of such loss or theft should continue in order to protect such persons' interests in the particular security. However, in order to avoid duplicative reporting and inquiry, the Commission has proposed certain amendments to § 240.17f–1 so that the stop transfer lists of registered transfer agents will be substantially identical to the information in the possession of the appropriate instrumentalities.

This proposal would amend § 240.17f–1 paragraphs (b)(1)(i), (b)(2) and (b)(4) to require that, when a reporting institution other than a registered transfer agent files a report of loss or theft with the appropriate instrumentality, a copy of such report would also be required to be filed with the registered transfer agent for the particular security. The Commission feels that such a requirement would not impose any additional burden on reporting institutions since such institutions have traditionally informed transfer agents in cases of loss or theft.

The Commission also proposes to amend paragraph (c) of § 240.17f–1 to exempt from injury by registered transfer agents those securities presented to a transfer agent by a person other than a reporting institution where an acceptable signature guarantee is provided by a reporting institution. Presently, practices of institutions which provide signature guarantees include a determination that the institution "knows its customer" before guaranteeing the signature, thereby reducing the possibility of a forged signature.

The proposed amendment requiring reports of lost or stolen securities to be made with the transfer agent concerned, in conjunction with a registered transfer agent's obligation to check its stop files, will provide substantially similar safeguards against the improper use of lost or stolen securities as a requirement that the transfer agent inquire with the appropriate instrumentality.

TEXT OF PROPOSED AMENDMENTS

It is proposed to amend 17 CFR § 240.17f–1 (b)(1)(i), (b)(2), (b)(4), and (c)(1)(iv) as follows (new matter► between arrows◄):

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

* * * * *

(b) *Reporting requirements.* (1) *Stolen securities.* (i) Every reporting institution shall report to the appropriate instrumentality ►and to the registered transfer agent for the security◄ the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved. Such reports shall be made within one business day of the discovery * * *

* * * * *

(2) *Missing or lost securities.* Every reporting institution shall report to the appropriate instrumentality ►and to the registered transfer agent for the security◄ the discovery of the loss of any security where criminal actions are not suspected when the security has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

* * * * *

(4) *Recovery.* Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this rule to the appropriate instrumentality ►and to the registered transfer agent for the security◄ within one business day of such recovery or finding * * *

* * * * *

(c) * * *

(1) * * *

►(iv) In the case of a registered transfer agent, the security is received from a person other than a reporting institution and there is accompanying the security a signature guarantee made by a reporting institution.◄

* * * * *

REQUEST FOR COMMENTS

The Commission solicits comments from all interested persons regarding the proposed amendments. Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, must be received on or before May 1, 1977. Comments should refer to File No. S7–611 and will be available for public inspection at the Commission's Public Reference Room.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 18, 1977.

[FR Doc.77–5837 Filed 2–28–77;8:45 am]

[1] Securities Exchange Act Release No. 13053; 41 FR 54923 (December 16, 1976).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

COMPUTATION OF THE INTERNATIONAL BOYCOTT FACTOR

Loss of Tax Benefits

The regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments that are submitted in writing (preferably six copies) to the Assistant Secretary for Tax Policy, U.S. Treasury Department, Washington, D.C. 20220, by April 15, 1977. Comments will be subject to public inspection and copying. Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Assistant Secretary for Tax Policy by April 15, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

Certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC (Domestic International Sales Corporation) are denied if a person (or a member of a controlled group that includes that person) participates in or cooperates with an international boycott. The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor".

The method of computing the international boycott factor is set forth in paragraph (c) of the regulations. The definitions of the terms used in the regulations are set forth in paragraph (b). A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d) of the regulations.

The regulations generally apply after November 3, 1976. However, in the case of binding contracts entered into before September 2, 1976, the regulations apply to such participation or cooperation after December 31, 1977. Transitional rules are set forth in paragraph (e) of the regulations.

The principal draftsperson of these regulations was John C. Holberton of the Office of International Tax Counsel. However, other personnel participated in developing the regulations, both on matters of substance and style. Mr. Holberton may be contacted at 202-566-8275 or at U.S. Treasury Department, Washington, D.C. 20220.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 999(c)(1) of the Internal Revenue Code of 1954, as added by section 1064 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1643), such regulations are amended as follows:

§ 1.999-1 Computation of the International Boycott Factor.

(a) *In general.* Sections 908(a), 952(a)(3), and 995(b)(1)(F) provide that certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC are denied if a person or a member of a controlled group (within the meaning of section 993(a)(3)) that includes that person participates in or cooperates with an international boycott (within the meaning of section 999(b)(3)). The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor." Section 999(c)(1) provides that the international boycott factor is to be determined under regulations prescribed by the Secretary. The method of computing the international boycott factor is set forth in paragraph (c) of this section. A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d). Transitional rules for making adjustments to the international boycott factor for years affected by the effective dates are set forth in paragraph (e). The definitions of the terms used in this section are set forth in paragraph (b).

(b) *Definitions.* For purposes of this section:

(1) *Boycotting country.* In respect of a particular international boycott, the term "boycotting country" means any country described in section 999(a)(1)(A) or (B) that requires participation in or cooperation with that particular international boycott.

(2) *Participation in or cooperation with an international boycott.* For the definition of the term "participation in or cooperation with an international boycott", see section 999(b)(3) and Parts H through M of the Treasury Department's International Boycott Guidelines.

(3) *Operations in or related to a boycotting country.* For the definitions of the terms "operations", "operations in a boycotting country", "operations related to a boycotting country", and "operations with the government, a company, or a national of a boycotting country", see Part B of the Treasury Department's International Boycott Guidelines.

(4) *Clearly demonstrating clearly separate and identifiable operations.* For the rules for "clearly demonstrating clearly separate and identifiable operations", see Part D of the Treasury Department's International Boycott Guidelines.

(5) *Purchase made from a country.* The terms "purchase made from a boycotting country" and "purchases made from any country other than the United States" mean, in respect of any particular country, the gross amount paid in connection with the purchase of, the use of, or the right to use:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country,

(iii) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner),

(iv) Real property located in that country, or

(v) Services performed in, and the end product of services performed in, that country (other than payroll paid to a person that is an officer or employee of the payor).

(6) *Sales made to a country.* The terms "sales made to a boycotting country" and "sales made to any country other than the United States" mean, in respect of any particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) for direct use, consumption, or disposition in that country,

(ii) Services performed in that country,

(iii) The end product of services (wherever performed) for direct use, consumption, or disposition in that country,

(iv) Intangible property (other than securities) in that country,

(v) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner), or

(vi) Real property located in that country.

To determine the country of direct use, consumption, or disposition of tangible personal property and the end product of services, see paragraph (b)(10) of this section.

(7) *Sales made from a country.* The terms "sales made from a boycotting country" and "sales made from any country other than the United States" mean, in respect of a particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country, or

(iii) Services performed in, and the end product of services performed in, that country.

However, gross receipts from any such sale, exchange, other disposition, or use by a person that are included in the numerator of that person's international boycott factor by reason of paragraph (b)(6) of this section shall not again be included in the numerator by reason of this subparagraph.

(8) *Payroll paid or accrued for services performed in a country.* The terms "payroll paid or accrued for services performed in a boycotting country" and "payroll paid or accrued for services performed in any country other than the United States" mean, in respect of a particular country, the total amount paid or accrued as compensation to officers and employees, including wages, salaries, commissions, and bonuses, for services performed in that country.

(9) *Services performed partly within and partly without a country.* (i) *In general.* Except as provided in paragraph (b)(9)(ii) of this section, for purposes of allocating to a particular country—

(A) The gross amount paid in connection with the purchase or use of,

(B) The gross receipts from the sale, exchange, other disposition or use of, and

(C) the payroll paid or accrued for services performed, or the end product of services performed, partly within and partly without that country, the amount paid, received, or accrued to be allocated to that country, unless the facts and circumstances of a particular case warrant a different amount, will be that amount that bears the same relation to the total amount paid, received, or accrued as the number of days of performance of the serives within that country bears to the total number of days of performance of services for which the total amount is paid, received, or accrued.

(ii) *Transportation, telegraph, and cable services.* Transportation, telegraph, and cable services performed partly within one country and partly within another country are allocated between the two countries as follows:

(A) In the case of a purchase of such services performed from Country A to Country B, fifty percent of the gross amount paid is deemed to be a purchase made from Country A and the remaining fifty percent is deemed to be a purchase made from Country B.

(B) In the case of a sale of such services performed from Country A to Country B, fifty percent of the gross receipts is deemed to be a sale made from Coun-

try A and the remaining fifty percent is deemed to be a sale made to Country B.

(10) *Country of use, consumption, or disposition.* As a general rule, the country of use, consumption, or disposition of a tangible personal property (including money) and the end product of services (wherever performed) is deemed to be the country of destination of the tangible personal property or the end product of the services. (Thus, if legal services are performed in one country and an opinion is given for use by a client in a second country, the end product of the legal services is used, consumed, or disposed of in the second country.) The occurrence in a country a temporary interruption in the shipment of the tangible personal property or the delivery of the end product of services shall not constitute such country the country of destination. However, if at the time of the transaction the person providing the tangible personal property or the end product of services knew, or should have known from the facts and circumstances surrounding the transaction, that the tangible personal property or the end product of services probably would not be used, consumed, or disposed of in the country of destination, that person must determine the country of ultimate use, consumption or disposition of the tangible personal property or the end product of services. Notwithstanding the preceding provisions of this subparagraph, a person that sells, exchanges, otherwise disposes of, or makes available for use, tangible personal property to any person all of whose business except for an insubstantial part consists of selling from inventory to retail customers at retail outlets all within one country may assume at the time of such sale to such person that the tangible personal property will be used, consumed, or disposed of within such country.

(11) *Controlled group taxable year.* The term "controlled group taxable year" means the taxable year of the controlled group's common parent corporation. In the event that no common parent corporation exists, the members of the group shall elect the taxable year of one of the members of the controlled group to serve as the controlled group taxable year. The taxable year election is a binding election to be changed only with the approval of the Secretary or his delegate. The election is to be made in accordance with the procedures set forth in the instructions to Form 5713, the International Boycott Report.

(c) *Computation of international boycott factor.* (1) *In general.* The method of computing the international boycott factor of a person that is not a member of a controlled group is set forth in paragraph (c)(2) of this section. The method of computing the international boycott factor of a person that is a member of a controlled group is set forth in paragraph (c)(3) of this section. For purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a partnership are deemed to be made or paid or accrued by a partner in that production that the partner's distributive share bears to the purchases and sales made by, and the payroll paid or accrued by, the partnership. Also for purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a trust referred to in section 671 are deemed to be made both by the trust (for purposes of determining the trust's international boycott factor), and by a person treated under section 671 as the owner of the trust (but only in that proportion that the portion of the trust that such person is considered as owning under sections 671 through 679 bears to the purchases and sales made by, and the payroll paid and accrued by, the trust).

(2) *International boycott factor of a person that is not a member of a controlled group.* The international boycott factor to be applied by a person that is not a member of a controlled group (within the meaning of section 993(a)(3)) is a fraction.

(i) The numerator of the fraction is the sum of the—

(A) Purchases made from all boycotting countries associated in carrying out a particular international boycott,

(B) Sales made to or from all boycotting countries associated in carrying out a particular international boycott, and

(C) Payroll paid or accrued for services performed in all boycotting countries associated in carrying out a particular international boycott

by that person during that person's taxable year, minus the amount of such purchases, sales, and payroll that is clearly demonstrated to be attributable to clearly separate and identifiable operations in connection with which there was no participation in or cooperation with that international boycott.

(ii) The denominator of the fraction is the sum of the—

(A) Purchases made from any country other than the United States,

(B) Sales made to or from any country other than the United States, and

(C) Payroll paid or accrued for services performed in any country other than the United States

by that person during that person's taxable year.

(3) *International boycott factor of a person that is a member of a controlled group.* The international boycott factor to be applied by a person that is a member of a controlled group (within the meaning of section 993(a)(3)) shall be computed in the manner described in paragraph (c)(2) of this section, except that there shall be taken into account the purchases and sales made by, and the payroll paid or accrued by, each member of the controlled group during each member's own taxable year that ends with or within the controlled group taxable year that ends with or within that person's taxable year.

(d) *Computation of the international boycott factor of a person that is a member of two or more controlled groups.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is a member of two or more controlled groups shall be determined in the manner described in paragraph (c)(3), except that the purchases, sales, and payroll included in the numerator and denominator shall include the purchases, sales, and payroll of that person and of all other members of the two or more controlled groups of which that person is a member.

(e) *Transitional rules.* (1) *Pre-November 3, 1976 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes November 3, 1976, or a person that is a member of a controlled group, for the controlled group taxable year that includes November 3, 1976, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, that the following adjustments shall be made—

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations—

(A) that were completed on or before November 3, 1976, or

(B) in respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before November 3, 1976, to the governments or persons with which the agreements were made, and the agreements have not been reaffirmed after November 3, 1976, and

(ii) The international boycott factor resulting after the numerator has been modified in accordance with paragraph (e)(1)(i) of this section shall be further modified by multiplying it by a fraction. The numerator of that fraction shall be the number of days in that person's taxable year (or, if applicable, in that person's controlled group taxable year) remaining after November 3, 1976, and the denominator shall be 366.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A, a calendar year taxpayer, is not a member of a controlled group. During the 1976 calendar year, Corporation A had three operations in a boycotting country under three separate contracts, each of which contained agreements constituting participation in or cooperation with an international boycott. Each contract was entered into on or after September 2, 1976. Operation (1) was completed on November 1, 1976. The sales made to a boycotting country in connection with Operation (1) amounted to $10. Operation (2) was not completed during the taxable year, but on November 1, 1976, Corporation A communicated a renunciation of the boycott agreement covering that operation to the government of the boycott country. The sales made to a boycotting country in connection with Operation (2) amounted to $40. Operation (3) was not completed during the taxable year, nor was any renunciation of the boycott agreement made. The sales made to

a boycotting country in connection with Operation (3) amounted to $25. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, a boycotting country. Corporation A had $500 of purchases made from, sales made from, sales made to, and payroll paid or accrued for services performed in, countries other than the United States. Company A's boycott factor for 1976, computed under paragraph (c)(2) of this section (before the application of this subparagraph) would be:

$$\frac{\$10+\$40+\$25}{\$500}=\frac{\$75}{\$500}$$

However, the $10 is eliminated from the numerator by reason of paragraph (e)(1)(i)(A) of this section, and the $40 is eliminated from the numerator by reason of paragraph (e)(1)(i)(B) of this section. Thus, before the application of paragraph (e)(1)(ii) of this section, Corporation A's international boycott factor is $25/$500. After the application of paragraph (e)(1)(ii), Corporation A's international boycott factor is:

$$\frac{\$25}{\$500}\times\frac{58}{366}$$

(2) *Pre-December 31, 1977 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes December 31, 1977, or by a person that is a member of a controlled group, for the controlled group taxable year that includes December 31, 1977, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, the following adjustments shall be made—

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations that were carried out in accordance with the terms of binding contracts entered into before September 2, 1976, and—

(A) That were completed on or before December 31, 1977, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before December 31, 1977, to the governments or persons with which the agreements were made, and the agreements were not reaffirmed after December 31, 1977, and

(ii) In the case of clearly separate and identifiable operations that are carried out in accordance with the terms of binding contracts entered into before September 2, 1976, but that do not meet the requirements of paragraph (e)(2)(i) of this section, the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section shall be adjusted by multiplying the purchases, sales, and payroll clearly demonstrated to be attributable to those operations by a fraction, the numerator of which is the number of days in such person's taxable year (or, if applicable, in such person's controlled group taxable year) remaining after December 31, 1977, and the denominator of which is 365.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A is not a member of a controlled group and reports on the basis of a July 1–June 30 fiscal year. During the 1977–1978 fiscal year, Corporation A had 2 operations carried out pursuant to the terms of separate contracts, each of which had a clause that constituted participation in or cooperation with an international boycott. Neither operation was completed during the fiscal year, nor were either of the boycotting clauses renounced. Operation (1) was carried out in accordance with the terms of a contract entered into on November 15, 1976. Operation (2) was carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Corporation A had sales made to a boycotting country in connection with Operation (1) in the amount of $50, and in connection with Operation (2) in the amount of $100. Corporation A had sales made to countries other than the United States in the amount of $500. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, any country other than the United States. In the absence of this subparagraph, Corporation A's international boycott factor would be

$$\frac{\$50+\$100}{\$500}.$$

However, by reason of the application of this subparagraph, Corporation A's international boycott factor is reduced to

$$\frac{\$50+\$100\left(\frac{181}{365}\right)}{\$500}$$

(3) *Incomplete controlled group taxable year.* If, at the end of the taxable year of a person that is a member of a controlled group, the controlled group taxable year that includes November 3, 1976 has not ended, or the taxable year of one or more members of the controlled group that includes November 3, 1976 has not ended, then the international boycott factor to be applied under sections 908(a), 952(a)(3) and 995(b)(1)(F) by such person for the taxable year shall be computed in the manner described in paragraph (c)(3) of this section. However, the numerator and the denominator in that paragraph shall include only the purchases, sales, and payroll of those members of the controlled group whose taxable years ending after November 3, 1976 have ended as the end of the taxable year of such person.

(f) *Effective date.* This section applies to participation in or cooperation with an international boycott after November 3, 1976. In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, this section applies to such participation or cooperation after December 31, 1977.

[FR Doc.77-6065 Filed 2-24-77;2:40 pm]

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[41 CFR Part 101–25]

OFFICE FURNITURE USE STANDARDS

Proposed Changes

Notice is hereby given that the General Services Administration (GSA) proposes to amend the regulations in Subpart 101–25.3 of the Federal Property Management Regulations (FPMR) which contain use standards for certain items of Government-owned personal property. It is proposed to change FPMR 101–25.3 to update and clarify the use standards for executive type wood office furniture and to reflect changes in the types of furniture available under the contemporary concept of office design.

Written comments concerning the proposed amendment may be submitted to the General Services Administration (F), Washington, DC 20406, on or before March 31, 1977.

In consonance with the foregoing, it is proposed to amend the FPMR as follows:

PART 101–25—GENERAL

The table of contents for Part 101–25 is amended to include the following revised entry:

Sec.

101–25.302–8 Contemporary steel office furniture.

Subpart 101–25.3—Use Standards

1. Section 101–25.302–1 is revised to read as follows:

§ 101–25.302–1 Executive type office furniture and furnishings.

(a) The use of executive type wood office furniture, whether new or rehabilitated, shall be limited to personnel in grade GS–15 and above (or the equivalent, including military rank) except when the agency head or designee of the agency head determines that the duties and responsibilities of certain positions warrant the use of this type of furniture by personnel of lower grade. Executive type wood office furniture consists of the unitized, traditional, and modern items of executive wood office furniture listed in the GSA Furniture Catalog and in Volume 3 of the GSA Supply Catalog. Furnishings matching executive type office furniture are subject to the same grade limitations as executive type office furniture except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101–25.302–5.

(b) When it has been determined that personnel are entitled to executive type office furniture on the basis of the standards in (a), above, a separate determination by the agency head or designee of the agency head is not required for assigning similar or matching office furniture to secretaries whose duties are in direct support of these personnel.

(c) When executive type office furniture is to be assigned on the basis of (a)

or (b), above, procurement of new furniture may be made only if the required furniture cannot be obtained:

(1) From agency-owned unassigned inventory, furniture "pools" or stocks, or

(2) By reassigning furniture that is being used by persons not entitled to it: *Provided*, That substantial costs will not be incurred for packing, packaging, shipping, rehabilitating, and other related services.

2. Section 101-25.302-8 is revised to read as follows:

§ 101-25.302-8 Contemporary steel office furniture.

The contemporary concept of office design emphasizes open planning through the use of free-standing screens in lieu of fixed partitions, a less formalized alignment of furniture, and increased attention to coordinated color schemes. The furniture associated with this concept is of steel construction, and the related curvilinear and other movable partitions are made of noncombustible materials meeting the requirements established for movable partitions in § 101-20.109-9. These features contribute to overall fire safety. Personnel at all grade levels are authorized to use the furniture associated with this concept.

(a) The furniture that is available in connection with this concept and stocked by GSA includes desks, chairs, tables, credenzas, and bookcases and is available in two colors: Black and parchment. The tops of the desks, tables, etc., are of walnut textured laminated plastic. The chairs are upholstered with matching or accenting color fabrics.

(b) The use of carpeting and draperies shall conform with the provisions of §§ 101-25.302-5 and 101-25.302-7.

(c) The procurement of filing cabinets shall conform with the provisions of §§ 101-25.302-2 and 101-26.308.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486 (c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 8, 1977.

WALLACE H. ROBINSON, Jr.,
Commissioner,
Federal Supply Service.

[FR Doc.77-6074 Filed 2-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Chapter IV]

[Docket No. 73-5]

SECTION 15 AGREEMENTS UNDER THE SHIPPING ACT, 1916

Order of Discontinuance of Proposed Rule Proceedings

This proceeding was instituted by notice of proposed rulemaking published February 23, 1973 (38 FR 4982). The proposed rules were designed to codify in one rule the various general provisions regarding section 15 agreements, and to set forth certain additional requirements including justification of agreements, time for filing of extensions of agreements, signatories of agreements and other provisions. Certain comments were received but upon request of interested persons the proceeding was postponed by the Commission to permit further consideration of the nature the proposed rules should take.

Since the postponement of this proceeding, time and events to a great extent have overtaken the original proposals. Recent Commission expressions and determinations regarding processing of section 15 agreements have negated the necessity or desirability of continuation of this proceeding in its present form. The more efficient procedure would be to fashion new proposed rules for further comment.

Accordingly, it is ordered that proceedings in this matter are hereby discontinued.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6128 Filed 2-28-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 263, 274]

FISH FILLETS

Proposed United States Grade Standards

The National Marine Fisheries Service is considering miscellaneous amendments to Subparts B, C, D, and E of 50 CFR Part 263. The purposes of these amendments are: (1) To provide for the grading of fresh fillets as well as frozen fillets and (2) to add a new section to Subparts B, C, and E relating to product forms of presentation. Addition of such new sections in these Subparts will assure that all standards for grades of fish fillets will cover product forms currently being produced by the U.S. fishing industry.

Interested persons are invited to submit written comments in regard to these amendments to the regulations to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. The deadline for comments is April 15, 1977. Final amendments will be published as soon thereafter as practicable.

The amendments are proposed pursuant to 16 U.S.C. 742e; D.O.O.25-5A, subsection 3.01K(a); and D.O.O.25-5B, section 12.

In consideration of the foregoing, it is proposed to amend Subparts B, C, D, and E of 50 CFR Part 263 as set forth below:

Subpart B—U.S. Standards for Grades of Frozen Cod Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new section § 263.154 to read as follows:

§ 263.154 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Subpart C—U.S. Standards for Grades of Frozen Flounder and Sole Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

§ 274.2 [Deleted].

2. Delete *§ 274.2—Styles of frozen flounder and sole fillets* and insert a new § 263.202 to read as follows:

§ 263.202 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen solid packs; glazed or unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skin on, white side only,
(3) Skinless.

Subpart D—U.S. Standards for Grades of Frozen Haddock Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new § 263.254 to read as follows:

§ 263.254 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Subpart E—U.S. Standards for Grades of Frozen Haddock Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new § 263.304 to read as follows:

§ 263.304 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Dated: February 22, 1977.

ROBERT M. WHITE,
Administrator.

[FR Doc.77-6066 Filed 2-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 561]

[FAP5H5070/P4; FRL 693-8]

METHOPRENE

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rule.

SUMMARY: This notice proposes that 21 CFR 561.282 be amended to delete a 14-day preslaughter withdrawal period for the feed additive methoprene intended for beef cattle.

DATES: Comments must be received on or before March 31, 1977.

ADDRESSES: Federal Register Section, Technical Services Division (WH-566), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs (202/426-9425).

SUPPLEMENTARY INFORMATION: On May 28, 1975, the Environmental Protection Agency (EPA) published a regulation (40 FR 23071) which provided for the safe use of the insect growth regulator methoprene (isopropyl (*E,E*) - 11 - methoxy - 3,7,11 - trimethyl-2,4-dodecadienoate) in processed feed supplements for cattle (21 CFR 561.282). Subsequently, the regulation was amended on January 9, 1976 (41 FR 1589) to increase the use rate as a feed additive in the feed of cattle to 22.7-45.4 milligrams per 100 pounds of body weight per month and to require a 14-day withdrawal period for beef cattle prior to slaughter.

The regulation established for the safe use of the insect growth regulator in processed feed supplements for cattle was proposed by Zoecon Corp., 975 California Ave., Palo Alto CA 94304, in a pesticide petition (PAP 5H5070) filed with the EPA. Zoecon Corp. has requested that the restriction of a 14-day withdrawal period prior to slaughter be deleted. (A related document (PP 6F1801) proposing to amend 40 CFR 180.359 by increasing the established tolerances for residues of methoprene in the fat of cattle and in milk appears elsewhere in today's FEDERAL REGISTER.)

It has been determined based on an evaluation of these petitions as well as other relevant material that by eliminating the 14-day preslaughter interval, the proposed pesticide tolerances will be adequate to cover any residues in the fat of cattle and in milk from the proposed use. It is concluded that the regulation can be amended as requested.

Furthermore, the experimental permit which allowed the use of methoprene as a feed additive for poultry expired June 13, 1976. Thus, paragraph (b) and its subdivisions in the regulation are no longer in effect and should be deleted. The regulation, as amended, will protect the public health; therefore, it is proposed that 21 CFR 561.282 be revised to read as set forth below:

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before March 31, 1977, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should bear a notation indicating the petition/document control number "FAP 5H5070/P4." All written comments 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. Monday through Friday.

Dated: February 23, 1977.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

(Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).)

It is proposed that 21 CFR 561.282 be revised to read as follows:

§ 561.282 Methoprene.

The feed additive methoprene (isopropyl (*E,E*) - 11 - methoxy - 3,7,11-trimethyl-2,4-dodecadienoate) may be safely used in accordance with the following prescribed conditions:

(a) It is used as a feed additive in the form of mineral and/or protein blocks or other feed supplements in the feed of cattle at the rate of 22.7 to 45.4 milligrams per 100 pounds of body weight per month.

(b) It is used to prevent the breeding of hornflies in manure of treated cattle.

(c) To ensure safe use of the additive, the label and labeling of the pesticide formulation containing this additive shall conform to the label and labeling registered by the U.S. Environmental Protection Agency.

[FR Doc.77-6270 Filed 2-28-77;9:38 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP6F1801/P47; FRL 693-7]

METHOPRENE

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rule.

SUMMARY: This notice proposes that 40 CFR 180.359 be amended by increasing the established tolerances for residues of the insecticide methoprene in the raw agricultural commodities fat of cattle from 0.1 to 0.3 part per million and in milk from 0.01 to 0.05 part per million.

DATES: Comments must be received on or before March 31, 1977.

ADDRESSES: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs (202/426-9425).

SUPPLEMENTARY INFORMATION: On July 6, 1976, notice was given (41 FR 27776) that Zoecon Corp., 975 California Ave., Palo Alto CA 94304, had filed a petition (PP 6F1801) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.359 be amended by increasing the established tolerances for residues of the insecticide methoprene (isopropyl (*E,E*)-11-methoxy-3, 7, 11-trimethyl-2, 4-dodecadienoate) in the raw agricultural commodities fat of cattle from 0.1 part per million (ppm) to 0.3 ppm and in milk from 0.01 ppm to 0.05 ppm.

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 tolerances are sought. The increased tolerances established by amending 40 CFR 180.359 will be adequate to cover residues that would result in milk and in the fat of cattle. This minor increase in tolerances is still within the accepted margin of safety and is supportable by toxicological studies. The establishment of the original tolerances was based on subacute feeding, teratology, and reproduction studies. In support of this amendment, the petitioner submitted a lifetime feeding study in rats and an oncogenic evaluation in mice showing that methoprene has a low degree of toxicity and does not produce tumors in experimental animals. (A second long-term study on methoprene is still outstanding.) The margin of safety between the observed no-effect level in experimental animals and the maximum calculated exposure in man from the increased tolerances exceeds 20,000 fold.

Although the established tolerances are adequate to cover any residues in the meat and meat byproducts of cattle from the proposed use, any methoprene residues would settle preferentially in the fat. Because it is the currently accepted practice to establish tolerances only in terms of fat in those cases where a higher tolerance is needed in fat than in meat and meat byproducts, the present

tolerances of 0.1 ppm in meat and meat byproducts will be deleted.

It has been determined that the tolerances established by amending 40 CFR 180.359 will protect the public health. Therefore, pursuant to 40 CFR 180.32 it is proposed that: (1) 40 CFR 180.359 be amended by increasing the established tolerances for the residues of the pesticide methoprene in the fat of cattle from 0.1 ppm to 0.3 ppm and in milk from 0.01 ppm to 0.05 ppm and (2) the established tolerance of 0.1 ppm in meat and meat byproducts by deleted, as set forth below. (A related document proposing to amend the food additive regulation 21 CFR 561.282 by eliminating the 14-day preslaughter withdrawal period for beef cattle appears elsewhere in today's FEDERAL REGISTER.)

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before March 31, 1977, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should bear the petition/document control number "PP6F1801/P47." All written comments 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. Monday through Friday.

Dated: February 23, 1977.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

It is proposed that 40 CFR 180, Subpart C, § 180.359 be amended by: (1) increasing the established tolerances for residues of the pesticide in the fat of cattle and in milk, (2) deleting the established tolerance in the meat and meat byproducts of cattle, and (3) editorially restructuring the section into an alphabetized columnar listing, to read as follows:

§ 180.359 Methoprene; tolerances for residues.

Tolerances are established for residues of the insect growth regulator methoprene (isopropyl (*E,E*) - 11 - methoxy - 3,7,11 - trimethyl-2,4-dodecadienoate) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.3
Milk	0.05

[FR Doc.77-6269 Filed 2-28-77;9:38 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 AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A440]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of excessive rainfall April 1 to November 1, 1976, in Oneida County and March 1 through November 1, 1976, in Seneca County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than April 8, 1977, for physical losses and November 5, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 22nd day of February, 1977.

F. W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6060 Filed 2–28–77;8:45 am]

[Notice of Designation No. A390]

VIRGINIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Virginia Counties as a result of drought during the crop year ending December 31, 1977:

Augusta Goochland

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b).

Applications for emergency loans must be received by this Department no later than April 5, 1977, for physical losses and November 3, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 22nd day of February 1977.

F. W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6051 Filed 2–28–77;8:45 am]

Soil Conservation Service

DELANEY CREEK WATERSHED PROJECT, IND.

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for seven small single purpose floodwater retarding structures in the Delaney Creek Watershed Project, Washington County, Indiana.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Cletus J. Gillman, State Conservationist, Soil Conservation Service, USDA, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection, irrigation, water supply, recreation, and flood prevention. The planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by seven additional floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until March 16, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: February 17, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.77–6063 Filed 2–28–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 23080–2; 30361; Order 77–2–121]

AIR MIDWEST, INC.

Priority and Nonpriority Domestic Service Mail Rates—Phase 2

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

Air Midwest, Inc. (Air Midwest) was recently granted a certificate of public convenience and necessity in the Air Midwest Certification Proceeding (Docket 28262),[1] authorizing the carrier to engage in air transportation with respect to persons, property, and mail. On January 17, 1977, Air Midwest filed a petition requesting to be made a certificated carrier party in Docket 23080–2 and the establishment of the domestic service mail rates for Air Midwest's carriage of mail as a certificated air route carrier.[2] The carrier states that it believes such rates are fair and reasonable and is willing to be bound by the temporary and final determinations of the Board with respect to service mail rates set in Docket 23080–2.

Under Part 302 of the Board's Rules of Practice, a petition to establish service mail rates must specify the rate to be established and a detailed economic justification. Although Air Midwest's

[1] Orders 76–9–165, September 30, 1976, 76–11–135, November 29, 1976 and 76–12–59, December 10, 1976.

[2] Order 76–12–60, December 10, 1976, fixed the temporary domestic service mail rates currently in effect for certificated carriers.

petition is not in strict compliance with these requirements, the relief requested is more in the nature of procedure than of substance and under these circumstances we have determined that no useful purpose would be served by holding the carrier to the strict letter of the rule. However, despite our acceptance of Air Midwest's petition, it is technically necessary to determine what the fair and reasonable rates of mail compensation to be paid to the carrier should be.

Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080–2.

Air Midwest is already a party to the Domestic Service Mail Rates Investigation as a Part 298 (commuter air carrier) and received mail compensation at the temporary domestic service mail rates established for the certificated route carriers in Order 74–1–89 (as amended) and made applicable to Part 298 carriers by Order 74–7–91. However, this temporary rate is limited to Air Midwest's services performed as a commuter carrier and does not embrace its newly certificated system operations. Air Midwest states that it began transporting mail over one of its segments and is presently engaged in negotiations with the U.S. Postal Service (USPS) for mail service on various other segments of its certificated routes. As the Board has found the current temporary domestic service mail rates fair and reasonable for similar short haul service of the other certificated carriers, we see no reason why these same rates should not apply to Air Midwest's certificated operations. In these circumstances, and considering that the U.S.P.S. has no objection, the temporary mail rates for certificated air carriers under the terms of Order 74–1–89 (as amended by Order 76–12–60) shall be payable to Air Midwest over its entire certificated system effective on and after commencement of services pursuant to its certificate of public convenience and necessity, and shall be subject to retroactive adjustments in accordance with the level of final rates established by the Board in this docket.

Based on the foregoing, the Board tentatively finds and concludes that:

1. On and after the date of commencement of certificated air transportation by Air Midwest, Inc., the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Air Midwest, Inc. for operations between points which it is presently or hereafter may be authorized to carry mail by its certificates of public convenience and necessity are the temporary rates established in Docket 23080–2.

2. The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of services by Air Midwest, Inc. pursuant to its certificate of public convenience and necessity as may be required by the order establishing final service mail rates in Docket 23080–2.[1]

3. The investigation instituted herein (Docket 30361) is consolidated into Docket 23080–2.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR, Part 302,

It is ordered That: 1. The petition filed by Air Midwest, Inc. on January 17, 1977 for the establishment of domestic service mail rates is hereby granted;

2. All interested persons, and particularly Air Midwest and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the temporary rates and charges specified herein pending the fixing of final rates and charges;

3. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 8 days, and, if notice is filed, written answer and supporting documents shall be filed within 15 days after the date of service of this order;

4. If notice of objection is not filed within 8 days, or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the temporary rates and charges herein specified;

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates and charges herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.207; and

6. This order shall be served upon the Postmaster General and Air Midwest, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6087 Filed 2-28-77;8:45 am]

[1] This does not affect any retroactive adjustments that the carrier may be entitled to as a Part 298 operator.

[Docket 26348]

INSTITUTIONAL CONTROL OF AIR CARRIERS INVESTIGATION

Assignment of Proceeding

Pursuant to Order 77–2–87, adopted February 18, 1977, this proceeding is hereby assigned to Administrative Law Judge Arthur S. Present. Future communications should be addressed to Judge Present.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6084 Filed 2-28-77;8:45 am]

[Docket 30514]

POMAIR N.V. (BELGIUM), ET AL.

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77-6085 Filed 2-28-77;8:45 am]

[DOC. 22162]

SULLIVAN COUNTY CASE

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on March 23, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6083 Filed 2-28-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COLUMBIA UNIVERSITY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the questions of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the

United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before March 21, 1977. Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00104. Applicant: Columbia University, 119th and Broadway, New York, New York 10027. Article: Pico-second Streak Camera, Model 675/II and Channel Plate Intensifier 50/40. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in investigations of ultrafast relaxation processes in excited state molecules. The experiments to be conducted will include exciting molecoules of interest with a picosecond laser pulse and monitoring the time dependent changes in the molecules, due to energy relaxation processes and molecular motions, by measuring with the article the changes in molecular absorption and emission on the picosecond time scale. The objectives of this research are to gain an understanding of the various decay processes by which molecules dissipate their energy as a function of the molecules' structure and interactions with surrounding molecules and applied fields. The article will also be used for educational purposes in the course Chemistry G9307x—Research for the Doctorate in which students carrying out undergraduate research, graduate students carrying out research for the Ph.D., and post-doctoral fellows carrying out research for advanced training will learn how to use the instrument in carrying out their research. Application received by Commissioner of Customs: January 21, 1977.

Docket Number: 77-00110. Applicant: College of Medicine and Dentistry of New Jersey—New Jersey Dental School, 100 Bergen Street, Newark, New Jersey 07111. Applicant: Electron Microscope, Model H-500-L. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for an investigation of the mineralization of dentin and the role played by odontoblasts in the process. In addition, the article will be used to instruct graduate dental students in electron microscopic applications to dental research. The instruction covers electron optics, image formation, electron-specimen interaction, specimen preparation, image interpretation and dental application. Application received by Commissioner of Customs. February 7, 1977.

Docket Number: 77-00120. Applicant: Thomas Jefferson University, 1025 Walnut Street, Philadelphia, Pa. 19107. Article: Electron Micoscope, Model EM 9S-2 including Spare Parts. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research work related to cardiovascular, respiratory, muscle and metabolic experiments associated with basic phyiologic and pathophysiologic mechanisms of disease states. Thus, the heart and coronary vessels will be studied in normal, ischemic and infarcted states. Also, the heart and peripheral vasculature will be studied in a variety of types of circulatory shock, particularly in hemorrhagic and cardiogenic shock. Furthermore, the lung will be studied during normal hypoxic and other stress states including pulmonary edema. Also, a variety of smooth and skeletal muscles will be studied in the presence of a variety of metabolic substrates and hormones in order to investigate the mechanisms of action of these agents. Finally, splanchnic visceral organs (e.g., liver, pancreas) will be studied in normal and shock states to investigate lysosomal and mitochondrial ultrastructure. The major objectives of these investigations will be to determine early pathophysiologic changes in cardiovascular, respiratory and muscle tissues. An additional objective will be to determine the effects of drugs and hormones on normal tissue. A third objective is to identify the interrelationships between cellular organelles in acute cardiovascular disease processes. In addition, the article will be used in the course: "Introduction to Physiological Ultrastructure" a survey course for graduate students in physiology and will attempt to instruct the student in the basic techniques for preparation and viewing of samples by electron microscopy. Application received by Commissioner of Customs: February 7, 1977.

Docket Number: 77-00121. Applicant: Herbert H. Lehman College of CUNY, Department of Biological Sciences, Bedford Park Boulevard West, Bronx, N.Y. 10468. Article: Electron Microscope, Model HS-9 and accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for research on the following materials:

(1) DNA molecules—involving the attempted demonstration by electron microscopy that ferritin-labeled nucloside specific antibodies are capable of entering living cells,

(2) Viruses—a study to isolate new viruses which infect blue-green algae (phycoviruses),

(3) Blue-green algae—studies to determine the nature of the inclusions that have been observed in blue-green algal cells,

(4) Fungi—studies utilizing fungi which parasitize other fungi, and

(5) Cells of higher plants and animals—studies evaluating the effect of various plant hormones on the fine-structure of cells in abscission zones of high plants.

Work is also planned on crystal containing cells in the mouse cecal epithelium in an attempt to elucidate the nature of the crystalline material and the origin and function of this cell type. An investigation of cell differentiation utilizing the apical cell of liverworts is also to be carried out. In addition, the article will be used for teaching the following courses: Biology 433, Techniques in Electron Microscopy, Biology 634, Cytology and Biology U770.4 Cytology, and Biology U770.6 Laboratory in Cell Fine Structure. Application received by Commissioner of Customs: February 7, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6009 Filed 2-28-77;8:45 am]

ROCKFORD SCHOOL OF MEDICINE, UNIVERSITY OF ILLINOIS, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00009. Applicant: Rockford School of Medicine of the University of Illinois, 1601 Parkview Avenue, Rockford, Illinois 61101. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objectives of these investigations are to further basic knowledge on cell and tissue ultrastructure and to reveal at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. The article will also be used in training courses entitled Ultrastructure involving a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: October 12, 1976. Advice submitted by

the Department of Health, Education, and Welfare on: January 21, 1977.

Docket Number: 77-00010. Applicant: University of Kansas Medical Center, College of Health Sciences & Hospital, Ralph L. Smith Mental Retardation Research Center, 39th and Rainbow, Kansas City, Kansas 66103. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in courses entitled Ultrastructure and Cytochemistry which involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: October 13, 1976. Advice Submitted by the Department of Health, Education, and Welfare on: January 21, 1977.

Docket Number: 77-00011. Applicant: The University of Texas Health Science Center at Houston, Medical School; Dept. of Pathology, P.O. Box 20708, Houston, TX 77025. Article: Ultra-microtome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for both thin and thick sectioning of a variety of tissues in the study of human pathology at the ultrastructural level to provide a back-up to the light microscopic findings on the patient and to aid in providing the basis for future diagnostic EM work. In addition, tissue from experimental animals such as dogs and mice will be studied. Application received by Commissioner of Customs: October 14, 1976. Advice Submitted by the Department of Health, Education, and Welfare on: January 21, 1977.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such (other) factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned.

The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorval Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6010 Filed 2-28-77;8:45 am]

UNIVERSITY OF CINCINNATI

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00048. Applicant: University of Cincinnati, Dept. of Physics, Cincinnati, Ohio 45221. Article: Makrafoil Scanner (partially fabricated). Manufacturer: University of Melbourne, Australia. Intended use of article: The article is intended to be used for the investigation of angular distribution of neutrons produced in nuclear interactions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for the investigation of angular distribution of neutrons produced in nuclear interactions. The National Bureau of Standards advises in its memorandum dated January 31, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6011 Filed 2-28-77;8:45 am]

SANDIA LABORATORIES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00005. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, NM 87115. Article: Bucket Conveying System and accessories. Manufacturer: Gough Econ, Inc., United Kingdom. Intended use of article: The article is to be used as a principal component in a dried sewage sludge irradiator to be used for research purposes. Sewage sludge will be sterilized for fertilizer and animal refeeding studies with

the objective of demonstrating on a pilot scale, the economical sterilization of dried sewage sludge using gamma irradiation. The conveying system will carry the sewage sludge into the close proximity of a large gamma ray source for sterilization of the sludge.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article allows for uniform absorption of gamma rays with little radiation loss. The National Bureau of Standards (NBS) advises in its memorandum dated January 31, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6013 Filed 2-28-77;8:45 am]

UNIVERSITY OF CALIFORNIA—BERKELEY LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00468. Applicant: University of California—Lawrence Berkeley Laboratory, East End of Hearst Avenue, Berkeley, California 94720. Article: Roman Spectrometer System, Model HG-2S1 (double monochromator) including accessories. Manufacturer: Jobin-Yvon Optical Systems, France. Intended use of article: The article is intended to be used in fundamental research in the following investigations:

(1) The detection, identification and structural characterization of novel compounds.

(2) Identification and structural information on a variety of substances, both in the solid-state and in solution.

(3) Utilization of Raman spectra in heterogeneous catalysis studies intended to yield bonding information on molecules absorbed onto surfaces.

(4) Measurements on metal cluster compounds in connection with the use of these materials as catalysts.

(5) Studies of coal chemistry.

(6) Measurements on chelate compounds of actinide elements for purposes of identification and structural characterization.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, as being manufactured in the United States. Reasons: The foreign article provides low level scattered light measurement on the order of 10^{-11} at 20 reciprocal centimeters. The National Bureau of Standards advises in its memorandum dated February 4, 1977 that (1) the specification described above is pertinent to the intended uses of the article and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6012 Filed 2-28-77;8:45 am]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 16, 1977, at 9:00 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of the status of the Array Processors Report.

(4) Discuss new work program for 1977.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Avisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: February 24, 1977.

RAUER H. MEYER,
Office of Export Administration, United State Department of Commerce.

[FR Doc.77-6132 Filed 2-28-77;8:45 am]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 16, 1977, at 1:00 p.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report by Department of Defense and Energy Research and Development Administration on the status of their paper addressing:

(a) What software is being transferred to East Europe;

(b) Mechanisms used to transfer this software;

(c) Key software areas which should be considered for control; and

(d) Software areas which should not be controlled.

(4) Review of the draft report dated February 7, 1977 on the transfer of computer software technology.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Exceutive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: February 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-6131 Filed 2-28-77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE ADVISORY PANEL

Meeting

Notice is hereby given of a meeting of the North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel.

The North Pacific Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Scientific and Statistical Committee and Advisory Panel, established by Section 302(g) of the Act, provide assistance to the Council in the development and amendment of fishery management plans.

The Council meeting will be held Monday and Tuesday, March 21 and 22, 1977, in the Holiday Inn, 4th and C Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m. and adjourn at approximately 4:30 p.m. each day.

Proposed Agenda:

1. Public hearing on management plans.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Review of Council management plan development, operations and budgeting.
4. Review of foreign fishing permit applications, if any.
5. Other management business.

A public hearing will be held on the afternoon of the first day, March 21, at approximately 3:30 p.m., at the same location to hear testimony on fishery management plans under development by the Council, and other related Council functions.

The meetings of the Council's Scientific and Statistical Committee and Advisory Panel will be held concurrently with the Council meeting. The meetings will be open to the public, and there will be seating for approximately 100 public members available on a first come, first sreved basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about March 10, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 96813.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Beginning at approximately

3:30 p.m., Monday, March 21, interested members of the public may testify at the public hearing conducted by the Council on matters relating to fishery management plans and other Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. To receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda should be received within 10 days after the close of the Council meeting. Other written statements may be submitted at any time before or after the meeting.

Dated: February 24, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-6126 Filed 2-28-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to section 302(f)(6) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the North Pacific Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated February 24, 1977.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

The North Pacific Fishery Management Council, created by Section 302(a)(7) of the Fishery Conservation and Management Act of 1976 (the "Act"), hereby publishes a Statement of Organization, Practices, and Procedures, as required by Section 302(f)(6) of the Act. This Statement of Organization, Practices, and Procedures for carrying out the Council's functions under the Act, was adopted by the Council during its public meeting held on January 26-28, 1977 in Anchorage, Alaska. Copies may be obtained by writing the Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

The Council's permanent offices are in Suite 32, Post Office Mall Building, 333 W. 4th Avenue, Anchorage, Alaska. Telephone number: (907) 274-4563.

The Council's geographical area of authority includes the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The Council consists of the states of Alaska, Washington, and Oregon.

PURPOSE

1. The Council will prepare and submit to the Secretary of Commerce or his delegate a fishery management plan with respect to each fishery within its geographical area and, from time to time, such amendments to each plan as are necessary.

2. The Council will prepare comments on any application for foreign fishing transmitted to it under a governing international fishery agreement by the Secretary of State or his delegate under the terms of the Act.

3. The Council will prepare comments on any fishery management plan or amendments thereto prepared by the Secretary or his delegate which are transmitted to it under Section 304(c)(2) of the Act.

4. The Council will conduct public hearings at appropriate times and at appropriate locations in the Council's geographic area so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments thereto and with respect to the administration and implementation of the provisions of the Act.

5. The Council will review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to (a) the present and probable future condition of the fishery, (b) the maximum sustainable yield from the fishery, (c) the optimum yield from the fishery, (d) the capacity and the extent to which fishery vessels of the United States will harvest the optimum yield on an annual basis, (e) the portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.

6. The Council will submit to the Secretary a report before February 1 of each year on the Council's activities during the immediate preceding year, and shall submit such other periodic and relevant reports as the Council or the Secretary deem appropriate.

7. The Council will conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

8. The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters.

COUNCIL COMPOSITION

The North Pacific Council has eleven voting members, and four non-voting members. The voting members are as follows:

Five appointed by the Secretary from the State of Alaska.

Two appointed by the Secretary from the State of Washington.

The principal State officials with marine fishery management responsibility in the States of Oregon, Washington, and Alaska.

The Regional Director, Alaska Region, of the National Marine Fishery Service.

The non-voting members are:

The Director of the Pacific Marine Fisheries Commission.

The Director or his designee of the Alaska Area Office of the U.S. Fish and Wildlife Service.

The Commanding Officer of the Seventeenth Coast Guard District.

A properly designated official of the U.S. Department of State.

The following Council members may have designee to serve as Council members during the absence of the regular member.

1. The principal state officials with marine fishery management responsibility from Oregon, Washington and Alaska.

2. The Regional Director of the National Marine Fisheries Service for Alaska.

3. The Regional or Area Director of the United States Fish and Wildlife Service for Alaska.

4. The Commander of the Seventeenth Coast Guard District.

5. The Executive Director of the Pacific Marine Fisheries Commission.

6. The representative of the Department of State designated for such purpose.

OFFICERS AND TERMS OF OFFICE

A Chairman and a Vice-Chairman are elected from the voting members of the North Pacific Council; both officers serve for a period of one year and may succeed themselves.

STAFF

The permanent staff of the North Pacific Fishery Management Council shall consist of the following positions with duties as outlined:

1. *Executive Director*—The primary staff advisor to the North Pacific Council, must maintain full cognizance and a thorough understanding of all Council business and activities to assist the Council in planning, developing, implementing, and evaluating programs and courses of action for achieving prescribed objectives. Serves as the chief liaison officer for the Council in contacts with other governmental and private agencies. Assist in the development and coordination of internal policy as well as external policy, represents the Council to the public in matters assigned by the Council, and provides the Council with current information from public, industry, and government.

Develops, maintains and directs internal systems for personnel, management, fiscal control, budget analysis and preparation, property and space control procurements. Establishes, maintains and supervises professional and non-professional administrative staff required to accomplish the Council's responsibilities, provides for assistance and service in other areas in support of Council activities, including arranging Council meetings, developing agenda, preparing reports, and promulgating Council policies and decisions.

2. *Assistant Executive Director*—Under the direction of the Executive Director is primarily responsible for coordination of the working teams developing management plans

for the North Pacific Council, including arranging necessary support and coordinating the activities of the Scientific and Statistical Committee, the Advisory Panel, and the working teams, usually consisting of the members of two or more agencies, in the orderly development of Council management plans.

In the absence of the Executive Director, is responsible for personnel management and fiscal control, budget analysis and property and space control for the Council, representing the Council to the public in routine inquiries, etc.

Works closely with the Executive Director and the Council in assisting in the development and coordination of internal policy and external policy.

3. *Administrative Officer*—Assists the Executive Director on matters of administrative management services, including procurement and contract administration, grant administration, budget and financial management, personnel management, property management, space utilization and office services.

4. *Secretary (Stenography) to the Executive Director*—Performs work connected with the programs and procedures supporting all facets of Council activity, including functions which require exercise of tact, discretion and judgement, serves as the personal assistant and secretary to the Executive Director.

5. *Administrative Clerk*—Provides miscellaneous clerical and administrative services for the Executive Director's office, including primary bookkeeping, under the supervision of the Administrative Officer, of Council funds including, but not limited to, daily entries of all expenditures, disbursements and receipts, and monthly and quarterly financial reports.

6. *Clerk-Receptionist*—Acts as receptionist for the permanent headquarters of the North Pacific Fishery Council and provides miscellaneous clerical and administrative services for the Executive Director's office as required.

7. And other staff as required and authorized by the Council.

Employment Practices

1. *Staffing Management*—The Executive Director will ensure that all staffing needs and procedures are evaluated on a continuing basis and refined as necessary. This will include a periodic analysis of organizational requirements, identification of potential resources, and the efficient selections, placement, and management of these resources.

2. *Recruitment*—(a) Position identification will be achieved through a thorough and objective assessment of the required duties, without regard to any particular individual. Clear lines of responsibility and authority will be identified in any formal job description, and duplicative or overlapping duties will be avoided to the extent practicable. Position descriptions will be available to incumbents as well as candidates for vacancies.

(b) Recruitment actions will be effected through the most appropriate communications medium, to include locally distributed notices, newspapers, and telephone contacts. Efforts will be made to interest and identify a reasonable number of candidates for each staff vacancy which arises.

(c) Each candidate's experience, education and particular qualifying factors will be thoroughly examined, and personal interviews will be conducted whenever possible.

(d) Final selection for a position will be based solely on merit, fitness, competence, and qualifications. Employment actions shall be free from discrimination based on race, religion, creed, color, national origin, sex, age, or physical handicap, and equal consideration will be given to veterans and all minorities.

3. *Development*—Employees will be entitled to promotions and other pay raises solely on the basis of merit and performance, in amounts recommended by the Executive Director and approved by the Council. Career development, including formal training, will be supported by the Council when directly beneficial to both the employee and the Council Staff.

4. *Services and Relationships*—(a) The Council will work with its employees to provide group medical insurance, life insurance, and retirement plans and will pay a reasonable proportion of the cost of such plans.

(b) Employees of the Council shall be granted paid leave for holidays, vacations, sickness, civic duties, etc. on the basis of the employee regulations currently in force for the State of Alaska. Temporary absences without pay may be approved by the Executive Director or his designate.

(c) Permanent employees desiring to terminate employment will be asked to give a minimum two-week advance notice.

5. *Conditions of Employment*—All staff employees of the Council serve at the pleasure of the Council. The Executive Director may be dismissed by the Council and other staff employees may be dismissed by the Executive Director acting for the Council.

6. *Records*—(a) Each employee will become party to a standard employment contract outlining general and specific conditions of employment.

(b) Records of all actions pertinent to an individual's employment will be maintained by the Administrative Officer of the Council staff. These records will be held under the strictest confidence, and will only be released to third parties when legal or regulatory basis for such action so allows.

7. *Standards of Conduct*.—The Council requires a standard of ethical conduct for its staffs, as follows:

(a) No staff employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

(b) No staff employee shall pay or offer or promise or solicit or receive from any person, firm or corporation, either as a political contribution or a personal emolument, any money or anything of value in consideration of either support or the use of influence in obtaining for any person any appointive office, place or employment under the Council.

(c) No staff employee of the Council shall have a direct or indirect financial interest that conflicts with a fair and impartial conduct of his or her Council duties.

(d) No staff employee of the Council shall use or allow the use for other than official purposes of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

(e) No staff employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct prejudicial to the Council.

(f) No staff employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

(g) Personnel files on Council employees shall be maintained in Council offices under the security and safeguard conditions required of files subject to the Privacy Act.

(h) No employee's children or spouse may obtain employment on the Council staff, except in genuine emergencies, and then only for a short period of time.

Standing Committees of Council Members

There are no standing committees of Council members on the North Pacific Fishery Management Council.

Meetings and Hearings

The North Pacific Council shall meet in the State of Alaska at the call of the chairman or upon the request of the majority of its voting members. Meetings will normally be held on the fourth week of the month, beginning on Wednesday and adjourning on Friday.

Meetings will be held in various communities in Alaska and the locations and dates of meetings will be advertised well in advance in state-wide and local news media.

Agendas or orders of business for the Council will be published in the Federal Register. Draft agendas shall be furnished all Council, Committee and Panel members at least one week prior to regular meetings, and will be available to the general public for one week prior to a regular meeting at the Council headquarters in Anchorage.

Public Hearings

Public hearings will be held in communities in Alaska at the discretion of the Council. They will be advertised in advance in the Federal Register and local news media Agenda and subject matter will be available at the Council office in Anchorage at least one week prior to the hearings.

Minutes

Accurate and detailed minutes will be taken of all Council meetings and will include audio tape recordings of Council meetings and summary transcripts of Committee and Panel meetings. Summaries of business conducted at Council meetings will be available to the public at Council headquarters in Anchorage and copies of summaries may be obtained at the Council offices for the cost of reproduction. Verbatim audio tape recordings will be available for inspection and study at the Council offices. Minutes of Council meetings and hearings will include

copies of all written material received or sent by the Council, its Panels, or Committees during the course of or as a result of the meetings.

GENERAL RULES OF PROCEDURE

The Council will meet at the call of the Chairman of the Council or upon the request of a majority of the voting members. Advisory bodies will meet with the approval of the Chairman of the Council. Meetings will be conducted in a manner to permit the greatest possible participation by all members of the Council and the public. It will be the policy of the Council to set aside a specific period during each Council meeting to hear comments from the public on Council business.

Closed sessions of the Council will be held only when the Council is discussing personnel matters not properly conducted in public or discusaing matters of a confidential nature requiring a formal security clearance.

Generally, parliamentary procedure will be used in the conduct of the meetings. Agreement among Council members can be reached by consensus and non-voting members are expected to take part in all discussions and indicate their opinions on all specific issues. Those matters pertaining to the approval or disapproval of a fishery management plan or amendment, including proposed regulations, or comments for the Secretary on foreign fishing applicalons, or Secretarial prepared management plans, require a vote.

AUTHORITY OF THE CHAIR

The Chairman of the North Pacific Management Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, Scientific and Statistical Committee and Advisory Panel to attend meetings and public hearings. He will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its Advisory bodies as members of committees and working groups. The Chairman certifices the minutes of the meeting as complete and accurate before they are available to general distribution.

ADVISORY BODIES

The North Pacific Fishery Management Council has established a Scientific and Statistical Committee comprised of ten members from the fields of biology, economics, statistics, and the social sciences, and an Advisory Panel of twenty-five members from the full spectrum of the fisheries field including fishermen and others, based on a diversity of interests from the standpoint of geography, associtaion with specific fisheries, etc.

FUNCTION

THE SCIENTIFIC AND STATISTICAL COMMITTEE

At the direction and with the approval of the Council designates the members and structure of management plan development teams, reviews management plans and other materail at the request of the Council and advises the Council on them, identifies areas for the Council where further data is needed to complete or improve management plans. Advises the Council on ways to proceed in areas relevant to the scientific and statistical matters or in areas in the bio-socio-economic fields, prepares specific statements for the Council in response to questions or requests from them.

ADVISORY PANEL

The Advisory Panel offers to the Council on a continuing basis advice on the assessments and specifications contained in each fishery management plan for each fishery within the Council's geographical area of concern. The Panel's major expertise concerns the capacity and the extent to which the fishing vessels of the United States will harvest the resources considered in fishery management plans, the effect of such fishery plans on local economies and social structures, and potential conflicts between user groups of a given fishery resource. Panel members may attend all public hearings on fishery management plans and amendments in which they have an interest. If possible, the Chairman or the Executive Director should be contacted prior to travel to attend a public hearing in order to coordinate attendance. The Council will reimburse Advisory Panel members for expenses incurred by attendance at such hearings to the normal limit for official travel. Panel members may attend Council meetings to advise the Council with particular reference to the socio-economic implications of management plans. The Panel will set up such subcommittees as the Chairman of the Panel and the Council deem necessary to carry out the Panel's duties. All members of such subcommittees will be appointed from the membership of the parent panel.

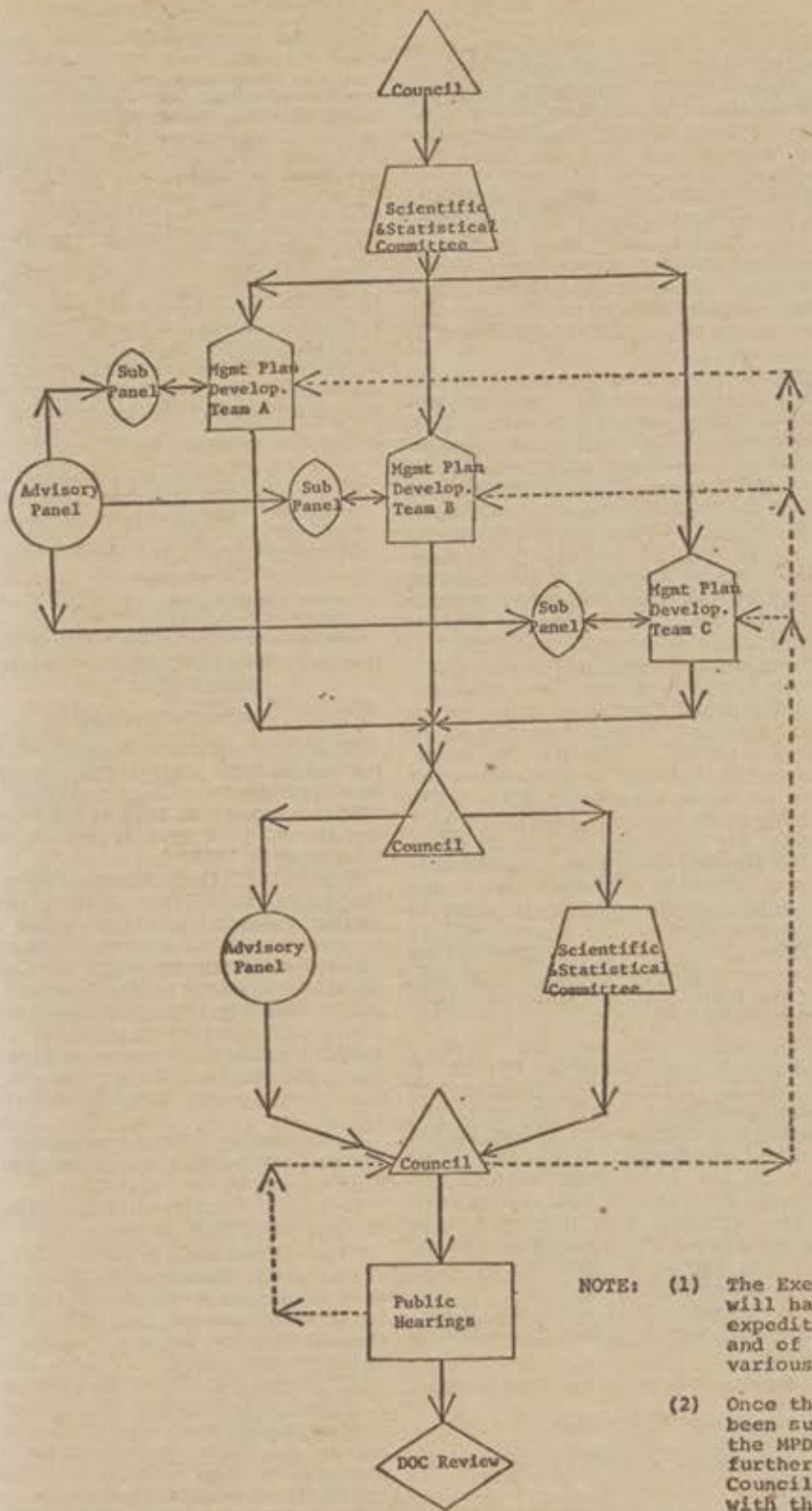
ORGANIZATION OF MANAGEMENT PLAN DEVELOPMENT TEAMS

Management plan teams will be organized for each fishery management unit identified by the Council. Team members will be selected from State and Federal conservation agencies, universities, and private institutions or individuals known to possess specific knowledge or expertise considered desirable in the preparation of management plans. The Scientific and Statistical Committee will submit to the Council a list of recommended members, participating agencies or institutions and suggest a lead agency to direct plan preparation. The Council will confirm the composition of the team and identify the lead agency. Following formation of the management team and guidance from the Council concerning the general objectives and scheduling of plan preparation, the team will organize the plan and its contents in accordance with a standard outline. Scientific inputs to the plan will be drawn from published reports and papers of participating State and Federal agencies, universities and any other relevant data source, including information derived from oral testimonies. It will be the responsibility of the team chairman to insure that the best available data is analyzed and used in drawing up draft plans.

Lead agencies (chairman) will be responsible for scheduling meetings, typing and reproducing preliminary drafts, coordinating the activities of the team and distributing tasks among its members. The draft plan, however, should as much as possible reflect a consensus view of the team members. During the development of the drafts, the team should seek assistance from other expertise to insure an adequate review of the scientific and technical content of the plan. The Scientific and Statistical Committee will propose a list of specialists the management team may contact for outside review or assistance and the team manager is also free to contact any other outside sources that may be helpful in plan preparation.

The team is responsible for comments from outside experts and making the final judgement on changes in the plan. The draft plan is submitted to the Council for review by its advisory bodies. Procedures for interaction between the management plan team, Council, and Council advisory groups during plan preparation and review will follow the flow diagram as shown below:

Flow Diagram for the Development of Management Plans/DEIS and revised MP/DEIS - North Pacific Fishery Management Council



Council designates management units and priorities.

SSC with Council approval designates Management Plan Development Team (MPDT) for each designated management unit.

Advisory Panel designates sub-panels for each management unit. The responsibilities of each sub-panel include:
(1) Interaction with MPDT
(2) Interaction with constituency

MPDT develops draft Management Plan for its unit and submits to Council.

Council broadly reviews for policy questions and then distributes to Council members, S & SC, and AP for first review.

Results of the review reported to the Council which then:
(1) Makes decision and promulgates for public hearing, and/or
(2) Returns to MPDT for next draft.

This process is repeated until the Council has an acceptable plan, at which point the Plan is released for public hearings, further review by the Council, and decision for final drafting and/or referral to the Department of Commerce.

NOTE: (1) The Executive Director and staff will have the responsibility of expediting the flow of information and of exercising control over the various documents.

(2) Once the draft management plan has been submitted to the Council, only the MPDT is involved in making further revisions directed by the Council, unless further consultation with the AP sub-panel is required.

FINANCIAL MANAGEMENT SYSTEM

Procurement/Property Management System—Management of this system will be a direct responsibility of the Staff Administrative Officer.

1. *Contracts*—Negotiated and advertised contracts will be administered under the same principles of equality and integrity outlined under the section "Employment Practices," and will generally follow the specifications normally characteristics of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.).

2. *Purchases*—Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Typical suspense systems will be maintained for any partial and undelivered procurements. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council Staff office.

3. *Property*—An accountability system of all durable or capitalized personal property will be maintained by means of an inventory system.

4. *Real Property*—The leasing, renting and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

Fiscal Management System—The finance and budget control systems will be a direct responsibility of the Administrative Officer, who will maintain full cognizance of, and compliance with, all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations, as well as any applicable local requirements (state, municipal, etc.).

1. Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: direct labor (salary), indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent and utilities, taxes (non-employment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (depreciation, contract accruals, etc.).

2. A general ledger, supported by appropriate journals, will be maintained on all obligations and expenses, including appropriate accruals, and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. As a minimum, a complete financial status report should be completed on a monthly basis. The financial management system will be coordinated with the budget management system so that current and projected fund usage can be determined at any time.

3. A separate payroll register, indicating all applicable expenses and accruals, will be maintained on each member of the Council and the Council staff.

4. All financial records will be kept until audited or approved for disposal by the appropriate Department of Commerce representative.

5. Specific details related to implementing the above will, in general, correspond to the NMFS 1976 model accounting system for Regional Councils.

[FR Doc.77-6127 Filed 2-28-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

Notice is hereby given of the initial meeting of the Scientific and Statistical Committee of the South Atlantic Fishery Management Council established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The Scientific and Statistical Committee will assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relative to the Council's development and amendment of any fishery management plan.

The South Atlantic Council, established under Section 302 of the Act, will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), the Scientific and Statistical Committee must be legally chartered before it may meet or take any action. At this time, the Scientific and Statistical Committee does not have an approved charter. This notice is being given with the condition that a charter for this body will be in effect by the meeting date. This body will only meet if its charter is in effect at the time scheduled for the meeting. In order to determine whether the charter will be in effect in time for the meeting to take place, any interested person should contact the Council official listed elsewhere in this notice.

The meeting will be held Tuesday, Wednesday, and Thursday, March 22, 23, and 24, 1977, in the Holiday Inn South, Charleston, South Carolina. The meeting will convene at 1:30 p.m. on the 22nd and adjourn at approximately 12:00 noon on the 24th. Daily sessions will normally start at 9:00 a.m. and adjourn at approximately 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

The Scientific and Statistical Committee will operate under the following agenda:

1. Consideration of internal organizational matters.
2. Review of fishery management plan issues.
3. Appropriate recommendations to the Council.

This meeting is open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about March 18, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, c/o National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of committee business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Ernest D. Premetz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meetings.

Dated: February 24, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-6125 Filed 2-28-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 25-5B, Amdt. 4]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization Order

This order effective January 26, 1977 further amends the material appearing at 41 FR 795 of January 5, 1976, 41 FR 36061 of August 26, 1976 41 FR 43753 of October 4, 1976 and 41 FR 50318 of November 15, 1976.

Department Organization Order 25-5B, dated December 4, 1975, is hereby further amended as shown below. The purpose of this amendment is to retitle the Assistant Administrator for Coastal Zone Management as the Associate Administrator for Coastal Zone Management, and incorporate into his functional statement the new and revised functions authorized by the Coastal Zone Management Act Amendments of 1976.

1. Section 7. Assistant Administrator for Coastal Zone Management. Section 7. is revised to read as follows:

Section 7. Associate Administrator for Coastal Zone Management.

"The Associate Administrator for Coastal Zone Management shall maintain cognizance over and establish policy for NOAA's coastal zone management, Coastal Energy Impact, Marine and Estuary Sanctuaries, Beach Access, Coastal Zone Research and Technical Assistance, and other closely related programs. This shall not include NOAA's marine resources, marine environment management and protection, mapping, charting, or geodetic programs. As the primary program policy officer with authority and responsibility for implementing the programs authorized in the Coastal Zone Management Act of 1972, as amended, and the Marine Protection, Research and Sanctuaries Act of 1972, he shall:

Develop policies and guidelines on a continuing basis to assist state and local governments in the effective management and, where possible, restoration and enhancement of the land and water resources of the coastal zone of the nation.

Develop policies and guidelines on a continuing basis to assist state and local governments in planning for the consequences of and impacts on the Nation's coastal zones due to accelerated energy development activity.

Develop policies and guidelines and administer the marine sanctuaries program authorized under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431–1434), as well as for the Estuarine Sanctuaries and Beach Access programs (16 U.S.C. 1461).

Administer and monitor grants to states support of the development and administration of coastal zone management programs.

Administer and monitor an energy impact financial assistance program consisting of loans, bond guarantees, planning grants, environmental grants and formula grants, each subject to specified conditions, for the purpose of meeting needs of states and local governments resulting from new or expanded energy activity in or affecting the coastal zone.

Develop NOAA policy, promulgate regulations, and implement procedures necessary for Federal review and approval of state coastal zone management programs and the execution of Federal consistency provisions which then come into force.

Serve as focal point for Federal interagency coordination and Federal-State consultation efforts on all matters relating to the Nation's coastal zone management.

Serve as the Federal Government focal point regarding the operation of Federal programs affecting the Nation's coastal zones and the consistency of these programs with the policies contained in the Coastal Zone Management Act of 1972, as amended.

2. The organization chart, Exhibit 1, attached to this amendment,[1] supersedes the organization chart dated October 10, 1976.

Approved:

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6018 Filed 2-28-77;8:45 am]

[Dept. Organization Order 20-1; Amdt. 1]

OFFICE OF ADMINISTRATIVE SERVICES AND PROCUREMENT

Department Organization Order

This order effective February 15, 1977, amends the material appearing at 41 FR 50319 of November 15, 1976.

Department Organization Order 20-1, dated November 1, 1976 is hereby amended as shown below. This amendment reflects the transfer, to the Office of Administrative Services and Procurement, of correspondence management responsibilities formerly resident in the Office of Organization and Management Systems.

Section 5. Organization. Subparagraph .01d is revised to read as follows:

d. The Records Management Division shall exercise staff responsibility for developing Departmentwide policies and procedures in the following areas of records management: (1) Forms management; (2) files management; (3) records equipment and supplies management; (4) records disposition management; and (5) correspondence management. The Division shall also provide files records disposition, and forms management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units headquartered in the Main Commerce Building. For the five specific functions enumerated in this paragraph, the head of the Division shall serve as Records Management Officer for the Department and provide liaison services with the National Archives and Records Service.

GUY W. CHAMBERLAIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6014 Filed 2-28-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-7, Amdt. 1]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS

Department Organization Order

This order effective February 15, 1977 amends the material appearing at 41 FR 50321 of November 15, 1976.

Department Organization Order 20-7, dated November 1, 1976 is hereby amended as shown below. This amendment: (1) reflects the transfer, to the Director, OOMS, of the Central Reference and Records Inspection Facility (paragraph 4.03) formerly resident in the Office of Administrative Services and Procurement (OAS&P); (2) relieves the Director, OOMS of correspondence management responsibilities which have been transferred to OAS&P, and changes the name of the Directives Management Branch (subparagraph 4.01b.); and (3) transfers the management of public-use and interagency reports from the Management Analysis Division, OOMS to the Information Management Division, OOMS.

Section 4. Organization. a. Subparagraph 4.01b. is revised to read as follows:

b. The Division's Directives Management Staff shall serve as the principal staff component of the Department on directives management; assuring compliance with Governmentwide directives from the Executive Office of the President, including the assignment of responsibility for response and/or implementation; and for managing the system for promulgating the Department's primary organization structure.

b. Paragraph 4.03 is revised to read as follows:

.03 The Information Management Division shall develop policies, procedures, standards, and relevant rules and orders to assure Department compliance with the provisions of the Freedom of Information Act as amended, the Privacy Act of 1974, the Federal Advisory Committee Act, the Government in the Sunshine Act, and the Federal Reports Act of 1942; monitor policy compliance by units of the Department; review the units' implementation of the rules and orders; function as the focal point in coordination with the Department's Office of the General Counsel in the administration of the referenced statutes; serve as the Department's focal point for public-use and interagency reports; operate the Department's Central Reference and Records Inspection Facility for the public inspection and copying of information and records under the Freedom of Information Act, as explained in DAO 205-14, supplement and support the functions of the Commerce Information Policy Issues Committee; and serve as the principal staff component of the Department on information management, public-use reports control, and committee management functions.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6015 Filed 2-28-77;8:45 am]

[Dept. Organization Order 20-9, Amdt. 1]

OFFICE OF PUBLICATIONS

Department Organization Order

This order effective February 15, 1977 amends the material appearing at 41 FR 31415 of July 28, 1976.

Department Organization Order 20-9, dated June 29, 1976, is hereby amended as shown below. The purpose of this amendment is to increase organizational effectiveness and more clearly delineate functional responsibilities (Sections 3. and 5.).

1. Section 3. Functions Subparagraph .01e. is revised to read as follows:

e. Review for approval all requests of elements of the Department for the purchase or rental of printing (conventional or microform), binding, photographic, and related equipment, including copying machines.

2. Section 5. Organization a. Subparagraph .04 is revised to read as follows:

.04 The Design and Graphics Division shall, for all organizations of the Department: provide central art direction; prepare necessary design, illustration, photographic, art, and graphics services for all general audience publications, printed materials, and visual presentations; approve or either provide, requisition, or approve for procurement, all design, illustration, photographic, art, and graph-

[1] Organization chart filed as part of the original document.

ic services; provide related technical support where necessary; and photographically record all newsworthy or historic subjects or occasions.

b. Subparagraph .05 is revised to read as follows:

.05 The *Printing Division* shall requisition and/or approve for procurement all printing and binding, and related services for all organizations of the Department; control and schedule all printing operations; operate the Department's central printing plant including its addressing and mailing services; manage a coordinated system of copying machine installations; and investigate and analyze new printing methods.

c. Subparagraph .07 is revised to read as follows:

.07 The Composition Division shall requisition and/or approve for procurement all composition and related services for all organizations of the Department; control and schedule all composition; provide planning and preplanning services; operate the Department's computerized composition system and peripheral equipment; and investigate and evaluate all new composition systems."

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6017 Filed 2-28-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 17, 1977.

The meeting of the USAF Scientific Advisory Board ad hoc Committee on the EF-111A scheduled for March 1 and 2, 1977, as published in the FEDERAL REGISTER Tuesday, February 8, 1977, Volume 42, Number 26, has been cancelled. This meeting will not be rescheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77-6148 Filed 2-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 692-5]

SCIENCE ADVISORY BOARD; ECOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held March 17-18, 1977, beginning at 9:00 a.m., in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street, S.W., Washington, D.C.

This is the eleventh meeting of the Ecology Advisory Committee. The agenda includes a report on the Science Advisory Board activities, responses to the Committee's review of EPA's draft National Ecological Effects Research Program 1978-1982 and to the Committee's Advisory Statement, Ecosystem Research Can Save Money; discussions on the "Draft Sulfates Research Plan—Ecological Effects," the feasibility study of the possible containment or removal of kepone contaminants in the James River, the role of problem definition research in EPA, collection and maintenance of scientific specimens collected during preparation of Environmental Impact Statements; briefings on EPA's Integrated Pest Management Program; briefing on the Federal Committee on Ecology, Council of Environmental Quality; discussion of items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee, (703) 557-7720.

Dated: February 22, 1977.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

[FR Doc.77-5084 Filed 2-28-77;8:45 am]

[FRL 692-6; OPP-42044]

RHODE ISLAND

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171, the Honorable Philip W. Noel, Governor of the State of Rhode Island, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Notice is hereby given that it is presently the intention of the Regional Administrator, EPA, Region I, to grant approval of this plan on a contingency basis pending the adoption of new regulations needed to implement newly enacted legislation, which are included in draft form as Proposed Rules and Regulations, Appendix J of the Plan. All relevant comments urging approval or disapproval or concerning any specific aspects of the plan are solicited at this time. A summary of this plan follows. The entire plan, together with all attached appendices (except for sample examinations) may be examined during normal business hours at the following locations:

State of Rhode Island, Department of Natural Resources, Division of Agriculture, 83 Park Street, Providence, Rhode Island 02903.

Room 2113, JFK Federal Building, Government Center, Boston, Massachusetts 02203. (Pesticides Branch, EPA Region 1).

Room 401, East Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, (202) 755-4854).

SUMMARY OF RHODE ISLAND STATE PLAN

The Rhode Island Department of Natural Resources (RIDNR) has been designated the State Lead Agency for the administration of the Pesticide Applicator Certification program including enforcement activities, with the Division of Agriculture responsible for the implementation. Other responsibilities also include coordination of training and certification activities, licensing of pesticide dealers, issuance of special permits for use of pesticides further restricted by the State and the coordination of field, laboratory and office activities relating to pesticide regulation.

Two cooperating agencies designated in the plan are the Rhode Island Extension Service (RIES) of the University of Rhode Island and the Rhode Island Pesticide Advisory Board (RIPAB).

The RIES will be responsible for the organization and operation of the pesticide applicator training program offered prior to certification and for training offered in conjunction with maintenance of the State Plan. The RIPAB reviews policy, program plans, goals, proposed regulations and furnishes recommendations and advice to the Director, RIDNR. Legal authority for the regulation of pesticides and their use in Rhode Island is contained in the following legislation: Rhode Island Pesticide Control Act of 1976 (RIPCA), Chapter 23-41.1, Revised Statutes Annotated.

The plan indicates that the State Lead Agency and cooperating agencies have qualified personnel and funds necessary to carry out the proposed certification programs. The funding for support of the program in the amount of $41,000 was appropriated for the fiscal year through June 30, 1977. Additional funding is to be requested to more adequately carry out enforcement aspects of the program outlined.

Rhode Island estimates 400 commercial applicators and 700 private applicators will need to be certified to use restricted use pesticides. A certificate and a pocket-sized credential, the latter containing the applicant's photograph, will be issued to each certified applicator and indicate the class and category(s) and/or subcategory(s) of certification as appropriate and any additional restriction placed on the applicator. The pocket-sized credential will be used to identify a certified applicator to pesticide dealers and to authorize purchase of restricted use pesticides.

The Rhode Island Plan indicates the State will promulgate new rules and regulations necessary for implementation of RIPCA and to meet requirements of 40 CFR 171.

The Rhode Island Department of Natural Resources agrees to furnish the

Administrator a detailed annual report by April 1 of each year and will provide other reports as requested in conformity with 40 CFR 171.7(d).

Rhode Island intends to adopt all ten categories of commercial applicators as listed in 40 CFR 171.3. Further, Rhode Island intends to utilize subcategories within two categories as designated below:

3. Ornamental and Turf Pest Control. (a) Shade Tree (Arborist); and (b) Custom Grounds.

7. Industrial, Institutional, Structural and Health Related Pest Control. (a) General Pest; (b) Termite and Structural Pest; (c) Fumigation; (d) Vertebrate; and (e) Mosquito and Biting Fly.

All applicants for certification as private or commercial applicators, including those currently holding a State pesticide applicator license, will be examined by written examination to determine competency. Private applicators will be given a four-part examination consisting of 80 questions that cover general standards, label information, State and Federal laws, and a knowledge of a specialized commodity area. An applicant must correctly answer 75 percent of the questions to become certified. Applicants for certification as commercial applicators will be given written examinations for general standards requirement containing 70 questions and also category or subcategory specific examination(s) containing 30 or more additional questions. In addition, performance testing may be required to supplement the demonstration of competency where a written examination may be an inadequate measure of competency for highly specialized applications. Applicants for certification as commercial applicators must answer 75 percent of the examination questions correctly to meet certification requirements.

Core level training conducted by RIES will be offered at designated locations prior to examination of applicants preparing to qualify as private or commercial class applicators. In addition to general pesticide use information, training will also be offered in commodity areas or category and subcategory specific areas to meet specific use area needs.

Rhode Island proposes to handle certification of private applicators unable to read on a case-by-case basis as provided in 40 CFR 171.5(b). A Lead Agency representative will examine the applicant orally to determine competency to meet standards of 40 CFR 171.5 and 171.6. Applicants determined to be competent as private applicators will be issued a certificate limiting the use of restricted use pesticides to those products, sites of application and use patterns for which competency was determined.

A copy or a representative sample of the private applicator and commercial applicator-general standards examination has been submitted with the plan for review. The specific standards examination for commercial applicators not submitted is in final stages of development and will be submitted to the Agency for review before the plan is approved.

To preserve the confidentiality of the examinations, the State of Rhode Island has requested they not be made available for public inspection. The Agency agrees with this request and has removed the examinations from public inspection copies of the plan.

Legislation provided that fees for issuance of applicator certification for both private and commercial class may not exceed $15.00, total.

The Rhode Island Plan does not contain specific provisions for a Government Agency Plan. It is expected, however, that federal employees applying restricted use pesticides in Rhode Island will meet the standards of competency required of other commercial applicators.

Rhode Island has no Indian Governing Body subject to the jurisdiction of the United States.

Rhode Island will consider reciprocity with other States and copies of such agreements will be furnished to EPA. At present, no recognized formal agreement on reciprocity with other States involving pesticide applicator certification is indicated in the plan.

Other regulatory authorities contained in the newly enacted legislation useful to implementation of the plan include further restriction or limitation on pesticide uses, requirement for licensing of dealers distributing restricted use pesticides, licensing of commercial applicators using only general use pesticides, monitoring, and inspection, and the regulation of storage and disposal.

Maintenance of the State Plan will be carried out in two general areas. RIDNR inspectors will conduct spot checks of applicators and field operations to determine compliance with certification and pesticide use requirements.

To assure maintenance of a high level of competency among certified commercial and private applicators, additional training, approved by RIDNR will be offered on a timely basis. After an applicator has been certified for five years, the requirements for recertification may be met by one of two options. Attendance and active participation in a Lead Agency approved training program specific to the applicant's class and categories of certification within a five-year period or successful passage of an examination is required for certification.

Public Comments

Interested persons are invited to submit written comments on the proposed State Plan for the State of Rhode Island to the Chief, Pesticides Branch, Region I, Environmental Protection Agency, Room 2113, JFK Federal Building, Boston, Massachusetts 02203. The comments must be received on or before April 1, 1977, and should bear the identifying notation (OPP-42044). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: February 2, 1977.

Lester A. Sutton,
Regional Administrator, Region I.

[FR Doc.77-5983 Filed 2-28-77;8:45 am]

[FRL 693-2; OPP-50277]

AMERICAN HOECHST CORP.

Issuance of an Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), an experimental use permit has been issued to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the Federal Register on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-2. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 576 pounds of the herbicide methyl 2-[4-(2',4'-dichlorophenoxy] phenoxy) propanoate on soybeans to evaluate control of various annual grasses. A total of 671 acres is involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Ohio, and Wisconsin. The experimental use permit is effective from January 31, 1977, to January 31, 1978. A temporary tolerance has been established for combined residues of the active ingredient and its metabolite in or on soybeans (beans only).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 18, 1977.

Douglas D. Campt,
Acting Director, Registration Division.

[FR Doc.77-6136 Filed 2-28-77;8:45 am]

[FRL 693-6; PF64]

CIBA-GEIGY CORP.

Pesticide Programs; Filing of Pesticide Petition

Ciba-Geigy Corp., P.O. Box 11422, Greensboro NC 27409, has submitted a petition (PP 7F1913) to the Environmental Protection Agency which proposes establishment of a tolerance (40 CFR Part 180) for the pesticide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)

acetamide) and its metabolites determined as the derivatives (2-(2-ethyl-6-methylphenyl) amino)-1-propanol) and (4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the raw agricultural commodity soybeans at 0.1 part per million. The proposed analytical method proposed in the petition for determining residues of the herbicide and its metabolites is a gas chromatographic procedure using a Coulson electrolytic conductivity detector for the first-mentioned derivative and a Dohrman microcoulometric detector for the second-mentioned derivative. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 24, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/755-2196. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments 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. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-6140 Filed 2-28-77;8:45 am]

[FRL 693-3; OPP-50276]

CIBA-GEIGY CORP.

Issuance of an Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), an experimental use permit has been issued to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100-EUP-42. CIBA-GEIGY Corporation, Greensoboro, North Carolina 27409. This experimental use permit allows the use of 300 pounds of ethanedial dioxime on oranges as an abscission agent. A total of 300 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from January 28, 1977, to November 30, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-6137 Filed 2-28-77;8:45 am]

[FRL 693-4; OPP-31009]

CIBA-GEIGY CORP.

Pesticide Programs; Receipt of Application To Register Pesticide Product Entailing Changed Use Pattern

Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, has submitted to the Environmental Protection Agency (EPA) an application to register the product DUAL 6E containing 66.7% of the active pesticidal ingredient 2-chloro-*N* - (2 - methoxy-1-methylethyl) acetamide. This application proposes a change in the pesticide's use pattern to include aerial application of the pesticide for weed control in corn grown for grain (excluding popcorn), and soybeans. The application also proposes that the product be classified for general use. PM 24.

Application was made by Ciba-Geigy Corp. pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 95 Stat. 751, 7 U.S.C. 136(a) et seq.) and the regulations thereunder (40 CFR Part 162). Notice of receipt of this application is given in accordance with the provisions of section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6) and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before March 31, 1977, and should bear a notation indicating the EPA File Symbol 100-583. Comments received within the specified time period will be considered before a final decision is made with respect to the application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval of denial of this application to register DUAL 6E will be announced in the FEDERAL REGISTER. The label furnished by the applicant, as well as all written comments 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. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-6138 Filed 2-28-77;8:45 am]

[FRL 693-5; OPP-30128]

HERCULITE PROTECTIVE FABRICS CORP.

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

Herculite Protective Fabrics Corp., a subsidiary of Health-Chem Corp., 1107 Broadway, New York, NY 10010, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Hercon Lure-n-Kill Flytape Fly Control Product (EPA File Symbol 8730-RE), containing 3.0 percent of the active ingredient 3-methoxy-4-hydroxy-benzaldehyde which has not been included in any previously registered pesticide products. The application received from Herculite Protective Fabrics Corp. proposes that the product be classified for general use as an insecticide for flytape for indoor use. PM17

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 (a) et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6)) and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before March 31, 1977, and should bear a notation indicating the EPA File Symbol "8730-RE." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202/426-9425.

Notice of approval or denial of this application to register Hercon Lure-n-

Kill Flytape Fly Control Product will be announced in the FEDERAL REGISTER. The label furnished by Herculite Protective Fabrics Corp., as well as all written comments 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 4:30 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-6139 Filed 2-28-77;8:45 am]

[FRL 692-8]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9:00 a.m. March 16, 1977, in room 1112A, Building 2, Crystal Mall, 1921 S. Jefferson Davis Highway, Arlington, Virginia.

This is the sixth meeting of the Committee. The agenda includes current activities of the Science Advisory Board; completion of action to transmit to the Agency requested advice regarding the Draft Sulfates Research Plan; review of a draft of the Committee's assessment of the quality of the measurement and monitoring activities by the Agency's Office of Research and Development; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557-7720 by close of business March 14, 1977.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

FEBRUARY 25, 1977.

[FR Doc.77-6133 Filed 2-28-77;8:45 am]

[FRL 693-1; OTS—022002A]

TOXIC SUBSTANCES

Meeting; Additional Information

A notice was published on page 9206 of the FEDERAL REGISTER of February 15, 1977, which announced open public public meetings in Washington, D.C., on Tuesday and Wednesday, March 22 and 23, 1977. These meetings will allow interested persons to comment on a discussion paper which is the basic foundation for the overall Agency strategy for implementing the various requirements of the Toxic Substances Control Act.

Additional information is now available regarding the location of the meetings. The morning meetings will be held in the Jefferson Auditorium, U.S. Department of Agriculture, South Agriculture Building, 14th and Independence Avenue SW. Locations of the afternoon concurrent workshop sessions will be announced at the first morning meeting on Tuesday. All other information contained in the notice published on February 15, 1977, remains unchanged.

Dated: February 22, 1977.

KENNETH L. JOHNSON,
Acting Assistant Administrator
for Toxic Substances.

[FR Doc.77-6135 Filed 2-28-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-124; Docket No. 21122, Transmittal No. 12627]

AMERICAN TELEPHONE & TELEGRAPH CO.

Revisions to Tariff F.C.C. No. 260

Adopted: February 17, 1977.

Released: February 23, 1977.

1. The Commission has for consideration the revisions to American Telephone and Telegraph Company's (AT&T) Tariff F.C.C. No. 260 filed on October 26, 1976 to become effective February 18, 1977.[1] These revisions purportedly were made pursuant to the Commission's Memorandum Opinion and Order (FCC 76-684) released July 30, 1976,[2] which required AT&T to eliminate general interconnection restrictions contained in its Tariff F.C.C. No. 260, specifically, those provisions which:

(a) Effectively restrict interconnection of AT&T private line services with communications systems provided by the customer or a participating carrier to premises where the non-carrier customer has a regular and continuing need to originate and terminate calls;

(b) Restrict connection of AT&T private line service to IRC computer switches to instances where the non-carrier customer requires the connection to communicate over one or more overseas channels connected to the IRC switch * * *

2. In addition to the required revisions, AT&T has proposed certain revisions which: (a) add new technical assistance charges, (b) eliminate a certain listing of participating carriers and group both domestic specialized carriers and International Record Carriers (IRCs) under the single notation "Other Common Carriers" (OCC) and (c) eliminate interruption allowances to IRCs' overseas customers on the portion of the Telephone Company-provided private line service when IRC-provided communications channels fail. For purposes of organization, the numerous parties[3] who have objected to all or part of these "additional revisions are divided into three graups: Specialized Common Carriers, IRCs and users.

CONTENTIONS OF THE PARTIES

SPECIALIZED COMMON CARRIERS

3. RCA Americom's Petition seeks rejection of the proposed revisions contained in Sections 4.1.10 and 4.1.11 of the tariff which impose additional charges for: Termination Compatibility Consultation Service, Review of Communication System Test Results, Special Participative Design Review, Technical Analysis and Testing, and Design Charge, because AT&T routinely provides similar services to its private line customers and customers of independent telephone companies at no charge. RCA thus alleges these revisions are unjust, unreasonable, discriminatory and are without economic justification in violation of Sections 201(b) and 202(a) of the Act. RCA suggests that the various technical, operating and engineering procedures adopted in the Settlement Agreement in Docket No. 20099, 52 FCC 2d 727 (1975), should be utilized in lieu of the services and charges contemplated in AT&T's proposed revisions, and finally, it suggests that the tariff is capable of an arbitrary application.

4. MCI requests the partial rejection of the AT&T revisions which will require that OCC connections to the telephone network be made through equipment which is presently furnished and maintained by the Telephone Company called a "service terminating arrangement." Such an arrangement is defined in the tariff as an interface which facilitates design, isolation and testing where private lines are connected with other communication systems including other telephone company private line service. MCI urges that this indicates AT&T is going to require connecting arrangements or protective devices and that this would be inconsistent with Commission decisions and the procedures agreed to in Docket 20099 (supra). The charges AT&T proposes for changes in service arrangements, MCI argues, may prove "extremely costly to the OCC, and to its customer." MCI believes that, generally, the language AT&T uses in its proposal "could be used as the basis for refusing cooperative efforts in the future," and is designed to place customers who elect to deal with specialized carriers at a disadvantage, essentially discouraging competition with these carriers.

5. AT&T essentially argues that the remedy of rejection is inappropriate in this case.[4] AT&T states that the addi-

[1] The original effective date of January 24, 1977 was deferred by AT&T.

[2] AT&T, et al. (Restrictions on Interconnection of Private Line Service), 60 FCC 2d 939.

[3] RCA American Communications, Inc. (RCA Americom); Shell Communications, Inc. (Shell); Computer and Business Equipment Manufacturers Assoc. (CBEMA); Aeronautical Radio, Inc. (ARINC); MCI Telecommunications Corp. (MCI); RCA Global Communications, Inc. (RCA Globcom); Western Union International, Inc. (WUI); and ITT World Communications, Inc. (ITT Worldcom).

[4] See In the Matter of United Video, Inc., 49 FCC 2d 898 (1974), and Associated Press v. FCC, 448 F. 2d 1095 (D.C. Cir. 1971). The three grounds upon which the Commission may reject are:

(1) Failure to publish an effective date meeting the requirements of Section 203 of the Communications Act;

(2) Lack of underlying authority to provide the service offered under the proposed tariff; or

(3) Prima facie unlawfulness, such as demonstrably in conflict with the Communications Act or a Commission rule, regulation or order.

tional charges in the disputed revisions "represent proper and necessary charges for unique services that certain private line customers may select as an option when customer-provided or Other Common Carrier-provided communications systems are interconnected with Telephone Company provided private line service * * *." The three new charges referred to in paragraph 4.1.10 of the revisions are not applicable to all its customers, AT&T notes, because when the Telephone Company provides a private line service totally or jointly with an independent telephone company, it has end-to-end service responsibility. In that situation, one carrier remains responsible for the overall design of the entire system according to specification and design parameters provided by that carrier. Therefore, engineering, design and compatibility services are not needed by nor offered to its customers. However, in the case where no one carrier is responsible for the end-to-end design, engineering and testing of the service, AT&T argues, the customer may need technical assistance to deal with compatibility problems that could occur with the interconnection of two separately designed and engineered systems. Additionally, the services are optional and customers are not obligated to request or utilize them. AT&T urges that "the costs for these services would be additive to the engineering and related costs that occur in all private line service, and thus the charges do not constitute an attempt to impose a charge that is already built in as an element in the private line rate" and that the charges are reasonable, nondiscriminatory and proper for the carrier to recover. Further, the "Design Change Charge" contained in paragraph 4.1.11, AT&T states, is applicable to all private line customers when "that customer requests a change that results in a design change in the private line service furnished by the Telephone Company," and thus cannot be considered discriminatory.

6. The petitioners' contention that these tariff provisions are capable of being applied in an arbitrary and discriminatory manner, AT&T states, is not a proper basis for rejection and constitutes unsupported conjecture and supposition, since any tariff, regulation or statute can be applied arbitrarily. Further, suggesting that the proper method of resolving such problems lies in the Settlement Agreement (supra), AT&T urges, is an attempt to substitute the petitioners' judgment for that of AT&T. Finally, in response to MCI's allegations that the "service terminating arrangement" will require connecting arrangements or protective devices, AT&T submits that these arrangements are presently furnished and maintained by the Telephone Company as part of its private line service and are not new devices created to impede or impair interconnection. The other objections are devoid of merit, AT&T states, and are based on either speculation or conjecture which surely cannot be proper grounds for rejecting its proposed tariff provisions.

THE USERS

7. Shell's Petition essentially opposes the proposed revisions to paragraphs 2.6.3(A)(1)(E), 2.6.3(A)(7)(c) and 2.6.3(G)(C) which, it alleges, specify that customer-provided switching equipment must be used to connect customer-provided systems to Telephone Company private line services when those lines access common-user switching equipment shared with MTS subscribers. These mandatory provisions, Shell states, require "the unnecessary introduction of functionally useless equipment into the interconnected path." If AT&T refuses to provide the interconnection of a customer-provided communications system on this basis, Shell urges, it would be violative of Section 201 of the Act, constituting a refusal to provide communications service upon a reasonable request therefore. "Moreover, introduction of such unnecessary switching equipment would increase the cost and reduce the reliability of the inter-connected communications channels."

8. In its reply AT&T urges that the provisions are necessary to insure the telecommunications network against "seizures" of common control equipment caused by failures of interconnected systems. However, this requirement may create financial and operational impediments for some customers, AT&T recognizes, and other adequate seizure protection can be accomplished where the customer-provided system has the capability of recognizing failure and returning the service to an "idle (on-hook) state." AT&T stated it would apply for special permission to file subsequent tariff revisions to be effective contemporaneously with the instant revisions which should moot Shell's objections.

9. Finally, CBEMA and ARINC have also filed to reject AT&T's proposed revisions substantially on the same grounds the remaining IRC petitioners have objected. Because CBEMA and ARINC represent users of overseas alternate voice data (AVD) circuits provided by the IRCs, we will consider their arguments and comments with the IRC objections.

THE IRCs

10. The remaining Petitioners (WUI, RCA Globcom, ITT) seek rejection and, in the alternative, suspension and investigation, of portions of the above-referenced revisions. The IRCs state that AT&T's revisions which discontinue the grant of an interruption allowance or billing credit to customers of overseas leased-channel service,[3] where the service interruption is due to a systems failure other than on lines provided to the customer by AT&T, essentially destroys the historic "integrity of service" concept of end-to-end overseas leased channel communications. These revisions are unreasonably discriminatory and thus constitute a violation of Sections 201 and 202 of the Act, they argue, and if implemented would constitute a discontinuance, reduction or impairment of service without AT&T having obtained the necessary Section 214 authority. Further, it is argued that the tariff revisions constitute a rate increase, within the meaning of the Act, and AT&T has failed to support such an increase in compliance with Section 61.38 of the Commission's Rules. Finally, the petitioners urge that the tariff revisions, while ostensibly in compliance with the Commission's Order, go far beyond the requirements of that Order, and, if not rejected by the Commission, should be suspended for the full statutory period during which time the Commission should initiate an appropriate proceeding addressing these questions of lawfulness.

INTEGRITY OF SERVICE

11. This concept, the IRCs urge, recognized that an end-to-end overseas leased channel communications capability between U.S. customers and overseas offices will involve U.S. and international carriers, and if such carriers functioned independently of one another the utility of the service would be adversely affected. Historically, when a subscribing customer sought to obtain an overseas communication he did so without regard to the actual discrete facilities required from the different U.S. and foreign carriers. The customer relied upon the primary carrier (usually the IRC) as the one entity assuring that quality end-to-end service would be provided. As a consequence, this cooperative concept has developd among the IRCs and domestic carriers (including AT&T) to the effect that any interruption in service not caused by the customer himself or the equipment under his control will result in a credit allowance to the customer from the IRC and domestic carrier for that portion of the service furnished by each. With its proposed tariff revisions, AT&T has apparently decided it will no longer participate in this concept, except to the extent that the outage occurs on its facilities. Assuming other common carriers, such as the IRCs, follow suit by limiting interruption allowances to the extent of their involvement, the resulting fragmented service would destroy any assurances that the user will enjoy end-to-end service. Further, the IRCs urge, that if this fragmentation is allowed, the emphasis, on clearing the trouble when an outage occurs, will shift to attempting to assess

[3] These proposed revisions are to paragraph 2.4.8 of Tariff F.C.C. No. 260, which, AT&T states, is necessary:

To more clearly set forth the fact that an interruption allowance will not be granted on a Telephone Company—provided private line which is interrupted because of failure of a communication system furnished by an Other Common Carrier * * * [AT&T states] the regulations are not required since no interruption credit is applicable to Telephone Company private lines due to a failure of communications systems provided by others.

the responsibility for the cause of the trouble to the detriment of all concerned. This fingerpointing could then become so widespread that foreign administrations may become involved. The IRCs argue that by proposing these revisions AT&T not only reverses its own longstanding policies concerning integrity of service,[6] but also jeopardizes the comity between the U.S. and foreign administrations in discontinuing outage allowances on international private leased circuits.[7]

12. Additionally, it is alleged that the alteration of the interruption allowance when viewed from the user's expectation of end-to-end service, constitutes a discontinuance and impairment of service in violation of Section 214(a). The test for such discontinuance under this Section is not simply the quantity of the components of facilities provided or the locations served, they urge, but necessarily encompasses the service provided. Where the carrier's action results in a significant impairment of a segment of that service to the public, petitioners allege, it constitutes a discontinuance without proper Section 214 authority. Such a discontinuance, while maintaining this interruption allowance to overseas customers using end-to-end Telephone Company provided facilities, is in violation of Section 202(a) of the Act.[8] AT&T's tariff revisions not only would continue to grant the interruption allowance on its segment of an overseas circuit, but also on the segment provided by the connecting overseas administration, this they insist, singles out the U.S. IRCs and is patently an unjust discrimination. Further, the competitive edge gained by its Long Lines Department in supplying like communications to Hawaii, where AT&T competes with the IRCs for AVD customers, discriminates in favor of through service provided entirely by AT&T and its overseas correspondent, the Hawaiian Telephone Company.

13. The IRCs urge that AT&T's proposed termination of tariff provisions would effectively permit it to collect revenues which customers have previously been entitled to retain. This would amount to a "rate increase" to customers within the meaning of § 61.21 of the Commission's Rules. AT&T's failure to provide appropriate Section 61.38 economic support data in connection with this "rate increase," the IRCs note, would be grounds for rejection of the proposed tariff revision.

14. In its response to the many IRC contentions, AT&T first challenges that "* * * [n]o facts are alleged, or legal theories enunciated, which even arguably meet the criteria asserted by the Commission to be essential for rejection of a tariff * * *" United Video Inc. (supra). The revisions are reasonable, non-discriminatory, in all respects lawful and are in full compliance with the Commission's July 30 Order. Apart from the validity of the arguments discussed, as AT&T previously stated, "these claims are relevant, if at all, solely to issues surrounding the substantive lawfulness of the proposed revisions."

15. In its favor, AT&T argues that service undertakings are different when it provides the customers overall service using its overseas facilities from when the customer pieces out the end-to-end responsibility by a combination of interconnected services provided by different carriers. It stresses that unlawful discrimination exists where the carrier provides the same service to similarly situated customers at different rates or under different regulations. Since AT&T's overseas facilities are limited to voice-only services, its customers and those of the IRCs are not similarly situated, citing TAT-4 Decision, 37 FCC 2d 1151 (1964). AT&T states, the only markets in which it competes with the IRCs would be AVD leased channel service between the U.S. and Hawaii; the provision of certain "grandfathered" AVD circuits to the Department of Defense to other overseas points; and where RCA Globcom serves as both AT&T's correspondent for telephone service between the U.S. and Guam and an IRC for other purposes. AT&T operates a joint-through end-to-end service with the Hawaiian Telephone Company which no IRC does, and this is reflected in their tariffs. By its revisions, AT&T now provides interruption credit co-extensive with the scope of its undertaking, which in the case of the IRCs is the provision of the domestic link. Further, AT&T states that domestic links may be obtained from other domestic carriers, including affiliates of the IRCs. AT&T concludes that the IRCs have not shown that AT&T should continue a discrimination in favor of the IRCs in contravension of the Commission's July 30 Order to eliminate discrimination between the IRCs and the OCCs.

16. In further support of its elimination of the historic interruption allowance for overseas customers, AT&T urges that the Commission's July 30 Order created a situation in which overall communications systems can be pieced together without any one carrier being responsible for the total end-to-end service. The variety of OCC and customer-provided communications systems differ in technical design and equipment requirements. While "telephone company-provided private lines can be connected to such systems, the telephone company has no control over the transmission characteristics, operating parameters and quality and reliability of the overall service beyond that which it provides," and it cannot be required to provide a credit when a failure occurs in another facility. On the basis of that Order, AT&T states, it cannot justify continuing a special credit for customers who connect telephone company-provided private lines to IRC overseas channels where no such credit is given to competing domestic carriers. Historically, AT&T states, it has given a credit for interruption because the provision was desirable for many reasons, the class of carriers involved; the interest of the customers; uniformity in facility design; engineering and technical specification for connection with overseas channels, and customers of IRCs have been dependent on Telephone Company for the domestic portion of their services. There are also "design and testing procedures for international private lines established through regular and continuing consultations with the CCITT," and finally, for international comity.

Discussion

17. RCA Americom and MCI's objections center on the addition of technnical assistance and design change charges, specifically, paragraphs 4.1.10 and 4.1.11 of AT&T's tariff. They allege these revisions are unjust, unreasonable, discriminatory and are without economic justification in violation of Sections 201(b) and 202(a) of the Act.[9] They also allege the requirement that interconnection with the telephone network be made through a "service terminating arrangement" presently furnished by the Telephone Company would indicate AT&T is going to require protective devices or connecting arrangements inconsistent with the procedures agreed to in the Settlement Agreement (supra).

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[6] AT&T has stated (memo of January 29, 1964):

It is essential that overall station-to-station service be handled by Long Lines Plant with the International Telegraph Carrier with every attention that would be given if the International facilities were provided by Long Lines.

[7] The most recently revised Recommendation D.1, as approved by the VIth Plenary Assembly of the International Telegraph and Telephone Consultative committee (C.C.I.T.T.) Oct. 1976 in pertinent part provides:

4. *Allowances for interruption.*

4.1 In the event of an interruption of a private leased circuit for which a customer or user is not responsible, an allowance shall normally be made to the customer if there has been an initial period of interruption * * *

4.5 In principle an allowance should be given for all components of the through circuit between the customers' operating terminals regardless of where the interruption occurs * * *

[8] Citing *Bell Telephone Company of Pennsylvania* v. *FCC*, 503 F. 2d 1250 (3d Cir. 1974), where the court stated at 1273–1274:

* * * As we read the order, the FCC has required AT&T to provide to the specialized carriers those elements of private line services which AT&T supplies to its affiliates and furnishes to customers through its Long Lines Department.

[9] In pertinent part these sections provide:

201(b) All charges, practices, classifications, and regulations for and in connection with * * * communications service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

202(a) It shall be unlawful for any carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communications service * * *

18. The charges which AT&T seeks to implement are not dissimilar to the charges agreed to by the parties in the Settlement Agreement (supra). Under AT&T's Tariff 260, as revised, a customer may choose through service provided by AT&T and the carriers concurring in Tariff 260 or the customer may elect to connect his own or an OCC's service with the Tariff 260 services to satisfy his communications requirement. When a customer chooses the second option, each carrier provides the customer with a service independent of any connected service and thus is not responsible for technical problems associated with the other carrier's service. If the customer asks AT&T to diagnose and/or resolve actual and potential problems on a customer or OCC-provided communications system, AT&T may recover the reasonable costs which it incurs in rendering such service. Consequently, we find the charges proposed in paragraphs 4.1.10 and 4.1.11 of AT&T's Tariff 260 have not been shown to be unjust, unreasonable or unlawfully discriminatory within the meaning of Sections 201(b) and 202(a) of the Act. We are further persuaded that AT&T's proposed additional charges are substantially supported by the economic data submitted by AT&T to conform with § 61.38 of the Rules. In addition, AT&T has convincingly answered the questions and concerns expressed by these petitioners that "service terminating arrangements" be supplied and maintained by the telephone company. The remaining objection to the tariff changes raised by the parties, other than the IRCs, we find to be conjecture and not a proper basis for either the rejection or suspension of the proposed tariff revisions.[10] Shell's objection to AT&T's proposed requirement that switching equipment must be used to connect customer-provided systems to the telephone company private line services has been alleviated by the additional revisions AT&T proposes. The revisions provide customers with an alternative method of interconnecting customer-provided systems to common-user switching equipment located in a telephone company central office.[11]

19. As already noted, AT&T's proposed revisions to paragraph 2.4.8 delete the provision for interruption allowances on telephone company provided facilities to the customer for outages which occur on the other common carrier facilities providing overseas service. We are not persuaded that the elimination of this interruption allowance is a discontinuance or impairment of service within the meaning of Section 214(a) of the Rules, principally, because the service provided by AT&T will continue unimpaired to all customers. In addition, we are likewise unpersuaded that the elimination of a billing credit constitutes a "rate increase" within the meaning of Section 61.21 of the Rules that would require additional Section 61.38 economic support data.

20. The IRCs also complain that eliminating the outage credit would destroy the historic distinction between domestic communication services and overseas communication services, which in essence, guaranteed end-to-end credit responsibility when an outage occurred on any portion of an end-on-end overseas private line circuit. After having fully examined AT&T's justifications of its tariff changes, we are of the view that elimination of the interruption allowance on AT&T's portion of an AT&T/IRC international service raises substantial public interest questions.

21. Hinterland customers who request overseas communications, other than voice-only circuits, are required by law to use at least one domestic carrier, an international record carrier and a foreign correspondent to secure end-to-end private line service. Unlike the options available to the domestic customer who may elect either a joint-through service with one carrier having end-to-end responsibility, or a pieced-out service with any number of independent carriers, the overseas customer must use more than one common carrier to secure end-to-end international private line service. The private line customer, in electing to piece-out his communications requirements for reasons of cost or convenience, must balance the risks involved. One of the risks he runs is, that if an outage occurs on a customer-connected service, he may not receive credit from those carriers whose facilities are functioning properly.[12] Even the overseas customer who elects to piece-out portions of the domestic service to the gateway city run the risk of not receiving credit from the domestic carrier whose facilities are functioning properly. The question before us is whether it is in the public interest to require the hinterland customer, who by law must piece-out his overseas communications requirement, to run the risk of not receiving full credit for a service interruption caused by an IRC.

22. Although substantial questions exist regarding the advisability of eliminating the interruption allowance provision in AT&T's Tariff 260, we are, nonetheless, unable to reject the proposed changes. We find the grounds on which such action may be taken are not present in this case. See United Video (supra). Specifically, the instant revisions meet the requirements of Section 203 of the Act; AT&T has the underlying Section 214 authority to provide the services offered here; and the revisions have not been shown to be so demonstrably in conflict with the Act, our Rules, Regulations or Orders as to be prima facie unlawful.[13]

23. In light of these findings, we will not reject AT&T's proposed tariff revisions. However, because substantial questions have been raised by the petitioners regarding the possible adverse impact that AT&T's elimination of the interruption allowance may have on the public interest, we shall suspend the AT&T revision for a full 5 months and set the matter for hearing to investigate the lawfulness of this proposed revision.

24. Accordingly, it is ordered, That the Petitions to Reject the revisions to AT&T's Tariff FCC No. 260 filed by RCA American Communications, Inc. on December 13, 1976; RCA Global Communications, Inc. and Western Union International, Inc., on December 20, 1976; MCI Telecommunications Corp., on January 3, 1977; and the Computer and Business Equipment Manufacturers Association on January 17, 1971 are denied;

25. It is further ordered, That the Request for Withdrawal of the Petition to Suspend filed by Shell Communications, Inc., on January 21, 1977 is garnted;

26. It is further ordered, That the Petitions to Suspend the revisions to AT&T's Tariff FCC No. 260 filed by RCA Global Communications, Inc. and Western Union International, Inc., on December 20, 1976; ITT World Communications Inc., on December 23, 1976; MCI Telecommunications Corp., on January 3, 1977 are granted in part as to the elimination of an interruption allowance to International Record Carrier customers;

27. It is further ordered, That pursuant to Sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff revision eliminating the interruption allowance to International Record Carrier customers filed by AT&T in Transmittal No. 12627;

28. It is further ordered, That the effectiveness of the revision to AT&T's Tariff FCC No. 260 filed under Transmittal No. 12627 which eliminates the interruption allowances to overseas IRC customers is suspended until July 19, 1977;

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[10] The petitioners are assured that any complaints of specific discriminatory treatment will be fully investigated and appropriate action taken.

[11] AT&T filed the proposed revisions on January 14, 1977 under Transmittal No. 12665. Shell filed to withdraw its petition on January 25, 1977.

[12] If a customer could order a service from an independent telephone company, other than a joint through service, which he then connects to the service of another telephone company, the service of a specialized common carrier or the service of any other domestic carrier, that customer would not receive an interruption allowance for any service except the service that causes the interruption. We assume that under these circumstances the technical assistance charges enumerated in paragraph 4.1.10 of AT&T's proposed revisions would also apply when this customer seeks such assistance.

[13] In the recent case of *Delta Airlines, Inc.* v. *CAB* (D.C. Cir.) (75-1267) (June 22, 1976) citing *Municipal Light Board* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1974) at 1346, the Court declared that for reasons other than proper form and order of filing the "preemptory form of response to filed tariffs * * * [rejection] may be used by an agency where the filing is so patently a nullity as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket."

29. It is further ordered, That without limiting of the scope of investigation, it shall include consideration of the following:

(1) Whether and to what extent such revision will subject any person or class of persons to an undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of Section 202(a) of the Communications Act.

(2) Whether the elimination of the provision granting an interruption allowance to overseas customers is in the public interest.

30. It is further ordered, That the investigation shall be governed by the hearing procedures stated in Section 1 of the Commission's Rules and Regulations. The hearing schedule will be governed by subsequent order of the Chief, Administrative Law Judge.

31. It is further ordered, That a separated trial staff of the Common Carrier Bureau shall participate in the above captioned proceeding. The Chief, Hearing Division and his staff will be separated in accordance with the provisions of Section 1.1209 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6058 Filed 2-28-77;8:45 am]

HART BROADCASTING CO., INC.

Standard Broadcast Application Ready and Available for Processing

Adopted: February 11, 1977.

Released: February 23, 1977.

Notice is hereby given, pursuant to Section 1.571(c) of the Commission's Rules, that on March 29, 1977, the following standard broadcast application will be considered as ready and available for processing:

BP-20598 New, Phoenixville, Pennsylvania, Hart Broadcasting Co., Inc., Req: 690 kHz, 0.5 kW, DA-Day.

Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with this application or with any other application on file by the close of business March 28, 1977, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on March 28, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6057 Filed 2-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

[No. 77-3]

ALASKA, ET AL.

Filing of Complaint

FEBRUARY 23, 1977.

Notice is hereby given that a complaint filed by the State of Alaska on behalf of Tlingit-Haida Purchasing Association and all others similarly situated against Pelican Cold Storage Inc., and Alaska Outports Transportation Association, Inc. (AOTA) was served February 23, 1977. The complaint alleges that respondents have violated sections 15 and 16 of the Shipping Act, 1916 by refusing to allow complainants to use Pelican's wharfage facilities on shipments made on vessels of AOTA.

Hearing on this matter shall commence on or before August 23, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6129 Filed 2-28-77;8:45 am]

NEW YORK SHIPPING ASSOCIATION, INC., AND TRANSAMERICAN TRAILER TRANSPORT, INC., ET AL.

Action

In the matter of Nos. 71-2, 71-8, 71-26, and 71-34, Transamerican Trailer Transport, Inc., Seatrain Lines, Inc., Daniels & Kennedy, Inc., Chandris America Lines, Inc., Greek Line, Inc., Home Line Agency, Inc., Incres Line v. The New York Shipping Association, Inc.

Notice is hereby given that, on February 23, 1977, the Federal Maritime Commission (Commission) issued an Order in the captioned proceedings, copies of which are available at the Commission's Office at 1100 L Street, N.W., Washington, D.C. 20573, in which the Commission reopened those proceedings to determine the total amount of credits properly granted by the New York Shipping Association, Inc. (NYSA) to compensate water carriers for overpayment of assessments on automobiles made by NYSA to fund longshoremen's benefits for the period October 1, 1969–September 30, 1971 and to recompute overassessments imposed on certain other carriers.

In that order, the Commission observed that NYSA has provided for such credits since February 11, 1975, and that NYSA alleges that it has already granted $635,588 in such credits, which amount constitutes over 86 percent of the total automobile credits for the above specified period which NYSA believes may be sought. As the Commission explained, carriers which have waited for two years and which may still request automobile adjustments for the October 1, 1969–September 30, 1971 period should not be allowed unduly to delay adjustments for those carriers which have diligently pursued their claims. Nor should NYSA be allowed to raise the spectre of possible automobile credits not yet (and possibly not to be) granted to delay adjustments which the Comission found due other carriers. Accordingly, the Commission directed in its February 23, 1977, order that NYSA consider applications for automobile credit adjustments for the aforementioned 1969–1971 period not yet considered only if such applications are received within 60 days of its service. Such applications need not be filed with the Commission or served upon the parties to the captioned proceedings.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6130 Filed 2-28-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-219]

COLORADO INTERSTATE GAS CO.

Application

FEBRUARY 22, 1977.

Take notice that on February 11, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-219 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of three 1,200-horsepower compressor units to its existing Sturgis Compressor Station in the Keyes Field area, Cimarron County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the Sturgis Compressor Station compresses all gas from the Keyes Field gathering system, which field has been and must continue to be a dependable source of peak day and annual gas for Applicant's transmission system. It is further stated that subsequent depletion of the reservoir has reduced wellhead pressures and the gathering system efficiency in the Keyes Field with an average wellhead pressure drop of 25 p.s.i. per year. Applicant states that the current compressor units were designed to operate at a suction pressure of 300 p.s.i.g. with a discharge pressure of 500 p.s.i.g., but because of declining wellhead pressure, these same units are currently operating at a suction pressure of 250 p.s.i.g. which is very near the horsepower limitations, rod-loading limitations, and compressor displacement capacity with the 500 p.s.i.g. discharge

pressure required by the Keyes Helium Plant which receives gas directly from the Sturgis Compressor Station.

Applicant further states that several of the total 117 wells are capable of producing only at rates significantly below potential because of the current 250 p.s.i.g. field gathering system pressure; consequently, the Keyes Field is unable to deliver the designed peak day and annual volumes of 62,980 Mcf and 18,000,000 Mcf, respectively.

Applicant, therefore, proposes to install and operate three 1,200 horsepower compressor units and ancillary equipment at a total estimated cost of $1,751,940, which would permit maintenance of a gathering system pressure equal to 50 percent of the average wellhead shut-in pressure as required by the gas purchase contracts of Applicant. It is indicated that the cost of facilities would be financed from current funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

To take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5999 Filed 2-28-77;8:45 am]

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Petition to Amend

FEBRUARY 22, 1977.

Take notice that on February 16, 1977, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP77-126 a petition to amend the Commission's order of January 18, 1977 (57 FPC), as amended on February 1, 1977 (57 FPC), issued in the instant docket pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of additional volumes of natural gas from Canada to the United States, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order of January 18, 1977, it was authorized to import and purchase approximately 250,000 Mcf of gas per day for a sixty-day period from TransCanada Pipelines, Ltd. (TransCanada) commencing on January 19, 1977, at a cost of $1.94 per Mcf plus an additional charge to cover the compression and storage expenses incurred by TransCanada and/or its customers.

It is further stated that pursuant to the Commission's order of February 1, 1977, a portion of the gas supply authorized to be imported by Petitioner was allocated to Southern Natural Gas Company (Southern) in order to alleviate Southern's gas supply emergency with deliveries commencing February 2, 1977.

It is asserted that Petitioner's share of such gas is presently being delivered by TransCanada to Great Lakes Gas Transmission Company (Great Lakes) through existing authorized facilities at the International Boundary near Emerson, Manitoba; Great Lakes is transporting and delivering this gas to Michigan Wisconsin Pipe Line Company (Mich-Wisc) through existing facilities at Crystal Falls, Michigan; Mich-Wisc is redelivering part of the gas to Petitioner's affiliate, Columbia Gulf Transmission Company (Columbia Gulf), at various existing points of interconnection between Mich-Wisc and Columbia Gulf in Louisiana, both offshore and onshore; the remainder is being delivered by Mich-Wisc, transported through the systems of Natural Gas Pipeline Company of America, Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation, Trunkline Gas Company and United Gas Pipe Line Company and redelivered to Columbia Gulf in Louisiana, all through existing facilities. It is further asserted that Columbia Gulf is delivering all of the gas under this arrangement to Petitioner's pipeline facilities in Kentucky. Petitioner states that as of February 13, 1977, approximately 10,900,000 Mcf had been imported and purchased from TransCanada, 7,046,431 Mcf of which has been received by Petitioner and 353,500 Mcf by Southern. Petitioner further states that the remainder of the 10,900,000 Mcf is either en route to Petitioner and Southern or temporarily in storage.

Petitioner proposes to amend its import authorization to include the importation and purchase of an additional 12,000,000 Mcf from TransCanada, which addition has been approved by the Canadian National Energy Board. Petitioner states that the additional gas would be imported, purchased and transported generally under the same terms and conditions applicable in the original agreement, but requests an increase in the average daily rate at which it may receive the gas from TransCanada from 187,500 Mcf, i.e., 250,000 Mcf per day less than 62,500 Mcf per day allocated to Southern to 300,000 Mcf. Petitioner also proposes to extend the term during which it is required to import and purchase its share of the TransCanada gas for an additional forty-five days, or until May 3, 1977.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 4, 1977, 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 Comission 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.77-6004 Filed 2-28-77;8:45 am]

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Limited Term Authorization To Import Natural Gas

FEBRUARY 20, 1977.

On February 16, 1977, Columbia filed an emergency application pursuant to Section 3 of the Natural Gas Act, Part 153 of the Commission's Regulations and § 1.7(b) of the Commission's Rules of Practice and Procedure for an amendment to the Commission's orders issued in the above-styled proceeding on January 18, 1977, and February 1, 1977.

On January 18, 1977, Columbia Gas Transmission Corporation (Columbia) filed in Docket No. CP77-126 an application pursuant to Section 3 of the Natural Gas Act for authorization to import

natural gas from Canada to the United States for a sixty-day term for use in its general system supply to meet the needs of its customers. By order issued on January 18, 1977, the Commission granted Columbia's request to import and purchase approximately 250,000 Mcf per day for a sixty-day period, or a total of 15 Bcf, from Trans-Canada Pipelines, Ltd. (Trans-Canada) commencing on or about January 19, 1977, at a cost of $1.94 per Mcf plus an additional charge to cover the compression and storage expenses incurred by Trans-Canada.

On February 1, 1977, after a formal hearing, the Commission issued an order in which it found that Southern Natural Gas Company (Southern) also was confronted with a gas supply emergency and directed that a portion of the gas that it had previously authorized Columbia to import and purchase from Trans-Canada be allocated and delivered to Southern on a prospective basis from and after February 2, 1977. Under the latter order Columbia was authorized to receive said gas at an average daily rate of 187,500 Mcf and Southern at an average daily rate of 62,500 Mcf.

In the instant emergency application requesting authorization to import additional gas from Trans-Canada, Columbia notes that as of February 13, 1977, approximately 10.9 Bcf of the initial 15 Bcf authorized has been imported and purchased from Trans-Canada. Columbia also asserts that it has recently culminated negotiations for the importation and purchase of an additional 12 Bcf from Trans-Canada. On February 15, 1977, the Canadian National Energy Board issued the necessary authorization permitting Trans-Canada to export this additional 12 Bcf to the United States.

Columbia contemplates that the subject additional 12 Bcf will be imported, purchased and transported generally under the same terms and conditions applicable to the original 15 Bcf. However, Columbia requests the Commission to increase the average daily rate at which Columbia may receive gas from Trans-Canada to 300,000 Mcf.

Under the Commission's February 1, 1977, order in the above-styled proceeding, Columbia is currently authorized to import 187,500 Mcf on an average daily basis, i.e., 250,000 Mcf per day less the 62,500 Mcf per day allocated to Southern. Columbia, with the additional volumes available from Trans-Canada, requests authorization to raise the import volumes authorized in the above-styled proceeding to 300,000 Mcf on an average daily basis and to further extend the limited importation period of sixty days by an additional 45 days.[1]

The months of November and December 1976 were 35 percent and 17 percent colder than normal. This trend has continued during the month of January.[2] On November 1, 1976, Columbia imposed a curtailment level of 210 Bcf which equates to a curtailment of 63 percent of Priority 2 of Columbia's 3-priority plan. Due to the cold winter weather, on January 1, 1977, this level was increased to 70 percent of Priority 2 for the remaining 3 winter months. Columbia furthermore indicates that it is experiencing a dramatic drawdown of storage volume which reduces the amount of gas that can be withdrawn from storage on any given day during the remainder of the winter. Columbia expects subsequent to February 1, 1977, for the remainder of the winter daily deficiencies of up to 1,100,000 Mcf of gas under the optimistic forecast of normal weather and a projected flowing gas supply based upon historical temperatures.

The Commission is cognizant of the unprecedented cold weather which has affected the eastern and southern portions of the country including Columbia's service region. On January 14, 1977, in the order issued in Docket No. CP77-116, Houston Pipeline Company, we noted that numerous natural gas pipelines are now facing, or shortly will face, natural gas supply shortfalls to meet high priority loads and that emergency measures are needed to cope with this situation (mimeo p. 2). The application by Columbia for a limited term authorization herein clearly demonstrates that additional gas is needed to assist Columbia in maintaining its ability to render natural gas service to its customers.

The Commission, however, as it did in the January 18, 1977, order in this proceeding again reaches no conclusion as to the need of Columbia to this additional gas relative to other pipelines. The Commission immediately subsequent to authorizing Columbia in that order to import 15 Bcf from Canada established accelerated procedures to determine whether other jurisdictional pipeline had an equivalent or greater relative need to the import gas than Columbia. As a result of these procedures the Commission was able to determine that an equitable allocation between two pipelines was in the public interest.

Viewed in the context of Columbia's needs alone, we shall grant authorization for the proposed importation to the extent possible. However, the public interest requires that the authorization here issued be conditioned to allow a subsequent evaluation of the relative needs of other jurisdictional pipelines.[3]

Therefore, concurrently herewith we are issuing a notice inviting those interstate natural gas pipelines who are experiencing emergency conditions on their systems and who wish to receive some or part of the additional importation authorized by this order[4] to so advise the Commission by February 24, 1977. This authorization will be granted under the broad powers conferred upon the Commission by Sections 3 and 16 of the Natural Gas Act. PUC of New York v. FPC, 327 F.2d 893, Niagara Mohawk Power Corporation v. FPC, 379 F.2d 153.

Columbia's request to amend its import authorization in the above-styled proceeding was duly noticed pursuant to order 164-A on February 17, 1977.

The Commission finds: (1) A natural gas supply emergency situation exists on the Columbia Gas Transmission Corporation system which has substantially diminished Columbia's ability to render natural gas service to its high priority customers.

(2) Approval of the proposed importation of additional short term Canadian gas by Columbia for the extended period noted above will materially assist in helping to alleviate curtailment of high priority customers and is consistent with the public interest.

(3) It is necessary and appropriate for the purposes of the Natural Gas Act and the Commission's Regulations thereunder to waive the Commission's Regulations as hereinafter provided.

The Commission orders: (A) Columbia Gas Transmission Corporation's authorization to import natural gas from Canada in the above-styled proceeding is amended by providing for the importation of an additional 12 Bcf of gas above the 15 Bcf of gas initially authorized by our order of January 18, 1977, (as amended by Commission order of February 1, 1977), upon the terms and conditions outlined below and as more fully described in the applications filed in Docket No. CP77-126 and the context of this order.

(B) Columbia's initial import authorization in the above-styled proceeding is further amended to enable that company to increase its presently authorized average daily rate of import gas from Trans-Canada to 300,000 Mcf as of the date of the issuance of this order.

(C) Columbia's initial import authorization in the above-styled proceeding is also amended to enable Columbia to import the volumes set forth in ordering paragraphs (A) and (B) for a term of 45 days from the issuance date of this order.

(D) The gas imported under the subject arrangement shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

[1] The initial sixty-day importation commenced on or about January 19, 1977, and should conclude by the terms of our initial order about March 19, 1977. By granting a 45 day extension the presently contemplated importation should terminate on or about May 3, 1977.

[2] The months of October and November were the coldest experienced on Columbia's system in 30 years, and December was the fifth coldest in 30 years.

[3] This would include whatever evaluation might be made by the Administrator of the Emergency Natural Gas Act of 1977 under Public Law 95-2 or by the Commission upon request of the Administrator. Section 4(e) of that Act contemplates data exchanges between this Commission and the Administrator to facilitate the discharge of the purposes of that Act and the Natural Gas Act.

[4] In accordance with our order of February 1, 1977, in "Columbia Gas Transmission Company" Docket No. CP77-126, we shall not entertain petitions for allocation of this gas filed by distributor company customers of an interstate pipeline.

(E) Columbia shall file within 10 days after the initial importation of the additional gas herein its contract for the purchase of such gas with Trans-Canada and any other contracts which are designed to effectuate the transportation of the imported gas to its intended market.

(F) It could become necessary for Columbia to sell this imported gas, as directed by the Commission, to pipelines with a greater need to protect high priority users. This order is conditioned to allow a subsequent evaluation of the relative needs of Columbia and other natural gas pipelines to the subject gas.

(G) Pursuant to the provisions of § 1.7 of the Commission's Rules of Practice and Procedure, the following sections of the Commission's Regulations are hereby waived to facilitate issuance of this order: § 2.1 of the Commission's General Policy and Interpretations and § 153.4 of the Commission's Regulations under the Natural Gas Act.

(H) 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.77-6002 Filed 2-28-77;8:45 am]

[Docket No. ER77-197]

FLORIDA POWER CORP.

Initial Filing

FEBRUARY 18, 1977.

Take notice that Florida Power Corporation ("the Company") on February 11, 1977, tendered for filing as an initial rate schedule to FPC Electric Tariff Original Volume No. 2 covering generating support service to participants in the new Crystal River No. 3 nuclear generating plant.

The Company has sold 10% undivided interest in that plant to ten municipal utilities and one cooperative utility. The present filing covers various supplementary services provided by the Company to the Crystal River No. 3 participants. Those supplementary services are (1) operating reserve requirement service, (2) deficiency energy service, (3) firming capacity service, (4) transmission loss service, and (5) generation reliability for transmission service.

Copies of the filing were served upon the affected jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5997 Filed 2-28-77;8:45 am]

[Docket No. RI77-7]

GRUY MANAGEMENT SERVICE CO.

Special Relief; Hearing

FEBRUARY 22, 1977.

On November 5, 1976, Gruy Management Service Company (Gruy), Operator for V. A. Hughes, et al., filed a petition for special relief from the national flowing gas ceiling pursuant to § 2.76 of the Commission's Rules of Practice and Procedure. Specifically, Gruy requests permission to increase its present rate of 35.0 cents per Mcf to a proposed rate of 76.51 cents per Mcf for gas it is selling to Texas Gas Transmission Corporation (Texas Gas) from the Rosa Jones Well, Panola County, Texas. Texas Gas has agreed to raise their contract to a "price found by the Commission to be just and reasonable" under the provisions of Order No. 481, in order that deliveries of natural gas may continue.

Gruy's petition was noticed on November 18, 1976. Texas Gas filed a timely petition to intervene on November 24, 1976.

Gruy indicates that should the requested economic relief be granted, it will repair a compressor on the Rosa Jones Well and a compressor on the C. Williamson Well which will enable it to continue production from the Rosa Jones Well. Based on its own data, Gruy estimates that it could produce 76,500 Mcf of gas and 3,826 BBls of liquids from the field over a six year period.

Based on the same historical data, Staff estimates that 221,608 Mcf of gas, 1074 BBls of lease condensate and 4,600 BBls of plant liquids could be produced from this well over the next thirteen and one-half year period. After reviewing the economics of this proposal, Staff finds that the cost of this gas, using its own reserve estimate, with a 15 percent rate of return would be 52.08 cents per Mcf, rather than Gruy's proposed 76.51 cents per Mcf.

Gruy indicates that it presently pays 7.5 cents per Mcf in compression expenses to Champlin, a plant operator. Staff questions the necessity of the great expense of repairs to the Rosa Jones and C. Williamson lease compressors in comparison to the small amount of compression expenses paid to Champlin.

Further, Staff questions the cost allocation method used by Gruy to determine the compression costs borne by each well, and specifically, the method used to determine the cost and operating expenses of the Rosa Jones Well.

Upon consideration, the Commission has concluded that these matters could best be resolved in formal hearing.

The Commission finds: Good cause exists to set for formal hearing the above docketed proceeding.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Naural Gas Act (18 CFR, Chapter I), Docket No. RI77-7 is set for the purpose of hearing and disposition in a hearing room of the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(C) Gruy shall file its direct testimony and evidence on or before March 16, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) Texas Gas is permitted to intervene in the above entitled proceeding, subject to the Rules and Regulations of the Commission: provided, however, that their participation shall be limited to matters affecting their asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of Texas Gas in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that they agree to accept the record as it now stands.

(E) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on April 5, 1977, at 10:00 a.m. EST, in a hearing room at the address noted in Ordering Paragraph (A).

(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.77-6003 Filed 2-28-77;8:45 am]

[Docket No. CP77-232]

NATIONAL FUEL GAS SUPPLY CORP.

Importation of Natural Gas

FEBRUARY 20, 1977.

On February 17, 1977, National Fuel Gas Supply Corporation (Supply) filed in Docket No. CP77-232 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada to the United States for a term of less than 60 days to augment its general system supply to meet

the high priority needs of its customers, all as more fully set forth in the application.

Supply proposes to import from Canada up to approximately 600,000 Mcf of natural gas during the period, February 19, 1977, through March 31, 1977, to be purchased from TransCanada Pipelines, Ltd. (TransCanada), at a daily rate, up to 40,000 Mcf per day, as shall be mutually agreeable to TransCanada and Supply. Such gas will be made available to TransCanada by Gaz Metropolitain, Inc. (Gaz Metro), a distribution company customer of TransCanada, near Oakville, Ontario, at an existing point of interconnection between the facilities of TransCanada and Union Gas Company of Canada, Ltd. (Union Gas), which is storing gas for the account of Gaz Metro. Under the arrangement, TransCanada will repay such volumes to Gaz Metro commencing April 1, 1977, on a first-gas-through-the-meter basis. To the extent such gas has not been repaid on July 1, 1977, or a later effective date of an increase in TransCanada's purchased gas cost, Supply will be required to pay TransCanada an amount equal to the product of such difference multiplied by such increase, which, Supply estimates on the basis of recent history, may amount to $.25 per million Btu.

The imported gas is proposed to be delivered by TransCanada to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for the account of Supply, at the existing point of interconnection between the facilities of TransCanada and Tennessee at the United States-Canadian border near Lewiston, New York. The application states that Tennessee has agreed to receive such volumes from TransCanada, for the account of Supply, at the import point and to transport and redeliver equivalent daily volumes to Supply at its Lewiston, Pekin and/or Clarence, New York, sales meter station delivery points to Supply through the use of existing facilities, on a best efforts basis, pursuant to Section 157.22 of the Commission's Regulations under the Natural Gas Act for a charge of $.30 per Mcf.

Supply proposes to pay TransCanada a base rate of up to $2.73 (Canadian) per million Btu. This rate is composed of the Canadian National Energy Board (NEB) border price of $1.94 per million Btu; $.06 per million Btu to reimburse TransCanada for its transmission costs from Oakville, Ontario, to its Niagara Connection with Tennessee at the import point; and an amount yet to be determined by the NEB, not to exceed $.73 per million Btu to reimburse Gaz Metro for the cost of the Union Gas storage service and other operations necessary to accommodate the subject sale. No executed contract for this purchase was submitted with the application pursuant to § 153.4 of the Commission's Regulations nor is there any indication that the NEB has issued an export license for the sale; however, the application states that TransCanada expects a license to be issued promptly. In view of the emergency to be addressed, we will waive these requirements of § 153.4 of our Regulations; however, the authorization herein granted will be conditioned upon the filing of such purchase contract as required by § 153.8 of our Regulations as well as the issuance of an NEB export license.

In its applications, Supply asserts that prompt authorization of this limited term importation and purchase is urgently needed to assist in mitigating the unprecedented gas supply situation on its system. Supply summarizes its supply situation thus: The period since November, 1976 has been the coldest winter on record in its service territory. November and December 1976 and January 1977 have been 24.5 percent, 18.3 percent and 24.3 percent colder than normal, respectively. As a result of this extraordinarily cold weather and curtailments by its pipeline suppliers which, Supply asserts, increased from 73,243 Mcf per day on November 1, 1976, to 137,340 Mcf per day February 1, 1977, Supply's underground storages have experienced dramatic drawdowns to the extent that at February 4, 1977, Supply's top storage inventory, which, on November 1, 1976, was at historic design levels, registered approximately 16.6 million Mcf, a point not projected to be reached until March 21, 1977.

Supply asserts that in response to this emergency situation it is curtailing its resale customers at an average aggregate daily rate of 208,714 Mcf, which equates to 60.3 percent of its Priority 2 requirements and translates into service of only industrial and commercial plant protection requirements plus residential heating levels of 65° F. in daytime and 55° F. at night. Supply projects that curtailments of this order of magnitude through March 1977 (i.e., 67 percent of its March Priority 2 requirements) will be necessary in order to meet its resale customers' peak day residential heating and commercial and industrial plant protection requirements, assuming only 5 percent colder than normal weather during the balance of the heating season.

The Commission is cognizant of the unprecedented cold weather which has affected the eastern and southern portions of the country, including Supply's service region. On January 14, 1977, in the Order issued in Docket No. CP77-116, Houston Pipeline Company, we noted that numerous natural gas pipelines are now facing, or shortly will face, natural gas supply shortfalls to meet high priority loads and that emergency measures are needed to cope with this situation (mimeo p. 2). On February 8, 1977, in the declaratory order issued in Docket No. CP77-38, National Fuel Gas Supply Corporation, we noted that the substantially colder than normal winter weather prevailing east of the Rocky Mountains has resulted in extreme emergency conditions on many of the pipelines serving that area, and caused numerous pipelines to experience increased difficulties in procuring emergency supplies of gas to cope with the crisis confronting them (mimeo p. 2). The instant application by Supply clearly demonstrates that additional gas is needed to assist Supply in maintaining its ability to render adequate natural gas service to its customers, however, in reaching this conclusion the Commission makes no funding as to the need of supply for the gas relative to the needs of other pipelines.

Supply further requests assurance that it will be permitted to recover, through the operation of the purchased gas adjustment provision of its FPC Gas Tariff, the purchase price of the imported natural gas, as well as the transportation charge of $ .30 per Mcf to be paid to Tennessee for the transportation of this gas to Supply's system.

It appears that Supply's purchase of the subject gas is consistent with prudent operation under the circumstances disclosed in the application. As noted above, the extraordinarily cold winter has made it increasingly difficult for pipelines to procure emergency supplies of gas to cope with the crisis confronting them. In this connection, we have also considered Supply's need for the gas as shown in the application, the availability and price of other gas supplies, the amount of gas proposed to be purchased by Supply, and the relationship between the purchaser and the seller.

Insofar as Tennessee's transportation of the subject gas for the account of Supply is concerned, we find that such transportation constitutes the "operation of facilities * * * necessary to assure maintenance of adequate gas service where * * * serious curtailment of service exists * * *" (18 CFR 157.22(a); see also Order Granting Relief issued January 19, 1977 in Docket No. CP77-129, East Tennessee Natural Gas Company.) Supply is therefore entitled to recover Tennessee's transportation charge of $.30 per Mcf. While § 157.22 does not provide a specific mechanism for the recovery of these charges, they should be recovered in the same manner as the prices paid for emergency gas purchases through Supply's purchased gas adjustment clause. The amount so paid should be clearly indicated as charges for the transportation of emergency gas. Authorization for recovery of these charges will be conditioned upon execution of a transportation contract with Tennessee and the filing thereof with the Commission by Supply as required by § 153.8 of the Regulations under the Act.

On February 18, 1977, Supply's Application to import this gas was duly noticed pursuant to Order No. 164-A.

The Commission finds: (1) A natural gas supply emergency situation exists on the National Fuel Gas Supply Corporation system which has substantially diminished Supply's ability to render natural gas service to its high priority customers.

(2) Approval of the proposed importation of gas by Supply will materially assist in helping to alleviate curtailment

of high priority customers and is consistent with the public interest.

(3) It is necessary and appropriate for the purposes of the Natural Gas Act and the Commission's Regulations thereunder to waive the Commission's Regulations as hereinafter provided.

The Commission orders: (A) National Fuel Gas Supply Corporation is hereby authorized to import up to approximately 600,000 Mcf of natural gas from Canada during the period February 19, 1977, through March 31, 1977, as hereinbefore described and as more fully described in the application, upon the terms and conditions of this order.

(B) Supply is authorized to recover, through the operation of the purchased gas adjustment clause of its FPC Gas Tariff, the actual purchase price of the subject gas and a transportation charge of $.330 per Mcf to be paid to Tennessee for transporting this gas to Supply's system. This authorization is conditioned upon execution of a transportation contract with Tennessee and the filing thereof by Supply with the Commission pursuant to § 153.8 of the Regulations under the Natural Gas Act.

(C) The import authorization herein granted is conditioned upon the appropriate authorizations being received from the National Energy Board of Canada for the exportation of the subject natural gas from Canada, and further subject to adjustment to reflect any action by the NEB covering the storage charge. However, such import authorization shall not reflect more than the 73 cent per MMBtu for the storage charge as proposed in the filing.

(D) The gas imported under the subject arrangement shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

(E) Supply shall file within ten days after the intial importation of gas herein its contract for the purchase of such gas with TransCanada.

(F) It could become necessary for Supply to sell this additional amount of natural gas authorized to be imported herein above, as directed by the Commission, to pipelines with a greater need to protect high priority users. This order is conditioned to allow a subsequent evaluation of the relative needs of Supply and other natural gas pipelines to the subject gas and appropriate action by the Commission relative thereto.

(G) Pursuant to the provisions of § 1.7 of the Commission's Rules of Practice and Procedure, the following sections of the Commission's Regulations are hereby waived to facilitate issuance of this order: § 2.1 of the Commission's General Policy and Interpretations and § 153.4 of the Commission's Regulations under the Natural Gas Act.

(H) 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.77-6001 Filed 2-28-77;8:45 am]

[Docket No. CP77-226]

NATURAL GAS PIPELINE CO. OF AMERICA AND UNITED GAS PIPE LINE CO.

Application

FEBRUARY 22, 1977.

Take notice that on February 16, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, 60603, and United Gas Pipe Line Company (United), 700 Milam Street, Houston, Texas, 77001, hereinafter collectively referred to as "Applicants", filed in Docket No. CP77-226 a joint abbreviated application, pursuant to Section 7(c) of the Natural Gas Act, whereby Natural and United would exchange up to 65,000 Mcf per day of natural gas, all as more fully set forth in the abbreviated joint application, which is on file with the Commission and open to public inspection.

Natural has additional volumes of gas available for purchase from Shell Oil Company (Shell) in Block 331, Eugene Island Area, offshore Louisiana. Such volumes are in excess of Natural's entitlements in the pipeline jointly owned by Natural, Columbia Gulf Transmission Company and Tennessee Gas Pipeline Company (C-N-T Pipeline) through which Natural has been transporting the volumes of gas purchased from Shell in Block 331. Sea Robin Pipeline Company (Sea Robin) has an existing offshore pipeline system proximate to Block 331 located in Block 315, Eugene Island, and has agreed to transport the additional volumes for Natural as provided in the Transportation Agreement dated February 9, 1977, and redeliver such gas to United Gas Pipe Line Company at Sea Robin's terminus near Erath, Vermilion Parish, Louisiana. Natural will construct approximately 23,000 feet of 12-inch gathering pipeline to connect Block 331 to Sea Robin's existing subsea tap in Block 315 under its Gas Purchase Facilities Budget Authorization in Docket No. CP76-460.

Applicants have entered into an exchange agreement dated February 9, 1977, whereby United proposes to accept up to 65,000 Mcf per day of gas from Sea Robin at its terminus near Erath for Natural's account and by displacement redeliver thermally equivalent volumes to Natural at the outlet of the Texaco Henry Plant near Erath, Vermilion Parish, Louisiana. Applicants propose to utilize their existing common purchase point at the outlet of Mobil Cameron Meadows Plant, Cameron Parish, Louisiana, to balance exchange volumes when deliveries to Natural at the Erath delivery point are insufficient to match the volumes delivered to Sea Robin.

The exchange will be effectuated through existing facilities for a primary term of 7½ years from date of initial receipt and redelivery and thereafter subject to termination of either party by twelve (12) months notice to the other party.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 11, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6005 Filed 2-28-77;8:45 am]

[Docket No. ES77-14]

NORTHWESTERN PUBLIC SERVICE CO.

Application

FEBRUARY 18, 1977.

Take notice that on January 21, 1977, Northwestern Public Service Company (Applicant), filed an application, pursuant to Section 204 of the Federal Power Act, and the Regulations thereunder, for authorization to negotiate privately with the City of Salix, Iowa, for the financing of the Company's share of the pollution control facilities for Unit No. 4 of the George Neal Generating Station through the issuance by the City of the City's Pollution Control Revenue Bonds. The Company-City arrangement would commit the Applicant to complete the construction of the Company's share of the pollution control facilities, and commit the City to issue and sell to purchasers its Pollution Control Revenue Bonds in a principal amount necessary to pay the cost of such facilities.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of North Dakota, South Dakota, and Nebraska, with its principal business office at Huron, South Dakota. Applicant is engaged in generating, transmitting,

distributing and selling electric energy in the east central portion of South Dakota where it furnishes electric service in 108 communities and in distributing and selling natural gas in three Nebraska communities and in 24 communities in South Dakota.

Any person desiring to be heard, or to make any protest with reference to the application, should on or before March 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5996 Filed 2-28-77;8:45 am]

Project No. 2782

PAROWAN CITY, UTAH

Application for Minor License

FEBRUARY 22, 1977.

Public notice is herby given that an application was filed on November 15, 1976, under the Federal Power Act, 16 U.S.C. 791a–825r, by Parowan City, Utah (Correspondence to: Kendall O. Gurr, Mayor, Parowan City, Utah 84761; Dennis B. Horman, Senior Engineer, Intermountain Consumer Power Association, PO. Box BB, Sandy, Utah; and Dennis Lowder, City Recorder, Parowan City Offices, Parowan City, Utah 84761) for a minor license for its constructed Red Creek Canyon Diversion Works, Project No. 2782, located on Red Creek and South Fork of Red Creek in Iron County, near the City of Paragonah, Utah. The project is located on lands of the United States.

The Red Creek Canyon Diversion Works consist of: (1) a small concrete overflow-type diversion dam approximately 48 feet long, controlled by a radial gate; (2) a concrete intake structure with trash racks on the southwest end of the diversion dam; (3) a 16,098-foot long steel penstock (7,838 feet of 12 gauge, 18-inch diameter pipe; 1,408 feet of 10 gauge, 18-inch diameter pipe; 2,620 feet of 10 gauge, 16-inch diameter pipe; and 4,232 feet of 7 gauge, 16-inch diameter pipe); (4) an indoor-type powerhouse with a single generator rated at 500 kw; and (5) appurtenant facilities.

The South Fork Diversion Works consists of: (1) a small concrete overflow-type diversion dam approximately 29 feet long, controlled by a radial gate; (2) a concrete intake structure with trash racks on the west end of the diversion dam; and (3) a 4,263-foot long steel penstock of 12 gauge, 10-inch pipe which joins the penstock from the Red Creek Canyon Diversion Works approximately 8,228 feet from the powerhouse.

Parowan City is a municipality as defined by Section 3(7) of the Act, 16 U.S.C. 796(7), engaged in the generating purchasing, distributing and selling of electric power and energy to domestic, commercial and industrial customers in and around the city limits. Parowan City also supplies power and energy to the Town of Paragonah.

Parowan City has requested the shortened procedures pursuant to § 1.32(b) of the Commission's Rules and Regulations, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 1977, file with the Federal Power Commission, 825 N. Capitol Street N.E., 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 (1975). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6000 Filed 2-28-77;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORP, INC.

Acquisition of Bank

American Bancorp, Inc., Lansing, Michigan, 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 80 percent or more of the voting shares of The Muskegon Bank and Trust Company, Muskegon, Michigan. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act 12 U.S.C. 1842(c)).

The application may be inspected at the 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 17, 1977.

Board of Governors of the Federal Reserve System, February 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6019 Filed 2-28-77;8:45 am]

D. H. BALDWIN CO.

Order Denying Retention of Empire Savings, Building and Loan Association

D. H. Baldwin Company, Cincinnati, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2) (1976)), to retain all of the voting shares of Empire Savings, Building and Loan Association, Denver, Colorado ("Empire"), and its wholly-owned service corporation subsidiary, ESL Corporation, Denver, Colorado ("ESL"). In decisions involving two applications previously considered by the Board under section 4(c)(8) of the Act, the activity of operating a savings and loan association has been determined by the Board to be closely related to banking.

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (41 FR 26276 (1976)). The time for filing comments and views has expired and the Board has considered the application and all comments received, including those of the Federal Home Loan Bank Board ("FHLBB") and the United States Department of Justice, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)). In considering this application, the Board also took into account the record of a rulemaking proceeding initiated in 1973 concerning the general question whether the operation of a savings and loan association is so closely related to banking or managing or controlling banks as to be a proper incident thereto, as well as records in two adjudicatory proceedings concerning applications from bank holding companies to engage in the savings and loan business.[1]

[1] See the Board's Order of November 4, 1974, denying the application of American Fletcher Corporation, Indianapolis, Indiana, to acquire shares of Southwest Savings and Loan Association, Phoenix, Arizona, 39 FR 39912 (1974); 60 Federal Reserve Bulletin 868 (1974). In addition, refer to the Board's Order of April 10, 1975, denying the application of Memphis Trust Company, Memphis, Tennessee, to acquire Homeowners Savings and Loan Association, Inc., Collierville, Tennessee, a newly-formed savings and loan association, 40 FR 17199 (1975); 61 Federal Reserve Bulletin 327 (1975).

Applicant, the fourth largest commercial banking organization in Colorado, controls 12 banks with aggregate deposits of $582.1 million,[2] representing approximately 7.7 per cent of the total deposits in commercial banks in that State. Applicant also controls several nonbanking subsidiaries engaged in underwriting life and casualty insurance, performing commercial mortgage and leasing activities, and manufacturing and marketing musical instruments.[3] Applicant also engages, through Empire, in savings and loan activities. Applicant acquired all of Empire's outstanding shares pursuant to an approval Order issued by the FHLBB on January 17, 1969.[4] Pursuant to section 4(a)(2), a company that became a bank holding company as a result of the 1970 Amendments to the Act, such as Applicant, is entitled to 10-year grandfather rights for an activity that it acquired after June 30, 1968, but on or before December 31, 1970. Therefore, Applicant is required to divest itself of Empire by December 31, 1980. The subject application has been filed pursuant to section 4(c)(8) to enable Applicant to retain Empire beyond December 31, 1980.

Empire is a state-chartered stock savings and loan association that conducts its business from a head office in Denver, Colorado, and 17 branch locations throughout that State. Pursuant to Colorado law and FHLBB regulations, Empire is empowered to make real estate loans, and certain installment and commercial loans; to accept savings accounts; and to issue certificates of deposits. Empire is also able to order payments to be made to third persons even though it cannot accept demand deposits. As a further extension of its activities, Empire operates a small insurance agency and owns 100 per cent of the capital stock of a service corporation subsidiary ("ESL")[5] that is involved in two joint ventures that engage in land development and in the construction and sale of residential units. ESL is also the general partner in a limited partnership that owns and operates an apartment complex.

As noted above, the Board has previously had an opportunity to consider both the nature and the structure of the savings and loan industry in connection with a rulemaking proceeding and in the context of two applications by bank holding companies to engage in the activity of operating a savings and loan association. The Board concluded in those proceedings that the savings and loan business is "closely related" to banking, within the meaning of section 4(c)(8) of the Act.[6] While the Board has determined this activity to be "closely related" to banking, it has not formally amended Regulation Y to add the savings and loan business to the list of activities permissible for bank holding companies because it has not yet made the judgment that this activity is in general a "proper incident" to banking. Whether the activity of operating a savings and loan association is a "proper incident" to banking, within the meaning of section 4(c)(8), requires a determination by the Board that the performance of the activity by a bank holding company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. In applying this balancing test, the Board may consider not only the benefits and detriments specifically enumerated in the statute that may be involved in a particular case, but also the broader questions of economic and regulatory policy that may be raised by a proposal. In the present case, the Board is unable to make a determination favorable to Applicant on the "proper incident" test, either with regard to the particular facts presented in this case or on the broader issue as to the propriety of affiliations, through the means of a bank holding company, between banks and savings and loan associations generally.

The Board has previously indicated that it regards the standards under section 4(c)(8) of the Act for retention of a 10-year grandfathered activity to be the same as the standards for a proposed acquisition. Accordingly, in this case, the competitive effects of Applicant's retention of Empire must be examined and evaluated both as of the time of the original acquisition in 1969 and as of the present time. In view of the fact that banks and savings and loan associations are competitors in several product or service lines, the competitive analysis of the retention by a bank holding company of a savings and loan association is essentially similar to that regularly applied by the Board in passing upon applications from bank holding companies to acquire additional banks or nonbanking companies that are competitive with banks.

Applicant is the fourth largest banking organization in the Denver market[7] through its control of three banks (including Central Bank of Denver) with aggregate deposits of $376.6 million, representing approximately 8.9 per cent of the total deposits in the market's commercial banks. In addition, Applicant (excluding Empire) controls $188.9 million of the time and savings deposits in the market, representing approximately 4.5 per cent of the total time and savings deposits therein.

Empire, the fifth largest savings and loan association in Colorado, controls total savings deposits of $329.7 million, representing approximately 4.5 percent of the total savings deposits in the State. Empire's home office, as well as 11 of its branch offices, are located within the Denver market and all but three of those offices are situated within seven miles of one of Applicant's three banks in that market. Within the Denver market, Empire is the fifth largest of 17 savings and loan associations and controls total savings deposits of $236.6 million, representing approximately 5.7 percent of the market's total savings deposits.

In analyzing competition between a commercial bank and a savings and loan association, the Board believes it appropriate to focus on two relevant product markets: (i) Commercial bank and savings and loan association time and savings deposits; and (ii) originations of one-to-four family residential mortgage loans.

Applicant's acquisition of Empire in 1969 increased Applicant's share of total time and savings deposits in the Denver market held by commercial banks and savings and loan associatioins from approximately 4.3 percent to 9.2 percent ($84 million to $180 million) and increased Applicant's rank from eighth to second among all commercial banking organizations and savings and loan associations. As of December 31, 1975, Applicant (including Empire) controlled approximately 10.3 percent ($425.6 million) of the total time and savings deposits in both commercial banks and savings and loan associations in the Denver market, and it continued as the second largest of such organizations. It appears that the acquisition in 1969 by Applicant (then the fourth largest banking organization in the market) of Empire (then the fifth largest savings and loan association in the market) did eliminate existing competition for time and savings deposits in the market between those two organizations. In view of their relative sizes and market positions, it is clear that in 1969 Applicant and Empire were significant competitiors in the Denver market for deposits and, therefore, the Board concludes, based upon all the facts of record, that the acquisition in 1969 of Empire by Applicant had an ad-

[2] All banking data are as of December 31, 1975, unless otherwise indicated.

[3] Baldwin became a bank holding company with respect to its indirect ownership of more thas 25 per cent of the voting shares of Central Bank and Trust Company, Denver, Colorado (name changed in May 1975, to Central Bank of Denver), as a result of the 1970 Amendments to the Bank Holding Company Act of 1956. Baldwin has been engaged in the manufacturing and selling of musical instruments for over 100 years and continues to engage in these activities pursuant to permanent grandfather rights under section 4(a)(2) of the Act. Baldwin's insurance underwriting activities must be divested by December 31, 1980.

[4] Subsequently, Baldwin acquired and merged Jefferson Savings and Loan Association, Arvada, Colorado, into Empire pursuant to another approval Order issued by the FHLBB on September 17, 1970 (amended November 17, 1970).

[5] ESL conducts its business from Empire's main office in Denver and although ESL is permitted to make certain types of loans that Empire cannot make, both State and Federal supervisory authorities regulate and periodically examine ESL.

[6] In neither of the two previous instances did the savings and loan association have a service corporation subsidiary engaged in other nonbanking activities.

[7] The Denver market includes all of Denver, Adams, Arapahoe, and Jefferson Counties and the Broomfield portion of Boulder County.

verse effect upon existing competition for deposits in the relevant market.

With respect to mortgage lending activities, Applicant's acquisition of Empire in 1969 increased Applicant's share of one-to-four family residential mortgage loan originations in the Denver SMSA at the time from approximately 2 per cent to 3.8 per cent ($21.1 million). Even though Applicant's market share of one-to-four family residential mortgage loan originations in the Denver SMSA decreased to approximately 2.7 per cent ($40.2 million) in 1974, it appears that Applicant's acquisition in 1969 of Empire did eliminate existing competition for mortgage loan originations (particularly one-to-four family) in the Denver mortgage market. Accordingly, based upon the facts of record, the Board concludes that the original acquisition by Applicant had an adverse effect upon existing competition for residential mortgage loans in the relevant market.

The Board further concludes that there would be public benefits derived from disaffiliation of Baldwin and Empire. These benefits would be reflected in the reintroduction of Empire as an independent competitor in the two product lines discussed above, thus enhancing future competition in the relevant market.[8]

In commenting to the Board on the subject application the Department of Justice recommends denial of the application based upon both the adverse competitive effects that resulted from Empire's acquisition of Jefferson Savings & Loan in 1970 and the persistence, and possible worsening, of such adverse competitive effects since that acquisition. On the basis of all the facts of record, including the comments submitted by the Department of Justice, the Board concludes that the adverse competitive considerations relating to this application weigh against approval.

In support of its proposal, Applicant has stated that its affiliation with Empire has produced public benefits that generally would not have occurred without such affiliation: (1) the expansion of mortgage lending since 1969; (2) the expansion of Empire's facilities and services that have improved convenience to the public; and (3) the improved financial condition of Empire. At issue in this application is whether these claimed benefits to the public since the acquisition in 1969 of Empire outweigh the adverse effects upon competition resulting from such acquisition.

Turning to Applicant's first contention, the Board notes that from 1961 to 1968, prior to Empire's affiliation with Applicant, Empire's total mortgage loan portfolio increased approximately 81.3 percent ($73.2 million) and from 1969 to 1975, after affiliation, the portfolio increased approximately 188.3 percent ($132.7 million to $382.6 million). Furthermore, Empire's total mortgage originations increased approximately 233 percent ($34 million to $113.2 million) from year-end 1969 to December 31, 1975. While the Board recognizes that Applicant has expanded Empire's mortgage loans from 1969 to 1975, such expansion does not appear to be any better than average when compared to the growth of the saving and loan industry in the Denver SMSA.[9]

With respect to Applicant's second and third contentions, it appears that Applicant has opened nine de novo offices of Empire since 1969 and has expanded business hours to include Friday nights and Saturdays at most of its branch offices. In addition, Applicant has provided Empire access to a computer system that expedites customer transactions. Affiliation with Applicant appears to have improved Empire's capital position, as is evidenced by an increase in Empire's equity-capital-to-assets ratio above the average for all savings and loan associations in Colorado as of December 31, 1975. The Board notes that, on the one hand, from 1969 to 1975, Empire performed better than its savings and loan industry competitors in the relevant market with respect to deposit growth; became better capitalized than other Colorado savings and loan associations; and provided its customers new services and expanded facilities. On the other hand, in the light of the fact that savings and loan associations are primary funding sources for mortgage loans, the Board notes that Empire has not performed significantly better than the average savings and loan association with respect to mortgage originations. In addition, even Applicant concedes that some of the benefits claimed to have occurred as a result of affiliation with Empire would have occurred over time even absent affiliation with Applicant.

The Board is of the view that the public benefits claimed by Applicant may have resulted, in part, from Empire's affiliation with Applicant. However, the Board is unable to conclude that the benefits claimed by Applicant are unique to its ownership of Empire or that Empire could not have achieved such benefits on its own. Empire was the fourth largest savings and loan association in Colorado in 1969 (total deposits $122.2 million and total mortgage loans outstanding of $149.5 million) and was an effective and viable competitor at the time of its acquisition by Applicant. There is no indication that it would not have been able to continue to play an effective role in serving various areas in Colorado if it had not been acquired by Applicant. Therefore, in view of the foregoing, the Board concludes that public benefits considerations are not sufficient to outweigh the adverse effects upon competition that the Board has found in connection with the proposal.

Although Applicant's acquisition of Empire eliminated existing competition, there is no evidence in the record that its affiliation with Empire has resulted in any undue concentration of resources, conflicts of interests, unsound banking practices, or unfair competition. Nevertheless, the Board concludes that the adverse effects upon competition resulting from the acquisition are not outweighed by any benefits to the public that resulted from the acquisition or that can reasonably be expected to be produced by the continued affiliation of Applicant and Empire and, accordingly, the application should be denied.

While the Board believes that the present application should be denied on the basis of factors relating to this case alone, it recognizes that this would be the third case in which the Board has refused to permit a bank holding company to own a savings and loan association based upon factors unique to the individual application, and that such action might imply that the Board would approve an application presenting no adverse market or other factors in and of itself. For this reason, the Board believes it appropriate to address an alternative and broader ground for action on this application—namely, whether the savings and loan business should in general be considered a "proper incident" to banking within the meaning of section 4(c)(8).

Even if the Board were not to have determined that Applicant's retention of Empire could not be expected, on the facts of this case, to produce public benefits that outweigh possible adverse effects, the Board has concluded, on the basis of the broader issues raised by this application, that the savings and loan business, generally, albeit "closely related" to banking, should not be determined by the Board to be a "proper incident" to banking. While the Board recognizes that there may well be individual cases of affiliations between banks and savings and loan associations in which no adverse competitive considerations are presented, and in which compelling arguments may be made that, on the particular facts presented, public benefits may be realized in a particular market, the Board has nevertheless concluded, for the reasons set forth below, that the potential adverse effects of generally allowing affiliations of banks and savings and loan associations are presently sufficiently strong to outweigh such benefits as might result in individual cases. Accordingly, the Board believes that the judgment to permit such affilia-

[8] Applicant, through a subsidiary bank, and Empire, through certain of its branches, also compete in the Greeley market for time and savings deposits and mortgage loans. Because of their existing common ownership, Applicant and Empire do not now compete with each other. However, the public benefits to be derived from the disaffiliation would also enhance future competition in the Greeley market.

[9] Part of the increase occurred as a result of the merger of Empire with Jefferson S&L (see footnote 4).

tions on a broad scale should be left to the Congress.[10]

In determining the broad "proper incident" question the Board has considered, apart from the adverse competitive effects of this particular application, the more general effects that are likely to result from permitting bank holding companies to acquire savings and loan associations. One of the principal factors the Board has considered is the conflict between the regulatory framework within which banks and savings and loan associations operate.

Savings and loan associations are authorized under applicable State and Federal law and regulations to engage, either directly or through subsidiary service corporations, in a number of activities—such as real estate development, property management and the operation of insurance agencies dealing in homeowners, fire, theft, automobile, life, health, accident, and title insurance—that have heretofore been deemed impermissible by this Board for bank holding companies. Thus, if the Board were now to allow bank holding companies to enter the savings and loan business, it would be faced with a difficult issue in defining the permissible scope of that business as conducted by a bank holding company subsidiary. Indeed, this issue is presented in the instant case in view of Empire's activities, and those of its service corporation subsidiary, in such fields as insurance sales, land development and property management. On the one hand, if the Board were to permit a company such as Applicant to engage through a subsidiary S&L in real estate development, property management and insurance agency operations, it would be acting in conflict with earlier decisions[11] holding such activities to be impermissible for bank holding companies. Having done so, it would thereafter be difficult for the Board to deny such activities to bank holding companies that did not operate savings and loan associations. On the other hand, if it denied a bank-affiliated savings and loan association permission to engage in such activities or conditioned approval on termination of such activities—and it could well be that such a result would be required by section 4(c)(8)—savings and loan associations owned by bank holding companies might then not only be at a competitive disadvantage with respect to savings and loan associations not affiliated with banks, but they would also be limited in their ability to provide a full range of S&L services to the public. The Federal Home Loan Bank Board, which has opposed the acquisition of savings and loans by bank holding companies, has expressed the view in this case that if the Board were to impose such limitations as a predicate for allowing a bank holding company to acquire an S&L, the Board would be "in effect redefining the role of the savings and loan."

Administrative resolution of this conflict in regulation is made more difficult by the fact that while S&L holding companies operate under somewhat more permissible rules than bank holdings companies in certain regards, there are more stringent limitations in others. For example, section 408(c) of the National Housing Act, which deals with the permissible activities of savings and loan holding companies, imposes virtually no restrictions upon the non-S&L activities of holding companies that own only one savings and loan association. However, section 408(c)(2), which has as its model the pre-1970 provisions of the Bank Holding Company Act, which were inapplicable to one-bank holding companies, imposes strict limitations on the non-S&L activities of holding companies that own more than one savings and loan association. In general, only activities determined by the FHLBB to be "a proper incident to the operations of insured institutions and not detrimental to the interests of savings account holders therein" may be permitted. The FHLBB regulations implementing section 408(c)(2) and setting forth the permissible activities of "multiple" savings and loan holding companies, 12 CFR § 584.2-1, do not include the operation of a commercial bank or of certain other activities that this Board has found permissible for bank holding companies under section 4(c)(8). In fact, in the American Fletcher proceeding the FHLBB stated that it did not intend to hold that commercial banking was a proper incident to the operation of an insured savings and loan. Thus, if this Board were to conclude that the savings and loan business is a "proper incident" to banking, a clear regulatory conflict would exist. Any bank holding company that thereafter was permitted to acquire a savings and loan association would effectively be prohibited from acquiring any additional savings and loan association. Moreover, even if the FHLBB did permit a "multiple" savings and loan holding company to acquire a bank, it seems clear that the resulting bank-S&L holding company would be precluded, under FHLBB regulations implementing section 4(c)(2) of the National Housing Act, from engaging in many activities that this Board has found permissible for bank holding companies.

In the American Fletcher case, the Board noted that the mere existence of separate regulatory framework for banks and S&Ls does not necessarily imply that Congress intended to prohibit common ownership of the two types of institutions. In that case, however, the Board denied the application without reaching the broad issue raised here. In the present case, the scope of the activities carried on by Empire has required the Board to focus upon these conflicts between the regulatory structures. In effect, savings and loan regulators, acting pursuant to their legislative mandates, have decided that it is in the public interest for savings and loan associations to be able to provide certain services that are incidental to the savings and loan business. The Board, on the other hand, has decided under the standards of the Bank Holding Company Act that the public interest would be disserved by allowing bank holding companies to engage in the same activities. A conflict in regulation has arisen only because of the proposal to allow the creation of holding companies that would operate subject to both sets of regulators. This conflict cannot responsibly be reconciled unilaterally by this Board through the imposition of a regulatory restriction truncating the activities of bank-affiliated S&Ls to fit within the confines of the Bank Holding Company Act, for to do so could prevent full realization of the public benefits that might be expected from the operation of a savings and loan association. The conflict can be resolved only by Congress. Until it is resolved it must be viewed as a significant adverse factor that precludes the Board from finding, under the standards of the Bank Holding Company Act as presently in effect, that the operation of a savings and loan association is a "proper incident" to banking.

The Board also recognizes that disparities in the respective regulatory frameworks within which banks and S&Ls operate has encouraged an institutional rivalry between the two industries that offers certain public benefits. Savings and loans, having as their principal function the provision of funds for housing, have traditionally had limited access and liability powers. As S&Ls have strived to increase their competitive positions with respect to commercial banks they have sought broader asset and liability powers. The development of NOW accounts is an example.

If the Board were to permit bank holding companies generally to acquire savings and loan associations, such action could set in motion a train of events that might tend to erode such institutional rivalry, which would undoubtedly become less intense as banks and thrifts came under common control and the commonality of interest between

[10] The Board has permitted affiliations between banks and thrifts in one narrow circumstance. Specifically, it has allowed mutual thrift institutions in Rhode Island to hold interests in commercial banks. See Newport Savings and Loan Association, 58 Federal Reserve Bulletin 313 (1972), and Old Colony Co-operative Bank, 58 Federal Reserve Bulletin 417 (1972). These decisions were based upon the unique, historical situation in Rhode Island, however, where there was a pervasive pattern of ownership of banks by mutual thrift institutions, such that a thrift lacking such an affiliation was at a distinct competitive disadvantage. See also Profile Bankshares, Inc., 61 Federal Reserve Bulletin 901 (1975).

[11] The Board has already determined that real estate brokerage, real estate syndication, land development, and property management are activities not so closely realted to banking or managing or controlling banks as to be a proper incident thereto. See 12 CFR § 225.126 (1976).

the two industries grew.[12] The Board believes that a judgment having the potential for such long range effects should be made by Congress.

Congress has in fact been considering numerous proposals in recent years for expanding the powers of savings and loan associations, and the implications of such expansion provide an additional basis for the Board to conclude that it should not deem the savings and loan business to be a "proper incident" to banking under presently applicable standards. Although savings and loan associations are not currently considered to be "banks" within the definition of "bank" in section 2(c) of the Bank Holding Company Act—because they do not both take demand deposits and make commercial loans—there have been repeated efforts to expand their powers and to make them more nearly equivalent to those of banks.[13] As the Board stated in the American Fletcher decision at 60 Federal Reserve Bulletin 869 (1974):

[T]here is a discernible trend toward lessening distinctions between banks and savings and loan associations. Geographic restrictions on mortgage lending by savings and loan associations have been liberalized. Recently, savings and loan associations were permitted by the Federal Home Loan Bank Board to participate in the Federal funds market, previously dominated by commercial banks. Savings and loan associations recently were authorized to offer large negotiable certificates of deposit. The role of savings and loan associations in the nation's payments mechanism is growing. The President's Commission on Financial Institutions and others have made proposals to expand the powers of savings and loan associations. The close relationship between banking and operation of savings and loan associations would become even closer should these proposals be implemented. Should this trend continue to the point where savings and loan associations both accept demand deposits and engage in the business of making commercial loans, savings and loan associations would actually become "banks" for purposes of the Act.

The Bank Holding Company Act imposes certain restrictions with respect to banks that are not applicable to nonbanks—most notably, a bank holding company cannot acquire a "bank" in a State other than that in which it does its principal banking business. As the Board noted in American Fletcher, this restriction would not currently apply to the acquisition of a savings and loan association because they are not now technically "banks" for purposes of the Act. However, if the Board were presently to permit bank holding companies to acquire savings and loan associations in other States—and the desire to avoid acquisitions threatening adverse competitive consequences in particular markets might well compel bank holding companies to look to other States for savings and loan association acquisitions—it could develop in time, if savings and loan association powers expanded, that savings and loan associations would satisfy the definition of "bank" and that the interstate banking prohibitions of the Act had been substantially undermined by earlier affiliations between commercial banks and savings and loan associations. While the import of this decision may be that the savings and loan business is so closely related to banking that it should not be viewed as a "proper incident" to banking, the Board has concluded that the decision should be left to Congress whether, in light of the policies underlying the Bank Holding Company Act, such "near-banks" should be treated as "banks" or "nonbanks"

For the foregoing reasons and other considerations reflected in the record, the Board has determined that the operation of a savings and loan association, although closely related to banking or managing or controlling banks, is not a proper incident to banking. Therefore, the subject application is hereby denied.

In reaching this decision, the Board wishes to emphasize that the conclusions reflected herein are expressed only within the boundaries of the Boards responsibilities under the Bank Holding Company Act as currently in effect, and are applicable only with respect to the present regulatory framework and the characteristics of banks and S&Ls as they presently operate within that framework. The Board does not intend to suggest that affiliations between banks and thrift institutions should not be permitted under any circumstances.

By order of the Board of Governors,[14] effective February 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6021 Filed 2-28-77;8:45 am]

[12] While at present only about 15 percent of the federally-insured savings and loan associations in the country are stock companies (representing about 22 percent of the assets of all such savings and loan associations), and thus potential candidates for acquisition, that percentage would be very likely to increase significantly if conversions of mutuals were to be generally authorized. In Public Law 93-495 Congress authorized a limited number of conversions of mutual savings and loan associations to the stock form. The FHLBB has received approximately 70 applications for conversions and has approved 24. The 17 associations that have already converted represent more than $2 billion in assets.

[13] The proposed "Financial Reform Act of 1976," H.R. 13077, 94th Cong., 2d Sess., would have authorized federally-chartered savings and loan associations to make loans for education; consumer loans; loans for "community conservation, development, or improvement"; loans to corporations whose activities "are reasonably related to the activities of [savings and loan] associations"; and loans to States and their subdivisions.

[14] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

FIRST SECURITY CORP.

Order Denying Request for Reconsideration

First Security Corporation, Salt Lake City, Utah ("FSC"), has requested that the Board reconsider and modify its Order of July 30, 1976 (the "July 30 Order"), denying any further extension of time for divestiture by FSC of its ownership of First Security Savings and Loan Association of Pocatello, Idaho ("FSS&L"), and ordering FSC to file a divestiture plan and to effect a divestiture of FSS&L. Among the grounds advanced in support of FSC's request are its contention that FSC's acquisition of FSS&L in 1970, without the prior approval of the Board, was not a "willful" violation of the Bank Holding Company Act ("Act"), and that FSC's continued holding of FSS&L subsequent to that acquisition was not contrary to the directives given to FSC by the Federal Reserve Bank of San Francisco ("Reserve Bank") and the Board in 1971 and 1972, respectively, to divest FSS&L.

The circumstances concerning FSC's ownership of FSS&L are set forth in the July 30 order, and nothing submitted by FSC in support of its request for reconsideration leads the Board to conclude that the operative facts are other than as stated in that Order. Specifically, the record establishes that on April 1, 1970, at a time when First Security Investment Corporation ("FSIC") had pending in escrow a sale of its controlling interest in FSS&L to U.I.P. Corporation, Milwaukee, Wisconsin ("UIP"), FSIC merged into FSC. The Board concluded in the July 30 Order that upon consummation of the FSIC–FSC merger FSC acquired control of FSS&L, within the meaning of section 2(a) of the Act, without the prior approval of the Board, and the material submitted with the request for reconsideration has not caused the Board to alter that conclusion. On September 30, 1970, the Federal Home Loan Bank Board denied UIP's application under section 408 of the National Housing Act for permission to acquire control of FSS&L, and the shares of FSS&L held in escrow were thereupon delivered to FSC. FSC was subsequently advised by the Federal Reserve Bank of San Francisco that its acquisition of FSS&L violated the Act and it was directed to take steps to effect a divestiture.

Over a period of several years following the initial instruction to FSC to divest FSS&L, the Reserve Bank, with the concurrence of Board staff, granted FSC a number of extensions of the time within which to effect the divestiture. The premise for the extensions was that the Board had under consideration the general question whether the operation of a savings and loan association should be deemed to be a permissible activity for a bank holding company, and that if this activity were to be permitted, the Board might entertain an application from FSC to retain the shares of FSS&L, which

in 1975, after consultations with the Reserve Bank, FSC submitted an application to retain the shares of FSS&L, which was transmitted to the Board in May 1976. On July 30, 1976, before notice of the application had been published in the FEDERAL REGISTER, the Board considered FSC's request for a further extension of time to divest FSS&L. As of that date the Board had still not decided that the operation of a savings and loan association was a permissible activity for bank holding companies, and it determined in the July 30 Order not to grant any further extension of the time for divestiture of FSS&L by FSC. On August 23, 1976, FSC filed its request for reconsideration of the July 30 Order. On September 15, 1976, the Board extended the time for the filing of a divestiture plan until a date following action on the request for reconsideration, and on November 8, 1976, the Board extended the time for divestiture until such date as might be fixed in an order deciding the request for reconsideration.

In considering the application of D. H. Baldwin Company, Cincinnati, Ohio, for permission to retain control of Empire Savings, Building and Loan Association, Denver, Colorado, the Board has today decided, both as to the facts of that case and as a general matter, that the operation of a savings and loan association is not a proper incident to banking, within the meaning of section 4(c) (8) of the Act. In light of this decision the Board has determined that FSC's request for reconsideration should be denied as moot.

Accordingly, the dates fixed in the Board's Order of July 30, 1976, for the filing of a plan of divestiture and for the completion of divestiture by FSC are hereby extended as follows: FSC is directed to file a plan of divestiture for approval no later than May 22, 1977, and to accomplish divestiture no later than August 22, 1977. The length of these periods has been expanded beyond those fixed in the July 30 Order principally in consideration of FSC's contention that damage caused by the collapse of the Teton Dam in 1976 may have an impact upon the busines of FSS&L conducted from its Rexburg, Idaho office.

By order of the Board of Governors,[1] effective February 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6022 Filed 2-28-77;8:45 am]

FEDERAL TRADE COMMISSION

[Docket 9086]

HALLCRAFT JEWELERS, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34, 40 FR 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed wth and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before May 2, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975). Comments should be directed to:

Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

[Docket No. 9086]

HALLCRAFT JEWELERS, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Hallcraft Jewelers, Inc., a corporation, and Hallcraft Jewelers, Inc. of New Jersey, a corporation, and Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, and Donald J. Bound, individually and as an officer of said corporations.

The agreement herein, by and between Hallcraft Jewelers, Inc., a corporation, Hallcraft Jewelers, Inc. of New Jersey, a corporation, Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, by their duly authorized officer, and Donald J. Bound, individually and as an officer of said corporation, respondents in a proceeding initiated by the Federal Trade Commission, and their counsel and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedure.

1. Respondent Hallcraft Jewelers, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania. It dominates, and controls the acts and practices of its wholly-owned subsidiaries Hallcraft Jewelers, Inc. of New Jersey and Crest Clothiers, Inc., which are corporations organized and doing business under and by virtue of the laws of the State of New Jersey. Respondent Crest Clothiers, Inc. also trades and does business as Crest Collection Agency. All of the above-named corporate respondents have their principal offices and places of business at 7022 Bristol Pike, Levittown, Pennsylvania 19059.

Respondent Donald J. Bound is an officer of each of the corporate respondents named herein. He formulates, directs and controls the acts and practices of said corporate respondents, and his address is the same as that of said corporations.

2. Respondents have been served with the complaint issued by the Commission charging them with violations of Section 5 of the Federal Trade Commission Act, as amended, and of the Truth in Lending Act and the implementing regulation promulgated thereunder. Subsequently, during the prehearing procedure, the parties entered into further negotiations and filed a joint motion to withdraw the matter from adjudication pursuant to § 3.25(b) of the Commission's Rules.

3. Respondents admit all the jurisdictional facts set forth in the complaint the Commission has issued.

4. Respondents waive: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclosed facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. The Commission may at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint the Commission has issued.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any rights they may have to any other manner of service. The complaint the Commission has issued may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary of contradict the terms of the order.

8. Respondents have read the complaint issued by the Commission and the order contemplated hereby, and they

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondents Hallcraft Jewelers, Inc., a corporation, Hallcraft Jewelers, Inc. of New Jersey, a corporation, Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, or under any other name or names, their successors and assigns, and their officers, and Donald J. Bound, individually and as an officer of said corporate respondents, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of jewelry and watches, or other products or services, and in connection with the collection of, or attempting to collect, or assisting in the collection of, or inducing, or attempting to induce the payment of accounts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from, orally or in writing, directly or by implication:

1. Representing that respondents are either affiliated with or have any official relationship with either the United States Government or the United States Armed Forces.

2. Representing that respondents do not have to charge State sales tax with the sale of their merchandise due to any affiliation with or official relationship with either the United States Government or the United States Armed Forces or for any other reason that is inconsistent with official State sales tax regulations.

3. Representing that respondents can offer low prices for their merchandise due to any affiliation with or official relationship with either the United States Government or the United States Armed Forces, including Military Post Exchanges.

4. Representing that respondents are the exclusive jewelry dealers for military personnel, the United States Armed Forces or any branches therein.

5. Representing that respondents' merchandise is either inspected or approved by military personnel.

6. Representing that respondents register the diamonds they offer for sale with the United States Government.

7. Representing that purchasers who receive an "AAA credit rating" from respondents may then be able to purchase merchandise on credit from merchants' other than respondents.

8. Representing that respondents either use or sell only the finest diamonds available.

9. Representing that examination of diamonds before mounting by respondents, under a 30-power diamond loupe, or any other power loupe will guarantee the brilliance, color, cut, clarity or any other aspect of diamond quality.

10. Representing that through the use of the word "military" in conjunction with a code of business ethics, respondents are affiliated with or have some official relationship with the United States Armed Forces.

11. Representing that respondents will make no misrepresentations to customers regarding their business or services.

12. Representing that respondents will conceal no material facts, either directly or indirectly, which could cause a customer to be misled as to quality of merchandise, nature of service or terms of sale.

13. Representing that respondents will avoid any practice which might place their business under investigation by the Armed Forces Disciplinary Control Board, realizing this Board has the duty to place any establishment which it finds engaged in unfair, immoral or illegal practices, off limits to military personnel.

14. Contracting for any sale whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution.

15. Failing to furnish the purchaser with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the purchaser or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

16. Failing to furnish each purchaser, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10 point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract in substantially the following form:

NOTICE OF CANCELLATION

(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must return or cause to be returned to the seller, in substantially as good condition as when received, any goods delivered to you or delivered to one designated by you, under this contract or sale at the seller's expense and in compliance with instructions of the seller regarding the return shipment of the goods.

If you fail to return or cause to be returned the goods delivered to you or the one designated by you within 20 days of the date of your notice of cancellation, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to [Name of Seller], at [Address of seller's local place of business], not later than midnight of ----------

(Date)

I hereby cancel this transaction.

(Date)

(Buyer's Signature)

17. Failing, before furnishing copies of the "Notice of Cancellation" to the purchaser, to complete both copies by entering the name of the seller, the address of the seller's local place of business, the date of the transaction and the date, not earlier than the third business day following the date of the transaction, by which the purchaser may give notice of cancellation.

18. Including in any sales contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this order including specifically his right to cancel the sale in accordance with the provisions of this order.

19. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

20. Misrepresenting, directly or indirectly, orally or in writing, the buyer's right to cancel.

21. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest in the transaction.

22. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

23. Failing, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess and if so, the manner in which this may be accomplished at the seller's expense, or whether the seller intends to abandon any shipped or delivered goods.

24. Representing the disciplinary action will be taken against debtors upon notification of their superior officers.

25. Representing that legal proceedings will or have been initiated against debtors unless and until such representation is true.

26. Representing that an account will be or has been referred to an attorney for initiation of legal proceedings or that an attorney will be or is actively involved in collecting or reviewing an account, unless, and until such representation is true.

27. Representing that any immediate action will be taken to collect a debt, such as notification of superior officers or turning over accounts to a collection agency, unless, and until such representation is true; or misrepresenting, in any manner, the imminency of any action that respondents may or will take.

28. Representing that respondents maintain a legal department or employ attorneys as part of their debt collection business.

29. Representing that respondent will require debtors to pay all attorneys fees or any other amount of attorneys fees generated, which is in excess of 15% of the balance due on a debt.

30. Representing that collection notices sent to debtors by respondents are sent by a collection agency independent of respondents; or misrepresenting, in any manner, respondents' status, activities, or actions.

31. Representing that respondents will notify the local credit bureaus of any persons other than the debtor's own local credit bureau, and in that instance, only when respondents actually take the represented action, at that stage of the collection process.

32. Representing that a credit investigation will be conducted in the debtor's local area or that a collection agent will call at his home, unless respondents actually cause the action to be taken, at that stage of the collection process.

33. Representing that respondents can validly disclaim liability for any action that they may take in the collection of a debt; or making any other such statements in dunning communications which are unfair because they appear legally conclusive or misleading.

34. Representing through depictions or manifestations of form, that any of respondents' dunning communications constitute legal process forms; or misrepresenting, in any manner, the source, authorization, or approval of any document.

It is further ordered, That respondents cease and desist from using the words "collection agency" or any other words of similar import or meaning in any corporate, firm, partnership or other business or trade name or title which indicates or suggests that respondents individually or collectively, are engaged in the business of collecting money debts for others.

It is further ordered, That respondents, in the course of collecting a debt, cease and desist from communicating, or threatening to communicate with the consumer's employer or any agent of the employer or any other person not liable for the debt other than the spouse or the attorney of the consumer, except as permitted by order of a court or solely to locate a consumer whose whereabouts are genuinely unknown to the creditor or to determine the nature and extent of a consumer's wages or property, provided that, in these latter two instances, there is no specific mention of the alleged indebtedness.

Provided however, nothing herein shall prohibit respondents from communicating with the recipient of purchased merchandise, but then only for the dual purpose of (1) actually attempting, and not merely threatening, to repossess the merchandise upon the terms and conditions provided by contract between the debtor and respondents and in the same communication, (2) offering said recipient the option of retaining the merchandise upon the recipient's promise to assume payment of the specified balance due on the debt; provided that in these instances, respondents do not fail to also mail copies of any such communication to the named purchaser involved and respondents do not fail to clearly and conspicuously disclose in each such repossession communication that:

Upon repossession, this account will be marked satisfactorily settled and an immediate credit for the money paid on the account will be forwarded to the attention of the purchaser along with a price catalogue from which said purchaser may be able to choose and receive other merchandise based upon the credit he receives.

It is further ordered, That respondents, upon actual repossession of the purchased merchandise upon the terms and conditions provided by contract between the debtor and respondents and this order, do not fail to mail to said debtor, a price catalogue from which he may be able to choose and receive other merchandise based upon the credit he receives.

It is further ordered, That respondents cease and desist from failing to furnish the purchaser with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which contains a clearly and conspicuously disclosed statement in substantially the following form:

In the course of collecting a debt, Hallcraft Jewelers, Inc. will not communicate or threaten to communicate with a consumer's employer or any agent of the employer or any other person not liable for the debt other than a consumer's spouse or attorney, except as permitted by order of a court, or solely to locate a consumer whose whereabouts are genuinely unknown to the creditor or to determine the nature and extent of a consumer's wages or property, provided that, in these latter two instances, there is no specific mention of the alleged indebtedness. Hallcraft Jewelers may however, communicate with the recipient of any purchased merchandise, but only for the purpose of repossession of their merchandise upon a consumer's default or offering the recipient, in the alternative, the option of retention of the merchandise and assumption of the payments due on the balance of the debt.

Provided, however, That nothing contained in Part I of this order shall relieve respondents of any additional obligations respecting contracts required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That respondents Hallcraft Jewelers, Inc., Hallcraft Jewelers, Inc. of New Jersey, Crest Clothiers, Inc., also trading and doing business as Crest Collection Agency, or under any other name or names, corporations, their successors and assigns, and their officers, and Donald J. Bound, individually and as an officer of said corporations, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, or any advertisement to aid, promote, or assist, directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Section 226) of the Truth in Lending Act, as amended, (P.L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "cash price" as defined in §226. 2(i) of Regulation Z, to describe the purchase price of the merchandise or service, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c)(3) of Regulation Z.

4. Failing to use the term "amount financed" to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

5. Failing to use the term "deferred payment price" to describe the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.-8(c)(8)(ii) of Regulation Z.

6. Failing to use the term "total of payments" to describe the sum of the

payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

7. Failing to properly disclose the amount, or method of computing the amount, of a delinquency charge payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.

8. Failing to make all required disclosures together on either the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as required by § 226.8(a) of Regulation Z.

9. Failing, in any advertisement for an extension of consumer credit which is repayable in more than four installments without the imposition of a separately stated finance charge, to disclose clearly and conspicuously, "The cost of credit is included in the price quoted for the goods and services", as required by Section 146 of the Truth in Lending Act and § 226.10(f) of Regulation Z. Such disclosure shall appear:

(a) Immediately adjacent to the price, whenever the price is quoted, either as a monthly payment or a total payment amount; and

(b) Immediately above the space provided for the customer's signature on the merchandise order form.

10. Representing in any such advertisement, directly or by implication, that no downpayment is required, the amount of any installment payment, either in dollars or as a percentage, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

11. Failing, in any consumer credit transaction or advertising, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z at the time and in the manner, form and amount required by §§ 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale or sale of respondents' products or services or in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, or in the collection of accounts, and that respondents secure a signed statement acknowledging the receipt of the order from each such person.

It is further ordered, That respondents shall, within thirty (30) days after service of this order upon respondents, distribute a copy thereof by registered or certified mail to each military base commander within a twenty-five (25) mile radius of each of respondents' retail stores.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five years from the effective date of this order, the individual respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the manufacture, advertising, offering for sale, sale and distribution of jewelry and watches or the extension of consumer credit or the collection of accounts resulting from the retail sale of products or services, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the manufacture, advertising, offering for sale, sale and distribution of jewelry and watches or the extension of consumer credit or the collection of accounts resulting from the retail sale of products or services. Such notice shall include the respondents' new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising out of the order.

HALLCRAFT JEWELLERS, INC., ET AL.

[Docket No. 9086]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Hallcraft Jewelers, Inc., et al.

The proposed consent order and complaint described in this analysis have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Hallcraft Jewelers, operating from stores adjacent to military bases, has been primarily engaged in the retail sale of expensive jewelry and watches to military personnel. Merchandise is usually purchased from respondents on credit and is intended as gifts for close friends or relatives. The merchandise is then mailed directly to such persons by respondents.

The Commission's complaint, issued on July 20, 1976, alleged that respondents violated the Federal Trade Commission Act and the Truth in Lending Act through the following acts and practices:

Misrepresenting in many ways that Hallcraft is affiliated with or has some official relationship with the U.S. Government or U.S. Armed Forces;

Misrepresenting the quality of jewelry offered for sale;

Misrepresenting Hallcraft's method of doing business;

Utilizing high pressure sales techniques;

Misrepresenting in many ways the actions that Hallcraft may take or had taken and misrepresenting their effects, in the course of attempting to collect alleged delinquent accounts;

Utilizing various unfair methods of debt collection;

Failing to comply with various disclosure requirements of the Truth in Lending Act.

The proposed order is designed to aid prospective purchasers of respondents' merchandise by requiring respondents to cease and desist from making false and deceptive representations, by requiring respondents to furnish purchasers with the right to cancel transactions within three days after purchase, by requiring respondents to cease communicating with employers or other third parties concerning a purchaser's alleged indebtedness and making that fact known to purchasers, and finally, by requiring respondents to comply with all disclosure requirements of the Truth in Lending Act. Based on these requirements, purchasers will be given the opportunity to do business with respondents on a fair and equitable basis, without undue interference in their private and professional affairs. Purchasers will be able to make informed decisions about merchandise offered for sale and the method by which payment shall be required. They will be able to better understand credit obligations and costs.

The proposed order is also designed to prevent unfair methods of competition in the retail jewelry and watch industry by prohibiting respondents' practices which may have unfairly tended to lead prospective purchasers of jewelry and watches to believe that it would be more advantageous for them to purchase from respondents rather than respondents' competitors.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to con-

stitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-6025 Filed 2-28-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following requests for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 23, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 21, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of Form 443, Foreign Air Carrier Application for Authorization for Off-Route Charter. This form is used by foreign carriers in applying for off-route and wet-lease (the chartering of aircraft to another foreign air carrier or U.S. air carrier) authority pursuant to Parts 212 and 214 of the Board's Economic Regulations. CAB estimates respondents to be 15 foreign air carriers not covered by Order 76-10-119 and reporting burden to average 30 minutes per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6082 Filed 2-28-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temp. Reg. D-58]

SECRETARY OF TRANSPORTATION

Delegation of Authority

1. *Purpose.* This regulation continues in effect the delegation of authority to the Secretary of Transportation to perform all functions in connection with the leasing of certain property at the University of Connecticut Extension Facility, Groton, Connecticut, for use by the United States Coast Guard as a Research and Development Laboratory.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire on May 31, 1982, or upon termination of the lease, whichever is earlier.

4. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Transportation to perform all functions in connection with the leasing for continued occupancy of approximately 50,000 square feet of space in Building 23 and several smaller facilities located on the University of Connecticut Extension Facility, Groton, Connecticut, for a term of 5 years, with suitable termination rights on the part of the Government.

b. This delegation shall extend to leasing space under authority contained in section 210h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a period not to exceed 5 years with suitable termination rights on the part of the Government.

c. The Secretary of Transportation may redelegate this authority to any officer, official, or employee of the Department of Transportation.

d. This authority shall be exercised in accordance with the limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and the policies, procedures, and controls prescribed by the General Services Administration.

5. *Effect on other issuances.* FPMR Temporary Regulation D-33 is canceled.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6068 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-413]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas and electric rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Kentucky Public Utility Commission (Docket No. 6723) involving the petition filed by the Louisville Gas and Electric Company, requesting an increase in gas and electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6070 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-414]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delgates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an electrical rate increase proceeding before the Texas Public Utility Commission.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Texas Public Utility Commission (Docket No. 178) involving the petition of the Texas Power and Light Company, requesting an increase in electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 15, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-6071 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-415]

SECRETARY OF DEFENSE

Revocation of a Delegation of Authority

1. *Purpose.* This regulation revokes a certain delegation of authority granted to another agency to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires February 28, 1977.

4. *Revocation.* This revocation identifies that delegation which is no longer in force due to completion of the proceedings for which it was issued. Accordingly, the following FPMR temporary regulation is hereby revoked:

Number, date, and subject: F-311, November 21,1974. Delegation of authority to the Secretary of Defense—Regulatory Proceeding.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6072 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. D-59]

SECRETARY OF THE INTERIOR

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Interior to perform all functions in connection with the leasing of 6,854 square feet of space and the land incidental to its use, located on tribal land in Pawnee, Oklahoma, for use by the Bureau of Indian Affairs, Pawnee Agency Office.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire 10 years from the effective date of the lease covering the space to be leased or upon termination of the lease, whichever is earlier.

4. *Background.* This regulation reflects the delegation of authority that was granted by the Administrator of General Services to the Secretary of the Interior, by letter of June 25, 1976.

5. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of the Interior to perform all functions in connection with the leasing of approximately 6,854 square feet of space and the land incidental to its use, located on tribal land in Pawnee, Oklahoma, for use by the Bureau of Indian Affairs, Pawnee Agency Office.

b. This delegation shall extend to leasing space under authority contained in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a firm period not to exceed 10 years.

c. The Secretary of the Interior may redelegate this authority to any officer, official, or employee of the Department of the Interior.

d. This authority shall be exercised in accordance with the limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and the policies, procedures, and controls prescribed by the General Services Administration.

6. *Effect on other issuances.* This temporary regulation cancels the letter dated June 25, 1976, from the Administrator of General Services to the Secretary of the Interior, related to the above delegation.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6069 Filed 2-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

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 bodies scheduled to assemble during the months of March and April: 1977:

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

March 16-18, 1977, 9:00 a.m.,
Parlor A, Burlington Hotel, Vermont Avenue at Thomas Circle, N.W., Washington, D.C.
Open—March 16, 9:00-9:30 a.m.; Closed—Otherwise.
Contact Mrs. Vi Kemp, Parklawn Building, Room 10-104, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4843.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 9:30 a.m., March 16, the meeting will be open for discussion of administrative announcements 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 Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

March 16-19, 9:00 a.m.; Open March 16, 9:00-9:30 a.m.; Closed—Otherwise.
Circle Room, Dupont Plaza Hotel, Dupont Circle, N.W., Washington, D.C. Contact John Hammack, Room 10-95 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 9:30 a.m., March 16, the meeting will be open for discussion of administrative announcements 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 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE

March 23-26, 1:00 p.m.
Oak Room and Parlor A, The Burlington Hotel, 1120 Vermont Ave. N.W., Washington, D.C.
Open—March 23, 4:00-5:00 p.m.; Closed—Otherwise.
Contact Ms. Mary E. Enyart, Parklawn Bldg., Rm. 10C-14, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4337.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 4:00 to 5:00 p.m., on March 23, the meeting will be open for discussion of administrative announcements 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 Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

March 27-30, 9:00 a.m.
Conference Rooms J and L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland.
Open—March 27, 9:00-11:00 a.m.; Closed—Otherwise.
Contact Mrs. Miriam Stein, Parklawn, Bldg., Room 9C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3858.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 11:00 a.m., March 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applica-

tions for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-43 (5 U.S.C. Appendix I).

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

March 30-April 3, 9:00 a.m.; Open March 30, 9-10 a.m.; Closed—Otherwise. Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Contact Mrs. Helen Pohlenz, Parklawn Building, Room 9C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3885.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9-10 a.m., March 30, the meeting will be open for discussion of administrative announcements 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 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

April 7-9, 9:00 a.m.; Open—April 7, 9-11:00 a.m., Closed—Otherwise. Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Contact Mrs. Mary Cope, Parklawn Building, Room 9C-15, 5600 Fishers Lane, Rockville, Maryland 20857 301-433-3856.

Mach. 2

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychological sciences fellowships and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9-11:00 a.m., April 7, the meeting will be open for discussion of administrative announcements 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 Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish summaries of the meeting and rosters of the committee members if Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: Feb. 25, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc.77-6143 Filed 2-28-77; 8:45 am]

Center for Disease Control

COAL MINE HEALTH

Approval of Roentgenographic Facilities

Notice is hereby given that the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, invites all roentgenographic facilities which are presently not approved by NIOSH to apply for approval to provide X-ray examinations of underground coal miners in accordance with section 203(a) of the Federal Coal Mine Health and Safety Act (30 U.S.C. 843 (a)) and Part 37 of Title 42, Code of Federal Regulations. Section 37.42(b) requires that to be eligible to participate in the X-ray examination program, a facility shall demonstrate the ability to make high quality chest roentgenograms and that all roentgenograms shall be made in accordance with the specifications contained in section 37.41.

The Act provides for periodic roentgenographic examinations of underground coal miners at no charge to the miner. Underground coal miners were provided the opportunity for an initial roentgenogram from August 19, 1970, to December 30, 1971, and the opportunity for a second roentgenogram from July 27, 1973, to March 30, 1975. The next period of examinations is now being planned and a draft of proposed changes to the regulations was made available to the public on October 27, 1976 (41 FR 47091).

Any roentgenographic facility desiring approval to participate in the examination program should write to the Chief, Receiving Center Section, Appalachian Laboratory for Occupational Safety and Health, P.O. Box 4258, Morgantown, WV 26505 (Telephone (304) 599-7301) for a facility approval application (Form CDC/NIOSH(M)2.11) and information on how to apply for approval.

Dated: February 23, 1977.

JOHN F. FINKLER,
Director, National Institute for Occupational Safety and Health.

[FR Doc.77-6024 Filed 2-28-77;8:45 am]

Food and Drug Administration

[Docket No. 77N-0048]

LAETRILE

Administrative Rule Making Hearing

Correction

In FR Doc. 77-5245, appearing at page 10066 in the issue of Friday, February 18, 1977, the Docket No. should read as set forth above.

NOTE.—This document is being reprinted without change from the issue of Thursday, February 24, 1977 (42 FR 10897).

[Docket No. 76N-0343; DESI 7750]

CERTAIN GLUCOCORTICOID DRUGS FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is reclassifying the less-than-effective indications for cetrain glucocorticoid drugs, offering an opportunity for a hearing on the reclassification, and announcing the conditions under which the drugs may be marketed for the indications for which they are regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

In a notice (DESI 7750; Docket No. FDC-D-248 (now Docket No. 76N-0343)) published in the FEDERAL REGISTER of October 21, 1970 (35 FR 16425), the Food and Drug Administration announced its conclusions that all but two of the drug products described below are effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for their various labeled indications. The notice offered an opportunity for a hearing concerning the indications classified as lacking substantial evidence of effectiveness.

The exception to the preceding conclusions, Medrol Medules (NDA 12-362), was initially evaluated as no higher than possibly effective. However, in a notice published in the FEDERAL REGISTER of February 25, 1974 (39 FR 7192), it was reevaluated to the same effective and probably effective classifications as the other drug products and subject to the same marketing conditions. The February 25, 1974 notice also announced that the remaining indications for Medrol Medules initially classified as possibly effective were reclassified to lacking substantial evidence of effectiveness in that no data were submitted concerning them, and it offered an opportunity for a hearing concerning those indications.

No data were submitted in support of any of the less-than-effective indications announced in the October 21, 1970 notice and the followup notice of February 25, 1974. With the exception of the probably effective indication discussed in paragraph A of the notice below, they are therefore reclassified as lacking substantial evidence of effectiveness.

The notice that follows does not pertain to the indications stated in the October 21, 1970, and February 25, 1974 notices to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 7-750; Cortone Tablets containing cortisone acetate; Merck Sharpe & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

2. That part of NDA 8-126 pertaining to Cortisone Acetate Tablets; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

3. NDA 8-284; Cortisone Acetate Tablets; Panray Division of Ormont Drug & Chemical Co., Inc., P.O. Box 150, Englewood, NJ 07631.

4. NDA 8-506; Hydrocortone Tablets containing hydrocortisone acetate; Merck, Sharp & Dohme.

5. NDA 8-697; Cortef Tablets containing hydrocortisone; The Upjohn Co.

6. NDA 9-127; Cortril Tablets containing hydrocortisone; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 E. 42nd St., New York, NY 10017.

7. NDA 9-164; Hydrocortisone Acetate Powder; Pfizer Laboratories.

8. NDA 9-244; Cortisone Acetate Tablets; USV Pharmaceuticals Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

9. NDA 9-458; Cortisone Acetate Tablets; Richlyn Laboratories, 3725 Castor Ave., Philadelphia, PA 19124.

10. NDA 9-513; Cortisone Acetate Tablets; Rexall Drug Co., P.O. Box 7189, St. Louis, MO 63115.

11. NDA 9-658; Hydrocortisone Tablets; Cooper Laboratories, 300 Fairfield Rd., Wayne, NJ 07470; successor to Vitamix Pharmaceuticals, Inc.

12. NDA 9-659; Hydrocortisone Tablets; Panray.

13. NDA 9-766; Meticorten Tablets containing prednisone; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

14. NDA 9-788; Hydrocortisone Tablets; Evron Pharmaceutical Co., Inc., 7475 North Rogers Ave., Chicago, IL 60626.

15. NDA 9-900; Cortef Suspension containing hydrocortisone; The Upjohn Co.

16. NDA 9-931; Metrocortilone Tablets containing prednisolone; Schering Corp.

17. NDA 9-942; Deltra Tablets containing prednisone; Merck Sharp & Dohme.

18. NDA 9-986; Deltasone Tablets containing prednisone; The Upjohn Co.

19. NDA 9-987; Delta-Cortef Tablets containing prednisolone; The Upjohn Co.

20. NDA 9-996; Sterane Tablets containing perdnisolone; Pfizer Laboratories.

21. NDA 10-051; Hydeltra Tablets containing prednisolone; Merck, Sharp & Dohme.

22. NDA 10-663; Cortisone Acetate Tablets; Cooper Laboratories, successor to Vitamix Pharmaceuticals, Inc.

23. NDA 10-868; Paracortol Tablets containing prednisolone; Parke Davis & Co., P.O. Box 118, Detroit, MI 48232.

24. NDA 10-962; Paracort Tablets containing prednisone; Parke, Davis & Co.

25. NDA 11-153; Medrol Tablets containing methylprednisolone; The Upjohn Co.

26. NDA 11-161; Aristocort Tablets containing triamcinolone; Lederle Laboratories; Division of American Cyanamid Co., P.O. Box 500, Pearl River, NY 10965.

27. NDA 11-664; Decadron Tablets containing dexamethasone; Merck, Sharp & Dohme.

28. NDA 11-731; Deronil Tablets containing dexamethasone; Schering Corp.

29. NDA 11-895; Gammacorten Tablets containing dexamethasone; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

30. NDA 11-960; Aristocort Syrup containing triamcinolone diacetate; Lederle Laboratories.

31. NDA 12-259; Alphadrol Tablets containing fluprednisolone; The Upjohn Co.

32. NDA 12-362; Medrol Medules containing methylprednisolone; The Upjohn Co.

33. NDA 12-376; Decadron Elixir containing dexamethasone; Merck, Sharp & Dohme.

34. NDA 12-657; Celestone Tablets containing betamethasone; Schering Corp.

35. NDA 12-674; Hexadrol Elixir containing dexamethasone; Organon, Inc., Division of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

36. NDA 12-675; Hexadrol Tablets containing dexamethasone; Organon, Inc.

37. DNA 12-772; Haldrone Tablets containing paramethasone acetate; Eli Lilly & Co., Box 618, Indianapolis, IN 46206.

The following drugs were not included in the October 21, 1970, or February 25, 1974 notices, but are affected by this notice:

1. NDA 8-282; Cortisone Acetate Tablets; Gold Leaf Pharmaceutical Co., Inc., 520 Dean St., Englewood, NJ 07631.

2. NDA 9-795; Hydrocortisone Tablets; USV Pharmaceutical Corp.

3. NDA 10-537; Tempogen Tablets containing prednisolone; Merck, Sharp & Dohme.

4. NDA 11-283; Kenacort Tablets containing triamcinolone; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

5. NDA 13-287; Dexameth Tablets containing dexamethasone; Revlon, Inc., 767 Fifth Ave., New York, NY 10022.

6. NDA 14-215; Celestone Syrup containing betamethasone; Schering Corp.

7. NDA 16-764; Monocortin Tablets containing paramethasone acetate; Syntex Laboratories, Inc., Stanford Industrial Park, Palo Alto, CA 94304.

8. NDA 17-109; Prednisone Tablets; Philips Roxane Laboratories; Division of Philips Roxane, Inc., P.O. Box 1738, Columbus, OH 43216.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all. The notice of October 21, 1970, classified the following indication as probably effective: To tide the patient over a critical period in ulcerative colitis and regional enteritis. On the basis of the reconsideration discussed above, the drugs are now concluded to be effective for that indication. Except as stated above, the drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the October 21, 1970 notice and as probably effective in the February 25, 1974 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These steroid preparations are in tablet, capsule, suspension, powder, or syrup form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drugs. The Indications are as follows:

1. *Endocrine disorders.* Primary or secondary adrenocortical insufficiency (hydrocortisone or cortisone is the first choice; synthetic analogs may be used in conjunction with mineralocorticoids where applicable; in infacy mineralocorticoid supplementation is of particular importance).

Congenital adrenal hyperplasia.
Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Psoriatic arthritis.

Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).

Ankylosing spondylitis.
Acute and subacute bursitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Post-traumatic osteoarthritis.
Synovitis of osteoarthritis.
Epicondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Bullous dermatitis herpetiformis.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Mycosis fungoides.
Severe psoriasis.
Severe seborrheic dermatitis.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment:

Seasonal or perennial allergic rhinitis.
Serum sickness.
Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.
Drug hypersensitivity reactions.

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye and its adnexa such as:

Allergic conjunctivitis.
Keratitis.
Allergic corneal marginal ulcers.
Herpes zoster ophthalmicus.
Iritis and iridocyclitis.
Chorioretinitis.
Anterior segment inflammation.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.

7. *Respiratory diseases:*

Symptomatic sarcoidosis.
Loeffler's syndrome not manageable by other means.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with appropriate antituberculous chemotherapy.
Aspiration pneumonitis.

8. *Hematologic disorders:*

Idiopathic thrombocytopenic purpura in adults.
Secondary thrombocytopenia in adults.
Acquired (autoimmune) hemolytic anemia.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

9. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

10. *Edematous states.* To induce a diuresis or remission of proteinuria in the nephrotic syndrome, without uremia, of the idiopathic type or that due to lupus erythematosus.

11. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis.
Regional enteritis.

12. *Miscellaneous:* Tuberculous meningitis with subarachnoid block or impending block when used concurrently with appropriate antituberculous chemotherapy.

Trichinosis with neurologic or myocardial involvement.

In addition to the above indications, the drug preparations containing dexamethasone are indicated for diagnostic testing of adrenocortical hyperfunction.

The drug preparations containing cortisone, hydrocortisone, prednisone, prednisolone, or methylprednisolone are indicated for systemic dermatomyositis (polymyositis).

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that the holder of the application submits the following if he has not previously done so:

On or before May 2, 1977, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

4. *Marketing status of all other products.* a. Approval of an abbreviated new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(f) and shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing.

b. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectivenes referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7750, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Rm. 17B–34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-6040 Filed 2-28-77;8:45 am]

[Docket No. 76N-0406; DESI 7504]

CORTICOTROPIN FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 7504; Docket No. FDC–D–329 (now Docket No. 76N–0406)) published in the FEDERAL REGISTER of August 6, 1971 (36 FR 14509), the Food and Drug Administration announced its conclusions that the drug products described below are effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for their various labeled indications. The notice provided an opportunity for a hearing for the indications concluded at that time to lack substantial evidence of effectiveness. No data in support of any of the less-than-effective indications were submitted. All such indications are now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug products for the indications for which they are regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

The notice that follows does not pertain to the indications stated in the August 6, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for any of those indications is subject to regulatory action.

1. NDA 7–504; Acthar containing corticotropin; Armour Pharmaceutical Co., Division Armour & Co., Greyhound Tower, Phoenix, AZ 85077.

2. NDA 7–747; Corticotropin Solution; The Wilson Laboratories, 4221 South Western Blvd., Chicago, IL 60609.

3. NDA 7–727; ACTH Solution containing corticotropin; Merrell-National Laboratories, Division Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

4. NDA 8–317; ACTH Steri-Vials containing corticotropin; Parke Davis & Co., GPO Box 118, Detroit, MI 48232.

5. NDA 8–362; ACTH Gel containing corticotropin; The Wilson Laboratories.

6. NDA 8–372; H. P. Acthar Gel containing corticotropin; Armour Pharmaceutical Co.

7. NDA 8–553; ACTH Gel containing corticotropin; Merrell-National Laboratories.

8. NDA 8–975; Purified Cortrophin Gel; Organon, Inc., Divison of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

9. NDA 9–694; Depo-ACTH containing corticotropin; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

10. NDA 9–854; Cortrophin-Zinc Suspension containing corticotropin zinc hydroxide; Organon, Inc.

11. NDA 10–565; Duracton containing corticotropin; Nordic Biochemicals, Inc., P.O. Box 224, Holliston, MA 01746.

The following seven drugs all containing corticotropin were not included in the August 6, 1971 notice but are affected by this notice:

1. NDA 8–676; Acorto Gel/Injection; Breon Laboratories, Inc., 90 Park Ave., New York, NY 10016.

2. NDA 8–743; El-Acorto Gel; Breon Laboratories, Inc.

3. NDA 9–346; Steri-Vial No. 97, ACTH, 25 units and Steri-Vial No. 98, ACTH, 40 units; Parke, Davis & Co.

4. NDA 10–831; Repository Corticotropin Injection; Organics, Inc., 1724 W. Greenleaf Ave., Chicago, IL 60626.

5. NDA 11–472; Corticotropin Repository Injection; Philip J. Lo Bue Co., New York, NY 10016.

6. NDA 12–089; Purified Corticotropin-Gel/Injection; Elkins-Sinn, Inc., 2 Easterbrook Ln., Cherry Hill, NJ 08002.

7. NDA 16–226; Repository Corticotropin Tubex Injection, Wyeth Laboratories, Inc., Division American Home Products, Corp., Box 8299, Philadelphia, PA 19101.

In a notice published in the FEDERAL REGISTER of October 27, 1971 (36 FR 20619), the approval of NDA 7–747 for Corticotropin Solution was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusions concerning its probably and possibly effective indications had been reached. Those conclusions have now been reached, and the purpose of including Corticotropin Solution (NDA 7–747) in this notice is to inform all interested persons of such conclusions and offer them the opportunity to request a hear-

ing concerning all issues relating to its legal status.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all.

The drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the August 6, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in sterile aqueous solution, aqueous suspension, gel, or lyophilized powder form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

(Name of drug) is indicated for diagnostic testing of adrenocortical function.

(Name of drug) has limited therapeutic value in those conditions responsive to corticosteroid therapy; in such case, corticosteroid therapy is considered to be the treatment of choice. (Name of drug) may be employed in the following disorders:

1. *Endocrine disorders:*

Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Psoriatic arthritis.
Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).
Ankylosing spondylitis.
Acute and subacute bursitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Post-traumatic arthritis.
Synovitis of osteoarthritis.
Epicondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Systemic dermatomyositis (polymyositis).
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Bullous dermatitis herpetiformis.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Severe psoriasis.
Severe seborrheic dermatitis.
Mycosis fungoides.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment:

Seasonal or perennial allergic rhinitis.
Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye and its adnexa such as:

Allergic conjunctivitis.
Keratitis.
Herpes zoster ophthalmicus.
Iritis and iridocyclitis.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.
Chorioretinitis.
Anterior segment inflammation.
Allergic corneal marginal ulcers.

7. *Respiratory diseases:*

Symptomatic sarcoidosis.
Loeffler's syndrome not manageable by other means.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with antituberculous chemotherapy.
Aspiration pneumonitis.

8. *Hematologic disorders:*

Acquired (autoimmune) hemolytic anemia.
Idiopathic thrombocytopenia purpura in adults (I.V. only; I.M. administration is contraindicated).
Secondary thrombocytopenia in adults.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

9. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

10. *Edematous states.* To induce a diuresis or a remission of proteinuria in the nephrotic syndrome without uremia of type or that due to lupus erythematosus.

11. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis.
Regional enteritis.

12. *Miscellaneous:*

Tuberculosis meningitis with subarachnoid block or impending block when used concurrent by with appropriate antituberculosis chemotherapy.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before May 2, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) for all products except those in controlled release form, a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). For products in controlled release form, full updating information with respect to items 6, 7, and 8 of new drug application form FD–356H is requested.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. For controlled release forms, the application shall include full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H. Also, for controlled release forms, data from appropriate bioavailability studies will be required as part of the ANDA. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505

of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal statuts of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analysis, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7504, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-6039 Filed 2-28-77;8:45 am]

[Docket No. 76N-0328; DESI 7110]

CORTISONE, DEXAMETHASONE, HYDROCORTISONE, METHYLPREDNISOLONE, PREDNISOLONE, AND TRIAMCINOLONE FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 7110; Docket No. FDC–D–291 (now Docket No. 76N–0328)) published in the FEDERAL REGISTER of February 19, 1972 (37 FR 3775), the Food and Drug Administration (FDA) announced its conclusions that the antiinflammatory drug products described in section I below are effective or probably effective by the appropriate route of administration for certain indications and possibly effective or lacking substantial evidence of effectiveness for their other labeled indications. The notice also offered an opportunity for a hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. No data in support of any of the less-than-effective indications were submitted. This notice offers an opportunity for a hearing concerning those indications, and sets forth the conditions for marketing the drug products for the indications for which they are now regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

All of the products named in the notice of February 19, 1972 and included in section I below are subjects of new drug applications that became effective prior to October 10, 1962. All are formulated and packaged for parenteral administration. Among the indications classified as probably effective in that notice was the indication for rectal use as an enema or drip in ulcerative colitis. None of the products are formulated and packaged especially for rectal administration. In that no data were submitted in support of rectal use of any of these

parenteral products, that indication is one of the indications now being reclassified as lacking substantial evidence of effectiveness.

Three rectally administered corticosteroid products have been approved as both safe and effective since October 9, 1962. All of them are formulated and packaged especially for rectal administration. These products are named and discussed in section II below.

I. *Parenteral Corticosteroids Included in the Notice of February 19, 1972.*

The notice that follows does not pertain to the indications stated in the February 19, 1972 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 7-110; Cortone Acetate Saline Suspension containing cortisone acetate; Merck, Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

2. That part of NDA 8-126 pertaining to Cortisone Acetate Sterile Aqueous Suspension; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

3. NDA 8-228; Hydrocortone Acetate Saline Suspension containing hydrocortisone acetate; Merck, Sharp & Dohme.

4. NDA 9-164; Cortril Aqueous Suspension containing hydrocortisone acetate; Pfizer Laboratories, Division Pfizer, Inc., 235 E. 42d St., New York, NY 10017.

5. NDA 9-378; Cortef Acetate Sterile Injectable Suspension containing hydrocortisone acetate; The Upjohn Co.

6. NDA 9-379; Cortef Sterile Solution containing hydrocortisone; The Upjohn Co.

7. NDA 9-637; Hydrocortisone Acetate Aqueous Suspension; H. E. Maurry Biological Co., Inc., 6109 S. Western Ave., Los Angeles, CA 90047.

8. NDA 9-786; Hy-Cor Acetate Aqueous Suspension containing hydrocortisone acetate; Gold Leaf Pharmacal Co., Inc., 520 S. Dean St., Englewood, NJ 07631.

9. NDA 9-864; Cortef Sterile Aqueous Suspension containing hydrocortisone; The Upjohn Co.

10. NDA 9-866; Solu-Cortef Mix-O-Vial containing hydrocortisone sodium succinate; The Upjohn Co.

11. NDA 10-058; Hydrocortisone Acetate Suspension; Philadelphia Laboratories, Inc., Division Philadelphia Pharmaceutical & Cosmetic Co., 9815 Roosevelt Blvd., Philadelphia, PA 19114.

12. NDA 10-255; Meticortelone Aqueous Suspension containing prednisolone acetate; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

13. NDA 10-562; Hydeltra-T.B.A. Suspension containing prednisolone butylacetate; Merck, Sharp & Dohme.

14. NDA 10-603; Cortisone Acetate Aqueous Suspension; Cooper Laboratories, 300 Fairfield Rd., Wayne, NJ 07470; successor to Vitamix Pharmaceuticals, Inc.

15. NDA 11-061; Meticortelone Soluble containing prednisolone sodium succinate; Schering Corp.

16. NDA 11-158; Deltacortril Aqueous Suspension containing prednisolone acetate; Pfizer Laboratories.

17. NDA 11-446; Sterane Aqueous Suspension containing prednisolone acetate; Pfizer Laboratories.

18. NDA 11-583; Hydeltrasol Injection containing prednisolone sodium phosphate; Merck, Sharp & Dohme.

19. NDA 11-685; Aristocort Intralesional Suspension containing triamcinolone diacetate; Lederle Laboratories, Division of American Cynamid Co., P.O. Box 500, Pearl River, NY 10965.

20. NDA 11-757; That part of the NDA pertaining to Depo-Medrol Aqueous Suspension containing methylprednisolone acetate; The Upjohn Co.

21. NDA 11-856; Solu-Medrol Mix-O-Vial containing methylprednisolone sodium succinate; The Upjohn Co.

22. NDA 11-896; Prednisolone Acetate Suspension; Philadelphia Laboratories.

23. NDA 12-041; Kenalog Parenteral Aqueous Suspension containinng triamcinolone acetonide; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

24. NDA 12-052; Hydrocortone Phosphate Injection containing hydrcortisone sodium phosphate; Merck Sharp, & Dohme.

25. NDA 12-071; Decadron Phosphate Injection containing dexamethasone sodium phosphate; Merck Sharp & Dohme.

26. NDA 12-784; Cortiphate Injection containing hydrocortisone sodium phosphate; Travenol Laboratories, Inc., Morton Grove, IL 60053.

27. NDA 12-802; Aristocort Forte Suspension containing triamcinolone diacetate; Lederle Laboratories.

The following drugs were not included in the February 19, 1972 notice, but are affected by this notice:

1. NDA 8-856; Hydrocortone Concentrate Injection containing hydrocortisone; Merck Sharp & Dohme.

2. NDA 14-694; Hexadrol Phosphate Injection containing dexamethasone phosphate; Organon, Inc., Division of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

3. NDA 14-901; Kenalog-IM Injection containing triamcinolone acetonide; Squibb Pharmaceutical Co.

4. NDA 16-466; Aristospan Injction containing triamcinolone hexacetonide; Lederle Laboratories.

5. NDA 16-675; Decadron-LA Suspension/Injecton containing dexamethasone acetate; Merck, Sharp & Dohme.

6. NDA 17-561; Celestone Phosphate Injection containing betamethasone sodium phosphate; Schering Corp.

Approval of the following three new drug applications, which were listed in the February 19, 1972 notice, had already been withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (j)). At the time the notices of withdrawal were published, no conclusions concerning the products' indications had been reached. Conclusions have now been reached, and the purpose of including these new drug applications in this notice is to inform all interested persons of the conclusions and offer them the opportunity to request a hearing concerning all issues relating to the legal status of the products. In the listing that follows, the date and FEDERAL REGISTER citation identify the notice of withdrawal.

1. NDA 9-465; Hydrocortone-T.B.A. Suspension containing hydrocortisone butylacetate; Merck, Sharp & Dohme; October 27, 1971 (36 FR 206.19).

2. NDA 10-291; Cortril Soluble Parenteral containing bydrocortisone sodium succinate; Pfizer Laboratories; August 6, 1971 (36 FR 14477).

3. NDA 10-650; Hydrocortisone Acetate; Cooper Laboratories (sucessor to Vitamix Pharmaceuticals, Inc.); February 8, 1972 (37 FR 2852).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all.

The drug products named above now lack substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the February 19, 1972 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and

abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These glucocorticoid preparations are in aqueous solution or suspension, or sterile powder form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

A. *Intravenous or intramuscular administration.* When oral therapy is not feasible and the strength, dosage form, and route of administration of the drug reasonably lend the preparation to the treatment of the condition, those products labeled for intravenous or intramuscular use are indicated as follows:

1. *Endocrine disorders:*

Primary or secondary adrenocortical insufficiency (hydrocortisone or cortisone is the drug of choice; synthetic analogs may be used in conjunction with mineralocorticoids where applicable; in infancy, mineralocorticoid supplementation is of particular importance).
Acute adrenocortical insufficiency (hydrocortisone or cortisone is the drug of choice; mineralocorticoid supplementation may be necessary, particularly when synthetic analogs are used).
Preoperatively and in the event of serious trauma or illness, in patients with known adrenal insufficiency or when adrenocortical reserve is doubtful.
Shock unresponsive to conventional therapy if adrenocortical insufficiency exists or is suspected.
Congenital adrenal hyperplasia.
Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Post-traumatic osteoarthritis.
Synovitis of osteoarthritis.
Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).
Acute and subacute bursitis.
Epicondylitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Psoriatic arthritis.
Ankylosing spondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Bullous dermatitis herpetiformis.
Severe seborrheic dermatitis.
Severe psoriasis.
Mycosis fungoides.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment in:

Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.
Seasonal or perennial allergic rhinitis.
Drug hypersensitivity reactions.
Urticarial transfusion reactions.
Acute noninfectious laryngeal edema (epinephrine is the drug of first choice).

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye, such as:

Herpes zoster ophthalmicus.
Iritis, iridocyclitis.
Chorioretinitis.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.
Anterior segment inflammation.
Allergic conjunctivitis.
Allergic corneal marginal ulcers.

7. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis (systemic therapy).
Regional enteritis (systemic therapy).

8. *Respiratory diseases:*

Symptomatic sarcoidosis.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with appropriate antituberculous chemotherapy.
Loeffler's syndrome not managable by other means.
Aspiration penumonitis.

9. *Hematologic disorders:*

Acquired (autoimmune) hemolytic anemia.
Idiopathic thrombocytopenic purpura in adults (I.V. only; I.M. administration is contraindicated).
Secondary thrombocytopenia in adults.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

10. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

11. *Edematous states.* To induce diuresis or remission of proteinuria in the nephrotic syndrome, without uremia, of the idiopathic type or that due to lupus erythematosus.

12. *Miscellaneous:*

Tuberculous meningitis with subarachnoid block or impending block when used concurrently with appropriate antituberculous chemotherapy.
Trichinosis with neurologic or myocardial involvement.

In addition to the above indications, those preparations containing cortisone, hydrocortisone, prednisolone, or methylprednisolone are indicated for systemic dermatomyositis (polymyositis). Those containing dexamethasone are indicated for diagnostic testing of adrenocortical hyperfunction.

B. *Intra-articular or soft tissue administration.* When the strength and dosage form of the drug lend the preparation to the treatment of the condition, those products labeled for intra-articular or soft tissue administration are indicated as adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Synovitis of osteoarthritis.
Rheumatoid arthritis.
Acute and subacute bursitis.
Acute gouty arthritis.
Epicondylitis.
Acute nonspecific tenosynovitis.
Post-traumatic osteoarthritis.

C. *Intralesional administration.* When the strength and dosage form of the drug lend the preparation to the treatment of the condition, those products labeled for intralesional administration are indicated for:

Keloids.
Localized hypertrophic, infiltrated, inflammatory lesions of: lichen planus, psoriatic plaques, granuloma annulare, and lichen simplex chronicus (neurodermatitis).
Discoid lupus erythematosus.
Necrobiosis lipodica diabeticorum.
Alopecia areata.
They also may be useful in cystic tumors of an aponeurosis or tendon (ganglia).

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before —— 60 days after date of publication in the FEDERAL REGISTER, the holder of the application submits the following if he has not previously done so: (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

4. *Marketing status of all other products.* a. Approval of an abbreviated new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(f) and, for a suspension form product, shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing.

b. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those part of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

II. *Corticosteroid Products Especially Formulated for Rectal Administration and Approved Subsequent to October 9, 1962.*

1. NDA 16-199; Cortenema, containing hydrocortisone; Rowell Laboratories, Inc., Lake of the Woods, Baudette, MN 56623.

2. NDA 11-757; That part of the NDA pertaining to Medrol Enpak, containing methylprednisolone acetate; The Upjohn Company, 7000 Portage Rd., Kalamazoo, MI 49001.

3. ANDA 85-023; Rectoid, containing hydrocortisone; Pharmacia Laboratories, 800 Centennial Ave., Piscataway, NJ 08854.

It is recognized that corticosteroids are effective in ulcerative colitis when administered systemically. The rationale for a topical product applied directly to the large bowel is that by exerting a topical effect it will be beneficial in ulcerative colitis but will produce less toxicity than would be produced by systemic treatment. Therefore, a rectally administered corticosteroid should not be absorbed to such an extent that all of its beneficial effects are accounted for by the systemic dose achieved.

On the basis of information now available to the Food and Drug Administration, the present status and further requirements concerning these three products are as follows:

A. *NDA 16-199 (Cortenema) (hydrocortisone).* The effectiveness of this product as a topical agent is supported by absorption studies, clinical studies, and the literature, indicating that the amount of hydrocortisone absorbed is not sufficient to account for the beneficial therapeutic effects seen. No further studies are required at this time. If new information becomes available on rectal absorption of hydrocortisone which indicates that substantially more hydrocortisone reaches the systemic circulation than previous studies indicate, additional studies of this product may be required.

B. *NDA 11-757 supplement (Medrol Enpak) (methylprednisolone acetate).* This product was approved on the basis of studies showing satisfactorily low absorption. However, new information concerning the rectal absorption of prednisolone acetate suggests that rectal absorption of methylprednisolone acetate is likely to be substantially greater than heretofore shown for Medrol Enpak. The Director of the Bureau of Drugs concludes that the NDA holder should conduct additional bioavailability studies on that product, comparing it with oral methylprednisolone acetate. Depending upon the results, new clinical trials may be required to demonstrate that the therapeutic effect of Medrol Enpak is substantially topical and not systemic.

It is required that the results of such studies be submitted as a supplement to the application to the Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs, address given below, on or before (insert date 180 days after date of publication in the FEDERAL REGISTER).

C. *ANDA 85-023 (Rectoid) (hydrocortisone).* This was approved as an abbreviated new drug application. Because of the now recognized potential for wide variability in the extent of absorption of rectally administered corticosteroids, the Director of the Bureau of Drugs concludes that the NDA holder should conduct bioavailability studies comparing the product with Cortenema, for which a satisfactorily low degree of rectal absorption has been shown. The Director further concludes that, because of the known potential for variable absorption of rectally administered corticosteroids, and the possible requirement for clinical studies to assure effectiveness, abbreviated NDA's are not appropriate for such products. Accordingly, this abbreviated new drug application is to be converted to a full new drug application. It is required that the results of the bioavailability studies be submitted as a supplement to the full new drug application

to the Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Bureau of Drugs, address given below, on or before August 29, 1977.

The Bureau of Drugs will review the supplements received pursuant to the above requirements and inform the holders of the applications of its conclusions. If new information becomes available in the future concerning the rectal absorption of corticosteroids, e.g., if the state-of-the-art for measurement of rectal absorption improves, then additional studies by all NDA holders of these drug products will be required.

An approved full new drug application is a requirement for marketing of such products that are not now the subject of either an approved full new drug application or currently approved abbreviated new drug application. Full new drug application requirements are as follows:

(a) For a product in which the corticosteroid is identical to the corticosteroid contained in a marketed product for rectal administration that is provided for in an approved original full new drug application, data demonstrating bioequivalence to such approved product may be sufficient. If bioequivalence data are satisfactory, clinical studies will not ordinarily be required.

(b) For a product in which the corticosteroid does not have an identical counterpart in a marketed product for rectal administration that is provided for in an approved original full new drug application, bioavailability studies are required comparing the rectally administered product with a suitably formulated orally administered product of the same corticosteroid. Clinical studies are also required in order to demonstrate that the product is effective under the recommended conditions of dosage and administration. If the effectiveness of the rectally administered product clearly cannot be accounted for by the amount of corticosteroid absorbed, no further studies would be required. If this is not clear, additional studies would be required comparing rectal administration to oral administration of the same dose that is absorbed following rectal administration to establish that there is a true topical effect and that the full effectiveness of the product cannot be attributed to systemic absorption.

Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7110, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Rm. 17B–34, Bureau of Drugs.

Original full new drug applications: Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Rm. 17B–34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77–6041 Filed 2–28–77;8:45 am]

[Docket No. 76N–0227; DESI 763]

LIDOCAINE HYDROCHLORIDE 2 PERCENT VISCOUS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 763; Docket No. FDC–D–272 (now Docket No. 76N–0227)) published in the FEDERAL REGISTER of April 10, 1971 (36 FR 6909), the Food and Drug Administration (FDA) announced its conclusions that the drug described below is effective for providing symptomatic relief of pain when applied to irritated or inflamed muccous membranes of the mouth and pharynx. The drug product was also certified as possibly effective for certain other indications. After a reevaluation of the reports received from the National Academy of Sciences-National Research Council, FDA has determined that one of the possibly effective indications, the indication for relief of pain and discomfort of post-tonsillectomy sore throat, is encompassed in the effective indication as worded in the April 10, 1971 notice. No person has submitted any data in support of the remaining possibly effective indications, and they are now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and states the conditions for marketing such drugs for the indication classified as effective. Persons who wish to request a hearing may do so on or before March 31, 1977. Other products named in the April 10, 1971 notice are not affected by this notice.

NDA 9–470; Xylocaine Viscous containing lidocaine hydrochloride 2 percent; Astra Pharmaceutical Products, Inc., 7 Neponset St., Worcester, MA 01606.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication listed in the labeling conditions below and lacks substantial evidence of effectiveness for all its other labeled indications not encompassed, as discussed above, in the effective indication.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Lidocaine hydrochloride 2 percent viscous is in solution form suitable for topical application.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the production of topical anes-

thesia of irritated or inflamed mucous membranes of the mouth and pharynx.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before May 2, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 763, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 17, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-6038 Filed 2-28-77;8:45 am]

[Docket No. 76N-049; DESI 6813]

TRIHEXYPHENIDYL HYDROCHLORIDE IN CONTROLLED RELEASE DOSAGE FORM

Drug Efficacy Study Implementation; Followup Notice; Correction

In FR Doc. 77-3780, appearing at page 8005 in the FEDERAL REGISTER of Tuesday, February 8, 1977, in the first column on

page 8006, under paragraph 3.b., beginning in line 16, the sentence that reads "Protocols for these studies are required to be submitted under an Investigational New Drug Application (IND)" should read "Protocols for these studies are required to be submitted under a Notice of Claimed Investigational Exemption for a New Drug (IND)." Also, in the second column of page 8006, in the second full paragraph, the lines that read "Original abbreviated new drug applications and bio-availability investigational new drug applications (identify as such):" should read "Original abbreviated new drug applications and notices of claimed investigational exemption for a new drug (identify as such):"

Dated: February 22, 1977.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.77-6037 Filed 2-28-77;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on March 17-18, 1977, at the National Institute of Education (NIE), 1200 19th Street N.W., Washington, D.C., in Room 823. The meeting will convene at 3 p.m., and adjourn at 6:30 p.m., March 17 and on March 18, convene at 8:30 a.m., and adjourn at 3:30 p.m.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The meeting will be open to the public. The public's attention is especially invited to the agenda item below about consideration of a general policy for NIE on support of projects involving improvement of instructional programs. The Council is currently reviewing materials on this topic which were prepared by its Program Committee and the Director of the Institute after extensive consultation with members of the public, researchers, educators and representatives of professional organizations. Copies of these materials are available from the NCER Administrative Coordinator at the address below. The tentative agendas are as follows:

MARCH 17

3 p.m.	Convene.
3 to 3:05 p.m.	Approve minutes of January 6-7, 1977 meeting.
3:05 to 3:30 p.m.	Director's report.
3:30 to 4 p.m.	General business.
4 to 5 p.m.	Report of review and reports committee: 1976 annual report.
5 to 6:30 p.m.	Report of program committee: policy on instructional program improvement.

MARCH 18

8:30 am.	Convene.
8:30 to 10:30 a.m.	Consideration of policy on instructional program improvement.
10:30 a.m. to 12 m.	Executive committee report: policy framework, future agendas, fiscal year 1979 planning.
12 m to 1 p.m.	Lunch.
1 to 2:30 p.m.	Consideration and approval of 1976 annual report.
2:30 to 3:30 p.m.	General business.
3:30 p.m.	Adjourn.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074-8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agendas, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202/254-7900.

JOHN E. CORBALLY,
Chairman.

[FR Doc.77-6234 Filed 2-28-77;8:45 am]

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579) as prescribed in 5 U.S.C. 552a(e) (4), the following notices of systems of records that the Department of Health, Education, and Welfare plans to establish are published as set forth below. New System reports were filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, the President of the Senate, and the Chairman of the Privacy Protection Study Commission on February 10, 1977. The new systems are as follows: SSA PP RSS 0177.00, entitled "Survey of Blind and Disabled Children Receiving Supplemental Security Income Benefits"; SSA PP RSR 0177.00, entitled "1977 Survey of Young Survivors"; CDC NIOSH 0147.00, entitled Mortality of Pesticide Formulators"; and CDC NIOSH 0148.00, entitled "Pulmonary Function Standards Study."

In addition to the new systems notices, there are seven modified systems. The modifications consist of new routine use disclosures and other additional information for the notices. The additional modified information contained within the body of the routine use disclosure sections of the notices as well as any other new/modified information in the body of other sections of the notices is indicated by italics.

Prior to the final adoption of the routine uses proposed for these new or modified system of records, consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing thirty days from the publication date of this notice. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201. Coments received will be available for inspection in Room 526E, South Portal Building, at the above address.

Dated February 15, 1977.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

SSA PP RSS 0177.00

System name:

Survey of Blind and Disabled Children Receiving Supplemental Security Income Benefits HEW SSA.

Security class:

None.

System location:

Division of Supplemental Security Studies (DSSS), Office of Research and Statistics, Social Security Administration, 1875 Connecticut Avenue, NW. Washington, D.C. 20009.

Urban Systems Research and Engineering, Inc., 1218 Massachusetts Avenue, Cambridge, Massachusetts 02138.

Categories of individuals covered by the system:

A sample of children receiving a benefit under the Supplemental Security Income program in May 1977.

Categories of records in the system:

Demographic, earnings history, disability status, Supplemental Security Income program data, and data on participation in other social programs (e.g., medicaid, social services, vocational rehabilitation services, etc.) on the disabled child as well as income information for the parents of the disabled child.

Authority for maintenance of the system:

Section 702 of the Social Security Act (42 U.S.C. Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the reqesut of that individual.

To organizations under contract with the Social Security Administration, information necessary to enable the contractor to comply with the conditions of the agreement to perform research and statistical functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The complete data tape with identifying information removed will be kept by DSSS and by the contractor. The contractor will retain the tape for three years after the completion of the study. The data tape will contain program and interview information. Hard copies of interview forms with identification removed will be retained by the contractor for three years after the completion of the study.

Retrievability:

Records are retrievable only during the field survey and the editing of the field survey, by name and social security number. Indentifiable information will be removed from the completed data tape once the information from the field survey is merged with program data. At that time, retrieval of data on specific individuals will no longer be possible.

Safeguards:

During field survey and editing, identification of tapes and documentation of tape data contents are restricted to DSSS staff and the contractor's project staff. Hard copy questionnaires can only be accessed from secure storage with permission of the project manager. All persons using tape data or having access to hard copy are notified of criminal sanctions for unauthorized disclosures of information about individuals. Similarly, contractor's staff operates under these sanctions during field survey.

Access to completed data tape is controlled by DSSS project manager.

Retention and disposal:

Completed tape with no identifiers is retained indefinitely by DSSS. Hard copy questionnaires are stripped of identifiers after the merge of program information and interview survey. All copies of the interview questionnaires will be destroyed by the contractor, using standard disposal procedures, no later than three years after the completion of the study.

Systems manager(s) and address:

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Notification procedure:

During field survey and editing: Provide System Manager with name of system, name and account number of disabled child and the child's age.

After data tape is complete: Retrieval not possible.

Records access procedures:

Same as notification procedure. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, § 5b.5 (a)(2)), FEDERAL REGISTER October 8, 1975, page 47410.

Contesting record procedures:

Contact the official at the address specified under item 10 above and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7), FEDERAL REGISTER, October 8, 1975, page 47411.

Record source:

Direct interview questionnaire completed with individuals in the survey sample. Benefit and earnings history data on disabled children from supplemental security income records.

System exempted from certain provisions of the act:

None.

SSA PP RSR 0177.00

System name:

1977 Survey of Young Survivors.

Security class:

None.

System location:

Division of Retirement and Survivor Studies (DRSS), Office of Research and Statistics, Social Security Administration, 1875 Conn. Ave. NW., Washington, D.C. 20009.

Institute for Survey Research, Temple University, Philadelphia, Pa.

Categories of individuals covered by the system:

National sample of families with maternal or paternal orphans receiving monthly social security benefits as of December 1976.

Categories of records in the system:

Demographic, economic, work history, life and health insurance, and survivor adjustment data on the surviving spouse and children, plus data on worker and family before worker's death, plus social security administrative record data on benefits and earnings.

Authority for maintenance of the system:

Sections 702 and 1875 of the Social Security Act as amended (42 U.S.C., Sections 902, 1395 LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The completed data tape with identifying information removed is kept by DRSS and used in DRSS processing at SSA and HEW computer facilities. Contractor retains no data after field survey is completed. During field survey and editing phases, hard copy questionnaires are kept in secure storage and data tape with identifiers are stored separately and securely from the computer facility.

Retrievability:

Records are retrievable only during field survey, edit and administrative data operations stages, by name and social security number.

Identifying information will be removed from the completed data tape and retrieval of individual data will no longer be possible.

Safeguards:

During field survey and editing, identification of tapes and documentation of tape data contents are restricted to DRSS user staff. Hard copy questionnaires are kept in locked storage cabinets located in locked rooms and can only be accessed with the permission of the project manager. All persons using tape data or having access to hard copy are notified of criminal penalties for unauthorized disclosures of information about individuals. Similarly, the contractor's staff operates under the same sanctions and also keeps card copy data in secure storage areas. Contractor transmits all survey data to DRSS at end of field survey.

Access to completed data tape is controlled by DRSS project manager. Security measures have been incorporated in the software specifications of the system preventing accidental and intentional unauthorized disclosure.

Retention and disposal:

Completed tape with no identifiers is retained indefinitely. Hard copy questionnaires are stripped of identifiers and destroyed by secure methods at end of data editing operations.

System manager(s) and address:

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Notification procedure:

During field survey and editing: Provide System Manager with name of system, name and account number of deceased worker, and address of worker's

survivors as of December 1976 or first quarter of 1977.

After data tape is complete: retrieval not possible.

Record access procedures:

Same as notification procedures. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, § 5b.5 (a)(2)) FEDERAL REGISTER October 8, 1975, page 47410.

Contesting record procedures:

Contact the official at the address specified under "Notification procedure" above and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, § 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.

Record source categories:

Direct interview questionnaire completed with individuals in the survey sample. Benefit and earnings history data on deceased worker and surviving widow from social security records.

Systems exempted from certain provisions of the act:

None.

CDC NIOSH 0147.00

System name:

Mortality of Pesticide Formulators—HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Surveillance, Hazard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, U.S. Post Office and Courthouse, 5th and Walnut, Cincinnati, Ohio 45202.

Categories of individuals covered by the system:

20,000 individuals who have been employed as pesticide formulators for a minimum of 12 months from 1940 to the present.

Categories of records in the system:

Occupational and medical histories, demographic data.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (U.S.C. 669).

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

1. Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (45 CFR Part 5B, Appendix B, Item 100).

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. Portions of records (usually name, date of birth, last known address, and social security number) may be disclosed to Federal, state, and local authorities, and to other sources capable of locating individuals, solely for the purpose of following individuals in the study and obtaining death certificates of those who have died.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual files, computer cards, computer tapes, computer listings.

Retrievability:

The purpose of this system is to determine the cause, and, therefore, lead toward future prevention of occupationally-related diseases. Name and case number are the identifiers used to retrieve records from this system.

Safeguards:

The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards guidelines, e.g., security codes will be used limiting access to authorized personnel.

Retention and disposal:

Records are scheduled for destruction ten years following completion of the study. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 3-32, Park Building, Rockville, Maryland 20857.

Notification procedure:

To determine if a file exists, write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration; (2) name of study if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department regulations, 45 CFR, Part 5b.6, FEDERAL REGISTER, October 8, 1975, page 47411).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR Part 5b7).

Record source categories:

Information is obtained from pesticide formulating companies as well as individual employees and their relatives.

Systems exempted from certain provisions of the act:

None.

CDC NIOSH 0148.00

System name:

Pulmonary Function Standards Study—HEW/CDC/NIOSH.

Security classification:

None.

System location:

Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Categories of individuals covered by the system:

200 Non-exposed to any harmful or potentially harmful dust, gases or fumes, Blue Collar Workers in North Carolina.

Categories of records in the system:

Descriptive data, medical, smoking, and work histories, x-ray and pulmonary function data.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (45 CFR Part 5B, Appendix B, Item 100). Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual files, computer tapes, computer listings.

Retrievability:

The purpose of this system is to provide a comparison for other studies. Name, case number, and social security number (if provided voluntarily) are the indexes used to retireve records from this system.

Safeguards:

Locked building; locked rooms.
Security guard.
Locked computer room and computer tape cabinets.

Retention and disposal:

Records are kept for five years and either the personal identifiers are removed or the tapes are erased and manual files shredded or burned.

System manager(s) and address:

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 3-32, Park Building, Rockville, Maryland 20857.

Notification procedure:

To determine if a file exists, write: Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of examination; (2) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its content at the representative's discretion (45 CFR, Part 5b.6, FEDERAL REGISTER, October 8, 1975, page 47411).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories:

Information is obtained directly from the individual participants in the study.

Systems exempted from certain provisions of the act:

None.

SSA PO DP 0275.03

System name:

Earnings Recording and Self-Employment Income System HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

Any person who has been issued a social security number and who may or may not have earnings under social security or self-employment income.

Categories of records in the system:

This contains records of all social security number holders, their name, date of birth, sex, race, a summary of their yearly earnings, quarters of coverage, special employment codes (i.e., self-employment, military, agriculture, and railroad, benefit status and employer identification.

Authority for maintenance of the system:

Section 205(a) of the Social Security Act and section 205(c) (2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Employers or former employers, including State social security administrators for correcting and reconstructing State employee earnings records and for social security tax purposes; the Treasury Department a. for collection of social security taxes; b. *for verification of taxpayers' identification numbers;* c. *for administering or identifying violations of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Act, and the Federal Unemployment Tax Act;* d. *for administering or investigating violations of any Federal income tax law;* e. *for investigating alleged theft, forgery, or unlawful negotiation of social security checks; and* f. *for Office of Tax Analysis studies of the effects of income taxes and taxes of earnings;* the Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment; the Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act; the Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens; *The Department of Justice (Federal Bureau of Investigation and the Department of Treasury (United States Secret Service) for national security matters and in connect with threats on the life of the President or other dignitaries;* State Departments of Public Welfare for quality control studies of grants-in-aid recipients; Energy *Research and* Development Administration for their study of the long-term effects of low-level radiation exposure; the Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training *programs* to combat poverty, a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. *The Department of State and the VA Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies. The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration for social security program purposes.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are maintained as paper forms, paper lists, punchcards, microfilm and magnetic tape files.

Retrievability:

Records in this system are indexed by social security number and name. This information is used for the following purposes: As a primary working record file of all social security number holders; as a quarterly earnings record detail file to provide full data in wage investigation cases; to provide information for determining amount of benefits; to record all incorrect or incomplete earnings items; to reinstate incorrectly or incompletely reported earnings items; to record the latest employer of a wage earner; for statistical studies; for identification of possible overpayments of benefits; for identification of individuals entitled to additional benefits; workers and self-employed indiivduals in the form of earnings statements or quarters of coverage statements; to provide information to Social and Rehabilitation Service/ Health, Education and Welfare for locating deserting parents; *to provide information to Health, Education and Welfare Audit Agency for auditing benefit payments under social security programs; to provide information to National Institute of Occupational Safety and Health for epidemological research studies required by the Occupational Health and Safety Act of 1974; to provide information to Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.*

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contactual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

All paper forms and cards are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tapes and microfilm files are updated periodically. The out of date magnetic tapes are erased. The out of date microfilm is shredded.

System manager(s) and address:

Director, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An3 individual may present a request for information as to whether this system contains records pertaining to himself by providing his social security number, name, signature, or other personal identification and referring to this system to Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore Maryland 21235.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories:

Social security number applicants, employers, self-employed individuals, Department of Justice (Immigration and Naturalization Service), Department of Treasury (Internal Revenue Service) master beneficiary record of Social Security Administration.

Systems exempted from certain provisions of the act:

None.

SSA PO SSI 0175.04

System name:

Supplemental Security Income Record HEW SSA.

Security class:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235, District Offices, Branch Offices and BSSI Regional Offices, (See Appendixes D and F in the FEDERAL REGISTER, September 20, 1976, pages 41058 ff, and pages 41062 ff.)

Categories of individuals covered by the system:

This file contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system:

This file contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism or drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for SSI payments.

Authority for maintenance of the system:

Section 1631 of title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information from this file is used by the Treasury Department to prepare supplemental security income benefit checks, and by the States to establish the minimum income level for computation of State supplement. Minimum information necessary to identify SSI applicants and recipients to the following Federal and State agencies for their use in preparing information for verification of eligibility for benefits under sections 1631(e): Bureau of Indian Affairs; Civil Service Commission; Department of Agriculture; Department of Labor; Immigration and Naturalization Service; Internal Revenue Service; Railroad Retirement Board; State Pension Funds; State Welfare Offices; State Workmen's Compensation; Department of Defense; United States Coast Guard; and, Veterans Administration. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; *State Vocational Rehabilitation agency, or State crippled children's agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382d; Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act; State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic Tape, microfiche.

Retrievability:

Magnetic tape and Microfiche indexed by social security number. Supplemental security income records begin in the social security district office where an individual files an application for supplemental security income payments. This application contains data which may be used to prove the identity of the applicant, determine his eligibility for SSI payments and in cases where eligibility is determined, to compute the amount of the payment. Information from the application in addition to data used internally to control and process SSI cases is used to create the Supplemental Security Income Record. The Supplemental Security Income Record is also used as a means of providing a historical record of all activity on a particular individual. In addition, statistical data is derived from the Supplemental Security Income Record for actuarial and management information purposes.

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic tape records are subject to the penalties of the Privacy Act. The microfishe are stored in a locked rack, kept in a locked room, and only personnel having a need for the information have access.

Retention and disposal:

Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefintely although these are processed as received and incorporated into processing tapes which are updated to the master supplemental security income tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631(e) are retained, in accordance with the Privacy Act accounting requirements, for at least 5 years or the life of the record, whichever is longer.

System manager(s), and address:

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

Social Security District Offices and Branch Offices (See Appendix F).

Notification procedure:

Social Security District Offices and Branch Offices (See Appendix F).

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR Sec. 5b6 FEDERAL REGISTER, October 3, 1975, page 47411)).

Record access procedures:

Same. Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures:

Same. Contact the system manager at the address specified under Notification Procedure above; reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR Sec. 5b7).

Record source categories:

The information contained within the Supplemental Security Record is obtained for the most part from the applicant for SSI payments and is derived from the claims folder.

Systems exempted from certain provisions of the act:

None.

SSA HI 0175.04

System name:

Health Insurance Master Record—HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

Records are maintained on the following categories: Individuals age 65 or over who currently are, or have been, entitled to health insurance benefits under Title XVIII of the Social Security Act; individuals under age 65 who have been entitled for not less than 24 consecutive months to disability benefits under Title II of the Act or under the railroad retirement system; and the spouse or dependent children of a person fully insured under social security who has chronic renal disease.

Categories of records in the system:

The system contains information on enrollment, entitlement, Part A (Hospital) and B (Supplementary Medical) utilization, query and reply activity, health insurance bill and payment record processing, and Health Insurance Master Record maintenance.

Authority for maintenance of the system:

Section 1814 and 1833 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine disclosure may be made to:

a. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

b. State Welfare Departments for determination of eligibility for Medicaid, and for quality control studies and for determining eligibility of grants-in-aid recipients under Titles IV and XIX of the Social Security Act.

c. State audit agencies for auditing State Medicaid eligibility considerations.

d. Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

e. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. And to contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records maintained on microfilm, magnetic tape, *and disc.*

Retrievability:

System is indexed by health insurance claim number, and is used to carry out the tasks of enrollment, query/reply activity, and health insurance bill and payment record processing.

Safeguards:

Unauthorized personnel are denied access to the records area. Disclosure is limited to routine use. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

A working copy of the microfilm is destroyed after 10 years; a security copy is transferred to the Federal Records Center for an additional 5 years retention and destroyed after a total of 15 years. Magnetic tapes are updated daily; are subsequently erased and returned to blank stock 20 days after update. The disc is updated daily and obsolete information is erased.

System manager(s) and address:

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Inquiries and requests for system records should be addressed to the most convenient social security office or to the Social Security Administration, Bureau of Health Insurance, Health Insurance Inquiries Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on social security records.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b7) FEDERAL REGISTER, October 8, 1975, page 47411.).

Record source categories:

The data contained in these records is furnished by the individual. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

Systems exempted from certain provisions of the act:

None.

SSA PO RSI 0275.04

System name:

Master Beneficiary Record HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in the Social Security Act; and denied and disallowed cases.

The master beneficiary data contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases; contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable;

reflects any special status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary subscript, beneficiary name, date of birth, date of entitlement, sex, race, and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form. Master Beneficiary Record Computer File; Online Data Base (Query and Response); Various Microform Files as follows: Master File—a master record in account number order, Alpha File—an alphebetic list of beneficiaries, Transaction File—monthly supplement (accretions, deletions, and changes) to the master file, in account number order, Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary records. After use they are returned to stock, Payment Reference Listing.

Authority for maintenance of the system:

Payment of benefits is directed by the following sections: Sections 202a–i, 223, 226, 228, and 1611 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine uses for disclosure may be to:

a. Applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

b. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security programs when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

c. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

d. A person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery or treft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412 (special payments to certain survivors of uninsured persons who die after 1056 while on active duty, active duty for training, or inactive duty training, or who die after 1956 due to a service-connected disability incurred after September 15, 1940).

k. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

l. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earning.

m. The Civil Service Commission for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

n. State social security administrators for administration of agreements pursuant to section 218 (State and local).

o. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC and Medicaid programs.

p. Energy Resources Development Administration for their study of the long-term effects of low-level radiation exposure. (See also 45 CFR, Part 5b).

q. *A congressional office for the record of an individual in response to an inquiry from the congressional office made at the request of that individual.*

r. *Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape, magnetic disk, microfilm, and paper.

Retrievability:

Based on social security number on magnetic tape, microfilm readers and printers, listings, and online computer terminals. Master beneficiary record data are used by a broad range of social security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and to generate payment records for Treasury. Data are channelled from this system to State Welfare Department's, with consent of the individual, for Aid to Families with Dependent Children program purposes; and data are received from States regarding health insurance third party premium payment/buy-in information.

Safeguards:

Magnetic tape, disk and microfilm files are protected through standard security measures used for all of the Social Security Administration's computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records—limited access to social security offices, limited employees access to need to know; all employees receive instruction in Social Security Administration confidentiality rules in an initial orientation. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of

Standards guidelines. Safeguards include a lock/unlock passwork system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

Magnetic tape records are used to update the disc files and then are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, while the disc files are continuously updated and retained indefinitely. Microfilm is disposed of by shredding after periodic replacement of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see notices for claims folders and post-adjudicative records of applicants and beneficiaries for social security benefits).

System manager(s) and address:

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols), and name and address must be furnished with proper identification. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) FEDERAL REGISTER, October 8, 1975, page 47411.).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories:

The information for the master beneficiary record comes primarily from the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the Social Security Administration by the beneficiary; from States regarding health insurance buy-in cases.

Systems exempted from certain provisions of the act:

None.

SSA PO RSI 0175.05

System name:

Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HEW SSA.

Security class:

None.

System location:

Retirement and Survivors Insurance Claims: Claims folders are maintained primarily in the Retirement and Survivors Insurance Program Service Centers and the Division of International Operations (see Appendix A). Disability Insurance Claims: Bureau of Disability Insurance (see Appendix B) or Division of International Operations (see Appendix A), Black Lung Claims: Bureau of Disability Insurance (see Appendix B). Supplemental Security Income Claims: Claims for benefits based on age—Retirement and Survivors Insurance Program centers (see Appendix A). Claims for Disability or Blind Benefits—Bureau of Disability Insurance (see Appendix B). In addition, claims folders are transferred to numerous other locations throughout the Social Security Administration, and infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or Office of the General Counsel, Department of Health, Education, and Welfare). The disability claims folders are also transferred to State agencies for disability and vocational rehabilitation determinations (see Appendix B). The claims folders are generally set up in district or branch offices when claims for benefits are filed. They are retained there until all development has been completed, then are transferred to the appropriate reviewing office as set out above. Supplemental security income claims folders are held in district or branch offices pending establishment of a payment record, or until the appeal period, in a denied claim situation, has expired. The folders are then transferred to the reviewing office. For district or branch office information, see Appendix F. *Appendixes A, B, and F were last published in the "Federal Register" on September 20, 1976, volume 41, number 183, page 41048 ff.*

Categories of individuals covered by the system:

Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

Categories of records in the system:

The claims folder is established when a claim for benefits is filed. It contains applications for benefits, earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives. It may also contain data collected as a result of inquiries or complaints; and evaluation and measurement study of effectiveness of claims policies. Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to report of changes of address, work status, and other post-adjudicative reports.

Authority for maintenance of the system:

Payment of benefits is directed by the following sections: Sections 202(a)–(i), 223, 226, 228, and 1611 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

Routine uses of record maintained in the system, including categories of users and the purposes of such uses

Routine uses for disclosure may be to:

a. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security program when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

b. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representatives payees or payee applicants.

c. A person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; that is:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; only for information concerning the

facts relevant to the interests of each party in a claim.

d. Employers or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including social security number verification services), for investigating alleged theft, forgery, or unlawful negotiation of social security checks, and for purposes of garnishment to provide child support or alimony in accordance with a properly executed garnishment action in accordance with 47 U.S.C. 659.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Phillippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412 (special payments to certain survivors of uninsured persons who die after 1956 while on active duty, active duty for training, or inactive duty training, or who die after 1956 due to a service-connected disability incurred after September 15, 1940).

k. The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act.

l. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

m. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

n. The Civil Service Commission for study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

o. State social security administrators for administration of agreements pursuant to section 218 (State and local).

p. State welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes only.

q. State Welfare Department pursuant to agreements with the Social Security Administration for administration of State supplementation payments, for determinations of eligibility for Medicaid per section 1634, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, *for quality control studies and determining eligibility of grants-in-aid recipients under Titles IV and XIX of the Social Security Act*, and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review.

r. State Vocational Rehabilitation *agency, or State crippled children's service agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382 d.*

s. State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

t. Professional Standards Review Organizations (PSRO) and State Licensing Boards for review of unethical practices or nonprofessional conduct as provided in section 1165.

u. Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of provisions of title XVIII.

v. Private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social Security Administration or a State agency acting in accord with sections 221 or 1633.

w. Energy *Research and* Development Administration for their study of the long-term effects of low-level radiation exposure.

x. Specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

y. Institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611e and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

z. Contractors under contract to the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

aa. Applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

bb. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

cc. State audit agencies for verifying proper expenditures of Federal funds by the State in support of the Disability Determination Service (DDS).

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Claims folders are maintained in file cabinets by service area as set out in Location above.

Retrievability:

Filed in numerical sequence by social security number. The folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determination as to eligibility to benefits, the amount of benefits, reviewing containing documents for making normal administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

The claims folder costitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (black lung). Data are used to produce and maintain the master beneficiary record system (see Systems Notice) which is the automated payment system for retirement, survivors, and disability benefits; the supplemental security income automated system for the aged, blind, and disabled payments; the black lung payment process for black lung claims; and the Health Insurance and Billing and Collection Master record system for Hospital and supplementary medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System while the claim is pending development for adjudication in the district or branch office, and by the Case Control System once the folder has been transferred to the reviewing office (program centers, Division of International Operations, or the Bureau of Disability Insurance).

Safeguards:

Claims folders are protected through limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

Retention and disposal:

The claims folder is maintained in the reviewing office until the social security number becomes inactive (no one is entitled to benefits). It is then transferred for storage to the Federal Archives and Records Center to await destruction based on predetermined destruction dates; 5-year retention-no record of surviving potential beneficiaries; 20-year

retention-withdrawn claims, claims disallowed or lump-sum death payments only; and 55-year retention-potential future claimants indicated in the file. When a subsequent claim is filed on the social security number the claim is recalled from the Records Center. Similarly, the claims files may be recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of the social security programs.

System manager(s) and address:

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Disability Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Contact the most convenient social security office (see Appendix F for address and telephone information).

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notifications and access procedures are in accordance with Department Regulations (45 CFR 5b.6) FEDERAL REGISTER, October 8, 1975, page 47410.)

Record access procedures:

In order to find out if this system contains information about him, an individual may contact the most convenient social security office in person or in writing. The inquirer should provide his name, social security number, identify the type of claim he filed (retirement, survivors, disability, health insurance, black lung, special minimum payments, or supplemental security income) (if more than one claim was filed, each should be identified); whether he is or has been receiving benefits; whether payments are being received under his own social security number, and if not, the name and social security number under which received; if benefits have not been received, the approximate date and the place the claim was filed; and his return address or his telephone number.

Contesting record procedures:

If upon review of the record, the individual wishes to contest any part of it, he may do so at the same office where he accessed the record. Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Sec. 5b.7, FEDERAL REGISTER, October 8, 1975, page 47411).

Record source categories:

This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

Systems exempted from certain provisions of the Act:

None.

SSA PO RSI 0975.04

System name:

Program Integrity Case Files HEW SAA.

Security class:
None.

System location:

Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, and its program centers (see Appendix A—FEDERAL REGISTER, Sept. 20, 1976 page 41048).

Bureau of Disability Insurance, Baltimore, Maryland 21231, its regional office locations (see Appendix B—FEDERAL REGISTER, Sept. 20, 1976, page 41048).

Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, or the Health Insurance Regional Office locations (see Appendix C—FEDERAL REGISTER, Sept. 20, 1976, page 41053).

Office of Management and Administration, Quality Assurance Field Staffs, 6401 Security Boulevard, Baltimore, Maryland, 21235 (see Appendix D-4—FEDERAL REGISTER, Sept. 20, 1976, page 41059), or the Supplemental Security Income Regional Office locations (see Appendix D—FEDERAL REGISTER, Sept. 20, 1976, page 41058).

Categories of individuals covered by the system:

Persons suspected of having violated the criminal provisions of the Social Security Act where substantial basis for criminal prosecution exists, and defendants in criminal prosecution cases.

Categories of records in the system:

Information maintained in each record includes the identity of the suspect, the nature of the alleged offense, documentation of the investigation into the alleged offense, and the disposition of the case by the Social Security Administration or the United States Attorney.

Authority for maintenance of the system:

Sections 206, 208, 221, 222, 1106, 1107, 1631(d)(3), 1632, 1633, 1816, 1842, 1872, 1974, 1976, 1877 of the Social Security Act, and sections 413 and 427 of the Federal Coal Mine Health and Safety Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Material in this system of records is routinely used by SSA staff to determine if a violation of the penal provisions of the Social Security Act or related provisions of the United States Code has been committed. If so, such material is used as the basis for referral of the case to the Department of Justice for consideration of prosecution, and is disclosed to that agency. The material is also used to determine the direction of investigation of potential fraud situations, which includes contact with third parties for the purpose of establishing or negating a violation. Some such information is disclosed to *officers or employees of State governments as well as the CHAMPUS program for use in conducting investigations of possible fraud or abuse against the title XIX or CHAMPUS programs, as well as* States Attorneys in connection with State programs involving the Social Security Administration. Cases involving fraudulent tax returns or forgery of social security checks are disclosed to the Treasury Department. (See also 45 CFR, Part 5B) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual system, records maintained in manila folders and stored in filing cabinets.

Retrievability:

Records are indexed and retrieved by social security number or by name of the subject of the investigation. The information in this record system pertains to suspected violations and fraud investigations. Cases may move through several levels of the Social Security Administration organization at the district, regional and/or central office locations during the course of documenting a suspected fraudulent situation.

Safeguards:

Records are maintained in locked filing cabinets and are accessed only by employees with a job-related need for the information.

Retention and disposal:

Records may be retained 3–6 years after final disposition of the case. At the end of the retention period, the records are destroyed by shredding. (Supplemental security income cases are scheduled for 6 year retention, all others 3 years; once experience has been gained with the former types of cases, it may be possible to reduce it to 3 years.)

System manager(s) and address:

Director, Office of Quality Assurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Disability Insurance, Baltimore, Maryland 21241.

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An individual can determine if this system contains a record pertaining to him by requesting such information in writing from the appropriate program service center for retirement and survivors cases (see Appendix A); Bureau of Disability Insurance for disability, black lung, or Supplemental Security Income disabled or blind cases; the appropriate Health Insurance Regional Offices for health insurance cases (see Appendix C); or the appropriate Quality Assurance Field Staff for supplemental security income cases (see Appendix D3). The request should include the individual's name and social security number, any social security number on which he has filed for or received benefits, the type of such claim, and current claim status. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record access procedures:

Per 5 United States Code 522a(k)(2), the records in this system are exempt from access by the individual named in the records. However, access to information which is a matter of public record or documents furnished by the individual will be permitted.

Contesting record procedures:

Same.

Record source categories:

The information contained in this record system is the result of criminal invesitgation and may be derived from such sources as the suspect, witnesses, or Social Security Administration employees with a knowledge of the case.

Systems exempted from certain provisions of the Act:

Exemption of this system to the access provisions is claimed under section k(2) of the Privacy Act inasmuch as these records are investigatory materials compiled for program (law) enforcement in anticipation of a criminal proceeding. (See page 47413 of FEDERAL REGISTER of 10-8-75, Vol. 40, No. 196, Part V.)

SSA PO DP 0175.04

System name:

Master files of Social Security Number Holders HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

All individuals who have obtained social security numbers.

Categories of records in the system:

This system contains all of the information received on original applications for social security numbers and any changes in the information on the applications that are submitted by the social security number holder. Cross-reference may be noted where multiple numbers have been issued to the same individual; and indication that benefit claim has been made under this social security number.

Authority for maintenance of the system:

Section 205(a) of the Social Security Act; Section 205(c)(2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. The State Unemployment Compensation Agencies to verify social security numbers in unemployment compensation claims cases.

2. Employers are notified of the social security number of an employee in order to complete their records for reporting FICA to the Social Security Administration pursuant to the Federal Insurance Contributions Act and Section 218 of the Social Security Act.

3. State welfare agencies are notified on written request, of the social security numbers of AFDC applicants or recipients.

4. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.

5. The Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens.

6. The Department of Justice (Federal Bureau of Investigation and the Department of Treasury (United States Secret Service) for national security matters and in connection with threats on the life of the President or other dignitaries.

7. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

8. Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure.

9. The Treasury Department for: a. collection of social security taxes; b. for verification of taxpayers' identification number; c. *for administering or identifying violations of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Act, the Federal Unemployment Tax Act;* d. *for administering or investigating violations of any Federal income tax law; and* e. *for investigating alleged theft, forgery, or unlawful negotiation of social security checks.*

10. Contractors under contract to the SSA for the ongoing conversion of paper documents to machine readable form for entry into magnetic tape files.

11. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

12. *The Department of State and the VA Regional Office, Philippines for administering provisions of the Social Security Act in foreign countries.*

13. *The Department of Labor for administering provisions of title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training programs to combat poverty.*

14. *The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration to the Social Security Administration for social security program purposes.*

15. The Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are maintained as paper forms, paper lists, punchcards, magnetic tape, microfilm, and microfiche files.

Retrievability:

Records in this system are indexed both by social security number and by name. This information is used for the following purposes by the Social Security Administration: as basic control for retained earnings information; as a basic control and data source to prevent issuance of multiple social security numbers; as the means to correctly identify incorrectly reported names or social security numbers on earnings reports; for resolution of earnings discrepancy cases; for document history in processing claims; for statistical studies; *by Health, Education, and Welfare Audit Agency for auditing benefit payments under social security programs; by Social and Rehabilitation Service (HEW) for locating deserting parents; by National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety*

Act of 1974; by Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges issued only to authorized personnel. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

All paper forms are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tape, microfilm, microfiche files are updated periodically. The out-of-date magnetic tapes are erased. The out-of-date microfiche is shredded by the application of heat.

System manager(s) and address:

Director, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An individual may present a request for information as to whether this system contains records pertaining to himself by providing his name and social security number, or if the social security number is not known, date of birth, place of birth, mother's maiden name and father's name, and evidence of identity to the Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.)

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories:

Social security number applicants; or individual acting on their behalf. The social security number itself is assigned to the individual as a result of internal processes of this system.

Systems exempted from certain provisions of the act:

None.

[FR Doc.77-6062 Filed 2-24-77;2:29 pm]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Presrevation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation 36 CFR Part 800.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since February 1, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Barbour County

Clayton vicinty, *Clayton, Henry D., House*, 1 mi. S of Clayton off AL 30, (12-8-76) NHL.

CALIFORNIA

Los Angeles County

San Marino, *Hubble, Edwin, House*, 1340 Woodstock Rd. (12-8-76) NHL.

Santa Barbara County

Santa Barbara, *El Paseo and Casa de la Guerra*, 808-818 State St., 813-819 Anacapa St., and 9-25 E. de la Guerra St. (2-2-77).

DELAWARE

New Castle County

Wilmington, *St. Mary of the Immaculate Conception Church*, 6th and Pine Sts. (12-12-76).

Sussex County

Lewes vicinity, *Delaware Breakwaters and Lewes Harbor*, E of Lewes at Cape Henlopen (12-12-76) HAER

DISTRICT OF COLUMBIA

Washington

Baker, Newton D., House, 3017 N St., NW (12-8-76) NHL.
Cary, Mary Ann Shadd, House, 1421 W St., NW (12-8-76) NHL.
Johnson, Hiram W., House, 122 Maryland Ave., NE (12-8-76) NHL.
Underwood, Oscar W., House, 2000 G St., NW (12-8-76) NHL.
Windsor Lodge (William E. Borah apartment), 2139-2141 Wyoming Ave., NW (12-8-76) NHL.

FLORIDA

Escambia County

Pensacola, *Pensacola Naval Air Station Historic District*, Pensacola Naval Air Station (12-8-76) NHL; HABS.

GEORGIA

Chatham County

Savannah, *Central of Georgia Depot and Trainshed*, W. Broad St. and Liberty (12-8-76) NHL; HAER.

ILLINOIS

Cook County

Chicago, *Abbott, Robert S., House*, 4742 Martin Luther King Dr. (12-8-76) NHL.
Evanston, *Dawes, Charles Gates, House*, 225 Greenwood St. (12-8-76) NHL.

Shelby County

Shelbyville, *Shelbyville Historic District*, roughly bounded by the railroad tracks, Will, N. 8th, and S. 6th Sts. (12-22-76).

LOUISIANA

Lafourche Parish

Thibodaux vicinity, *White, Edward Douglass, House*, 5 mi. N of Thibodaux on LA 1 (12-8-76) NHL.

MAINE

Oxford County

Gilead vicinity, *Peabody Tavern*, E of Gilead on U.S. 2 (12-13-76).

MASSACHUSETTS

Essex County

Nahant, *Lodge, Henry Cabot, House*, 5 Cliff St. (12-8-76) NHL.

Middlesex County

Cambridge, *Little, Arthur D., Inc. Building*, Memorial Dr. (12-8-76) NHL.

MISSOURI

Pike County

Bowling Green, *Clark, James Beauchamp, House*, 204 E. Champ Clark Dr. (12-8-76) NHL.

St. Louis (independent city)

Erlanger, Joseph, House, 5127 Waterman Blvd. (12-8-76) NHL.
Joplin, Scott, House, 2658-A Morgan St. (12-8-76) NHL.

MONTANA

Silver Bow County

Butte, *Wheeler, Burton D., House*, 1232 E. 2nd St. (12-8-76) NHL.

NEW JERSEY

Mercer County

Trenton vicinity, *Abbott Farm Archeological Site*, S of Trenton (12-8-76) NHL.

Monmouth County

Red Bank, *Fortune, T. Thomas, House*, 94 W. Bergen Pl. (12-8-76) NHL.

NEW YORK

Albany County

Albany, *Hall, James, Office*, Lincoln Park (12-8-76) NHL.

Delaware County

Delhi vicinity, *Frisbee, Judge Gideon, House*, NE of Delhi on NY 10 (12-12-76).

Franklin County

Malone, *Malone Freight Depot*, 99 Railroad St. (12-12-76).

Jefferson County

Stone Mills, *Stone Mills Union Church*, NY 180 near jct. with Carter St. (12-12-76).

New York County

New York, *Bayard-Condict Building*, 65-29 Bleecker St. (12-8-76) NHL; HABS.
New York, *Chrysler Building*, 405 Lexington Ave. (12-8-76) NHL.
New York, *LaGrange Terrace*, 428-434 Lafayette St. (12-12-76).
New York, *Metropolitan Savings Bank*, 9 E. 7th St. (12-12-76).
New York, *Mills, Florence, House*, 220 W. 135th St. (12-8-76) NHL.
New York, *Mooney, Edward, House*, 18 Bowery (12-12-76).
New York, *St. George's Episcopal Church*, 3rd Ave. and E. 16th St. (12-8-76) NHL.
New York, *St. Patrick's Cathedral*, bounded by 5th and Madison Aves., E. 50 and E. 51st Sts. (12-8-76) NHL.
New York, *Trinity Church and Graveyard*, Broadway and Wall St. (12-8-76) NHL.
New York, *YMCA Building (Claude McKay apartment)*, 180 W. 135th St. (12-8-76) NHL.

Queens County

Ridgewood, *Vander Ende—Onderdonk House*, 1820 Flushing Ave. (1-31-77).

Sullivan County

Jeffersonville vicinity, *Stone Arch Bridge*, S of Jeffersonville on NY 52 (12-12-76).

NORTH CAROLINA

Wake County

Raleigh, *Daniels, Josephus, House*, 1520 Caswell St. (12-8-76) NHL.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Harper, Frances Ellen Watkins, House*, 10006 Bainbridge, St. (12-8-76) NHL.
Philadelphia, *Memorial Hall*, W. Fairmount Park (12-8-76) NHL.
Philadelphia, *Philadelphia City Hall*, Penn Sq., Broad and Market Sts. (12-8-76) NHL.
Philadelphia, *Philadelphia Savings Fund Society Building*, 12 S. 12th St. (12-8-76) NHL.

RHODE ISLAND

Providence County

Providence, *Aldrich, Nelson W., House*, 110 Benevolent St. (12-8-76) NHL.

SOUTH CAROLINA

Richland County

Columbia, *Chapelle Administration Building*, 1530 Harden St. (12-8-76) NHL.

TEXAS

Harris County

Houston vicinity, *U.S.S. Texas*, 22 mi. E of Houston on TX 134 at San Jacinto Battleground State Park (12-8-76) NHL.

Uvalde County

Uvalde, *Garner, John Nance, House*, 333 N. Park St. (12-8-76) NHL.

VIRGINIA

Loudoun County

Middleburg vicinity, *Mitchell, Gen. William, House*, 0.5 mi. S of Middleburg on VA 626 12-8-76) NHL.

Lynchburg (independent city)

Glass, Carter, House, 605 Clay St. (12-8-76) NHL.

OUTER CONTINENTAL SHELF

Galveston vicinity, *U.S.S. Hatteras*, S of Galveston (1-28-77).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

ALABAMA

Montgomery County

Montgomery, *Montgomery Union Station and Trainshed*, Water St. (7.24.73) NHL (formerly listed as Union Railway Station).

INDIANA

St. Joseph County

Mishawaka, *Beiger House*, 317 Lincolnway E. (8-28-73) (typo).

Vigo County

Terre Haute, *Allen Chapel A.M.E. Church*, 224 Crawford St. (9-5-77) (name).

IOWA

Page County

Clarinda, *Hepburn, Co. William Peters, House*, 321 W. Lincoln St. (6-4-73) NHL.

MARYLAND

Baltimore (independent city)

Mount Royal Station and Trainshed, 1400 Cathedral St. (6-18-73) NHL.

MINNESOTA

Morrison County

Little Falls vicinity, *Lindbergh, Charles A., House and Park*, SW of Little Falls on SR 52 (11-20-70) NHL.

Ramsey County

St. Paul, *Kellogg, Frank Billings, House*, 633 Fairmount Ave. (11-6-74) NHL.

Yellow Medicine County

Granite Falls, *Volstead, Andrew J., House*, 163 9th Ave. (12-30-74) NHL.

MISSISSIPPI

Warren County

Vicksburg, *Pemberton's Headquarters (Willis-Cowan House)*, 1018 Crawford St. (7-23-70) NHL.

MISSOURI

St. Louis (independent city)

Missouri Botanical Garden, 2345 Tower Grove Ave. (11-19-71) NHL; HABS.

NEW YORK

Bronx County

New York, *Bartow-Pell Mansion and Carriage House*, Pelham Bay Park, Shore Rd. (12-30-74) NHL; HABS.

Kings County

Brooklyn, *Wyckoff-Bennett Homestead*, 1669 E. 22nd St. (12-24-74) NHL.

New York County

New York, *Dakota Apartments*, 1 W. 72nd St. (4-26-72) NHL; HABS.
New York, *Grand Central Terminal*, 71-105 E. 42nd St. (1-17-75) NHL.
New York, *U.S. Customhouse*, Bowling Green (1-31-72) NHL.

Richmond County

Staten Island, *Sailors' Snug Harbor National Register District*, Richmond Terrace (3-18-75) NHL; HABS.

Westchester County

Irvington, *Armour-Stiner House*, 45 W. Clinton Ave. (12-18-75) NHL; HABS.

OHIO

Franklin County

Columbus vicinity, *Davis, Samuel, House*, 4264 Dublin Rd. (2-15-74) (Add vic.).
Dublin vicinity, *Davis, Anson, House*, 4900 Hayden Run Rd. (7-7-75) (location formerly Amlin).

Lake County

Kirtland, *Kirtland Temple*, 9020 Chillicothe Rd. (6-4-69) NHL; HABS.

Mahoning County

Poland, *Kirtland, Jared P., House*, Audubon and Michigan Ave. (5-13-76) (moved).

OKLAHOMA

Kay County

Ponca City vicinty, *101 Ranch*, 12 mi. SW of Ponca City (4-11-73) NHL (add NHL).

PENNSYLVANIA

Bucks County

Easton to Bristol, *Delaware Division of the Pennsylvania Canal*, parallels W bank of Delaware River from Easton to Bristol (10-29-74) NHL.

Dauphin County

Harrisburg, *Harrisburg Station and Trainshed*, Aberdeen St. (6-11-75) NHL.

Philadelphia County

Philadelphia, *Athenaeum of Philadelphia*, 219 S. 6th St. (2-1-72) NHL; HABS.
Philadelphia, *Reading Terminal and Trainshed*, 115-1141 Market St. (6-30-72), NHL.

RHODE ISLAND

Kent County

Coventry vicinity, *Hopkins Mill*, SW of Coventry on RI 3 at Nooseneck River (1-11-74) HABS (formerly West Greenwich).

Newport County

Newport vicinity, *Fort Adams*, W of Newport at Ft. Adams Rd. and Harrison Ave. (7-23-70) NHL; HABS.

SOUTH CAROLINA

Florence County

Florence vicinity, *Rankin-Harwell House*, 6 mi. NE of Florence off SC 305 (10-9-74) (formerly listed as Harwell James House).

Lexington County

Cayce vicinity, *Congarees Site*, 2 mi. S of Cayce on Congaree River (12-31-74) (formerly listed as Congarees Historic District).

TENNESSEE

Davidson County

Nashville, *Nashville Union Station and Trainshed*, 10th Ave. and Broadway (12-30-69) NHL; HABS.

Rhea County

Dayton, *Rhea County Courthouse*, Market St. between 2nd and 3rd Aves. (11-7-72) NHL.

TEXAS

Bexar County

San Antonio, *Hangar 9, Brooks Air Force Base*, Inner Circle Rd. (5-21-70) NHL (formerly listed as White Museum).

UTAH

Utah County

Provo, *Smoot, Reed O., House*, 183 E. 100 South (10-14-75) NHL.

VIRGINIA

Richmond (independent city)

Main Street Station and Trainshed, 1020 E. Main St. (10-15-70) NHL; HAER.

WASHINGTON

Jefferson County

Port Townsend, *Fort Worden*, Cherry and W Sts. (3-15-74) NHL.

* * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places.

OHIO

Hamilton County

Cincinnati, *Sayler House*, 6901 Gracely, Dr.

Medina County

Brunswick, *Brunswick Town Hall and School*, 1380 Pearl Rd.

Portage County

Kent, *Brown-Kent Tannery*, Stow St.

WASHINGTON

King County

Seattle, *Broadway High School*, Broadway, Ave. and E. Pine St.

Pierce County

Tacoma, *Tacoma Light and Water Company Purifier Building*, 2303 S. A St.

Spokane County

Spokane, *Strahorn Pines*, 2216 1st Ave.

Walla Walla County

Walla Walla, *Schwarz, Adolph, Building*, 27-33 E. Main St.

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity. *Archeological Sites in Gainesville Project*. Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36. Project I-459-4(4).

Madison County

Huntsville. *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Nome Division

Little Diomede Island, *Iyapana, John, House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Conconino County

Gray Mountain Site, (AR-02-020-946).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258.*

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, Southern Pacific Depot.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49-3VB51, N. fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp-105.*

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.
Muir Hut, King's Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The 20-Mule Team Borax Wagon Road (also in Kern and San Francisco counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Simi Valley, *Archeological Site Ven-341.*
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 490, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites
CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA-MNO-684.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4-Nap-14, 4-Nap-261. Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Inland, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa-1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.
Tharp's Log.
Smithsonian Institution Shelters.
Squatter's Cabin.

Yuba County

Site 4-Yub-S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Las Animas County

Trinidad vicinity, *Leone Bluffs (5LA1211).*
Trinidad vicinity, *Sopris Pueblo Site (5LA-1416).*

Moffat County

White Indian Contact Site.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges.*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

New London County

New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Washington Street Historic District*, project 103-159.
New London, *Williams Memorial Institute Building*, 110 Broad St.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *828 Wheaton Street.*

Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Chatooga County

Archeological Sites in area of Structure 1–M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision,* St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District,* beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House),* McClure Rd.

Hall County

Odd Fellows Building (Chamblee).

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–1 (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry,* Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*

Maui County

Hana vicinity, *Kipahulu Historic District,* SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders,* 826 Main St.
Boise, *Falks Department Store,* 100 N. 8th St.
Boise, *Idaho Building,* 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank),* 805 Idaho St.
Boise, *Union Building,* 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18,* W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15,* SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters,* Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building,* 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building,* 215 Main St.
Lewiston, *Scully Building,* 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site,* 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building,* 180 W. Lake St.
Chicago, *Oliver Building,* 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Krans Buildings),* 126–146 N. State St.
Chicago, *Unity Building,* 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33,* Lyster Rd.
Fort Sheridan, *Water Tower,* Bldg. 40, Leonard Wood Ave.

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–R1–337, East Moline, Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site,* SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project,* 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda,* 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library.*

Orange County

Coz Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block,* properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall),* Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.

Johnson County

Fishtrap United Methodist Church.

Lawrence County

Fort Ancient Archeological Site.

Lee County

Beattyville, Lee County Courthouse, Main St.

Trigg County

Golden Pond, *Center Furnace,* N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town,* Baton Rouge.

Orleans Parish

New Orleans, *Casey, Kate, House,* 932–934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House,* 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House,* 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House,* 928–930 Calliope St., Square 119.
New Orleans, *Duyer, James, House,* 933–935 Galenne St., Square 119.
New Orleans, *Gasquet, William, Houses,* 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House,* 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building,* 2201 Clio St., Square 348.
New Orleans, *Jahucke Building,* 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument,* St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills,* 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House,* 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House,* 1122–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir, House,* 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House,* 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse,* 1045 Magazine St., Square 158.
New Orleans, *Peyton, William H., House,* 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House,* 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church,* 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House,* 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House,* 1061 Camp St., Square 183.

New Orleans, *Sport, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1032 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Pt. Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.
Truro, *Highland House*, Cape Cod Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185-193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190-196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.
Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Greene County

Springfield, *Landers Theater*, 311 East Walnut St.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Big Horn County

Fort Smith *Big Horn Canal Headgate.*

Carbon County

Hardin *Pretty Creek Site (Hough Creek Site)* Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

New Burnswick, *Delaware and Raritan Canal,* between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Fort Monmouth, *Hangar #1 Site,* Oceanport Ave.
Long Branch, *The Reservation,* 1-9 New Ocean Ave.

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Sussex County

Old Mine Road Historic District (also in Warren County).

Warren County

Oxford Industrial District, Oxford Township.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station,* in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site,* Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Erie County

Willett Road Site.

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House,* Northern Blvd.
Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Harlem Courthouse,* 170 E. 121st St.
New York, *New York Cancer Hospital (Towers Nursing Home),* 2 W. 106th St.

Onondaga County

Palmer Lane Midden (Baldwinsville/Seneca Knolls Sewage Treatment Plant).

Orange County

Port Jervis, *Church Street School,* 55 Church St.
Port Jervis, *Farnum, Samuel, House,* 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W. Seneca Sts.

Otsego County

Swart-Wilcox House

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens,* Saratoga Springs Historic District.
Schuylerville, *Archeological Site,* Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District,* between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point,* Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Little Gull Island Light Station,* off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station,* off Orient Point, Long Island.
New York, *Race Rock Light Station,* S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station,* middle of Hudson River.
New York, *Rondout North Dike Light,* center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station,* Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Washington County

Greenwich, *Palmer Mill (Old Mill),* Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station,* lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot,* NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston,* Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Broad River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightaville vicinity, *Grimes Site (33 AD 39),* Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge,* over Astabula River.

Clermont County

Neville vicinity, *Maynard House,* 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House),* 5.5 mi. NW of Williamsport.

Richland County

Mansfield, *Ritter, William, House,* 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office,* 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shafer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderice Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House*, 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Camp Comanche Site*, E range on Cache Creek.
Fort Sill, *Chief's Knoll, Post Cemetery*, N of

Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station*.

Curry County

Port Orford, *Cape Blanco Light Station*.

Douglas County

Winchester Bay, *Umpqua River Lighthouse*.

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge*.

Lane County

Roosevelt Beach, *Heceta Head Lighthouse*.
Roosevelt Beach, *Heceta Head Light Station*.

Lincoln County

Agate Beach, *Yaquina Head Lighthouse*.

Tillamook County

Tillamook, *Cape Meares Lighthouse*.

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901–1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.

Butler County

Butler, *Bonnie Brook Archeological Site*.

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Lock Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).
Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.*, 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Manston*.

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I–78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I–78.
Site 4: Farmhouse, barn, and outbuildings, I–78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over* Tacony Creek.
Philadelphia, *New Forest Theatre*, 1108–1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *Tremont Mills*, Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters*.

Washington County

Charlerol, *Ninth Street School*.
Cross Creek Village, Cross Creek watershed.
Somerset Township, *Wright No. 22 Covered Bridge*.

RHODE ISLAND

Providence County

Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot*.

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

Trousdale County

Dixon Springs, *McGee House*.

TEXAS

Bexar County

Port Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238-240 S. Main St.

VERMONT

Windham County

Rockingham, *Bellow Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building*.

VIRGINIA

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S of Cape Alava*.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station*.

Grays Harbor County

West Port, *Grays Harbor Light Station*.

King County

Burton, *Point Robinson Light Station*.
Seattle, *Alki Point Light Station*.
Seattle, *Home of the Good Shepherd*.
Seattle, *West Point Light Station*.

Kitsap County

Hansville, *Point No Point Light Station*.

Pacific County

Ilwaco, *North Head Light Station*.

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site*.
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station*.

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukiltea Light Station*.

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse*.
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse*.
Parkersburg, *Wood County Jail*.

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302*.

Fond du Lac County

Fond du Lac, Aetna Station No. 5, 193 N Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office*.

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch*, WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Natrona County

Casper, *Cantonment Reno*.
Casper, *Castle Rock Archeological Site*.
Casper, *Dull Knife Battlefield*.
Casper, *Middle Fork Pictograph-Petroglyph Panels*.
Casper, *Portuguese Houses*.

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts*.

[FR Doc.77-5802 Filed 2-28-77;8:45 am]

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 March 1, 1977. 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 March 11, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Alameda County

Berkeley, *Berkeley Day Nursery*, 2031 6th St.

Humboldt County

Trinidad, *Tsuria*, off U.S. 101.

CONNECTICUT

Litchfield County

Winsted, *Rockwell, Solomon, House*, 226 Prospect St.

ILLINOIS

Cook County

Chicago, *First Congregational Church of Austin*, 5701 W. Midway Pl.
Chicago, *Gauler, John, Houses*, 5917 and 5921 N. Magnolia Ave.
Chicago, *Immaculata High School*, 600 W. Irving Park Rd.
Chicago, *Kent, Sydney, House*, 2944 S. Michigan Ave.
Chicago, *St. Ignatius College*, 1076 W. Roosevelt Rd.
Chicago, *St. Patrick's Roman Catholic Church*, 718 W. Adams St.
Maywood, *Cluever, Richard, House*, 641 1st Ave.

Gallatin County

New Haven vicinity, *Duffy Site*, S of New Haven.

Madison County

Mitchell, *Mitchell Archeological Site*, off I-270.

White County

Maunie vicinity, *Wilson Mounds and Village Site*, S of Maunie.

IOWA

Dubuque County

Dubuque, *Diamond Jo Boat Store and Office*, Jones and Water Sts.

Linn County

Cedar Rapids, *Highwater Rock*, Cedar River.

Marion County

Pella, *Van Loon, Dirk, House*, 1401 University Ave.

Scott County

Davenport, *Outing Club*, 2109 Brady St.

KENTUCKY

Warren County

Bowling Green, *Warren County Courthouse*, 429 E. 10th St.

MAINE

Androscoggin County

Lisbon Falls, *St. Cyril and St. Methodius Church*, Main and High Sts.

Cumberland County

Cape Elizabeth vicinity, *Richmond's Island Archeological Site*, W of Cape Elizabeth.
Portland, *Chestnut Street Methodist Church*, 11-19 Chestnut St.
Steep Falls vicinity, *Valley Lodge*, NW of Steep Falls off ME 113.

Hancock County

Ellsworth, *Old Hancock County Buildings*, Cross St.
Southwest Harbor vicinity, *Fernald Point Prehistoric Site*, N of Southwest Harbor.

Kennebec County

Oakland, *Memorial Hall*, Church St.
Oakland, *Pressey House*, 287 Summer St.
Vassalboro, *River Meeting House*, U.S. 201.

Knox County

Isle Au Haut vicinity, *Duck Harbor Prehistoric District*, S of Isle Au Haut.

Oxford County

Hebron, *Sturtevant Hall*, ME 119.

Sagadahoc County

Georgetown vicinity, *Stone Schoolhouse*, S of Georgetown on Bay Point Rd.

Waldo County

Belfast, *Hayford Block*, 47 Church St.

Washington County

Machias, *Machias Post Office and Customhouse*, Main and Center Sts.

York County

Kittery, *Gerrish Warehouse*, Pepperrell Cove.

MARYLAND

Prince Georges County

College Park vicinity, *College Park Airport*, E of College Park off Kenilworth Ave.

Washington County

Boonsboro, *Bowman House*, 323 N. Main St.

MISSISSIPPI

Adams County

Natchez, *Routhland*, 92 Winchester Rd.

Hinds County

Jackson, *Ayer Hall*, 1400 Lynch St.

Leflore County

Wakeland vicinity, *Sweethome Mound*, W of Wakeland.

Warren County

Vicksburg, *Bonham, Isaac, House*, 601 Klein St.

NEW JERSEY

Burlington County

Bordentown, *Point Breeze*, U.S. 206 and Park St.

NEW YORK

Rensselaer County

Troy, *Burden Iron Works Site*, Burden Ave.

OREGON

Morrow County

Boardman vicinity, *Oregon Train, Wells Springs Segment*, S of Boardman.

TENNESSEE

Sumner County

Hendersonville vicinity, *Talley-Beals House*, N of Hendersonville off Saundersville Rd.

TEXAS

Aransas County

Port Aransas vicinity, *Aransas Pass Light Station*, N of Port Aransas on Harbor Island.

Williamson County

Georgetown, *Williamson County Courthouse Historical District*, Rock and 9th Sts., Main and 7th Sts. (includes both sides).

[FR Doc.77-5801 Filed 2-28-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL SUPPLEMENTARY BENEFITS; EMERGENCY UNEMPLOYMENT COMPENSATION

Availability in State of Maryland

This notice announces the beginning of the new Federal Supplemental Benefit Period in the State of Maryland effective February 20, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), (Title 20 of the Code of Federal Regulations, § 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Maryland has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 5, 1977, and the immediately preceding twelve weeks equally or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 619.19 (a), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Maryland for the week ending on February 5, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on February 20, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Maryland, or who wish to inquire about their rights under this

program, should contact the nearest State Employment Office of the Maryland Employment Security Commission in their locality.

Signed at Washington, D.C., on February 24, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6088 Filed 2-28-77;8:45 am]

Occupational Safety and Health Administration

[V-77-4]

MINNESOTA MINING & MANUFACTURING CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Minnesota Mining & Manufacturing Co., Medical Products Division, Brookings Plant, Brookings, South Dakota 57006 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.106(d)(5)(vi)(*b*) concerning the storage of flammable and combustible liquids in warehouses.

The address of the place of employment that will be affected by the application is as follows:

3M Company, Medical Products Division, P.O. Box 268, Brookings, South Dakota 57006.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.106(d)(5)(vi)(*b*) which sets limits on the height and number of gallons of the various classes of flammable and combustible liquids which may be stored in each pile.

The applicant uses various flammable and combustible liquids in the manufacture of medical products. These liquids include methyl ethyl ketone, acetone, methonal, isopropyl alcohol, hexane, heptane, and xylene. The liquids are stored in 55 gallon drums or portable tanks in warehouse areas and are transported to the mixing or compounding area by forklift truck as needed.

Section 1910.106(d)(5)(vi)(*b*) sets maximum limits on the number of gallons stored per pile and the height of each pile. In addition, it requires that no container be more than 12 feet from an aisle, that main aisles be at least 8 ft. wide and that side aisles be 4 ft. wide. There shall also be at least 4 ft. between piles.

The applicant proposes to stack the pallets containing the drums or tanks on racks of shelves rather than directly on top of each other as is done in the piles. The applicant contends that this would provide greater stability and would eliminate the danger of piled drums falling. In addition it would, according to the applicant, provide greater safety because the weight of each pallet of drums rests on the rack rather than on the drums below it. Each pallet of drums would be adjacent to an aisle rather than up to 12 feet from the aisle as permitted by the standard.

Using rack storage, as described, the applicant proposes to stack its drums and portable tanks of flammable and combustible liquids with the following height limitations rather than those required by the standard:

The total quantity of liquids within a building shall not be restricted but the arrangement of racked storage shall comply with the following table [1]:

[1] Aisles between racks shall be a minimum of four feet wide. Cross aisle requirements shall be in accordance with the Life Safety Code (NFPA 101-1976) for means of egress.

Class	Type rack	Storage level	Maximum storage height containers (feet)	Maximum storage height portable tanks (feet)
IA	Double or single	Ground	25	(1)
		Upper	15	(1)
IB and IC	do	Ground	25	15
		Upper	15	15
II	do	Ground	25	15
		Upper	25	15
		Basement	15	15
III	Multidouble/single	Ground	40	15
		Upper	20	15
		Basement	20	15

[1] Not permitted.

The applicant states that there is usually only one man-hour per shift spent in the warehouse. There is usually only one employee involved, although there may occasionally be two or three employees in the warehouse at one time. Employee evacuation time in the event of a fire would be from five to 20 seconds. The applicant further states that signs are posted and employees are instructed in procedures to follow in the event of a spill or rupture of a drum. In the event of a fire, employees are instructed to evacuate immediately, sounding the alarm to call the trained plant emergency squad and the local fire department.

The applicant states that the warehouse is protected by an overhead sprinkler system fusible at 286° F and an in-rack system fusible at 165° F. The fire alarm system is a pre-action type and is actuated by either a rate of rise, pneumatic detector or manual actuation at an alarm box. Actuation of the detector or manual pull causes water to enter the sprinkler system, actuating a water flow alarm which sounds locally and at the guard's desk and is transmitted to the local fire department.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-3668, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, 1961 Stout Street, Denver, Colorado 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, Court House Plaza Building, Room 408, 300 North Dakota Avenue, Sioux Falls, South Dakota 57102.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than March 31, 1977. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 31, 1977, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order that, as required by section 6(d) of the Act, the storage of flammable and combustible liquids on racks as specified in the application will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.106(d)(5)(vi)(b). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c), and in Secretary of Labor's Order 8-76 (41 FR 25059), that Minnesota Mining and Manufacturing Co., be, and it is hereby, authorized to store its flam-

mable and combustible materials on racks to the height specified in the chart in the body of this notice in lieu of complying with the height restrictions in 29 CFR 1910.106(d)(5)(vi)(b) for flammable and combustible liquids stored in piles, under the following conditions:

(1) The number of employees and number of man-hours in the warehouse be kept to a minimum (approximately one man-hour per day);

(2) Employees shall immediately evacuate the warehouse in the event of a fire;

(3) The trained emergency squad shall be equipped with protective clothing and equipment proper to the type of fire fighting anticipated.

(4) Each pallet of drums shall be adjacent to an aisle;

(5) Aisles between racks shall be a minimum of four feet wide, and cross aisles shall be in accordance with the Life Safety Code (NFPA 101–1976) requirements for means of egress; and

(6) Storage shall be protected by an in-rack sprinkler system in compliance with NFPA No. 13–1974. The actuation of this system shall sound an alarm locally and at the local municipal fire department.

Minnesota Mining & Manufacturing Co., shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Effective date: This interim order shall be effective as of March 1, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 23d day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-6089 Filed 2-28-77;8:45 am]

Office of the Secretary

[TA-W-1202]

ARDMORE FASHIONS INC.

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-1202: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 26, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing dresses at the Chester, Pennsylvania plant of Ardmore Fashions, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51135). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ardmore Fashions, Inc., its cutomers, the Department of Commerce, the International Trade Commission, industry analysis, 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;

(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

Average employment of production workers decreased 37.5 percent in 1975 over 1974. Average weekly hours worked per week per worker decreased 3.2 percent in the first quarter of 1976 compared to the like period in 1975. All workers were terminated in March 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased 20.2 percent in 1974 over 1973 and further decreased 24.8 percent in 1975 over 1974. All production ceased and the plant closed in March 1976.

INCREASED IMPORTS

Imports of women's and misses' dresses increased in every year since 1973 from 596,000 dozens to 645,000 dozens in 1975, an increase of 8.2 percent.

CONTRIBUTED IMPORTANTLY

Customers of Ardmore Fashions, Inc. stated that they have reduced purchases from the company and increased purchases of imported dresses.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increased imports of women's dresses have contributed importantly to the total or partial separations of workers at the Chester, Pennsylvania plant of Ardmore Fashions, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at the Chester, Pennsylvania plant of Ardmore Fashions, Inc. who became totally or partially separated from employment on or after October 8, 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 22nd day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6091 Filed 2-28-77;8:45 am]

[TA-W-1310]

AUTO HANDLING DIVISION, FREIGHT CONSOLIDATION SERVICES, INC.

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-1310: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976, in response to a worker petition received on that date which was filed on behalf of workers and former workers at the Auto Handling Division, Edison, New Jersey of Freight Consolidation Services, Incorporated, Chicago, Illinois who were engaged in providing transportation services to automobile assembly plants.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Freight Consolidation Services, Inc. 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.

If any of the above criteria is not satisfied a negative determination must be made.

The Auto Handling Division of Freight Consolidation Services does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the

performance of services are not covered by the adjustment assistance program. See Notice of Determination "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). The only question in this case is whether the Ford Motor Company, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm." See Notice of Determination in "Nu-Car Driveaway, Incorporated" (TA-W-393, 41 FR 12749).

Freight Consolidation's Auto Handling Division in Edison, New Jersey provides the service of loading new automobiles assembled at the Ford Motor Company's Metuchen, New Jersey plant onto railcars for further transportation. Freight Consolidation competed for available business with other firms in the Edison-Metuchen, New Jersey area and it was free to do business with any firm requesting their services.

Neither Freight Consolidation Services, on one hand, nor Ford Motor Company on the other, is financially or otherwise involved in the business of the other. Freight Consolidation either owns or leases the facilities necessary to the operation of its business and owns or leases all its equipment.

The workers upon whose behalf this petition was filed were hired and are paid by Freight Consolidation Services. They are supervised by and subject to the control of Freight Consolidation personnel. All employment benefits which they enjoy are provided and maintained by Freight Consolidation.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by the Auto Handling Division, Edison, New Jersey of Freight Consolidation Services, Incorporated, Chicago, Illinois are not "articles" within the meaning of section 222(3) of the Trade Act of 1974, and that the Ford Motor Company cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6092 Filed 2-28-77;8:45 am]

[TA-W-1288]

BATA SHOE COMPANY INC.

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-1288: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on that date which was filed by the workers and former workers producing rubber/canvas footwear at the Salem, Indiana plant of Bata Shoe Company, Inc.

The Notice of the Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53082). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bata Shoe Company, 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 thereof, have 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

Employment at the Salem, Indiana plant of the Bata Shoe Company declined 8 percent in 1976 compared to 1975 and declined in each quarter of 1976 compared to the same quarter in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Salem, Indiana plant of the Bata Shoe Company declined 7 percent in 1975 compared to 1974 and declined 20 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of rubber/canvas footwear increased from 20.1 million pairs in 1972 to 23.6 million pairs in 1975. Imports increased from 19.6 million pairs in the first three quarters of 1975 to 23.0 million pairs in the first three quarters of 1976. During the same period, imports compared to domestic production increased from 18.3 percent in the first three quarters of 1975 to 25.4 percent in the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

Customers of the Salem, Indiana plant of Bata Shoe Company increased purchases of imports while decreasing purchases of rubber/canvas footwear from the Salem, Indiana plant of the Bata Shoe Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with rubber/canvas footwear produced by the Salem, Indiana plant of the Bata Shoe Company contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Salem, Indiana plant of the Bata Shoe Company, Inc. who became totally or partially separated from employment on or after April 2, 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 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6093 Filed 2-28-77;8:45 am]

[TA-W-1191]

BLEEKER STREET, INC.

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-1191: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on October 19, 1976 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at the Philadelphia, Pennsylvania plant of Bleeker Street, Inc., a division of Jonathan Logan, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 15, 1976 (41 FR 48804). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bleeker Street, Inc., its customers, the International Ladies' Garment Workers' Union, 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 imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased 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 criteria (2) and (4) have not been met.

Bleeker Street, Inc., of Philadelphia is a manufacturer of women's dresses. In addition to its main production facility in Philadelphia, Bleeker Street utilizes the production facilities of two other Jonathan Logan divisions and of several independent contractors to produce dresses.

Company sales increased 15.0 percent in quantity in 1975 compared to 1974 and increased 7.9 percent in quantity in 1976 compared to 1975. Plant production at the Philadelphia facility increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Customers reported that they did not switch purchases from Bleeker Street to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of women's dresses did not decrease in 1975 and 1976 as required for certification under section 222 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with women's dresses made at Bleeker Street, Inc., Philadelphia, Pennsylvania did not contribute importantly to the total or partial separations of workers at such firm as required under the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6094 Filed 2-28-77;8:45 am]

[TA-W-1200]

CARR LEATHER CO.

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-1200: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 20, 1976 in response to a worker petition received on that date which was filed by the workers and former workers producing tanned and finished cattlehides at the Lynn, Massachusetts plant of Carr Leather Company.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carr Leather Company, its customers, the Tanners Council of America, 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 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 revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 32 percent in 1974 compared to 1973, and increased 6 percent in 1975 compared to 1974. Employment in the nine month January–September period in 1976 declined 11 percent compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of tanned and finished cattlehides increased 94 percent in quantity and 98 percent in value in 1974 compared to 1973, and increased 22 percent in quantity and 23 percent in value in 1975 compared to 1974. Sales in the nine month period of January–September 1976 declined 17 percent in quantity and 6 percent in value compared to the like period in 1975.

INCREASED IMPORTS

Imports of tanned and finished cattlehides increased absolutely and relative to domestic production in 1972 compared to 1971, and decreased absolutely and relatively each year thereafter through 1975. These imports decreased 38 percent in 1975 compared to 1974, then increased 203 percent in the first six months of 1976 compared to the like period in 1975. The ratio of imports to domestic production decreased from 17.6 percent in 1974 to 9.9 percent in 1975, then increased from 7.7 percent in the first six months of 1975 to 19.6 percent in the like period in 1976.

CONTRIBUTED IMPORTANTLY

Customers who were surveyed, representing approximately 50 percent to Carr Leather Company's total sales, stated that they have not switched purchases from Carr Leather Company to imports. Those customers who stated that their purchases from Carr Leather Company were decreasing attributed the declines to increased imports of end products (e.g. garments and shoes) or to the reduced demand for end products due to rising leather prices.

Imports of finished leather goods which incorporate portions of tanned and finished cattlehides are not like or directly competitive with tanned and finished cattlehides produced by Carr Leather Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with tanned and finished cattlehides produced by Carr Leather Company, Lynn, Massachusetts, did not contribute importantly to the total or partial separation of the workers of that plant.

Signed at Washington, D.C., this 22d day of February, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6095 Filed 2-28-77;8:45 am]

[TA-W-1428]

CHATTANOOGA COKE AND CHEMICAL COMPANY, INC.

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-1428: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petiiton received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke at the Chattanooga, Tennessee plant of Chattanooga Coke and Chemical Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and

officials of Chattanooga Coke and Chemical Company, 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;

(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.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Chattanooga, Tennessee plant of Chattanooga Coke and Chemical Company, Inc. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6096 Filed 2-28-77;8:45 am]

[TA-W-1232]

CHESTER PANTS CORP.

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-1232: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976, in response to a worker petition received on that date filed on behalf of the workers and former workers of Chester Pants Corporation, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Chester Pants 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 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

Average employment of production workers fell 17 percent in 1975 compared to 1974 and declined 6 percent in the January through November period of 1976 compared to the like period of 1975.

In 1975 the firm altered the duties of employees and designated some workers to be exclusively engaged in cutting fabric and preparing the material for sewing. This measure reduced the firm's labor needs and increased productivity as operators were able to spend more time on the sewing machines.

SALES OR PRODUCTION, OF BOTH, HAVE DECREASED ABSOLUTELY

Production rose 29 percent in 1975 compared to 1974 and decreased 9 percent in the January through November period of 1976 compared to the like period of 1975.

INCREASED IMPORTS

Imports of men's and boys' tailored suits rose in every year since 1971, increased 27 percent in 1975 compared to 1974 and rose 7 percent in the January through September period of 1976 compared to the like period of 1975. The ratio of imports to domestic production increased from 12.3 percent in 1974 to 17.4 percent in 1975 and declined from 19.9 percent in the first half of 1975 to 17.3 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Customers indicate that sales have fallen in 1976 compared to 1975 because retailers and wholesalers are purchasing lower priced, imported men's suits and pants in large quantities. The decline in sales caused customers to reduce purchases from domestic contractors in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with articles produced by Chester Pants Corporation, Brooklyn, New York contributed importantly to the total or partial separation of the workers of that company. In accordance with the provisions of the Act, I make the following certification:

All workers of Chester Pants Corporation, Brooklyn, New York who became totally or partially separated from employment on or after January 5, 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 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6097 Filed 2-28-77;8:45 am]

[TA-W-1196]

DAVJO MANUFACTURING CO.

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-1196: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of Davjo Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davjo Manufacturing 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.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Davjo Manufacturing Company started operations in Philadelphia, Pennsylvania in 1957. The company is a contractor producing misses' dresses for Bleeker Street, Incorporated of Philadelphia. Bleeker Street utilizes the production facilities of several contractors and since mid-1975 has been reducing the number of contractors they deal with in their operation. During the period in question, Bleeker Street sales increased 15.0 percent in quantity in 1975 compared to 1974 and increased 7.9 percent in quantity in 1976 compared to 1975. Production increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Bleeker Street does not import the items produced by the contractors and a survey of their customers indicated that customers did not switch purchases from Bleeker Street to imports.

Conclusion

It is concluded that imports of articles like or directly competitive with misses' dresses produced at the Davjo Manufacturing Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6098 Filed 2-28-77;8:45 am]

[TA-W-1312]

HOMESTAKE COPPER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 232 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1312: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing copper concentrate at the Calumet, Michigan plant of the Homestake Copper Company, a subsidiary of the Homestake Mining Company, San Francisco, California.

The notice of investigation was published in the Federal Register on December 14, 1976 (41 FR 54558). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Homestake Copper Company, 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.

Without regard to whether any of the other criteria have been met, criterion (4) four has not been met.

The Homestake Copper Company located in Calumet, Michigan is a mining company producing a 50 percent copper concentrate. A pilot plant for producing the copper concentrate was completed in June 1975 and production started shortly thereafter. Production ceased on October 28, 1976.

Findings of the Investigation

The Department's investigation revealed that since production began in July 1975, Homestake Copper Company's only product, a 50 percent copper concentrate, was shipped to one customer in Canada. This off-shore customer through its wholly owned American subsidiary was a 40 percent partner in a joint venture with the Homestake Copper Company. Mining the copper concentrate became uneconomical because of the low copper prices, the high cost of mining and the low grade of the ore. Production ceased on October 28, 1976.

Conclusion

It is concluded that imports of articles like or directly competitive with the copper concentrate produced at the Homestake Copper Company, Calumet, Michigan did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 17th day of February 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6099 Filed 2-28-77;8:45 am]

INTERNATIONAL SHOE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

[TA-W-1213]

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1213: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1976 in response to a worker petition received on that date which was filed by the Printing Specialties and Paper Products Union on behalf of workers and former workers producing shoe boxes at the St. Louis Box Department of the International Shoe Company, St. Louis, Missouri.

The notice of investigation was published in the Federal Register on November 19, 1976 (41 FR 51140). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibilty 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 of the other criteria have been met, the first criterion has not been met.

The St. Louis Box Department of the International Shoe Company produces shoe boxes as part of the integrated shoe production operation in which International is engaged.

The evidence developed during the course of the investigation revealed that employment has not declined since October 8, 1975, the earliest possible date on which workers could be certified for eligibility. The number of workers has remained at a constant figure from July 1974 through September 1976. The average number of hours worked increased 8.0 percent in the first nine months of 1976 compared to the same period of 1975.

Employment of workers remained constant because shoe box assemblage is capital intensive. Therefore, a fixed number of workers is required to operate the equipment, regardless of productivity. The increase in the number of hours worked in the first nine months of 1976 compared to the same period of 1975 reflects the upswing in production during the same period of comparison.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at the St. Louis, Missouri Box Department of the International Shoe Company have not become nor are threatened with becoming totally or partially separated as required under section 222(1) of the Act. Therefore workers of the St. Louis Box Department of the International Shoe Company are not eligible to apply for trade adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6100 Filed 2-28-77;8:45 am]

[TA-W-1368]

ITT GRINNELL CORP.

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-1368: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing pipe fittings, alloy elbows, tees, flanges and reducers at the Princeton, Kentucky plant of the ITT Grinnell Corp., New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 884). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the ITT Grinnell Corporation.

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;

(2) That sales or production, or both, of such firm or subdivision have deceased 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.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a signficant number or proportion of the workers at the Princeton, Kentucky plant of the ITT Grinnel Corp. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6101 Filed 2-28-77;8:45 am]

[TA-W-1192]

JAY EL DRESS CO.

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-1192: investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing women's dresses at the Philadelphia, Pennsylvania plant of the Jay El Dress Company.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48811). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Jay El Dress 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 of 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 (4) has not been made.

The Jay-El Dress Company cuts components for women's dresses produced at the Philadelphia, Pennsylvania plant of Bleeker St., Inc. Jay-El is a contractor for only this manufacturer and its production is integrated with it. Bleeker Street utilizes the production facilities of several contractors and since mid-1975 has been reducing the number of contractors it deals with in its operations. During the period in question, Bleeker Street sales increased 7.9 percent in quantity in 1976 compared to 1975. Production increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Bleeker Street does not import the items produced by the contractors and a survey of their customers indicated that customers did not switch purchases from Bleeker Street to imports.

CONCLUSION

It is concluded that imports of articles like or directly competitive with women's dresses produced at the Jay-El Dress Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6102 Filed 2-28-77;8:45 am]

[TA-W-1467]

KOPPERS COMPANY, INC.

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-1467: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke at the Erie, Pennsylvania plant of the Koppers Company, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1536). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and officials of Koppers Company, 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;

(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.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 15, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Erie, Pennsylvania plant of the Koppers Company, Inc. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6103 Filed 2-28-77;8:45 am]

[TA-W-1537]

LONE STAR STEEL CO.

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-1537: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 30, 1976 in response to a worker petition received on December 30, 1976 which was filed by the United Steelworkers of America on behalf of workers producing oil field pipes at the Lone Star, Texas plant of the Lone Star Steel Company.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Lone Star Steel Company.

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;

(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.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from December 3, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Lone Star, Texas plant of the Lone Star Steel Company have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6104 Filed 2-28-77;8:45 am]

[TA-W-1410]

NATIONAL STEEL CORP., MIDWEST STEEL DIVISION

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-1410: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel sheet products at National Steel Corporation's Midwest Steel Division in Portage, Indiana.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1976 (42 FR 891). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of the United Steelworkers of America, the Midwest Steel Division of National Steel Corporation, the U.S. 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.

Without regard to whether any other criteria have been met, the investigation has revealed that criteria (1) and (2) have not been met.

National Steel Corporation's Midwest Steel Division in Portage, Indiana produces carbon steel sheet products consisting of tin plate, galvanized and cold rolled sheet products.

Sales of carbon steel sheet products decreased 8.2 percent in 1974 compared with 1973, decreased 27.7 percent in 1975 compared with 1974 and increased 32.1 percent in 1976 compared with 1975.

Production of carbon steel sheet products decreased 8.0 percent in 1974 compared with 1973, decreased 22.2 percent in 1975 compared with 1974 and increased 26.6 percent in 1976 compared with 1975.

Employment of production workers decreased 1.6 percent in 1974 compared with 1973, decreased 14.2 percent in 1975 compared with 1974 and increased 9.4 percent in 1976 compared with 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at National Steel Corporation's Midwest Steel Division have not declined and that a significant number or proprotions of the workres have not become totally or partially separated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc.77-6105 Filed 2-28-77;8:45 am

[TA-W-1505]

SHENANGO, INC.

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-1505: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke and pig iron at the Neville Island, Pa. plant of Shenango, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2383). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and Shenango, 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;

(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.

The Neville Island, Pennsylvania plant of Shenango, Inc. produces coke and pig iron.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from December 3, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Neville Island, Pennsylvania plant of Shenango, Inc., Pittsburgh, Pa. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6106 Filed 2-28-77;8:45 am]

Office of the Secretary

[TA-W-1506]

SHENANGO, INC.

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-1506: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds and stools at the Sharpsville, Pennsylvania plant of Shenango, Incorporated, Pittsburgh, Pennsylvania.

The notice of the investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2383). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United Steelworkers of America, Shenango, Incorporated, 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.

Without regard to whether any of the other criteria have been met, criterion (3) hase not been met.

There are no separately identifiable import statistics on ingot molds and stools in the Tariff Schedules of the United States Annotated (TSUSA). The evidence developed by the Department during the course of the investigation reveals that industry sources believe that imports of ingot molds and stools are negligible.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of ingot molds like or directly competitive with those produced at the Sharpsville, Pennsylvania plant of Shenango, Incorporated did not contribute importantly to separations, or threat thereof, or to decreased sales or production at such plant as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6107 Filed 2-28-77;8:45 am]

[TA-W-1206]

SPERRY UNIVAC

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of La-

bor herein presents the results of TA-W-1206: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

On July 14, 1976 the Department of Labor issued a Notice of Negative Determination regarding eligibility of workers of Sherry Univac, Utica, New York to apply for adjustment assistance. On October 26, 1976 the Office of Trade Adjustment Assistance received a request for reconsideration of that determination filed by workers and former workers producing electronic data processing equipment at the Utica, New York plant of Sperry Univac. An investigation was initiated on October 26, 1976.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51145). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sperry Univac, its customers, the U.S. 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 criteria three and four have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPERATIONS

The average number of production workers at Sperry Univac's Utica, New York plant declined 19.1 percent in 1975 compared to 1974 and 52.6 percent in the first ten months of 1976 compared to the first ten months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Unit production increased 1.2 percent from 1974 to 1975 and decreased 64.8 percent for the fiirst ten months of 1976 compared to the first ten months of 1975.

INCREASED IMPORTS

Sperry Univac is the sole source of equipment compatible with its electronic data processing systems. Company imports of electronic data processing equipment excluding power supplies decreased 44.1 percent from 1974 to 1975 and 68.3 percent for the fist ten months of 1976 compared to the first ten months of 1975.

CONTRIBUTED IMPORTANTLY

A survey of customers of Sperry Univac was conducted by the Office of Trade Adjustment Assistance. Customers indicated that they purchased or leased computer equipment from domestic sources only. None of the customers contacted reported the use of computer equipment manufactured aboard.

The investigation revealed that the decline in employment was attributable to reduced order input, product transfers to other domestic Univac manufacturing operations and technological changes that have increased the capital intensity of the industry. Furthermore, it was revealed that the corporate decision to close the Utica plant was unrelated to an aggregate import influence. Company officials sought to reduce corporate losses by closing the Utica plant because it was the oldest of Univac's facilities and no longer conducive to efficient manufacturing.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with the electronic data processing equipment, excluding punch and die assemblies, produced at the Utica, New York plant of Sperry Univac have not contributed importantly to the separations and to the decrease in sales and production at the plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6108 Filed 2-28-77;8:45 am]

[TA-W-1320]

SUN WELD FITTING CO.

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-1320: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of the workers and former workers producing stainless steel valves at the Los Angeles plant of Sun Weld Fitting Company.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 54567) on December 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 Sun Weld Fitting Company, 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 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 Department's investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Sun Weld Fitting Company plant increased 33.7 percent in 1975 compared to 1974. Average employment declined 28.2 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales by Sun Weld Fitting Company increased 35.7 percent in value in 1975 compared to 1974. Sales declined 15.2 percent in value in the first 11 months of 1976 compared to the first 11 months of 1975.

Annual production at the Sun Weld Fitting Company plant increased 37.5 percent in value in 1975 compared to 1974. Production declined 8.1 percent in value in the first 11 months of 1976 compared to the first 11 months of 1975.

INCREASED IMPORTS

Imports of forged steel threaded and socket fittings and unions increased from 4.9 million pounds in 1971 to 19.3 million pounds in 1975. Imports decreased 18.5 percent in the first 9 months of 1976 compared to the first 9 months of 1975,

from 13.5 million pounds to 11.0 million pounds.

The ratio of imports to domestic production of forged steel threaded and socket fittings and unions increased from 14.7 percent in 1971 to 32.3 percent in 1975. The import to U.S. production ratio increased 49 percent in the first 9 months of 1976 compared to the first 9 months of 1975, from 28.1 percent to 42.0 percent.

CONTRIBUTED IMPORTANTLY

The Office of Trade Adjustment Assistance conducted a survey of Sun Weld Fitting Company's customers. Most of the customers contacted indicated that the lower prices of imported fittings in 1976 had caused them to decrease their purchases from Sun Weld Fitting Company and switch to the imports.

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 fittings produced at Sun Weld Fitting Company contributed importantly to the total or partial separations of the workers at 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 stainless steel pipe fittings at the Los Angeles, California plant of Sun Weld Fitting Company who became totally or partially separated from employment on or after January 31, 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 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6109 Filed 2-28-77;8:45 am]

[TA-W-1180]

TAVERLY, INC.

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-1180: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing men's sportcoats, suits, and leisure suits at Taverly Incorporated, NY, NY.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48818). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Taverly Incorporated, 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 evidence developed in the Department's investigation reveals that criterion (2) and criterion (4) have not been met:

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Taverly Inc. declined 17 percent in 1975 from 1974 and declined 1 percent in the first three quarters of 1976 compared to the first three quarters of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Taverly Incorporated increased 2 percent in 1975 compared to 1974 and increased 7 percent in the first three quarters of 1976 compared to the first three quarters of 1975. Sales by quantity were estimated to have increased to a larger degree than sales by value from January 1975 to September 1976 since during that period Taverly produced leisure suits and jackets. Leisure suits and jackets had a lower per unit cost than traditional suits and sportcoats produced by Taverly prior to January 1975 and after September 1976.

INCREASED IMPORTS

Imports of men's and boys' tailored coats and sportcoats increased from 2.9 million units in 1971 to 5.5 million units in 1975 and increased from 2.2 million units in the first half of 1975 to 3.3 million units in the first half of 1976. Imports as a percentage of production increased from 14.0 percent in 1971 to 30.9 percent in 1975 and increased from 23.8 percent in the first half of 1975 to 30.7 percent in the first half of 1976.

Imports of men's and boys' suits increased from 1.3 million units in 1971 to 3.1 million units in 1975 and increased from 1.7 million units in the first half of 1975 to 1.8 million units in the first half of 1976. Imports as a percentage of production increased from 6.2 percent in 1971 to 17.4 percent in 1975 and decreased from 19.9 percent in the first half of 1975 to 17.3 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

Employment declines at Taverly in 1975 and 1976 were due to a switch from production of traditional suits and sportcoats to production of leisure wear which occurred in late 1974 and early 1975. Production of leisure suits and sportcoats was less labor intensive and Taverly was therefore able to reduce employment while increasing sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sportcoats, suits, and leisure suits produced at Taverly Incorporated, New York, New York did not contribute importantly to the separations of the workers at that firm.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6110 Filed 2-28-77;8:45 am]

[TA-W-1378]

WESTINGHOUSE ELECTRIC CORP.

Determination Concerning 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-WW-1378: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to a worker petition received on that date which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing television picture tubes at the Horseheads, New York plant of Westinghouse Electric Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 906). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Westinghouse Electric Corporation, 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 for the Entertainment Tube Division. The investigation has further revealed that although the first and third criteria have been met for the Industrial and Government Tube Division, the second and fourth criteria have not been met for that Division.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Entertainment Tube Division fell 7 percent from 1974 to 1975 and 16 percent from 1975 to 1976. Average weekly hours worked by those workers fell 5 percent from 1974 to 1975 and rose 2 percent from 1975 to 1976.

The levels of salaried employment at the Entertainment Tube Division fell 22 percent from 1974 to 1975 and 6 percent from 1975 to 1976.

Layoffs in the Entertainment Tube Division began after last pay period in July 1976. They are not yet complete.

The average number of production workers at the Industrial and Government Tube Division rose 1 percent from 1974 to 1975 and fell 8 percent from 1975 to 1976. Average weekly hours worked by those workers held steady throughout the data years.

The level of salaried employment at the Industrial and Government Tube Division held steady from 1974 to 1975, then rose 2 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales from the Entertainment Tube Division fell 38 percent from 1974 to 1975, then increased eight percent from 1975 to 1976. Sales fell 17 percent in the first quarter of 1976 from the previous quarter, then rose 17 percent in the second quarter of 1976. Sales fell 7 percent and 10 percent in the third and fourth quarters of 1976 from the previous quarters.

Production at the Entertainment Tube Division decreased 27 percent from 1974 to 1975, then increased 10 percent from 1975 to 1976. Production in that Division rose 10 percent and 16 percent, respectively in the first and second quarters of 1976 from the previous quarters, then fell 16 percent and 19 percent, respectively in the third and fourth quarters of 1976 from the previous quarters. Production ceased in this division in December 1976.

Sales from the Industrial and Government Tube Division rose 6 percent from 1974 to 1975 and 10 percent from 1975 to 1976. Sales rose 3 percent, 6 percent, and 3 percent, respectively in the first, second, and third quarters of 1976 from the previous quarters, then decreased 3 percent in the final quarter of 1976 from the previous quarter. Sales rose in each quarter of 1976 from the same quarter of the previous year.

Production in the Industrial and Government Tube Division is for order only, so is identical to sales.

INCREASED IMPORTS

Imports of color television picture tubes fell in each year from 1971 to 1974. The value of color television picture tube imports increased from $2.5 million in 1974 to $6 million in 1975, and from $3.9 million in the first nine months of 1975 to $10.5 million in the same period of 1976. Imports increased from 0.44 and 0.49 percent of domestic production and consumption, respectively, in 1974 to 1.30 percent and 1.51 percent, respectively, in 1975, and from 1.12 percent and 1.29 percent in the first nine months of 1975 to 2.38 percent, and 2.38 percent respectively, in the same period of 1976.

Imports of military and industrial cathode ray tubes increased absolutely in each year from 1971 to 1974, then decreased from $3 million in 1974 to $2.4 million in 1975. Imports increased to $2.6 million in the first eleven months of 1976 compared to the $2.3 million in the same period of the previous year. Imports decreased from 9.3 percent and 10.8 percent of domestic production and consumption, respectively, in 1974 to 5.3 percent and 5.9 percent, respectively, in 1975. Imports increased from 5.6 percent and 6.2 percent of domestic production and consumption, respectively, during the first eleven months of 1975, to 6.2 percent and 7.0 percent, respectively, during the first eleven months of 1976.

Imports of gas and vapor electron tubes decreased from $190 thousand in 1973 to $170 thousand in 1974, then increased to $250 thousand in 1975. Imports increased from $210 thousand in the first 11 months of 1975 to $330 thousand in the same period of the following year. Imports increased from 0.7 percent and 0.9 percent of domestic production and consumption, respectively, in 1974 to 1.2 percent and 1.5 percent, respectively, in 1975 and from 1.1 percent and 1.4 percent of domestic production and consumption, respectively, in the first eleven months of 1975 to 1.8 percent and 2.4 percent, respectively, in the same period of 1976.

Imports of diode, triode, and tetrode electron tubes (types of power tubes) rose from $530 thousand in 1973 to $820 thousand in 1974, then fell in $570 thousand in 1975. Imports increased from $520 thousand in the first eleven months of 1975 to $1.41 million in the same period of 1976. Imports fell from 1.2 percent and 1.3 percent of domestic production and consumption, respectively, in 1974 to 0.8 percent and 0.8 percent of domestic production and consumption, respectively, in 1975. Imports increased to 2.1 percent and 2.3 percent of domestic production and consumption, respectively, in the first eleven months of 1976 from 0.8 percent of each in the same period of the previous year.

Imports of light sensing (image) tubes decreased from 1973 to 1974, then increased from $310 thousand in 1974 to $1.25 million in 1975. Imports increased from $770 thousand in the first eleven months of 1975 to $2.34 million in the same period of 1976. Imports increased from 0.6 percent relative to each domestic production and consumption in 1974 to 2.0 percent and 2.1 percent relative to domestic production consumption, respectively, in 1975. Imports increased from 1.4 percent relative to each domestic production and consumption in the first eleven months of 1975 to 4.0 percent relative to each in the same period of 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation indicated that customers accounting for a significant percentage of sales from the Entertainment Tube Division have switched to purchases of imported color television picture tubes. Further import competition has forced price decreases for color television picture tubes, reducing the profitability of manufacturing domestically.

The Department's investigation has further revealed that customers of products produced in the Industrial and Government Tube Division of the Horseheads plant have not switched to imports. A large percentage of products manufactured in that Division are high technology products built to specification, and are not readily susceptible to competition by imported products. Layoffs in this Division in the face of generally increasing sales are due to increases in productivity.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with color television picture tubes produced in the Entertainment Tube Division at the Horseheads, New York plant of the Westinghouse Electric Corporation contributed importantly to the total or partial separation of the workers of the plant. I further conclude that increases of imports like or directly competitive with industrial and military electronic devices produced in the Industrial and Government Tube Division at the Horseheads, New York plant of the Westinghouse Electric Corporation did not contribute importantly to total or partial separation of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production and distribution of color television picture tubes at the Horseheads, New York plant of Westinghouse Electric Corporation who became totally or partially separated from employment on or after

July 25, 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 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6111 Filed 2-28-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Photography Exhibition Aid, Surveys, Publications) to the National Council on the Arts will be held on March 15-16, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E. Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 22, 1977.

[FR Doc.77-6060 Filed 2-28-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Services to the Field) to the National Council on the Arts will be held on March 17-18, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E. Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 22, 1977.

[FR Doc.77-6061 Filed 2-28-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

Meeting

Correction

In FR Doc.77-4981, appearing on page 9735 in the issue for Tuesday, February 17, 1977, the information telephone number in the last paragraph should read "(202) 254-8047".

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ECONOMICS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.
Date and time: March 18 and 19, 1977; 9 a.m. to 6 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: closed.
Contact person: Dr. James H. Blackmann, Program Director for Economics Division of Social Sciences, National Science Foundation Washington, D.C. 20550, telephone (202) 632-5968.
Purpose of panel: To provide advice and recommendations concerning support for research in Economics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1977.

[FR Doc.77-5985 Filed 2-28-77;8:45 am]

WORKSHOP ON PALEOCLIMATOLOGY

Workshop

A workshop on Paleoclimatology will be held on Monday and Tuesday, March 21-22, 1977 in Room 338 at the National Science Foundation, 1800 G Street, NW., Washington, D.C.

The purpose of this workshop is to assess present research in the Paleoclimatology field and to define priorities for the NSF program.

While this ad hoc informal session is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (P.L. 92-463), this workshop is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and observation.

For further information concerning this workshop, please contact Dr. Alan Hecht, Program Director, Climate Dynamics Research Section, Room 644, National Science Foundation, Washington, D.C., 20550, telephone 202-634-1547. Persons planning to attend the workshop should notify Mrs. Mary LaTorre, 634-1543.

The agenda for this workshop is as follows:

Mar. 21, Monday—Room 338

8:45 to 9 a.m....	Welcoming remarks, Dr. Alan Grobecker, Division Director Atomspheric Sciences Division.
9 to 9:30 a.m....	Overview of Climate Dynamics Research Program, Dr. Eugene Bierly, section head, Climate Dynamics Research Section.
9:30 to 10 a.m....	"Present Efforts in Paleoclimatology," Dr. Alan Hecht, program director, Climate Dynamics Program.
10 to 10:30 a.m..	"Geochemical Techniques in Paleoclimate Research," Dr. Samuel M. Savin, chairman, Department of Earth Sciences, Case Western Reserve University.
10:30 to 10:45 a.m.	Break.
10:45 to 11:45 a.m.	"Priorities and Problems in Ocean Research", Dr. John Imbrie, Doherty professor of oceanography, Department of Geological Sciences, Brown University.

11:15 to 11:45 a.m.	"The Terrestrial Paleoclimatic Record", Dr. Harold Fritts, professor of dendrochronology, Laboratory of Tree-Ring Research, University of Arizona.
11:45 a.m. to 1 p.m.	Break.
1:00 to 1:30 a.m.	"The Pollen Record and Paleoclimatic Reconstructions" Dr. John Kutzbach, director, Center for Climatic Research, Institute for Environmental Studies, University of Wisconsin.
1:30 to 2 p.m..	"Glacial Geology and Climate Modelling," Dr. Roger Barry, acting director, Institute of Arctic and Alpine Research (INSTARR), University of Colorado.
2 to 2:30 p.m..	"Overview and Priorities," Dr. J. Murray Mitchell, senior scientist, Environmental Data Service (NOAA).
2:30 to 5 p.m..	Discussion.

Mar. 22, Tuesday—Room 338

9 a.m. to 3:30 p.m.	Discussion, outline of position paper and recommendations.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1977.

[FR Doc.77-5986 Filed 2-28-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for History and Philosophy of Science.

Date and time: March 18 and 19, 1977; 9 a.m. to 5 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Ronald J. Overmann, Program Director for History and Philosophy of Science, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4182.

Purpose of panel: To provide advice and recommendations concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 24, 1977.

[FR Doc.77-6112 Filed 2-28-77;8:45 am]

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science for Citizens Advisory Committee.

Date and time: March 18 and 19, 1977; 9 a.m. to 5 p.m. each day.

Place: Room 651, 5225 Wisconsin Avenue, NW, Washington, D.C. 20550.

Type of meeting: Part open; March 18—closed; March 19—open.

Contact person: Ms. Rachelle Hollander, Acting Associate Program Manager, Science for Citizens, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone (202) 282-7770.

Summary minutes (open portion): May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory committee: To provide advice and recommendation concerning the development of the Science for Citizens program.

Agenda: March 18—closed: 1. Consideration of preliminary proposals for forums, conferences, and workshops; 2. Discussion of role of Advisory Committee in reviewing proposals; March 19—Open: New directions for Science for Citizens program.

Reasons for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 24, 1977.

[FR Doc.77-6113 Filed 2-23-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

Region X Workshops in Seattle, Washington

The Office of the Federal Register (OFR) will hold two separate workshops on "The FEDERAL REGISTER—What It Is and How To Use It" in Seattle, Washington, as part of the General Services Administration's Consumer Representation Plan.

Workshop dates: Wednesday, March 30, 9:30 a.m.; Thursday, March 31, 9:30 a.m.; (reservations required for each session).

Location: Room 2748, Federal Building, 915 Second Avenue, Seattle, Washington.

For reservations call Dorothy Clegg at 206-442-5556.

AGENDA

The content of each workshop session will be identical. Each workshop will last for approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.

2. The difference between legislation and regulations.

3. The relationship of the FEDERAL REGISTER and the Code of Federal Regulations.

4. Important elements of a typical Federal Register document.

5. An introduction to the finding aids of the OFR and a practical exercise using those finding aids.

The OFR does not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantitive questions. Rather, the workshops are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.77-6141 Filed 2-28-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

RECOMMENDATION D-12 OF THE COMMISSION ON GOVERNMENT PROCUREMENT

Executive Branch Position

Notice is hereby given that the Office of Federal Procurement Policy, on behalf of the executive branch, has accepted Recommendation D-12 of the Commission on Government Procurement, which states:

D-12. Require that GSA establish ADPE procurement delegation policy that would promote (a) effective preplanning of requirements by agencies and (b) optimum use of manpower.

Public Law 89-306 gives to the Administrator of General Services authority with respect to the acquisition of ADP equipment. In view of this statutory authority, the General Services Administration is hereby assigned lead agency responsibility for development and establishment of procurement delegation policy to achieve the aims of this Recommendation.

Dated at Washington, D.C. on February 17, 1977.

JAMES D. CURRIE,
Acting Administrator.

[FR Doc.77-6079 Filed 2-28-77;8:45 am]

PRIVACY ACT

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period February 7, through February 18, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF THE TREASURY

System name: Early Implementation System.

Report date: February 4, 1977.

Point of contact: Mr. John P. Heard, Room 300, Department of the Treasury, 1331 G. Street NW., Washington, D.C. 20220.

DEPARTMENT OF THE INTERIOR

System name: Recordation of Mining Claims.

Report date: February 8, 1977.

Point of contact: Mr. Warren Dahlstrom, Interior Privacy Act Officer, Department of the Interior, Washington, D.C. 20240.

GENERAL SERVICES ADMINISTRATION

System name: Defunct Agency Records.

Report date: February 9, 1977.

Point of contact: Mr. Philip Schmidt, Director of Management Services, General Services Administration, 18th and F Street NW., Washington, D.C. 20405.

NATIONAL CREDIT UNION ADMINISTRATION

System names: (1) Breach of Trust Schedule, Nonfederal Credit Union/Share Insurance Applicants; (2) Adverse Reports of Official, Federal Credit Union Charter Applicants; (3) Investigative Reports of Violations of the Merit Promotion Program; (4) Employee Relations File; (5) Employee Injury File; (6) Retirement File; (7) Emergency Information (Employee) File; (8) Employee Training/Career Development Inventory; (9) Executive Management Development System; (10) Consumer Inquiry Records and Data.

Report date: February 10, 1977.

Point of contact: Mr. Robert Fenner, Office of General Counsel, National Credit Union Administration, Washington, D.C. 20456.

DEPARTMENT OF DEFENSE

System names: (1) Military Service Inventory Research Program; (2) Nonappropriated Fund Instrumentalities Financial System.

Report date: February 10, 1977.

Point of contact: Mr. William Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System names: (1) Survey of Blind and Disable Children Receiving Supplemental Security Income Benefits; (2) Survey of Young Survivors; (3) Mortality of Pesticide Formulators; (4) Pulmonary Function Standards Study.

Report date: February 10, 1977.

Point of contact: Mr. John Ottina, Department of Health, Education, and Welfare, Washington, D.C. 20201.

DEPARTMENT OF LABOR

System names: (1) Advisory Committee for Higher Education Equal Employment Opportunity Programs Members' Files; (2) ETA Evaluation or Research Contractors' Files; (3) Employment and Training Administration, Investigatory Files; (4) Employment and Training Administration, Equal Employment Opportunity Files; (5) Investigatory Files—Special Investigations Staff; (6) Budget Postion Control System; (7) Travel Authorization and Voucher System; (8) File of Individual Career Plan Forms on Senior Executive Development Program Participants; (9) State Compliance Spot-Check Records; (10) OSHA Compliance Safety and Health Officers Training Records; (11) OSHA Private Sector Instructor Files for Construction and Voluntary Compliance Courses; (12) OSHA Course Files.

Report date: February 11, 1977.

Point of contact: Ms. Sophia P. Petters, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

DEPARTMENT OF THE INTERIOR

System name: Employee Experience, Skills, Performance and Career Development Records.

Report date: February 14, 1977.

Point of contact: Mr. Warren Dahlstrom, Privacy Act Officer, Department of the Interior, Washington, D.C. 20240.

DEPARTMENT OF DEFENSE

System name: Child Advocacy Program File.

Report Date: February 14, 1977.

Point of contact: Mr. William Cavaney, Defense Privacy Board, 1000 Independence Avenue SW., Washington, D.C. 20314.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-6078 Filed 2-28-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on February 1, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information, the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Solar Energy Manpower, single time, organizations involved in solar related activities, Strasser, A., 395-5867.

ACTION

Volunteer Work and Paid Work Among Women, single time, women professionals and homemakers, Strasser, A., 395-5867.

Returned Volunteer Survey, single time, VISTA and Peace Corps former volunteers, Strasser, A., 395-5867.

DEPARTMENT OF COMMERCE

Economic Development Administration, Public Works Project Impact Questionnaire, ED-750Q, single time, public works grantees, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE INTERIOR

Geological Survey, Application for Permit and and Agreement for Outer Continental Shelf Exploration—Geological, Geophysical, single time, geophysical contracting oil and gas industry companies, Tracey Cole, 395-5870.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service Regulations—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, on occasion, State agencies, Will Sherman, 395-4730.

DEPARTMENT OF COMMERCE

Bureau of Census:

Annual Survey of Oil and Gas, MA 13K, MA 13-K-C, annually, operators and lessees of oil and gas field properties, Ellett, C. A., 395-5867.

1977 Census of Oakland, California (1980 Census Pretest), DF-1, DF-2, DF-3, SC-702, SC-703, single time, all households in Oakland, California, George Hall, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social and Rehabilitation Service, Social Services Expenditures Under Title XX (SSA), SRS-OA 41.1, SRS-OA 41.1, SRS-OA 41.1, SRS-OA 41, quarterly, administrators of Title XX programs, Caywood, D. P., 395-3443.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration, Report of Theft of Controlled Substances, BND-106, on occasion, Registrant of Controlled Substances, Warren Topelius, 395-5872.

EXTENSIONS

ACTION

ACTION Preliminary Inquiry (pre-application program narrative), on occasion, potential sponsors of ACTION domestic proprogramns, Lowry, R. L., Budget Review Division, 395-3772.

Sponsor/Grantee Quarterly Program Report, quarterly, sponsors of ACTION domestic programs, Lowry, R. L., Budget Review Division, 395-3772.

ACTION Program Narrative, on occasion, potential sponsors of ACTION domestic programs, Lowry, R. L., Budget Reivew Division, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Request for Credit Approval of Substitute Mortgagor, FHA-2210, on occasion, FHA approved lending institutions, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

Departmental and other:

Statement and Acknowledgement (labor clauses in subcontracts), 4220.9, on occasion, commercial business, Strasser, A., 395-5867.

Request for Establishment of Additional Wage Rates, 4220.10, on occasion, commercial business, Strasser, A., 395-5867.

Contractor's Request for Progress Payment, 4220.2, on occasion, commercial businesses, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-6192 Filed 2-28-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

NATIONAL SBIC ADVISORY COUNCIL

Meeting

The Small Business Administration National SBIC Advisory Council will hold a public meeting Monday, March 28, 1977, 10:00 a.m. until 5:00 p.m. at the Small Business Administration, 1441 L Street, N.W., Washington, D.C., 10th Floor Board Room, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Peter F. McNeish, SBA, at the above address, (202) 653-6584.

Dated: February 18, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-6048 Filed 2-28-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-12]

GEORGE F. FISHER, INC.

Complaint

On February 14, 1977, the Chairman of the Section 301 Committee received from Mr. Robert P. Fisher, President of George F. Fisher, Inc., a petition alleging that Japan is discriminating against United States commerce in thrown silk by effectively preventing the entry of such imports from the U.S. while permitting imports from Korea, the Peoples Republic of China, Brazil and Italy under agreements negotiated with those countries. Relief is requested under Section 301 of the Trade Act of 1974, (Pub. L. 93-613; 88 Stat. 1978). The text of the petition is as follows:

Re: *Complaint Pursuant to Section 301 of the Trade Act of 1974*

Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 725, 1800 G Street NW., Washington, D.C. 20506.

DEAR MR. CHAIRMAN: George F. Fisher, Inc., represented by its president Robert P. Fisher, is filing this complaint pursuant to Section 301 of the Trade Act of 1974.

George F. Fisher, Inc. has been engaged in the business of manufacturing thrown silk yarns for forty years. We purchase raw silk of foreign origin (in recent years from the People's Republic of China and Brazil) and ship it to non-owned silk throwing mills located in Pennsylvania. These independently owned mills process the raw silk into thrown silk by a number of operations including soaking, drying, winding, doubling, spinning, twist-setting, reeling and lacing. We sell this completed yarn (called thrown silk) to domestic weaving mills and, until mid-1976, to exporters who have sold it to Japan. These exporters have informed us that Japan has adopted administrative procedures that have effectively blocked them from completing shipments against outstanding contracts they have with Japan, as well as bringing to a complete halt any new orders. These exporters in turn have asked us to cancel their contracts with us since they have no way to get paid for this yarn from their customers in Japan.

We have been informed by our customers who export to Japan that Japanese foreign exchange banks were instructed by MITI not to open any new letters of credit for thrown silk yarns after February 26, 1976. These customers have also informed us that payments through open account cannot be honored by Japanese foreign exchange banks due to some administrative procedure issued by MITI. We have tried many times to get copies of these regulations and/or administrative procedures but so far we have been unsuccessful.

We are lodging this complaint under the following particular part of Section 301:

(a) Whenever the President determines that a foreign country or instrumentality—

(1) Maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce,

(2) Engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or retrict United States commerce.

With respect to the complaint under Section 301(a)(1), it is our contention that Japan is in violation of its obligations under the General Agreement on Tariffs and Trade (GATT). The letter and spirit of GATT is embodied in Article XI, section 1:

No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any contracting party.

Japan is apparently in violation of its obligation under the International Monetary Fund (IMF). Japan accepted Article VIII status under IMF on April 1, 1964. The pertinent part of Article VIII, section 2a reads:

* * * no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

Since MITI is forbidding the Japanese foreign exchange banks from transacting current account transactions and the opening of letters of credit for thrown silk imports, MITI is failing to honor Japan's obligations under both the GATT and the IMF.

With respect to the complaint under Section 301(a)(2), it is our contention that Japan is discriminating against United States commerce in thrown silk because MITI has negotiated agreements under which Korea, the People's Republic of China, Brazil and Italy are able to continue to export thrown silk to Japan.

It is difficult to get precise figures as to the exact quantity of these former thrown silk shipments to Japan. The only figures we have been able to obtain from the United States Government relative to thrown silk exports lumps them together with about fifteen other categories of yarn and thread so as to render the figures meaningless so far as thrown silk is concerned.

We have been able to obtain from Japan figures put out by M.A.F. indicating the number of bales (132 lbs. each) released monthly by Japanese customs of thrown silk yarn. We are enclosing herewith these monthly figures broken down by country of origin for the year 1975 and for the first 11 months of 1976.

By examining these figures it is important to note that for the five months (October 1975-February 1976) before MITI imposed restrictions on the importation of thrown silk about 200-245 bales of United States thrown silk was released monthly by Japanese customs. From my knowledge of how much monthly we were shipping to Japan and from what I heard others were shipping, I feel that it would be safe to estimate that the United States was exporting to Japan approximately 225 bales of thrown silk monthly to Japan before Japan imposed restrictions to this trade.

It should also be noted that for the year 1975 imports of United States thrown silk into Japan were 1,514.7 bales or only 2.7% of their total imports of 54,920.1 bales of thrown silk.

According to statistics of the International Silk Association (U.S.A.), Inc., the total consumption of raw silk in the United States in the year 1975 was 4,349 bales. When you compare that figure with the quantity of United States thrown silk imported into Japan for 1975 of 1,515 bales (C.I.F. value estimated about $2,500,000 to $3,000,000), it is evident that this export business has been very crucial for United States mills, amounting to approximately 35% of United States production. During the last quarter of 1975 and the first 2 months of 1976, I feel certain that export business to Japan accounted for a full 50% of total United States production. During the last quarter of 1975 and the first 2 months of 1976, I feel certain that export business to Japan accounted for a full 50% of total United States thrown silk production. Since we have been prevented from producing any thrown silk for export to Japan since mid-1976, the outlook for those few silk commission throwing mills still in business to continue is indeed very bleak. One of these mills has liquidated and gone out of business within the past month, and there is talk that a second mill will do likewise in the very near future.

In addition to the above, sometime in April 1976, Japan increased from 6% to 7.5% the duty on imported thrown silk.

We are requesting that a public hearing be held as soon as possible on the above subject. We also request expeditious action under Section 301, subsection (a.). If immediate remedies are not forthcoming at once, additional silk throwing mills will surely be liquidated depriving hundreds of employees of their jobs.

We have not filed for relief under any other article of Trade Act of 1974 or any other Act.

Very truly yours,

GEORGE F. FISHER, INC.
ROBERT P. FISHER,
President.

1975

THROWN SILK IMPORTS INTO JAPAN (Bales of 132 lbs. each)

	Jan. 1975	Feb. 1975	Mar. 1975	Apr. 1975	May 1975	June 1975	July 1975	Aug. 1975
South Korea	819.0	1,471.0	1,888.8	1,068.8	4,375.3	5,095.7	5,181.0	6,250.0
China	1,679.5	663.0	343.0	278.9	278.6	587.8	335.7	599.0
Italy	-0-	-0-	20.0	104.5	242.8	188.3	375.5	498.0
Brazil	136.9	90.0	52.3	169.2	187.5	215.8	189.9	206.0
Hong Kong	-	-	80.5	217.8	114.7	81.8	101.9	230.0
United States	-	-	30.7	66.4	97.0	119.2	175.8	159.0
Switzerland	1.0	-0-	-0-	46.2	51.8	97.2	72.5	170.0
France	-	-	-	-	-	-	-	3939
Singapore	-	-	-	-	-	-	-	-
North Vietnam	-0-	-0-	8.0	17.0	-0-	-0-	-0-	-0-
United Kingdom	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Greece	-	-	-	-	-	-	-	-
Others	-	62.0	-	-	-	-	-	-
TOTAL	2,636.4	2,286.0	2,423.3	1,968.8	5,346.9	6,385.8	6,434.3	8,056.0

	Sept. 1975	Oct. 1975	Nov. 1975	Dec. 1975	TOTAL 1975
South Korea	6,060.8	1,015.8	1,147.6	1,814.7	38,220.9
China	239.2	476.0	341.1	587.4	6,327.2
Italy	439.8	352.4	289.0	577.6	3,047.3
Brazil	252.3	274.3	444.9	351.7	2,597.6
Hong Kong	118.2	209.9	333.5	491.2	2,007.4
United States	186.7	199.4	249.7	234.8	1,514.7
Switzerland	54.0	-0-	68.2	195.5	756.7
France	34.6	55.5	14.7	82.5	187.2
Singapore	-	-	-	161.0	161.0
North Vietnam	-0-	-0-	5.0	-0-	72.0
United Kingdom	5.4	5.6	5.1	5.0	21.1
Greece	-	3.5	-0-	3.5	7.0
Others	-	-	-	-	*
TOTAL	7,421.0	2,598.4	2,894.8	4,474.9	54,920.1

* Slight differences in figures due to rounding. In February production of smaller producing countries not differentiated.

Source: M.A.F.

1976

THROWN SILK IMPORTS INTO JAPAN (Bales of 132 lbs. each)

	Jan. 1976	Feb. 1976	March 1976	April 1976	May 1976	June 1976	July 1976
South Korea	4,119.6	779.2	2,023.3	1,902.6	2,443.8	433.9	1,496.1
China	973.5	472.2	136.8	416.8	351.2	545.8	864.3
Italy	592.3	468.8	101.2	7.9	-0-	372.3	281.8
Brazil	716.4	776.4	112.4	572.1	397.5	571.9	529.3
Hong Kong	1,050.0	2,304.4	184.2	124.0	11.4	592.0	861.2
United States	238.0	230.8	187.6	14.4	-0-	287.5	230.6
Switzerland	93.6	134.2	5.6	78.3	-0-	83.0	115.5
France	90.6	87.2	-0-	28.8	-0-	55.7	-0-
Singapore	166.6	224.0	-0-	-0-	-0-	368.4	87.3
North Vietnam	15.0	-0-	-0-	-0-	29.0	10.0	-0-
United Kingdom	8.5	-0-	-0-	5.0	-0-	15.7	-0-
Greece	-0-	3.5	-0-	-0-	-0-	-0-	-0-
North Korea	45.5	-0-	-0-	-0-	-0-	-0-	-0-
West Germany	13.4	81.5	-0-	23.2	-0-	32.8	-0-
Thailand	-0-	10.0	-0-	-0-	-0-	-0-	-0-
Taiwan	-0-	-0-	-0-	-0-	-0-	100.0	100.5
Macao	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	8,123.0	5,532.2	3,550.5	3,169.3	3,192.9	3,349.9	4,573.8

	Aug. 1976	Sept. 1976	Oct. 1976	Nov. 1976	TOTAL JAN./NOV., 1976
South Korea	1,624.0	2,413.7	4,048.2	3,287.0	25,371.6
China	274.4	1,019.8	409.0	569.8	6,033.6
Italy	279.0	177.4	64.0	85.7	2,429.6
Brazil	500.0	130.0	256.6	209.8	4,792.4
Hong Kong	573.1	852.0	250.3	564.7	7,321.3
United States	64.5	29.7	174.2	44.6	1,509.3
Switzerland	48.3	29.9	78.0	5.3	672.7
France	-0-	-0-	-0-	-0-	258.3
Singapore	87.2	139.4	87.5	-0-	1,100.4
North Vietnam	5.0	-0-	-0-	-0-	59.0
United Kingdom	23.2	-0-	-0-	-0-	52.4
Greece	-0-	-0-	-0-	-0-	3.5
North Korea	43.7	1.0	-0-	-0-	90.2
West Germany	30.0	-0-	-0-	-0-	140.9
Thailand	20.7	-0-	-0-	-0-	30.7
Taiwan	139.9	-0-	61.3	-0-	401.7
Macao	-0-	100.0	202.3	314.8	708.0
TOTAL	3,773.0	4,983.8	5,642.4	5,085.7	50,975.6

Source: M.F.A.

HEARINGS

I. The complainant has requested that hearings be held on this matter. Such hearings will be held at 10:00 A.M. on Tuesday, March 9, 1977, at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C., Room 730.

II. Requests to present oral testimony and accompanying briefs must be received on or before March 22, 1977. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 FR 39497—August 28, 1975).

A. *Submission of Briefs and Requests to Present Oral Testimony.* Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR Parts 2006.6 and 2006.7 (40 FR 39497—August 28, 1975).

B. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed on or before April 20, 1977.

C. *Attendance at Hearings.* The hearings will be open to the public.

MORTON POMERANZ,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.77-6046 Filed 2-28-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7-33]

STUDY GROUP 2 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 2 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on March 23, 1977 at 9:30 a.m. in Room 521, Federal Office Building 10B, 7th and Independence Avenue SW., Washington, D.C.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic, and to interference problems concerning the radioastronomy and radar astronomy services. The purpose of the meeting will be a review of work programs in preparation for the international meeting of Study Group 2, Geneva, September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

FEBRUARY 22, 1977.

[FR Doc.77-6076 Filed 2-28-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-R:E:R]

JEANIE CREATIONS, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Jeanie Creations, Inc. used by Jeanie Creations, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The applicaion states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than March 31, 1977.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5987 Filed 2-28-77;8:45 am]

[TMK-2-R:E:R]

LAURA ACCESSORIES, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Laura Accessories, Inc. used by Laura Accessories, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The application states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than March 31, 1977.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5988 Filed 2-28-77;8:45 am]

[TMK-2-R:E:R]

JEANIE JEANS, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Jeanie Jeans, Inc. used by Jeanie Jeans, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The application states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5989 Filed 2-28-77;8:45 am]

UNITED STATES INFORMATION AGENCY

U.S. ADVISORY COMMISSION ON INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice

is hereby given of an urgent meeting to be held on March 7, 1977. This meeting will be devoted exclusively to the editing and review of the Commission's next general report to Congress. The meeting will commence at 9 a.m. in the Commission's office in Room 1008 at 1750 Pennsylvania Avenue N.W., Washington, D.C., and terminate about 12:30 p.m.

MARGARET J. MILLER,
Federal Register Liaison Officer.

FEBRUARY 25, 1977.

[FR Doc.77-6181 Filed 2-28-77;8:45 am]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Notice of Meetings

The Veterans Administration gives notice pursuant to Public Law 92-463 of meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Respiration	Mar. 15, 1977	8 a.m. to 5 p.m.	Executive Room, Holiday Inn.[1]
Cardiovascular studies	Mar. 18, 1977	8:30 a.m. to 5 p.m.	Conference Room 246, Alton Ochsner Medical Foundation.[2]
Neurobiology	Mar. 21, 1977	2 p.m. to 11 p.m.	Room 221, Executive House.[3]
Do	Mar. 22, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.[4]
Nephrology	do	do	Tower Suite Level, Host International Motel.[5]
Oncology	Mar. 25, 1977	do	Room A53, VACO.
Infectious diseases	Apr. 1, 1977	do	Do.
Basic sciences	Apr. 7, 1977	7 p.m. to 11 p.m.	Private Dining Room No. 4, Conrad Hilton Hotel.[6]
Do	Apr. 8, 1977	8 a.m. to 5 p.m.	Do.
Behavioral sciences	Apr. 7, 1977	2 p.m. to 11 p.m.	Parlor 809, Capital Hilton Hotel.[7]
Do	Apr. 8, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.
Surgery	Apr. 14, 1977	8 a.m. to 5 p.m.	Room 2005, O'Hare Hilton Hotel.[8]
Do	Apr. 15, 1977	do	Do.
Hematology	do	8:30 a.m. to 5 p.m.	Room A53, VACO.
Immunology	Apr. 19, 1977	7 p.m. to 11 p.m.	Room 221, Executive House.
Do	Apr. 20, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.
Alcoholism and drug dependence (clinical pharmacology).	Apr. 21, 1977	do	Do.
Gastroenterology	Apr. 29, 1977	do	Do.
Endocrinology	May 3, 1977	do	Do.

[1] Holiday Inn, 3801 Mannheim Rd., Schiller Park, Ill. 60176.
[2] Alton Ochsner Medical Foundation, 1516 Jefferson Highway, New Orleans, La. 70121.
[3] Executive House, 1515 Rhode Island Ave. NW., Washington, D.C. 20005.
[4] Veterans' Administration Central Office, 810 Vermont Ave. NW., Washington, D.C. 20420.
[5] Host International Motel, 18700 Kennedy Blvd., Houston, Tex. 77205.
[6] Conrad Hilton Hotel, 720 South Michigan Ave., Chicago, Ill. 60605.
[7] Capital Hilton, 16th and K Sts. NW., Washington, D.C. 20036.
[8] O'Hare Hilton Hotel, at the O'Hare International Airport, Chicago, Ill. 60666.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552(b)(5), title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under the interagency memoranda exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Jane S. Schultz, Ph. D., Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: February 23, 1977.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.77-6055 Filed 2-28-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 335]

ASSIGNMENT OF HEARINGS

FEBRUARY 24, 1977.

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 13250 (Sub 135), J. H. Rose Truck Line, Inc.; MC 29886 (Sub 334), Dallas & Mavis Forwarding Co., Inc.; MC 65525 (Sub 22), White Brothers Trucking Co.; MC 66886 (Sub 50), Belger Cartage Service, Inc.; MC 73165 (Sub 393), Eagle Motor Lines, Inc.; MC 83539 (Sub 442), C & H Transportation Co., Inc.; MC 106497 (Sub 134), Parkhill Truck Company; MC 106644 (Sub 223), Superior Trucking Company, Inc.; MC 111320 (Sub 67), Keen Transport, Inc.; MC 111545 (Sub 227), Home Transportation Company, Inc.; MC 113459 (Sub 107), H. J. Jeffries Truck Line, Inc.; MC 113495 (Sub 79), Gregory Heavy Haulers, Inc.; MC 113855 (Sub 360), International Transport, Inc.; MC 114211 (Sub 286), Warren Transport, Inc.; MC 117574 (Sub 278), Daily Express, Inc.; MC 119777 (Sub 331), Ligon Specialized Hauler, Inc., and MC 124947 (Sub 48), Machinery Transports, Inc., now assigned March 30, 1977 at Chicago, Illinois, will be held in Room 286, 219 South Dearborn Street, Everett McKinley Dirksen Building.

MC 115730 (Sub 18), The Mickow Corp., now assigned March 29, 1977, at Chicago, Illinois, will be held in Room 350, 230 South Dearborn Street.

MC-F-12931, Allied Van Lines, Inc. dba Allied Van Lines—Control—Blodgett Furniture Service, Inc., and F. D. 28253, Allied Van Lines, Inc., now assigned April 4, 1977, at Chicago, Illinois, will be held in Room 350, 230 South Dearborn Street.

MC 141127 (Sub 1), Retta Trucking Co., Inc., now assigned March 28, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 103066 (Sub 44), Stone Trucking Company, now assigned March 29, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 142047 (Sub 2), Cheynne Truck Leasing, Inc., now assigned March 31, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 61592 (Sub 393), Jenkins Truck Line, Inc., now assigned March 9, 1977, at Chicago, Illinois, is canceled and the application is dismissed.

MC 19227 Sub 229, Leonard Bros. Trucking Co., Inc., now assigned March 17, 1977, at Dallas Texas, is cancelled, application dismissed.

MC 140829 (Sub 16), Cargo Contract Carrier Corp., now assigned March 23, 1977, at Washington, D.C., is canceled, application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6121 Filed 2-28-77; 8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 109, Amdt. No. 5]

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

Upon further consideration of Exemption No. 109 issued March 2, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 109 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6117 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 128]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO.

Exemption Under Provision of Mandatory Car Service Rules

To:

The Atchison, Topeka and Santa Fe Railroad Company.
Chicago and North Western Transportation Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
Chicago, Rock Island and Pacific Railroad Company.
Illinois Central Gulf Railroad Company.
Louisville and Nashville Railroad Company.
Missouri-Illinois Railroad Company.
Missouri Pacific Railroad Company.
St. Louis Southwestern Railway Company.
Seaboard Coast Line Railroad Company.
Southern Railway Company.

It appearing, That the eleven railroads listed below have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "FM"–less than 200,000 lbs., "GA", "GB", "BD", "GH", and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these eleven railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other ten roads as systems, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1 and 2, while on the lines of any of the above named railroads.

The Atchison, Topeka and Santa Fe Railroad Company
Reporting Marks: ATSF Effective August 22, 1976.
Chicago and North Western Transportation Company
Reporting Marks: CNW–CGW–CMO–FDDM–MSTL Effective October 17, 1976.
Chicago Milwaukee, St. Paul and Pacific Railroad Company
Reporting Marks: MILW Effective July 15, 1976.
Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI–ROCK Effective September 12, 1976.
Illinois Central Gulf Railroad Company
Reporting Marks: ICG–GM&O–IC Effective August 22, 1976.
Louisville and Nashville Railroad Company
Reporting Marks: L&N–CIL–MON–NC Effective August 15, 1976.
Missouri-Illinois Railroad Company
Reporting Marks: MI Effective July 15, 1976.
Missouri Pacific Railroad Company
Reporting Marks: MP–C&EI–CEI–KO&G–T&P Effective July 15, 1976.
St. Louis Southwestern Railway Company
Reporting Marks: SSW Effective July 25, 1976.
Seaboard Coast Line Railroad Company
Reporting Marks: SCL–ACL–C&WC–SAL Effective August 15, 1976.
Southern Railway Company
Reporting Marks: SOU–AEC–CG–GF–NS–SA Effective July 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project starting July 15, 1976, the Car Service Division to issue appropriate notification to Project participants, and to advise the undersigned.

Effective 12:01 a.m., February 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 11, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6118 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 123]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO. ET AL

Exemption Under Provision of the Mandatory Car Service Rules

To all Railroads:

It appearing, That railroads named herein own numerous plain flat cars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain flat cars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues theerof, as having mechanical designation "FM", and having less than 200,000 lbs. carrying capacity, and bearing reporting marks assigned to railroads named below, shall be exempted from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company
Reporting Marks: ATSF [1]
Missouri-Kansas-Texas Railroad Company
Reporting Marks: BKTY–MKT–MKTT
Missouri Pacific Railroad Company
Reporting Marks: C&EI–CEI–MP–TP
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: AEC–CG–NS–SOU–TA&G [2]

Effective February 15, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., February 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6123 Filed 2-28-77;8:45 am]

[1] Chicago & Eastern Illinois Railroad Company and The Texas and Pacific Railroad Company eliminated. Merged into Missouri Pacific Railroad Company October 15, 1976.
[2] Chicago, Milwaukee, St. Paul & Pacific Railroad Company deleted.

[Rule 19, Ex Parte No. 241, Exemption No. 63, Amdt. No. 63]

BESSEMER AND LAKE ERIE RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 63 issued February 12, 1974.

It is ordered, that, under authority vested in me by Car Service Rule 19, Exemption No. 63 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6124 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 93, Amdt. No. 10]

GRAND TRUNK WESTERN RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 93 issued January 15, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 93 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6119 Filed 2-28-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 24, 1977.

An application, as summarized below, has been filed requesting relief from

the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43325—*Joint Water-Rail Container Rates—Black Sea Shipping Company*. Filed by Black Sea Shipping Company (No. 5), for itself and interested rail carriers. Rates on general commodities, from and to railroad terminals at U.S. Pacific Coast ports, and ports in the Mediterranean.

Grounds for relief—Water competition.

Tariffs—Black Sea Shipping Company Eastbound tariff No. 2, I.C.C. No. 2, F.M.C. No. 10, and Westbound tariff No. 1, I.C.C. No. 1, F.M.C. No. 11.

Rates are published to become effective on March 25, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-6120 Filed 2-28-77;8:45 am]

[Notice No. 126]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 1, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76884. By application filed February 10, 1977, MARCUS TRUCKING CO., INC., P.O. Box 72, Wilmington, Delaware, 19899, seeks temporary authority to lease the operating rights of CEPHAS BROS. TRANSPORT, INC., R.D. No. 1 Box 184B, Hockessin, Del., 19707, under section 210a(b). The transfer to MARCUS TRUCKING CO., INC. of the operating rights of CEPHAS BROS. TRANSPORT, INC. is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6122 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART II

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Exhibitors

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Exhibitors

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following exhibitors are registered under said Act:

ALASKA

Alaska Children's Zoo, Box 1730 S. Star Route, Anchorage 99507
Brown, Leon T., Jr., 30001 Mountain View Drive, Anchorage 99503
City of Fairbanks, POB 790, Fairbanks 99707

ARIZONA

Zauatta, Belmonte, 15520 North 38th Street, Phoenix 85032

ARKANSAS

Arkansas Communities, Inc., P.O. Box 1506, Hot Springs 71901
Hallie's, Ormond, H. C., P.O. Box 303, Clinton 72301

CALIFORNIA

County of Los Angeles, Department of Parks and Recreation, 155 West Washington Boulevard, Los Angeles 90015

COLORADO

City of Englewood, dba Belleview Park, Department of Parks and Recreation, R3400 South Elati, Englewood 80110
City of Pueblo Department of Parks and Recreation, City Park Pavilion, Pueblo 81005
Drake, Dean, Animal World, 333 6th, Penrose 81240
Engel, Henry J., Wray 80758
Ernest's Taxidermy, Route 3, Box 62, Monte Vista 81144
Island Grove Park Zoo, 14th Avenue and B Street, Greenley 80631
Krohn, John C., The Fort, SR Box 20AA, Morrison 80465
National Park Village, 4000 Fall River Road, Estes Park 80517
Poirier, Harold, Wagon Wheel Ranch, Box 526, Delta 81416
Santa's Summer Home, Box 481, Easta Park, Longmont 80501
Santa's Work Shop, North Pole 80901

DELAWARE

Brandywine Zoo, 102 Middleboro Road, Wilmington 19804

FLORIDA

Anthony, Pat, P.O. Box 355, Riverview 33569
Bengtssen, Karl, Box 125, Route 3, Sarasota 33380
Blanchard, Charles D., 307 Coastal Highway, Vilano Beach, St. Augustine 32084
Cristiani, Oscar, 2810 South Jefferson, Sarasota 33579
Clyde-Beatty, Cole Brothers Circus, 1713 South Orange Avenue, Sarasota 33577
Cristiani, Oscar, 2810 South Jefferson, Sarasota 33579
Edwards, Thomas R., 3256 C Road, P.O. Box 336, Loxahatchee 33400
Fairyland Municipal Zoo, Lowry Park, North Boulevard and Sligh, Tampa 33604
Flipper's Sea School and Seaquarium, P.O. Box 2875, Marathon Shores 33052
Florida Sunken Garden, 1825 4th Street North, St. Petersburg 33704
Gossing, G. and G. Stevens, Singletary Road, Box 9, Myakka City 33551
Hardee County Pioneer Park, P.O. Box 136, Zolfo Springs 33890
Hoover, David C., 665 West 38th Street, Hialeah 33012
Joyce, Ethel, dba Wonderful World of Dogs, P.O. Box 302, Gibsonton 33534
King Bros. Circus, P.O. Box 1570, Winter Park 32789
Marine Attractions, Inc., 6500 Beach Plaza Road, P.O. Box 6086, St. Petersburg Beach 33736
Miller, Professor, 2361 Fruitville Road, Sarasota 33577
Morris, Mrs. Bernice, dba Morris Enterprise, Edgewater 32032
Museum of Sea and Indian, Star Route, Box 611, Destin 32441
Noell, Mr. and Mrs. Robert M., P.O. Box 396, Tarpon Springs 33589
Nowak, Edward, Jr., dba Swamparium, Route 5, Box 39, Cantonment 32533
Parks Department, City of St. Petersburg, 1450 16th Street North, St. Petersburg 33704
Ringling Bros., and Barnum and Bailey Combined Shows, Inc., P.O. Box 1528, Venice 33595
Santa Fe Community College, Teaching Zoo, 3000 Northwest 83rd Street, Gainesville 32602
Sarasota Jungle Gardens, 3701 Bayshore Road, Sarasota 33580
Seminole Indian Village and Craft Enterprises, 6073 Stirling Road, Hollywood 33020
Sipek, Steve, 15341 Northwest 32nd Avenue, Opa Locka 33054
Slom, Morris, Box 18623, Tampa 33609
Spyke's Groves, 7250 Griffin Road, Fort Lauderdale 33314
St. Augustine Alligator Farm, P.O. Box 166, St. Augustine 32084
Stebbing Royal European Circus, P.O. Box 249, Sarasota 33578
Szymonski, Kurt, 2022 Dodge Avenue, Sarasota 33580
Tallahassee Junior Museum, 3945 Museum Drive, Tallahassee 32304
Tiki Gardens, Inc., P.O. Box 8, 19601 Gulf Boulevard, Indian Shores 33535
Watson, Bill, Route 1, Box 117, Tampa 33612
Wild Kingdom, Inc., 233 East Robinson Street, Orlando 32801
Wildlife Trust of Broward County, 2070 Griffin Road, Fort Lauderdale 33302
Zerbini, Tarzan, Route 2, Box 8, Sarasota 33580

GEORGIA

Beverly, Olen L., P.O. Box 724, Moutrie 31768
City of Athens—Department of Parks and Recreation, Memorial Park, Athens 30601
Edwards, Lee, 3653 Dial Drive, Stone Mountain 30083
Georgia Cumberland Conference Association, P.O. Box 12,000, Calhoun 30701
Ketcham, Lewis E., Box 60A, Route 3, Woodstock 30188
Lunsford, Dick, Route 2, Douglas 31533
Mogyorus, Frank, Six Flags Over Georgia, P.O. Box 43187, Atlanta 30336
Okefenokee Association, Inc., Okefenokee 31501
Schleentz, Osborn R., Valdosta 31601
Six Flags Over Georgia, P.O. Box 43187, Atlanta 30336
Tandy, E. M., P.O. Box 1712, Valdosta 31601

IDAHO

Y-J Foods, Inc., Box 357, Coeur D'Alene 83814
Wild Wild West, Inc., Route 7, Caldwell 83605

ILLINOIS

Illinois Department of Conservation, 602 State Office Building, Springfield 62706
Stone, Lester R., Box 349, Route 1, East Moline 61244

INDIANA

Baird, Clifton and Kenny, Box 102, Salem 47167
Transcontinental Circus, 2228 N. Edmondson, Indianapolis 46952

IOWA

Blackhawk County Conservation Board, 2410 West Lonetree Road, Cedar Falls 50613
Board of Park Commissioners, 236 West Central Park Avenue, Davenport 52803
Buchanan Conservation Board, Hazelton 50641
Buffalo Ranch Museum, 310 Lovers Lane, Fayette 52142
City of Cedar Rapids, Park Department, City Hall, Cedar Rapids 52401
City of Fort Dodge, Park Department, 1353 Oleson Park Avenue, Mason City 50401
City of Mason City, Parks Department, 9 South Delaware Avenue, Mason City 50401
Hawkeye Zoological Society, Box 1482, Cedar Rapids 52406
Iowa State Conservation Commission, Boone 50036
Osborne Conservation Education Center, Elkader 52043
Polk County Conservation Board, Jester Park, Granger 50109

KANSAS

Bear House Truck Stop, Inc., Bunker Hill 67626
Central Riverside Park, Wichita 67202
City of St. Mary's, St. Mary's 66536
Dodge City, Wright Park Zoo, Dodge City 67801
Markley, J. E., Seneca 66538
Noel, Frank (Noel's Speciality Acts), R.R. 1, Box 113Q Mulvane 67110
Old Abilene Town Inn, Box 438, Abilene 67410
Ruro Mini Zoo, 1201 North Broadway, Leavenworth 66048

KENTUCKY

Blaine, Joseph M., 34 Arcadia, Lakeside Park 41017
Garvin, Charles, Beech Band Park, Bowling Green 42101
Issac W. Bernheim Foundation, Bernheim Forrest, Clermont 40110
Mammoth Onyx Cave, Box 527, Horse Cave 42749
Otter Creek Park, Vine Grove 40175
Shelton, James T., dba Funland Park, Box 372, Route 6, Corbin 40701

LOUISIANA

Alfred Bonnabel High School, 8800 Bruin Drive, Metairie 70003
Colacurcio, Bill, 522 Bourbon Street, New Orleans 70130
Playland Amusements, Inc., Pontchartrain Beach, New Orleans 70122
Snake Farm, P.O. Box 96, LaPlace 70068

MARYLAND

Baltimore Zoo, Druid Hill Park, Baltimore 21217
Brandywine Stables, Route 4, Box 69, Brandywine 20613
Columbia Association, 5829 Banneker Road, Columbia 21044
Dykes Brothers Attraction, Merritt Mill Road, Salisbury 21801
Enchanted Forest Enterprises, Inc., 10040 Baltimore National Pike, Ellicott City 21043
Hahn, Richard A., dba Catoctin Mountain Zoological Park, Thurmont 21788
Haviland, Hal, P.O. Box 1222, Landover 20785
Jackson, Harry Lee, dba Trader Lee's Village, Route 50, West Ocean City 21842
Marjec, Inc., Shawnee-Land, Olney 20832
Salisbury Zoological Garden, P.O. Box 791, Salisbury 21801
Starsun Park, Route 1, Box 234, Whaleysville 21872

MICHIGAN

Animal Kingdom Wildlife Refuge, 9320 South Division, Byron Center 49315
Becker's Zoo, East Cass City Road, Ubly 48475
Bertha Brock Park, Route 3, Box 295, Ionia 48846
Binder Park, City of Battle Creek, 7500 Division Drive, Battle Creek 49107
Bitely, Gerald, dba Birch Shores Resort, Route 1, McMillan 49853
Blahnik, Jr., H. J., Garage and Hatchery, Carney 49812
Cederberg, Ernest H., Deer Park, 2093 Coggins Road, Pinconning 48650
City of Kalamazoo, City Hall, 241 West South Street, Kalamazoo 49006
City of Mt. Pleasant, Nelson Park Zoo, 120 South University, Mt. Pleasant 48858
Claerhout, Emil and Madeline Schuster, Emil the Buffalo, 8887 Gratiot Road, Richmond 48062
Clinch Park Zoo, Grand View Parkway, Traverse City 49684
Clough, LeRoy and June, Evergreen Resort, Route 2, M-65, Hale 48736
Currie-Wildon Enterprises, P.O. Box 227, Midland 48640
Dickey, Darwin, L., Pine Ridge Amusement, 7784 Main Street, Birch Run 48415
Drayton Plains Nature Center, Inc., 2125 Denby Drive, Drayton Plains 48020
Edison Institute, Greenfield Village, Dearborn 48121
Elm Rest Service, 1507 South Lake Mitchell Drive, Cadillac 49601
Erickson, Mrs. Shirley, Route 2, Box 2334, Grayling 49738
Fenner, Carl G., Arboretum, 2020 East Mt. Hope, Lansing 48910
Finley, Merle, dba Longhorn Ranch, 7684 25 Mile Road, Washington 48094
Flath, Julius, dba Dell's Supper Club, Escanaba 49837
Fountain, L. J. and P. A., 306 East John Street, Newberry 49868
Greenwood Acres, 2401 Hilton Road, Jackson 49201
Hafeman, Robert, Route 2, Box 75, Wallace 49893
Henes, John Park, 202 Henes Park Drive, Menominee 49848
Hines, Ivan, Route 2, 1781 Coldwater Road, Mt. Pleasant 48858
Holbrook, Stanley, Route 1, Germfask 49836
Hulko, Samuel F., 1108 Crystal Avenue, Crystal Falls 49920
Humane Society of Macomb County, 11350 22 Mile Road, Utica 48087
Industrial Mutual Association, 901 East Second, Flint 48503
Iron Mountain City Park, Westends of A and B Streets, Iron Mountain 49801
N.E. Isaacson of Michigan, Inc., Sugar Springs Inc., 5477 Sugar River Road, Gladwin 48624
Jensen, Mr. and Mrs. Robert, Route 1, Powers 49874
Johnny's Fish and Game Park, 5511 East 46½ Road, Cadillac 49601
Kalamazoo Nature Center, 7000 North Westnedge, Kalamazoo 49007
King Animaland Park, Inc., 62000 Gratiot Avenue, Richmond 48062
Loftis, Audrey Lee, 14140 Worden Road, Gregory 48137
May, Howard, 394 Cambria Road, Hillsdale 49242
Mayer, W. G., 7606 Hix Road, Westland 48185
Mercier, Francis R., dba Santa's Gift Shop, Box 75, Munising 49822
Moe, Arne G., dba The Red Barn, Route 1, Box 210, Munising 49862
Mott Farm Program G6140 Bray Road, Flint 48505
Nankin Mills Nature Center, 33175 Ann Arbor Trail, Westland 48185
Norm's Bald Mountain Riding Stable, 3085 South Laprec Road, Pontiac 48057
Ogemaw Game Refuge, Ten Lakes Sportsmen Club, 5626 West Rose City Road, West Branch 48661
Palmer, Mrs. Betty, dba Presque Isle Park, Marquette 49855
Parr's Park, Box 81, Prudensville 48651
Peebles, Gloria, 18810 Cardoni, Detroit 48203
Plesschner, Robert, Route 1, McMillan 49853
Potter Park Zoo, 1301 South Pennsylvania Avenue, Lansing 48933
Quas, Garry, dba Bambi Park, Box 215, Iron Mountain 49801
Rice, Elmer, 539 Golf Road, Lapeer 48446
Rouge Park Nature Center, 14250 West Outer Drive, Detroit 48239
Saginaw Children's Zoo, 1694 South Washington, Saginaw 48601
Schofield, Bruce and Laura, 2165 Bailey Lake Road RFD 3, Gladwin 48624
Scidmore Park, Three Rivers 49093
Smith, Curtis L., P.O. Box 204, Baldwin 49304
Spickerman, Harvey, Route 1, Rose Bush 48878
Steel, David and Shirley, DBA Animaland Camp Ground, Batterson Road, Frederick 49733
Stephens, Yvonne R., dba Yvonne and Her Friends, Box 37, Williamsburg 49690
Tesch, Harold, dba Lenawee Institute, 3046 Sutton Road, Adrion 49221
Waffle, Ernest J., 2416 Aldrich Road, Tekonsha 49092
Waltz, Dirk B., 625 Linwood Beach Road, Linwood 48634
Wilder, Dale, Whoopee Bowl, 9580 Dixie Highway, Clarkston 48016

MINNESOTA

Ahrendt, Dwayne J., Jasper 56144
Alexandria Deer Park, Route 4, Alexandria 56308
Asander, Phyllis, dba Schmidt's Citrus, R.R. 1, Dalton 56324
Blue Mound Inn, Luverne 56156
Boelter, James F., Route 3, McGregor 55760
Brainerd Baxter Corporation, dba Paul Bunyan Amusement Center, Box 563, Brainerd 56401
Buffalo House, 2500 Guss Road, Duluth 55810
City of Mankato, Division of Parks and Forestry, 202 East Jackson Street, Mankato 56001
City Park Board, Ramsey Park Zoo, c/o Municipal Office Building, 207 East 4th Street, Redwood Falls 56283
Cook, Val S., Orr 55771
Cougarville Castle, Quamba 55064
Deer Town, Inc., Highway 71 North, Park Rapids 56470
Duluth Zoo, 7210 Fremont Street, Duluth 55807
Eggleston, Ogden C., Walker 56484
Farm Supper Club, Inc., R.R. 4, Princeton 55371
Fort Detroit, P.O. Box 66, Detroit Lakes 56501
Gopher Campfire Club, c/o H. P. Quade, Sr., 122 North Main Street, Hutchinson 55350
Granfor, Julian, Perley 56574
Hansen, William T., dba Animal Acres Zoo, R.R. 3, Box 203, Wadena 56482
Himes, Robert L., dba Trapper Himes Wild Animal Farm, Ray 56669
HiWay Trading Post, Hackensack 56452
Ike's Chicken Shack, Browns Valley 56219
Jacobson, E. N., Nevis 56467
Jaegers, Sidney W., R.R. 1, Buffalo Lake 55314
Kleven, Lyle, 3500 6th Street North, Minneapolis 55412
Krachey, Donald W., dba Aqua Park Aquarium, 1008 East 1st Street, Park Rapids 56470
LaBarge, Mr. and Mrs. Lisle, Jr., Route 1, Box 65A, Chisholm 55719
Lewis, Walter D., Alexandria 56308
McGregor Dairy Queen, Inc., Box 66, McGregor 55760
Nelson, Irvin, Route 2, St. Peter 56082
Oberle, Donald, Comfrey 56019
Ohlgren, E. J., Clear Lake 55319
Oxbow Wildlife Exhibits, Byron 55920
Pine Grove Park Municipal Zoo, 727 3rd Street, NE., Little Falls 56345
Smuda's Wildlife Zoo, Little Falls 56345
Split Rock Trading Post, Box 122A, Two Harbors 55616
St. Paul's Como Zoo, St. Paul 55103
Village of LeCenter, 21 North Lexington, LeCenter 56057
Village of Wadena, Box 30, Wadena 56482
Virginia Park Commission, Olcott Park, Virginia 55792
Wall Brothers, Comfrey 56019

MISSISSIPPI

McWilliams, Mrs. Eugene C., Route 1, Box 108, Picayune 39466

MISSOURI

Gold Nuggets Junction, Osage Beach 65065
Jackson Co., Department of Parks and Recreation, Route 2, Box 408, Blue Springs 64015
Jones, J. W., dba Buena Vista's Exotic Animal Paradise, Route 1, Strafford 65757
Lone Elk Park, c/o St. Louis Co., Parks Department, 7900 Forsyth, St. Louis 63105
Max Allen's Zoological Gardens, U.S. 54 South, Eldon 65026
Ozark Deer Farm, Route 3, Eldon 65026
Silver Dollar City, Silver Dollar City 65616
Szasz, Albert B., Route 1, Gerald 63037
World's of Fun, 4545 World's of Fun Avenue, Kansas City 64161

MONTANA

Brogan, Welch E., dba Cinnabar Game Farm, Gorwin Springs 59021
Montana Safari Park, Box 591, Ennis 59729
Red Lodge Zoo (Elmer Neff), Red Lodge 59068
Svelstad, Nels, Wise River 59762

NEBRASKA

Municipal Zoo and Chet Ager Nature Center, Lincoln 68502
Ryan, Kelly P., Blair 66088
Ta-Ha-Zouka Park, Route 2, Norfolk 68701

NEW MEXICO

Carlsbad Botanical Zoological Park of the SW, Box 1569, Carlsbad 88220
City of Alamogordo, 511 10th Street, Alamogordo 88310
City of Clovis, P.O. Box 760, Clovis 88101
Living Desert State Park, Box 1569, Carlsbad 88220
Spring River Park and Zoo, City Hall, Roswell 88201

NEW YORK

Alfred Comedy Dog Act, 1710 2nd Avenue No. 3, New York

NORTH CAROLINA

Carrado, Nick Jr., P.O. Box 894, Carthage 28327
Charlotte Nature Museum, Inc., 1658 Sterling Road, Charlotte 28209
Charlotte Nature Museum, Inc., 1658 Sterling Road, Charlotte 28209
City of Asheville Zoo, City Hall, Asheville 28807
County Park Zoo and Natural Science Center, 4301 Lawndale Drive, Greensboro 27408
Environmental Education, Recreation and Research Center, Route 1, Box 401, High Point 27260
Frontierland National Recreation Service, Cherokee 28719
Grandfather Mountain, Inc., Linville 28646
Great Smoky Mountains Natural History Association, Gatlinburg 37738
Kiddie Zoo, P.O. Box 1810, Wilmington 28401
McAdenville Aviary Gardens, McAdenville 28101

North Carolina Museum of Life and Science, P.O. Box 8177, Durham 27704
Rimer Development Co. Inc., Route 2, Box 182, Kannapolis 28081
Woody, Woodrow W., Route 2, Box 303, Sylva 28779

OHIO

Beebe, Raymond, Route 3, Pataskalay 43062
Bob Evan's Farm, Inc., Box 154, Rio Grande 45674
Chovanic, David, and Lawrence Humbarger, 133 McKim Street, Bellevue 44811
Cleland's Deer Acres, Route 1, Bainbridge 45612
Cleveland Aquarium, 601 East 72nd Street, Cleveland 44103
Cleveland Museum of Natural History, Wade Oval, University Circle, Cleveland 44106
Conley, Carl E., 4689 Star Route 276, Batavia 45103
Cullison, Karl, 1949 Kim Drive, Akron 44312
Dayton Museum of Natural History, 2629 Ridge Avenue, Dayton 45414
Diamond "O" Ranch, Inc., Wila Animal Zoo, 1000 Warner Road, Southeast Canton 44707
Eckenrode, Harry N., 1596 Grandview Avenue, Apt. B, Columbus 43212
Elyria Department of Parks and Recreation, 1101 Prospect Street, Elyria 44035
Faflik, Clarence, Shoe Store, 26242 Great Northern, North Olmstead 44070
Fantasy Farm, Route 1, Middletown 45052
Khol, Rudy, 30770 Cannon Road, Solon 44139
Lake Erie Junior Nature and Science Center, 28728 Wolf Road, Cleveland 44140.
Lowe, Joseph T., 1192 East 40th Street, Cleveland 44114
Masino, Arnold G., 13305 Jayneview Avenue, Uniontown 44685
Nafziger, Dale L., Route 1, Box 18, Archbold 43502
Nelson Ledge Park, Route 2, Box 292, Garrettsville 44231
Sea World of Ohio, Inc., P.O. Box 237, Aurora 44202
Siedel Fun Farm, Inc., 21897 Westwood Drive, Strongsville 44136
Sink, Randon, 38 Jasper Street, Dayton 45409
Trailside Nature Center, P.O. Box 27, Cincinnati 45220
Twin Shoe Store, 8350 Maryland Avenue, St. Louis 63105
Vancel, William, 214 McKim Street, Bellevue 44811
Weidner, Thomas, Route 1, Baltimore 43105
Wohl Shoe Company, dba Faflik Shoe Store, 8350 Maryland Avenue, St. Louis 63105

OKLAHOMA

Frank Phillips Foundation, Inc., 402 Professional Building, Bartlesville 74003
Shearer, W. V., Route 1, Mooreland 73852

PUERTO RICO

Amador, Felix Jimenez, Rd. 482, Km 0.9, Bo. Cocos, Quebradillas 00742
Congregacion de Mita, Inc., 235 Duarte Street, Hato Rey 00917
Rosado, Francisco Vasquez, Santa Clara, Box 674, Jayuya 00664
Zoological Garden of Puerto Rico, P.O. Box 1085, Mayaguez 00708

SOUTH CAROLINA

Animal Forest, Charles Towne Landing, 1500 Old Town Road, Charleston 29407
Brookgreen Gardens, Murrells Inlet 29576
Cromer's P-Nuts, Inc., P.O. Box 163, Columbia 29201
Eagleson, G. S., 730 Flat Street, Allendale 29810
Greenville Zoo, Cleveland Park Drive, Greenville 29601
Marvin, Frank M., Hollywood 29449
Serpent City Jungle Land, Highway 17 North, Myrtle Beach 29577
Smith, William C., dba Smith's Truck Stop, Winnsboro 29180
Wall, John A., 116 Chester Street, Spartanburg 29301
Wonderland Zoo and Gift Shop, Route 3, Box 102, Conway 29526

TENNESSEE

Buck Sorell Enterprises, Inc., P.O. Box 77, Whitehouse 37188
Cumberland Museum and Science Center, 800 Ridley Avenue, Nashville 37203
Mills, Bill, Route 1, Rockwood 37854
Olive Betty L. and Delma Ree Miller, c/o Village of 1800, Highway 411 N., Etowah 37331
Rucker, Hines, Watertown 37184
Tenn-Alabama Gift Shop, Box 27, South Pittsburg 37380
Vick, Arthur W., Clinch Mountain Lockout, Route 1, Thorn Hill 37881

TEXAS

Allen, Dianne Wilson, dba Wilson's Seals and Monkeys, P.O. Box 971, Donna 78537
Baylor Chamber of Commerce, Box 225, Union Building, Baylor University, Waco 76706
Caverns of Sonora, P.O. Box 213, Sonora 76950
City of Andrews, Municipal Administration Building, Andrews 79714
City of Childress, City Hall, Childress 79201
City of Sinton, P.O. Box 1395, Sinton 78387
Connor, James H., 804 Anthony Street, Gainesville 76240
Duke, Ralph, R.R. 3, Box 187, Seagoville 75159
Fisher, Ralph, Box 180, Barker 77413
Ft. Worth Museum of Science and History, 1501 Montgomery Street, Forth Worth 76107
Gee Gee Engaser, Route 3, Box 179, Seagoville 75159
Gibbs, Bob, Route 4, Box 550, Mission 78572
Hall, Carmen A., Route 1, Box 762, Mesquite 75149
Hall, James K., Route 1, Box 762, Mesquite 75149
Harmon, Dr. Roger, 401 East Pinecrest Drive, Marshall 75670
Henry, Gary G., Box 3, Gainesville 76240
Henry, Glen M., Box 292, Gainesville 76240
Inner Space, Highway 355, Georgetown 78628
Lemke, Joe, 4005 Easta Ryan Street, Mesquite 75149
Lucia, Tom, Route 3, Box 154, Weatherford 78086
Pinson, Joanne and Dennie, Route 1, Gainesville 76240
Rice, Barbara, P.O. Box 264, Combine Road, Seagoville 75159
Richtman, David T., P.O. Box 3068, Galveston 77550
Rucker, Lawrence, c/o Don E. Johnson, 12824 Noel Road, Apt. 2052, Dallas 75230
Rucker, Ralph, Gen. Del., Gainsville 76240
Sapp, Michael I., 27150 O'Kent, San Antonio 76216
Smith, James A. H., 1960 Peavy Road, Dallas 75228
Steele, Bucky R., Box 179, Haymarket Road, Seagoville 75159
Stodghill's Ranch, Rt. 2, Quinlan 75475
University of Houston, Box 240, University Center, Houston 77004
William Lenz, c/o Hubert Castle Circus, 1960 Peavy Road, Dallas 75228
Wonder World, P.O. Box 1369, San Marcos 78666

VIRGINIA

Bennett, W. M., Box 356, Christiansburg 24073
Childress, Frank B., Route 1, Box 214, New Market 22844
City of Hampton, dba Blue Bird Gap Farm, City Hall, Hampton 23369
City of Newport News, Department of Parks and Recreation, 2400 Washington Avenue, Newport News 23607
Coleman, G. A. Company, 916 Main Street, Lynchburg 24505
Hofheimer's, Inc., 325 Granby Street, Norfolk 23510
Junior Woman's Club of Lynchburg, Virginia, Inc., P.O. Box 3262, Rivermount Station, Lynchburg 24503
Martin, James R., 8725 Commodore Drive, Norfolk 23503
Peninsula Nature and Science Center, 524 J. Clyde Morris Boulevard, Newport News 23601
Staunton City Zoo, P.O. Box 58, Staunton 24401
Ocean View Amusement Park, North End of Granby Street, Norfolk 23503
Wishing Well Gift Shop, 9 miles North of Skyline Drive, White Post 22663

WASHINGTON

Berchtold, Eloise C., 7678 East Kemper Road, Cinncinnati 45242
City of Centralia Park Department, City Hall, Centralia 98531
Everett Park and Recreation Department, Forest Park, Everett 98203
Inland Empire Zoological Society, Box 14258, Opportunity 99214

WEST VIRGINIA

Meadows, Ernest R., Route 4, Box 107, Grafton 26354
Rider, John W., Jr., Route 2, Box 14B, Rainelle 25962

WISCONSIN

Antonucci, A., Route 5, Box 9, Burlington 53105
Aqualand, Inc., Ephraim 54211
Arcadia Sportsman's Club, Arcadia 54612
Barthman, Virgil T., Route 1, Clear Lake 54005
Bay Beach Wildlife Sanctuary, 1660 East Shore Drive, Green Bay 54301
Behn, Wilbert, Route 1, Aniwa 54408
Belshaw, Robert D., Earl 54883
Bill's Landing Deer Farm, Route 3, Hayward 54843
Blackhawk Camp Ground, Box 686, Milton Junction 53564
Blackhawk Ridge, P.O. Box 92, Sauk City 53583
Bob's Chuck Wagon, Inc., Wisconsin Dells 53965
Bodin's Inc., Lakeshore Drive, Ashland 54806
Brown County Reforestation Camp, Route 4, Green Bay 54301
Circus World Museum, Baraboo 53913
City of Ashland, Park Department, Ashland 54806
City of Black River Falls, Box 229, Black River Falls 54615
City of Blair, Blair 54616
City of Fond du Lac, 76 East Second Street, Fond du Lac 54935
City of Stanley, Stanley 54768
Clark County Hospital and Home, Route 2, Box X, Owen 54460
Connor Forest Industries, Camp 5 Farm, Laona 54541
Cornford, M. J. and Allen H., Rural Route 1, Randolph 53596
Deer Park Athletic C Club, Deer Park 54007
Deisinger, Donald, Route 2, Antigo 54409
Duval, Everett, Route 3, New Auburn 54757
Edgerton Conservation Club, Box 13J, Route 1, Edgerton 53534
Fine R-K Ranch, Route 5, Hayward 54843
Forest County Deer Farm, Court House, Crandon 54533
Fowler, Donald C., Route 2, Tomah 54660
Fry's Wildlife Museum, Route 5, Tomahawk 54478
Gannon's Birchwood Resort, Rural Route 1, Lodi 53555

Ge-Ca-Wa Lodge Deer Farm, Box 117A, Iron River 54847
Grandpa's Farm, Inc., c/o Wesley B. White, Route 3, Rhinelander 54501
Gullickson, William, 1680 North Farwell Avenue, Milwaukee 53202
Henry Vilas Park Zoo, 500 South Randall Avenue, Madison 53913
Horner, Everett, Route 1, Box 36, Waterford 53105
Janesville Conservation Club, Box 129, Janesville 53545
Johnson, A. R., c/o Murry Hill, Route 5, Box 9, Burlington 53105
Jueds, Arnold, Route 1, Marion 54950
Kamps, Margaret, dba Buck and Doe Forest, Box 277, Eagle River 54521
Kleven, David, Route 1, Sarona 54870
Kling, Duane, Route 1, Box 169, Merrillan 54754
Lange, Ervine P., 1623 Saemann Avenue, Sheboygan 53081
Levinson, Vivian, Route 1, Hayward 54843
Lincoln Park Zoo, 736 Revere Drive, Manitowoc 54220
Link Brothers, Inc., Minong 54859
Little Mexico Deer Farm, Route 2, Siren 54872
Ludwig Brothers, Inc., S. 107 W16311 Loomis Road, Route 2, Hales Corners 53130
Main Store, Star Route, Webb Lake 54892
Mahloch, James, dba Cottonpatch Restaurant, 2003 Lake Drive, Shawano 54166
Menomonie Lions Club Game Park, Menomonie 54751
Miller, Jerry Lee, Route 1, T.J.M. Ranch, West Bend 53095
Miller, Louis W., dba The Outpost, Route 3, Tomahawk 54487
Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee 53226
Montag, Elgene H., Route 1, Chili 54420
Myrick Park, City of La Crosse, La Crosse 54601
Natter, Rollin, 3401 Milton Avenue, Janesville 53545
Nelson, John, Route 1, Wabena 54566
Nyguard, L. A., dba Kettles the Clown and his Animal Friends, Route 1, Box 175A, Wisconsin Dells 53965
Olson, Alvin R., Route 2, Oxford 53952
P-M, Inc., Eagle River 54521
Park and Recreation Commission, City of Wisconsin Rapids, 441 West Grand Avenue, Wisconsin Rapids 54494
Peck, Jim, dba Wildwood Wildlife Kingdom, Minocqua 54548
Pliska, Roman and Len, R.R. 1, Box 279-A, Custer 54423
Ponderosa, Inc., Waupaca 54981
Portage County Park Commission, County-City Building, Stevens Point 54481
Quill Inn, Route 2, Box 264, Lady Smith Highway S. 54848
Racine Zoological Park, 2131 North Main Street, Racine 53402
Radies, Mrs. R. A., Route 1, Big Falls 54950
Randall, Jane Vincent, c/o John Batdorf, Route 1, Box 73, Rhinelander 54501
Rauchnot, John M., J. R. Ranch, Inc., Route 1, Hudson 54016
Setchell, Vern, Chetek 54728
Shadel, Steward, 60 Water Street, Ganesville 53545
Shay, William, Route 3, New Richmond 54017
Simpson, Wayland and Martha, Route 4, Wampaca 54981
Smykal, Kevin, Route 1, Dunbar 54119
Sommers, Ray P., Route 1, Random Lake 53075
St. Camillus Novitiate, R.R. 2, Box 220, Baraboo 53913
St. Germaine Village Park, St. Germaine 54558
Stevenson, Stanford A., Route 1, Bayfield 54814
Storybook Gardens, Route 1, Box 135A, Wisconsin Dells 53965
Streblow, Raymond, 5703 Knapp Street, Oshkosh 54901
Sturgul, Francis G., Hazelhurst 54531
Tollaksen, Russell, Route 1, Box 17, Wisconsin Dells 53965
Twin Bucks Game Farm, 3407 Plover Road, Plover 54467
Van Dyke, Richard H., Route 3, New London 54961
Village of Suring Park, Suring 54174
Vougers Village, Inc., Box 395, Danbury 54830
Walters, Ivan, White Lake 54491
Weber, Ellen, Star Route, Sayner 54560
Welch, Francis, Luger Route, Phillips 54555
Wendland, Fred, Park Falls 54552
West, Elwyn, Route 3, Waupaca 54981
White Birch Fisheries, Inc., Boulder Junction 54512
Whitley, Elaine K., Star Route, Manitowish Waters 54545
Wilderness Walk, Hayward 54843
Wille, Gerhart, R.R. 2, Box 293, Waupun 53963
Wisconsin Department of Natural Resources, Box 450, Madison 53701
Woodside Ranch Resort, Inc., Route 3, Maugton 53948

WYOMING

City of Cheyenne, Lyons Park, Cheyenne 82001
Hutmacher, Paul A., Route 2, Box 1357, Cheyenne 82001
Lakeside Resort, Shoshoni 82649
Wind River Ranch, Dubois 82513

(Sec. 6, 80 Stat. 351, as amended (7 U.S.C. 2136).)

Done at Washington, D.C. this 14th day of February 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

G. V. PEACOCK,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-5881 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART III

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Research Facilities

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Research Facilities

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following research facilities are registered under said Act:

ALABAMA

Auburn University, Auburn 36830
Southern Research Institute, 2000 Ninth Avenue, South, Birmingham 35205
Tuskegee Institute, Tuskegee Institute 36088
University of Alabama, P.O. Box 2846, University 35486
University of Alabama Medical Center, 1919 Seventh Avenue, South, Birmingham 35233
University of South Alabama, Mobile 36688

ALASKA

University of Alaska, College 99701

ARIZONA

Arizona State University, Tempe 85281
Armour-Dial Company, 15101 North Scottsdale Road, Scottsdale 85260
Northern Arizona University, Flagstaff 86001
St. Joseph's Hospital and Medical Center, 350 West Thomas Road, Phoenix 85113
University of Arizona, Tucson 85721

ARKANSAS

Animal Behavior Enterprises, Inc., Route 6, Box 368, Hot Springs 71901
University of Arkansas, Fayetteville 72701

CALIFORNIA

Adams Caviary, 3846 North Charlotte Avenue, San Gabriel 91776
Alchem Laboratories, Inc., 13478 Beach Avenue, Marina Del Rey 90291
Allergan Pharmaceuticals, 2525 Dupont Drive, Irvin 92664
Alpha Gamma Laboratories, 160 East Montacito Avenue, Sierre Madre 91024
Alza Corporation, 950 Page Mill Road, Palo Alto 94304
Applied Biological Sciences Laboratory, Inc., 6320 San Fernando Road, Glendale 91201
Attending Staff Association, Los Angeles County Harbor General Hospital, 1000 West Carson Street, Torrance 90509
Barlow Hospital, 2000 Stadium Way, Los Angeles 90026
Barnes-Hind Pharmacy, Inc., 895 Kifer Road, Sunnyvale 94086
Beckman Instruments, Inc., 2041 East Lambert Road, La Habra 90631
Bentley Laboratories, Inc., 17502 Armstrong Avenue, Irvine 92705
Bio-Science Laboratories, 7600 Tyrone Avenue, Van Nuys 91405
Bio-Technics Laboratories, Inc., 1133 Crenshaw Boulevard, Los Angeles 90019
Bureau of Public Health Laboratories, Los Angeles 90012
Calbiochem, P.O. Box 12087, San Diego 92112
California Institute of Technology, 805 North Lapham Street, El Sequndo 90245
California State Colleges Office of the Chancellor, 5670 Wilshire Boulevard, Los Angeles 90036
Cedars-Sinai Medical Center, 4751 Fountain Avenue, Los Angeles 90029
Charles R. Drew Post-Graduate Medical School, 1621 East 120th Street, Los Angeles 90059
Children's Hospital Medical Center, Bruce Lyon Memorial Research Laboratory, 51st and Grove Streets, Oakland 94609
Children's Hospital of Los Angeles, 4650 Sunset Boulevard, Los Angeles 90027
Children's Hospital of San Francisco, Experimental Surgical Laboratory, P.O. Box 3805, San Francisco 94119
Chromalloy Pharmaceutical, Inc., 10100 Santa Monica Boulevard, Los Angeles 90067
City of Hope Medical Center, 1500 East Duarte Road, Durate 91010
CLMG, Inc., Los Angeles 90057
Claremont Men's College, 11th and Dartmouth Avenue, Claremont 91711
Compton Community College, 1111 East Artesia Boulevard, Compton 90221
Consumnes River College, 8401 Center Parkway, Sacramento 95823
County of San Diego, Office of County Veterinarian, 5555 Overland Avenue, Building 4, San Diego 92123
Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley 94710
Diagnostic Date, Inc., Mountain View 94043
Edwards Laboratories, Division of American Hospital Supply, 17221 Red Hill Avenue, Santa Ana 92705
Emery Cancer Research Fund, 615 S. Westlake Avenue, Los Angeles 90057
Endocrine Sciences, 18418 Oxnard Street, Terzana 91356
Estelle Doheny Eye Foundation, 272 South Lake Street, Los Angeles 90057
Foothill College, 12345 El Monte Road, Los Altos Hills 94022
Grossmont College, 8800 Grossmont College Drive, El Cajon 92020
Hagadon Corporation dba Ianus Laboratories, P.O. Box 20269, El Cajon 92021
Hancock Laboratories, Inc., 4633 East La Palma Avenue, Anaheim 92807
Hine Laboratories, Inc.,[1] 1099 Folsom Street, San Francisco 94103
Hoag Memorial Presbyterian Hospital, 301 Newport Boulevard, Newport Beach 92660
Hollywood Presbyterian Hospital, 1322 North Vermont Avenue, Los Angeles 90027
Huntington Institute of Applied Medical Research, 734 Fairmont Avenue, Pasadena 91105
ICN Nucleic Acid Research Institute, 2727 Campus Drive, Irvine 92664
Institute of Medical Sciences, 2200 Webster Street, Room 310, San Francisco 94115
Institute for Medical Research of Santa Clara County, 751 South Basom Avenue, San Jose 95128
Institute of Nutritional Studies, 9331 Venice Boulevard, Culver City 90230
International Medication Systems, Ltd., 1886 Santa Anita Avenue, South El Monte 91733
Inter Science Institute, 200 Cotner Avenue, Los Angeles 90025
Irvine Eye Institute, 19722 Jamboree Boulevard, Irvine 92715
Kaiser Foundation Hospitals, Ordway Building, Oakland 94666
Kearley, D.V.M., Edward O., 690 Quincy Road, Turlock 95380
La Verne College,[1] 1950 Third Street, La Verne 91750
Lee Pharmaceuticals, 1444 Santa Anita Avenue, South El Monte 91733
Linus Pauling Institute of Science and Medicine, 2700 Sand Hill Road, Menlo Park 94025
Loma Linda University, Loma Linda 92354
Los Angeles Pierce College, 6201 Winnetka Boulevard, Woodland Hills 96413
Loyola University, 7101 West 80th Street, Los Angeles 90045
McGaw Laboratories, 2525 McGaw Avenue Irvine 92664
Medi-Physics, Inc. 5855 Christie Avenue, Emeryville 94608
Memorial Hospital of Long Beach, 2801 Atlantic Avenue, Long Beach 90806
Mercy San Juan Hospital, 6501 Coyle Avenue, Carmichael 95608
Monitor Science Corporation, 1598 Monrovia Avenue, Newport Beach 92663
Mount St. Antonio College, 1100 North Grand Avenue, Walnut 91789
Mount Zion Hospital and Medical Center, 1600 Divisadero Street, San Francisco 94115
Murphy, Howard F., Carlsbad 92008
National Institute of Scientific Research, 12330 Santa Monica Boulevard, Los Angeles 90025
Nelson Research and Development, 19722 Jamboree Boulevard, Irvine 92664
Newport Pharmaceuticals International, Inc., 1590 Monrovia Boulevard, Newport Beach 92660
Nichols Institute For Endocrinology, 1300 South Beacon Street, San Pedro 90731
North American Aviation, Inc., Autonetics Div., 805 North Lapham Street, El Segundo 90245
Nutrilite Products, Inc., 19600 Sixth Street, Lakeview 92353
Occidental College, Los Angeles 90041
Olive View Hospital, 14445 Olive View Drive, Sylmar 91342
Orange County Medical Center, 101 Manchester Avenue, Orange 92668
Palo Alto Medical Research Foundation,[1] 860 Bryant Street, Palo Alto 94301
Pasadena City College, Pasadena 91106
Pasadena Foundation For Medical Research, 99 North El Molino Avenue, Pasadena 91101
Pharmaseal Laboratories, 4401 Foxdale Avenue, Irwindale 91706
Pomona College, Claremont 91711
Radioassay Systems Laboratories, Inc. 1511 East Del Amo Boulevard, Carson 90746
Rancho Los Amigos Hospital, Inc. 7413 Golondrinas Street, Downey 90242
Rancho Santiago Community College, Santa Ana 92706
RedKen Laboratories, Inc. 14721 Califa Street, Van Nuys 91401
Regents of the University of California, University Hall, Berkeley 94720
Salk Institute For Biological Studies, P.O. Box 1809, San Diego 92104
San Bernardino Valley College, San Bernardino 92403
San Diego Bio-Medical Research Institute, 3585 Fourth Avenue, San Diego 92104
San Diego Mesa College, 7250 Mesa College Drive, San Diego 92111
Sansum Clinic Research Foundation, 2219 Bath Street, Santa Barbara 93102
Santa Barbara City College,[1] 721 Cliff Drive, Santa Barbara 93109
Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla 92037
Shell Development Co., P.O. Box 4248, Modesto 95353
Sonoma State Hospital, Eldridge 95431
Smith-Kline Instruments, Inc., 485 Potrero Avenue, Sunnyvale 94086
St. John's Hospital and Health Center, 1328–22nd Street, Santa Monica 90404
St. Joseph's Hospital, 355 Buena Vista Avenue, East, San Francisco 94117
St. Joseph Hospital Research Foundation,[1] Buena Vista at Alameda, Burbank 91503
St. Jude Hospital and Rehabilitation Center, 101 East Valencia Mesa Drive, Fullerton 92632
St. Mary's Hospital and Medical Center, 2200 Hayes Street, San Francisco 94117
Southern California College of Optometry, 2001 Associated Road, Fullerton 92681
Southern California Perm. Medical Group, 9985 Sierra Avenue, Fontana 92335
Southwestern College, 900 Otay Lakes Road, Chula Vista 92010
Standard Oil Company of California, 576 Standard Avenue, Room 5201, Richmond 94802
Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park 94025

Footnote at end of document.

Stanford University, School of Medicine, Stanford 94305
Star-Kist Foods, Inc., 920 Barracuda Street, Terminal Island 90731
State of California Dept. of Public Health, 2151 Berkeley Way, Berkeley 94704
Summers, John E., 4100 Hollister Avenue, Carmichael 95608
Sutter Community Hospitals of Sacramento, 52nd and F Streets, Sacramento 95816
Sylvan Corners Veterinary Hospital, 7548 Old Auburn Boulevard, Citrus Heights 95610
Syntex Research, 3401 Hillview Avenue, Palo Alto 94304
Syva Company, 2349 Charleston Road, Mountain View 94040
Tera Pharmaceuticals, Inc., 6920 Stanton Avenue, Buena Park 90621
University of San Diego, San Diego 92110
University of San Francisco, San Francisco 94117
University of Southern California, University Park, Los Angeles 90007
University of the Pacific, 751 Brookside Road, Stockton 95207
Valley Childrens Hospital and Guidance Clinic, 3151 North Millbrook, Fresno 93703
Victor Valley College, Victorville 92392
Vitaminerals, Inc., 1815 Flower Street, Glendale 91201
White Memorial Medical Center, 1720 Brooklyn Avenue, Los Angeles 90033
Whittier College, Whittier 90608
Yuba College, Linda and Beale Roads, Marysville 95901

COLORADO

Arapahoe Community College, 5900 South Santa Fe Drive, Littleton 80120
Bel Rae Institute, 9670 East Alameda Avenue, Denver 80231
Children's Asthma Research Institute and Hospital, 3401 West 19th Avenue, Denver 80204
Children's Hospital, 1056 East 19th Avenue, Denver 80218
Cobe Laboratories, Inc., 1201 Oak Street, Lakewood 80215
Colorado College, Colorado Springs 80903
Colorado Mountain College, Glenwood Springs 81601
Colorado Serum Co., 4950 York Street, Denver 80216
Colorado State University, Fort Collins 80521
Community College of Denver, Auraria Campus, 1201 Acoma, Denver 80204
Community College of Denver, Red Rocks Campus, 1209 Quail Street, Lakewood 80215
Community College of Denver, 1001 East 62nd Avenue, Denver 80204
Cooper U.S.A. Inc., 5030 York Street, Lakewood 80215
Department of Health and Hospitals, West 8th Avenue and Cherokee Street, Denver 80204
Elars Bio Research Laboratory, 225 Commerce Drive, Fort Collins 80521
Fort Lewis College, Durango 81301
Meridian Bio-Medical, Inc., 3278 South Wadsworth, Denver 80227
Micromedic Diagnostics, Inc., 1800 East Lincoln, P.O. Box 464, Fort Collins 80521
National Jewish Hospital,[1] 3800 East Colfax Avenue, Denver 80206
Otero Junior College, 18th and Colorado Avenue, La Junta 81050
Penrose Hospital, 2215 North Cascade Avenue, Colorado Springs 80903
Regis College, West 50th and Lowell Boulevard, Denver 80221
Saint Joseph Hospital, 1835 Franklin Street, Denver 80218
University of Colorado, Boulder 80302
University of Northern Colorado, Greeley 80631
Western State College of Colorado, Gunnison 81230

Footnote at end of document.

CONNECTICUT

Bio-Medical Research, Inc., 858 Oakwood Road, Orange 06477
Center For Laboratory Animal Care, Farmington 06032
Connecticut College, New Loundown 06320
Connecticut State Dept. of Health, P.O. Box 1869, Hartford 06101
Fairfield University, Fairfield 06430
Hamilton Standard,[1] Division of United Aircraft Corporation, Windsor Locks 06096
Hartford Hospital, 80 Seymour Street, Hartford 06115
Hospital of St. Raphael, 1450 Chapel Street, New Haven 06511
John B. Pierce Foundation of Connecticut, Inc., 290 Congress Avenue, New Haven 06519
New England Institute, Inc., 90 Grove Street, Ridgefield 06877
Quinnipiac College, 555 New Road, Hamden 06518
Ribicoff Research Center, Norwich Hospital, Box 508, Norwich 06360
St. Francis Hospital, 114 Woodland Street, Hartford 06105
St. Mary's Hospital, 56 Franklin Street, Waterbury 06702
University of Connecticut, Storrs 06268
University of Hartford, 200 Bloomfield Avenue, West Hartford 06117
Yale University, School of Medicine, 333 Cedar Street, New Haven 06510

DELAWARE

Alfred I. DuPont Institute, Rockland Road, Wilmington 19899
DuPont Experimental Station, Building 328, Room B-33, Wilmington 19898
E. I. DuPont De Nemours and Company, P.O. Box 30, Newark 19711
Hercules, Inc., Hercules Agricultural Chemicals Laboratory, Wilmington 19899
ICI America, Inc., Concord Pike and New Murphy Road, Wilmington 19899
Sterwin Laboratories, Inc.,[1] Dupont Highway, Millsboro 19966
University of Delaware, Newark 19711
Wilmington Medical Center, Inc.,[1] 14th and Washington Street, Wilmington 19899

DISTRICT OF COLUMBIA

American University, Massachusetts and Nebraska Avenues, NW., Washington 20016
Children's Hospital of the District of Columbia, 2125 13th Street, NW., Washington 20009
Georgetown University, Animal Care Facility, 3900 Reservoir Road, NW., Washington 20007
George Washington University, Washington 20006
Jackson Laboratories, Inc., 2612 28th Street, NE., P.O. Box 10238, Washington 20018.
National Canners Association, 1133 20th Street, NW., Washington 20036
Washington Hospital Center, George Hyman Memorial Research Building, 110 Irving Street, NW., Washington 20010

FLORIDA

Barry Laboratories, Inc., 461 Northeast 27th Street, Pompano Beach 33064
Bigger's Small Animal Hospital [1] 2833 South 4th Street, Fort Pierce 33450
Cape Laboratories Corporation,[1] Box B1, Venice 33595
Cordis Corporation, P.O. Box 370428, Miami 33137
Dade Division American Hospital Supply Corporation, P.O. Box 520672, Miami 33152
Dawson Research Corporation, 114 West Grant Avenue, Orlando 32806
Eckerd College, St. Petersburg 33733
Entomological Research Center, P.O. 520, Vero Beach 32960
FHW Toxicology and Biology Laboratories, 160 Concord Drive, Casselbury 32707
Florida A & M University, Tallahassee 32307
Florida Institute of Technology, Box 1150, Country Club Road, Melbourne 32901
Florida Injured Wildlife Sanctuary, Inc., Box 260, Route 1, Melbourne 32935
Florida State University, Tallahassee 32306
Florida Technological University, P.O. Box 25000, Alafaya Trail, Orlando 32816
Howard Hughes Medical Institute, P.O. Box 520605, Biscayne Annex, Miami 33152
Jackson Veterinary Practice, Route 5, Box 9, St. Augustine 32084
Mannheimer Primatalogical Foundation, 20255 Southwest 360th Street, Homestead 33030
Merieux Institute, Inc., 15960 NW. 15th Avenue, Miami 33169
Miami Heart Institute, Adams Research Building, 4701 North Meridian Avenue, Miami Beach 33140
Mount Sinai Hospital, 4300 Alton Road, Miami Beach 33140
North American Biologicals, Inc., 16500 NW. 15 Avenue, Miami 33169
Papanicolaou Cancer Research Institute, 1155 Northwest 14th Street, P.O. Box 236188, Miami 33123
Rollins College, Winter Park 32789
St. Petersburg Junior College, P.O. Box 13489, St. Petersburg 33733
Sanders Medical Research Foundation, Inc., 33 SE. 3d Street, Boca Raton 33432
Sherwood Medical Industries, Inc., P.O. Box 2078, Deland 32720
State of Florida, 4000 West Buffalo Avenue, Tampa 33614
Sunland Hospital,[1] P.O. Box 3513, Orlando 32802
University of Florida, Office of the President, Gainesville 32601.
University of South Florida, 801 First Street South, St. Petersburg 33733
University of Miami, Coral Gables 33124

GEORGIA

Emory University, Atlanta 30322
Georgia College,[1] Milledgeville 31061
Georgia Institute of Technology, Atlanta 30332
Georgia State University, University Plaza, Atlanta 30303
Maag Enterprises, Inc., 1805 Tapawingo Drive, Gainesville 30501
Mercer University, System, Macon 31207
Palmer Chemical and Equipment Co., Inc., P.O. Box 867, Douglasville 30134
Piedmont Hospital,[1] Ferst Research Center, 1968 Peachtree Road, NW., Atlanta 30309
St. Joseph's Infirmary, 265 Ivy Street, NE., Atlanta 30303
University of Georgia System, Athens 30601

HAWAII

Hawaii Department of Agriculture, 1428 South King Street, Honolulu 96814
Kuakini Hospital and Home, 347 North Kuakini Street, Honolulu 96817
Kuakini Medical Research Institute, 347 North Kuakini Street, Honolulu 96817
Queen's Medical Center, P.O. Box 861, Honolulu 96808
Research Corporation of the University of Hawaii, 1110 University Avenue, Honolulu 96817
St. Francis Hospital Research Laboratories, 2260 Liliha Street, Honolulu 96817
University of Hawaii, Honolulu 96813

IDAHO

Idaho State University, Pocatello 83201
Long, Clinton D., 101 North Garden Street, Boise 83704
Northwest Nazarene College, Nampa 83651
University of Idaho, Moscow 83843

ILLINOIS

Abbott Laboratories, 1400 Sheridan Road, North Chicago 60064
American Dental Association, 211 East Chicago Avenue, Chicago 60611
American Medical Association,[1] 535 North Dearborn Street, Chicago 60610
Armour Pharmaceutical Company, P.O. Box 511, Kankakee 60901
Arnar-Stone Laboratories, Inc., 601 East Kensington Road, Mount Prospect 60056
Biolabs, Inc., 2910 MacArthur Boulevard, Northbrook 60062
Blackburn College, Carlinville 62626
Borden Incorporated, RR 1, Elgin 60120
Bradley University, Peoria 61606
Chicago Board of Health,[1] Chicago Civic Center, Chicago 60602
Chicago College of Osteopathy, 1122 East 53rd Street, Chicago 60615
Chicago Institute for Animal Research,[1] 4701 West Grand Avenue, Chicago 60639
Chicago Medical School, 710 South Wolcott Avenue, Chicago 60612
Children's Memorial Hospital, 2300 Children's Plaza, Chicago 60614
College of DuPage, 22 and Lambert Road, Glen Ellyn 60137
Cook County Graduate School of Medicine, 707 South Wood Street, Chicago 60612
Department of Mental Health, 160 North LaSalle Street, Chicago 60601
DePaul University, 1036 West Belden Avenue, Chicago 60614
Dyrkacz, Stanley dba Herpetology Research Laboratory, 5215 West Route 120, McHenry 60050
Edgewater Hospital, 5700 North Ashland, Chicago 60626
Elmhurst College, Elmhurst 60126
Eureka College, 300 East College, Eureka 61530
Evanston Hospital, 2650 Ridge Avenue, Evanston 60201
Galesburg State Research Hospital, Galesburg 61401
General Foods Corporation, c/o Gaines Research Kennels, R.R. 3, St. Anne 60964
George William College, 555 31st Street, Downers Grove 60515
John A. Hartford Foundation, Lutheran General Hospital, 1775 Dempster, Park Ridge 60068
Hekotoen Institute for Medical Research of the Cook County Hospital, 627 South Wood Street, Chicago 60612
IIT Research Institute, 10 West 35th Street, Chicago 60616
Illinois Benedictine College, Lisle 60532
Illinois Department of Public Health, 535 West Jefferson Street, Springfield 62706
Illinois Institute of Technology, 3300 South Federal Street, Chicago 60616
Illinois State University, Normal 61761
Illinois Wesleyan University, Bloomington 61701
Industrial Bio-Test Laboratories, Inc., 1810 Frontage Road, Northbrook 60062
International Scientific Industries, Inc., P.O. Box 9, Cary 60013
Interscience Research Institute,[1] P.O. Box 2580, Station A, Champaign 61824
Kendall Research Center, 411 Lake Zurich Road, Barrington 60010
Knox College, Galesburg 61401
Kraftco Corporation, 801 Waukegan Road, Glenview 60025
La Rabida University of Chicago Institute, East 65th Street at Lake Michigan, Chicago 60649
Lake Forest College, Lake Forest 60045
Lifestream Laboratory, Inc.,[1] P.O. Box 524, Libertyville 60048
Loke-Erickson Laboratory, Inc., 112 North Tenth Avenue, Melrose Park 60160
Loyola University, Stritch School of Medicine, 1400 South First Avenue, Hines 60141
Medi-Physics, Inc., 9820 Bryn Mawr, Rosemont 60018
Memorial Hospital, 4501 North Park Drive, Belleville 62221
Mercy Hospital and Medical Center, Stevenson Expressway at King Drive, Chicago 60616
Michael Reese Hospital and Medical Center, 29 and Ellis, Chicago 60616
Mount Sinai Hospital Medical Center, California Avenue at 15th Street, Chicago 60608
Nelson M. Percy Medical Research Foundation, Augustana Hospital, 411 West Dickens, Chicago 60612
Northeastern Illinois University, Bryn Mawr at St. Louis, Chicago 60625
Northern Illinois University, De Kalb 60115
Northwestern University, Administration Building, Room 115, 619 Clark Street, Evanston 60201
Peoria Municipal TB Sanitarium, P.O. Box 60, Peoria 61601
Presbyterian-St. Luke's Hospital, 1753 West Congress Parkway, Chicago 60612
Quaker Oats Company, 617 West Main Street, Barrington 60010
Quincy College, Quincy 62301
Rosner-Hixson Laboratories, 3570 North Avondale Avenue, Chicago 60618
Saint Francis Hospital, 530 NE. Glen Oak Avenue, Peoria 61603
Saint Francis Hospital, 355 Ridge Avenue, Evanston 60202
Saint James Hospital, 1423 Chicago Road, Chicago Heights 60411
Saint John's Hospital Research Laboratories, 1111 North Lincoln Street, Springfield 62707
Sangamon State University, Springfield 62703
Searle, G. D. and Company, Box 5110, Chicago 60680
Sherman Hospital, 934 Center Street, Elgin 60120
Sleepy Hollow Kennel and Cattery, Route 2, Box 73, Mundelein 60060
Southern Illinois University, Carbondale 62901
Southern Illinois University, Edwardsville 62025
Staley, A. E., Manufacturing Co., Inc., P.O. Box 151, Decatur 62525
Suburban Cook County TB Sanitarium District, 55th and County Line Road, Hinsdale 60521
Timberwood Game Research Center, Route 1, Kankakee 60901
Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove 60053
University of Chicago, 950 East 59th Street, Chicago 60637
University of Chicago, 9700 South Cass Avenue, Argonne 60439
University of Illinois at Chicago Circle, 2833 University Hall, Chicago 60680
University of Illinois at the Medical Center, 833 South Wood Street, Chicago 60612
University of Illinois, Urbana 61801
Western Illinois University, Macomb 61455
West Laboratories, P.O. Box 666, St. Anne 60944
Wheaton College, Wheaton 60187
Wideman, Frederick E.,[1] 1520 7th Street, Suite 404, Moline 61265
Wilson and Company, Inc.,[1] 4200 South Marshfield Avenue, Chicago 60609
Wilson Laboratories, 4221 South Western Boulevard, Chicago 60609

INDIANA

American Monitor, Inc., 5425 West 84th Street, Indianapolis 46268
Ball State University, Muncie 47306
Botta, Jr., Dr. James A., P.O. Box 333, Mt. Vernon 47620
Butler University, 4600 Sunset, Indianapolis 46208
Central Soya Company, Inc., Decatur 46733
Earlham College,[1] Richmond 47374
Eli Lilly and Company, 740 South Alabama, Indianapolis 46206
Fort Wayne Surgical Associates, Inc., 3124 East State Boulevard, Fort Wayne 46805
Haley, George M., Inc.,[1] 220 Sherland Building, South Bend 46601
Indiana State University, Terre Haute 47809
Indiana University, Bloomington 47401
Mead Johnson & Company dba Mead Johnson Research Center, 2404 Pennsylvania Avenue, Evansville 47721
Methodist Hospital of Indiana, Inc.,[1] 1801 North Capitol Avenue, Indianapolis 46202
Michigan Road Animal Hospital, 7720 North Michigan Road, Indianapolis 46268
Miles Laboratories, Inc., Elkhart 46514
Purdue University, Lafayette 47907
Rose Polytechnic Institute, 5500 Wabash Avenue, Terre Haute 47803
St. Vincent Hospital, 2001 West 86th Street, Indianapolis 46268
University of Notre Dame, Notre Dame 46556
Valparaiso University, Valparaiso 46383
Wabash College, Crawfordsville 47933

IOWA

College of Osteopathic Medicine and Surgery, 3200 Grand Avenue, Des Moines 50312
Diamond Laboratories, Inc., P.O. Box 863, Des Moines 50304
Drake University, Des Moines 50311
Fort Dodge Laboratories, Inc., 800 Fifth Street Northwest, Fort Dodge 50501
Iowa Methodist Hospital, 1200 Pleasant Street, Des Moines 50308
Iowa State University, Ames 50010
Luther College, Decorah 52101
University of Iowa, Iowa City 52240

KANSAS

Bayvet Corp., P.O. Box 390, Shawnee Mission 66201
Douglas Pharmacal Industries, Inc., 8906 Rosehill Road, Lenexa 66215
Emporia Kansas State College, 12th and Commercial, Emporia 66801
Interx Research Corporation, 2201 West 21st Street, Lawrence 66044
Jensen-Salsbery Laboratories, 2000 South 11th Street, Kansas City 66103
Kansas State University, Manhattan 66502
Kruckenberg, S. M., 2851 Oregon Lane, Manhattan 66502
Marymount College, Salina 67401
Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 193D, Stilwell 66085
National Laboratories Corp., 12300 Santa Fe Drive, Lenexa 66215
Parsons State Hospital and Training Center, Parsons 67357
University of Kansas, Lawrence 66044
University of Kansas Medical Center and School of Medicine, Rainbow Boulevard, at 39th Street, Kansas City 66103
Wichita State University, 1845 Fairmont, Wichita 67208

KENTUCKY

Harlan Appalachian Regional Hospital, Harlan 40831
University of Louisville School of Medicine, 101 West Chestnut, Louisville 40202
University of Kentucky, Lexington 40506

LOUISIANA

Alton Ochsner Medical Foundation, 1520 Jefferson Highway, New Orleans 70121
Gulf South Research Institute, P.O. Box 1177, New Iberia 70560
Louisiana State University System, Baton Rouge 70803
Louisiana Tech University, Ruston 71270
Loyola School of Dentistry,[1] 6363 St. Charles Avenue, New Orleans 70118
Nicholls State University, Box 3031, University Station, Thibodaux 70301
Northeast Louisiana University, 4001 De Siard, Monroe 71201

Footnote at end of document.

Northwestern State University of Louisiana, Natchitoches 71457
Touro Research Institute, 1400 Foucher Street, New Orleans 70115
Tulane University, New Orleans 70118
University of New Orleans, New Orleans 70122
University of Southwestern Louisiana, USL Station, Lafayette 70501
Xavier University, New Orleans 70125

MAINE

Bates College, Lewiston 04240
The Jackson Laboratory, Bar Harbor 04609
Maine Medical Center, 22 Branhall Street, Portland 04102
Nasson College, Springvale 04083
President and Trustees of Bowdoin College, Brunswick 04011
University of Maine, Orono 04473
University of Maine, 246 Deering Avenue, Portland 04102
Westbrook College, 716 Stevens Avenue, Portland 04103

MARYLAND

American Red Cross, 9312 Old Georgetown Road, Bethesda 20014
American Type Culture Collection, 12301 Parklawn Drive, Rockville 20852
Biotech Research Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20852
Burton, Parson, and Company, Inc., 120 Westhampton Avenue, Seat Pleasant 20027
Coppin State College, Baltimore 21216
Flow Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20852
Enviro Control, Inc., 11300 Rockville Pike, Rockville 20852
Friends Medical Science Research Center, Inc., 52 Wade Avenue, Baltimore 21228
Gillette Company Research Institute, 1413 Research Boulevard, Rockville 20850
Harford Community College, 401 Thomas Run Road, Bel Air 21014
Hittman Associates, Inc.,[1] P.O. Box 810, Columbia 21043
Hynson, Westcott, and Dunning Inc., Charles and Chase Street, Baltimore 21201
Johns Hopkins University, 34th and Charles Street, Baltimore 21218
Litton Bionetics, Inc., 5516 Nicholson Lane, Kensington 20795
Maryland Psychiatric Research Center, P.O. Box 3235, Baltimore 21228
Mercy Hospital, Inc.,[1] 301 St. Paul Place, Baltimore 21201
Microbiological Associates, Inc., 4733 Bethesda Avenue, Bethesda 20014
Peninsula General Hospital,[1] South Division and West Locust Streets, Salisbury 21801
Pharmacopathics Research Laboratories, Inc., 1261 North Washington Boulevard, Laurel 20810
Sacred Heart Hospital,[1] 900 Seton Drive, Cumberland 21502
Saint Joseph Hospital, 7620 York Road, Baltimore 21204
Sinai Hospital of Baltimore, Inc., Belvedere and Greenspring Avenues, Baltimore 21215
Towson State College, Baltimore 21204
University of Maryland, College Park 20742

MASSACHUSETTS

Astra Pharmaceutical Products, Inc., 7½ Neponset Street, Worcester 01606
Avco Everett Research Foundation, 2385 Revere Beach Parkway, Everett 02149
Berkshire Community College,[1] Second Street, Pittsfield 01201
Beth Israel Hospital, 330 Brookline Avenue, Boston 02215
Bio-Research Institute, Inc., 9 Commercial Avenue, Cambridge 02141
Boston City Hospital, 818 Harrison Avenue, Boston 02118
Boston College, 140 Commonwealth Avenue, Chestnut Hill 02167
Boston State Hospital, 591 Morton Street, Boston 02124
Boston University, 705 Commonwealth Avenue, Boston 02215
Brandeis University, Waltham 02154
Cambridge Nuclear Radiopharmaceutical Corp., 575 Middlesex Turnpike, Billerica 01821
Children's Cancer Research Foundation, 35 Binney Street, Boston 02115
Children's Hospital Medical Center, 300 Longwood Avenue, Boston 02115
Clark University, 950 Main Street, Worcester 01610
Forsyth Dental Center, 140 The Fenway, Boston 02115
GTE Laboratories, Inc., 40 Sylvan Road, Waltham 02154
Harvard Medical School, 818 Harvision Avenue, Boston 02118
Harvard University, Cambridge 02139
Holyoke Community, 303 Homestead Avenue, Holyoke 01040
Joslin Diabetes Foundation, Inc., 170 Pilgrim Road, Boston 02215
Lahey Clinic Foundation, 605 Commonwealth Avenue, Boston 02215
Leicester Junior College, 1003 Main Street, Leicester 01524
Lemuel Shattuck Hospital, 170 Morton Street, Jamaica Plain 02130
Little, Arthur D., Inc., 25 Acorn Park, Cambridge 02140
Mason Research Institute, Inc., 21 Harvard Street, Worcester 01608
Massachusetts College of Pharmacy, 179 Longwood Avenue, Boston 02115
Massachusetts Department of Public Health, 375 South Street, Jamaica Plain 02130
Massachusetts Eye and Ear Infirmary, 243 Charles Street, Boston 02114
Massachusetts General Hospital, Boston 02114
Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge 02139
Medical Center of Western Massachusetts,[1] 759 Chestnut Street, Springfield 01107
Millipore Corporation, Ashby Road, Bedford 01730
Mount Holyoke College, South Hadley 01075
New England Deaconess Hospital, 185 Pilgrim Road, Boston 02215
New England Medical Center Hospitals, 171 Harrison Avenue, Boston 02111
Newton-Wellesley Hospital, 2014 Washington Street, Newton Lower Falls 02162
Northeastern University, 360 Huntington Avenue, Boston 02115
Peter Bent Brigham Hospital, 721 Huntington Avenue, Boston 02115
Pondville Hospital, Box 111, Walpole 02081
Retina Foundation,[1] 20 Staniford Street, Boston 02114
Robert B. Brigham Hospital, 125 Parker Hill Avenue, Boston 02109
St. Elizabeth's Hospital, 736 Cambridge Street, Brighton 02135
St. Margaret's Hospital For Women, 90 Cushing Avenue, Dorchester 02125
St. Vincent Hospital, 25 Winthrop Street, Worcester 01610
Sharp Associates, 767-B Concord Avenue, Cambridge 02138
Shriners Burns Institute, 50 Blossom Street, Boston 02114
Smith College, Northampton 01060
Stonehill College, North Easton 02356
Thermo Electron Corporation, 85 First Avenue, Waltham 02154
Trustees of Hampshire College, Amherst 01002
Tufts University, Medford 02155
University of Massachusetts, Amherst 01002
Westfield State College,[1] Westfield 01085
Whittaker, Inc., Waltham 02154
Williams College, Williamstown 01267
Worcester Foundation for Experimental Biology, 222 Maple Avenue, Shrewsbury 01545
Worcester Polytechnic Institute, Worcester 01609

MICHIGAN

Albion College, Albion 49224
Battle Creek Research, 3203 West Columbia, Battle Creek 49017
Blodget Memorial Hospital, 1840 Wealth, SE., Grand Rapids 49506
Butterworth Hospital, 100 Michigan, NE., Grand Rapids 49503
Central Michigan University, Mt. Pleasant 48858
Children's Hospital of Michigan, 3901 Beaubien, Detroit 48201
Delta College, University Center, R. Sta., Bay City 48710
Department of Public Health, Bureau of Laboratories,[1] 3500 North Logan, Lansing 48914
Detroit-Macomb Hospital Association, Detroit Memorial Hospital, 1420 St. Antoine Street, Detroit 48226
Dow Chemical Company, Midland 48640
Dow-Corning Corporation, South Saginaw Road, Midland 48640
Elyria Memorial Hospital, 620 East River Street, Elyria 44035
Ferris State College, Big Rapids 49307
Flint Osteopathic Hospital,[1] 3921 Beecher Road, Flint 48502
Foundation For Behavioral Research, Box 248, 600 Cherry Street, Augusta 49012
Fryfogle, W. D. Medical Research Laboratory,[1] Southfield 48075
General Motors Research Laboratories, 12 Mile and Mound Roads, Warren 40906
Grand Valley State College, College Landing, Allendale 49401
Henry Ford Hospital and Edsel B. Ford Institute for Medical Research, 2799 West Grand Boulevard, Detroit 48202
Hope College, Holland 49423
Hutzel Hospital, 432 East Hanock, Detroit 48201
Ingham Medical Hospital, 401 West Greenlawn, Lansing 48910
International Research and Development Corporation, 900 Main Street, Mattawan 49071
Kalamazoo State Hospital,[1] Kalamazoo 49001
Laboratory Research Enterprises, Inc., 6251 South 6th Street, Kalamazoo 49001
Lafayette Clinic, 951 East Lafayette, Detroit 48207
Lake Superior State College, Sault Ste. Marie 49783
Marquette General North Hospital, Marquette 49855
McLaren General Hospital, 401 South Ballenger Highway, Flint 48502
Michigan Cancer Foundation, 110 East Warren Avenue, Detroit 48201
Michigan Department of Public Health, Bureau of Laboratories,[1] 3500 North Logan, Lansing 48914
Michigan State University, East Lansing 48823
Michigan Technological University, Houghton 49931
Mott, C. S. Community College, 1401 East Court Street, Flint 48503
Mount Carmel Mercy Hospital, 6071 West Outer Drive, Detroit 48235
Northern Michigan University,[1] Marquette 49855
Oakland University, Rochester 48063
Parke, Davis and Company, G.P.O. Box 118, Detroit 48232
Pontiac Medical Science Laboratories, Inc., 140 Elizabeth Lake Road, Pontiac 48053
Providence Hospital, 16001 Nine Mile Road, Southfield 48075
Ramsey, John Residence, Bay City 48706

Footnote at end of document.

Riverside Osteopathic Hospital,[1] 150 Truax Street, Trenton 48183
Sinai Hospital of Detroit, 6767 West Outer Drive, Detroit 48235
Space Defense Corporation,[1] 1600 North Woodward, Birmingham 48011
Upjohn Company, 301 Henrietta Street, Kalamazoo 49001
University of Detroit, 4001 West McNichols Road, Detroit 48221
University of Michigan, Ann Arbor 48104
Wayne County General Hospital, Eloise 48132
Wayne State University, Detroit 48202
Western Michigan University, Kalamazoo 49001
William Beaumont Hospital, 3601 West 13 Mile Road, Royal Oak 48073

MINNESOTA

Applied Cardiopulmonary Research Foundation, 2545 Chicago Avenue, Suite 111, Minneapolis 55404
Austin Community College, 1600 8th Avenue, NW., Austin 55912
Bio-Medicus, Inc., 15307 Minnetonka Industrial Road, Minnetonka 55343
Cargill, Inc., Cargill Building, 110 South 7th Street, Minneapolis 55402
Kallestad Laboratories, Inc., 1000 Lake Hazeltime Drive, Chaska 55318
Life Sciences Foundation, Glenwood Hills Hospital, 4101 Golden Valley Road, Minneapolis 55422
Mankato State University, Mankato 56001
Mayo Foundation, 200 First Street, SW., Rochester 55901
Medtronic, Inc., 3055 Old Highway Eight, Minneapolis 55418
Minneapolis Medical Research Foundation, Inc., Hennepin County General Hospital, 619 South 5th Street, Minneapolis 55415
Minnesota Mining and Manufacturing Co., 2301 Hudson Road, St. Paul 55101
Mount Sinai Hospital, Jay Phillips Research Laboratory,[1] 737 22nd Street, Minneapolis 55404
North Star,[1] Division of Midwest Research, 3100 38th Avenue South, Minneapolis 55406
Northwestern Hospital, 810 East 27th Street, Minneapolis 55407
Saint John's University, Collegeville 56321
Saint Luke's Hospital, Duluth 55805
Saint Mary's Hospital, 2414 South 7th Street, Minneapolis 55406
Saint Paul-Ramsey Hospital, 640 Jackson Street, St. Paul 55101
Southwest Minnesota State College, Marshall 56258
University of Minnesota, Minneapolis 55455

MISSISSIPPI

Mississippi State University, Drawer G, State College 39762
University of Mississippi, Office of the Chancellor, University 38677

MISSOURI

Deaconess Hospital, 6150 Oakland Avenue, St. Louis 63139
Institute of Medical Education and Research, 1605 South 14th Street, St. Louis 63104
Jewish Hospital of St. Louis, 216 South Kingshighway Boulevard, St. Louis 63110
Kansas City College of Osteopathic Medicine, 2105 Independence Boulevard, Kansas City 64124
Kirksville College of Osteopathy and Surgery, Kirksville 63501
Laboratory For Experimental Biology, Inc., Creve Coeur 63141
Mallinckrodt Chemical Works, 2nd and Mallinckrodt Streets, St. Louis 63160
Maple Woods Community College, 2601 NE. Barry Road, Kansas City 64156
Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City 64137
Midwest Research Institute, 425 Volker Boulevard, Kansas City 64114
Missouri Analytical Laboratories, Inc., St. Louis 63103
Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph 64502
Ralston Purina Company, 835 South 8th Street, St. Louis 63199
Saint John's Mercy Hospital, 621 South New Ballas Road, St. Louis 63141
Saint Louis University, 1402 South Grand Avenue, St. Louis 63104
Saint Mary's Hospital, 101 Memorial Drive, Kansas City 64108
Scientific Associates, Inc., 6200 South Lindberg, St. Louis 63123
Sigma International, LTD., 3500 DeKalb Street, St. Louis 63118
Washington University, Lindell and Skinker Boulevards, St. Louis 63130
William Jewell College, Liberty 64068
Younger Laboratories, Inc., 123 Cliff Cave Road, St. Louis 62129

MONTANA

Montana State University, Bozeman 59715
University of Montana, Missoula 59601

NEBRASKA

Creighton University, 657 North 27th Street, Omaha 68131
Dellen, Inc., 8445 Lake Street, Omaha 68134
Harris Laboratories, Inc., 624 Peach Street, P.O. Box 427, Lincoln 68501
University of Nebraska, 3835 Holdrege, Lincoln 68503
Wren Veterinary Pathology Service, 5935 South 77, Ralston 68127

NEVADA

University of Nevada, Reno 89507

NEW HAMPSHIRE

Keene State College, Keene 03431
Notre Dame College, 2321 Elm Street, Manchester 03104
University of New Hampshire, Spaulding Building, Durham 03824
Trustees of Dartmouth College, P.O. Box 432, Hanover 03755

NEW JERSEY

Affiliated Medical Biological Research, Inc., P.O. Box 5700, Princeton 08540
Becton, Dickinson and Company, Rutherford 07070
Bio Dynamics, Inc., P.O. Box 43, East Millstone 08873
Biometric Testing, Inc., 375 Sylvan Avenue, Englewood Cliffs 07632
Bio-Safety Research Laboratory, Milk and Broad Streets, Branchville 07826
Bio-Toxicology Laboratories, Inc., P.O. Box 267, Creek and Cox Roads, Moorestown 08057
Bristol-Meyers Products, 225 Long Avenue, Hillside 07205
Campbell Soup Company, 375 Memorial Avenue, Camden 08101
Carter-Wallace, Inc., Half Acre Road, Cranbury 08512
CIBA Pharmaceutical Company, 556 Morris Avenue, Summit 07901
Clinical Sciences, Inc., 30 Troy Road, Whippany 07981
Colgate-Palmolive Company, 909 River Road, Piscataway 08854
College of Medicine and Dentistry of New Jersey, P.O. Box 101, Piscataway 08854
Consumer Product Testing Company, Inc., 1275 Bloomfield Avenue, Building No. 2-15B, Fairfield 07006
Cooper Laboratories, Inc., 110 East Hanover Avenue, Cedar Knolls 07927
Cyanamid Foundation For Agricultural Development, P.O. Box 400, Princeton 08540
Ethicon Research Foundation, U.S. Highway 22, Somerville 08876
Fairleigh Dickinson University, 1000 River Road, Teaneck 07666
Food & Drug Research Laboratory, Inc., 60 Evergreen Place, East Orange 07018
Hackensack Hospital, Hackensack 07601
Hazelton/Prime Laboratories, Inc., P.O. Box 646, Farmington 07727
Hoechst-Roussel Pharmaceutical, Inc., Route 202-206, North, Somerville 08876
Hoffman Laboratories, Inc., 17-50 River Road, Fairlawn 07410
Hoffman-LaRoche, Inc., 340 Kingsland Street, Nutley 07110
Institute For Medical Research, Copewood Street, Camden 08103
Johnson and Johnson Research Foundation, Route 1, New Brunswick 08903
Leberco Laboratories, 123 Hawthorne Street, Roselle Park 07204
Manziano, Dr. Clarence F., 603 West Side Avenue, Jersey City 07304
McGee Laboratories, Inc., 3651 Hill Road, Parsippany 07054
Medi-Physics, Inc., 900 Durham Avenue, South Plainfield 07080
Merck & Co., Inc., 126 East Lincoln Avenue, Rahway 07065
Monmouth Medical Center, 3rd and Pavillion Avenue, Long Branch 07740
Newark Beth Israel Hospital, 201 Lyons Avenue, Newark 07112
New Jersey College of Medicine and Dentistry, 24 Baldwin Avenue, Jersey City 07304
New Jersey Department of Health, Division of Laboratories, Box 1540, Trenton 08625
Organon, Inc., 375 Mt. Pleasant Avenue, West Orange 07052
Ortho Diagnostics, Inc., Route 202, Raritan 08869
Ortho Research Institute, U.S. Highway 202, Raritan 08869
Passaic General Hospital, 350 Boulevard, Passaic 07055
Path-O-Tex, Box 6, Wenonah 08090
Pfizer & Co., Chas., 199 Maywood Avenue, Maywood 07607
Pitman-Moore, Inc., P.O. Box 344, Washington Crossing 08560
Price Research Laboratory, Inc.,[1] 7300 North Crescent Boulevard, Pennsauken 08110
Princeton Laboratory Products Co., 1 Cherry Hill Road, Princeton, 08540
Redevan Laboratories, Inc., 100 Clark Street, Keyport 07735
Reed and Carnrick, 30 Boright Avenue, Kenilworth 07033
Rutgers, The State University of New Jersey, New Brunswick 08903
St. Barnabas Medical Center, Old Short Hills Road, Livingston 07039
St. Michael's Hospital, 306 High Street, Newark 07102
Sandoz Pharmaceuticals, Hanover 07936
Schering Corporation, 60 Orange Street, Bloomfield 07003
Seton Hall University, South Orange 07079
Snell, Foster D., Inc., 800 Dowd Avenue, Elizabeth 07206
South Mountain Life Sciences, 1102 Industrial Parkway, Bricktown 08723
South Mountain Life Sciences Laboratories, Fischer Boulevard and Thistle Street, Toms River 08753
Squibb & Sons, Inc. E. R., 745 Fifth Avenue, New York 10022
Sylvana Company, Inc., 22 East Willow Street, Millburn 07041
Trustees of Princeton University, New South Building, Princeton 08540
University Laboratories, Inc., 810 North Second Avenue, Highland Park 08904
U.S. Testing Company, Inc., 1415 Park Avenue, Hoboken 07070
Vineland Laboratories, Inc., Vineland 08360
Warner-Lambert Research Institute, 170 Tabor Road, Morris Plains 07950
Wells Laboratories, Inc., 25-27 Lewis Avenue, Jersey City 07306

[1] Footnote at end of document.

William Paterson College, 300 Pompton Road, Wayne 07470

NEW MEXICO

Los Alamos Scientific Laboratory, P.O. Box 1663, Los Alamos 87544
Lovelace Foundation For Medical Education and Research, 5200 Gibson Boulevard, S.E., Albuquerque 87108
New Mexico Institute of Mining and Technology, Socorro 87801
University of New Mexico, Albuquerque 87106

NEW YORK

Agway Research Laboratory, 777 Warren Road, Ithaca 14850
Albany College of Pharmacy, 106 New Scotland Avenue, Albany 12203
Albany Medical College, 47 New Scotland Avenue, Albany 12208
Alfred University, Alfred 14802
American Cyanamid Company, North Middletown Road, Pearl River, 10965
American Museum of Natural History, Central Avenue West at 79th Street, New York 10024
American Standards Testing Bureau, Inc., 40 Water Street, New York 10004
Animal Medical Center, 510 East 62nd Street, New York 10021
Arnot-Ogden Memorial Hospital, Roe Avenue, Elmira 14901
Associated Universities, Inc., Upton, Long Island 11973
Avon Products, Inc., 9 West 57th Street, New York 10019
Ayerst Research Laboratories, Chazy 12921
Beth Israel Medical Center, 10 Nathan D. Perlman Place, New York 10003
Booth Memorial Hospital, Main Street at Booth Memorial Avenue, Flushing 11355
Bristol Laboratories, P.O. Box 657, Syracuse 13201
Bronx-Lebanon Hospital Center, 1276 Fulton Avenue, Bronx 10456
Brookdale Hospital Center, Brookdale Plaza, Brooklyn 11212
Brooklyn College of Pharmacy, 600 Lafayette Avenue, Brooklyn 11216
Brooklyn Hospital, 121 DeKalb Avenue, Brooklyn 11201
Buffalo General Hospital, 100 High Street, Buffalo 14203
Bureau of Laboratories, City of New York, 455 First Avenue, New York City 10016
Canisius College, 2001 Main Street, Buffalo 14208
Carter-Wallace, Inc., 2 Park Avenue, New York 10016
Cattaraugus County Laboratory, 302 Laurene Street, Olean 14760
Children's Hospital of Buffalo, 219 Bryant Street, Buffalo 14222
Cold Spring Harbor Laboratory, Cold Spring Harbor, New York 11724
Colgate University, Hamilton 13346
Commercial Solvents Corporation, 245 Park Avenue, New York 10017
Cornell University, Ithaca 14850
Cornell University Medical College, 1300 York Avenue, New York 10021
Corning Glass Works, Corning 14830
D'Youville College, 320 Porter Avenue, Buffalo 14201
Eastman Kodak Company, Kodak Park, Rochester 14650
Elmira College, College Avenue, Elmira 14901
Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City 11533
Erie Community College, North Main Street and Youngs Road, Buffalo 14221
Geigy Chemical Corporation, Ardsley 10502
General Foods Corporation, 250 North Street, White Plains 10625
Genesee Hospital, 224 Alexander Street, Rochester 14607
Great Atlantic and Pacific Tea Company, Inc., 420 Lexington Avenue, New York 10017

Footnote at end of document.

Health Research, Inc., 84 Holland Avenue, Albany 12208
Hobart & William Smith Colleges, Geneva 14456
Hofstra University, Hampstead 11550
Hudson Valley Community College, 80 Vandenburgh Avenue, Troy 12180
Institute for Muscle Disease, Inc., 515 East 71st Street, New York 10021
Jamestown Community College, 525 Falconer Street, Jamestown 14701
Jewish Hospital and Medical Center of Brooklyn, 555 Prospect Place, Brooklyn 11238
Kingsbrook Jewish Medical Center, 86 East 49th Street, Brooklyn 11203
Lenox Hill Hospital, 100 East 77th Street, New York 10021
Long Island College Hospital, 340 Henry Street, Brooklyn 11201
Long Island Jewish Medical Center, 270-05 76th Avenue, New Hyde Park 11040
Long Island University, University Center, Brookville 11548
Maimonides Medical Center, 4802 Tenth Avenue, Brooklyn 11219
Manhattan Eye, Ear & Throat Hospital, 210 East 64th Street, New York 10021
Mary Imogene Bassett Hospital, Atwell Road, Cooperstown 13326
Masonic Medical Research Laboratory, Bleecker Street, Utica 13501
Medical Foundation of Buffalo, 73 High Street, Buffalo 14203
Mercy Hospital Association, L.G.H. Laboratory, 1000 North Village Avenue, Rockville Center 11570
Methodist Hospital of Brooklyn, 506 Sixth Street, Brooklyn 11215
Meyer, E. J. Memorial Hospital, 462 Grider Street, Buffalo 14215
Millard Fillmore Hospital, 3 Gates Circle, Buffalo 14209
Misericordia Hospital, 600 East 233rd Street, Bronx 10466
Montefiore Hospital and Medical Center, 111 East 210 Street, Bronx 10467
Mount Sinai Hospital, 100 Street and Fifth Avenue, New York 10029
NACC Testing and Research Laboratory, 80 Hanson Place, Brooklyn 11217
N.Y.C. Health & Hospitals Corporation, 125 Worth Street, New York 10013
Nassau County Medical Center, Hempstead Turnpike, East Medow 11554
Nassau Hospital, First Street, Mineola 11501
New York Blood Center of the Community Blood Council, 310 East 67th Street, New York City 10017
New York Medical College, Fifth Avenue at 106th Street, New York 10029
New York State Health Department, Division of Laboratories and Research, New Scotland Avenue, Albany 12201
New York State Department of Mental Hygiene, 44 Holland Avenue, Albany 12208
New York University, Washington Square, New York 10003
North Shore Hospital,[1] Valley Road, Manhasett, Long Island 11030
Norwich Pharmacal Company, P.O. Box 191, Norwich 13815
Pfizer, Inc., 235 East 42nd Street, New York 10017
Polytechnic Institute of Brooklyn, 333 Jay Street, Brooklyn 11201
Population Council, 245 Park Avenue, New York 10017
Public Health Research Institute of the City of New York, Inc., 455 First Avenue, New York City 10016
Queens Hospital Center, 82-68 164th Street, Jamaica 11432
Rensselaer Polytechnic Institute, Troy 12181
Research Foundation of the City University of New York, 1411 Broadway 10018
Research Institute for Skeletomuscular Diseases,[1] 1919 Madison Avenue, New York City 10035
Revlon Research Center, Inc., 945 Zerega Avenue, Bronx 10473
Richardson-Merrell, Inc., 122 East 42nd Street, New York 10017
Rochester General Hospital, 1425 Portland Avenue, Rochester 14621
Rochester Institute of Technology, 1 Lomb Memorial Drive, Rochester 14623
Rockefeller University, York Avenue at 66th Street, New York City 10021
Roosevelt Hospital, 428 West 59th Street, New York 10019
St. Barnabas Hospital, 183rd Street and Third Street, Bronx 10457
St. Bonaventure University, St. Bonaventure 14778
St. Clare's Hospital,[1] 415 West 51st Street, New York 10019
St. John Fisher College, 3690 East Avenue, Rochester 14618
St. John's University, Grand Central and Utopia Parkway, Jamaica 11432
St. Joseph's Hospital, 301 Prospect Avenue, Syracuse 13203
St. Lawrence University, Canton 13617
St. Luke's Hospital Center, Amsterdam Avenue at West 114th Street, New York 10025
St. Mary's Hospital, 89 Genesee Street, Rochester 14611
St. Vincent's Hospital and Medical Center of New York, 153 West 11th Street, New York 10011
Sisters of Charity Hospital, 2157 Main Street, Buffalo 14214
Skidmore College, Saratoga Springs 12866
Sloan-Kettering Institute for Cancer Research, 410 East 68th Street, New York 10021
South Shore Analytical & Research Laboratory, Inc., 148 Islip Avenue, Islip 11751
Standard Brands, Inc., 625 Madison Avenue, New York 10022
State University of New York, Thurlow Terrace, Albany 12201
Syracuse University, 201 Marshall Street, Syracuse 13210
Sterling Drug, Inc., Columbia Turnpike, Rennsselaer 12144
Thompson, Boyce Institute for Plant Research, Inc., 1086 North Broadway, Yonkers 10701
Tissue Culture Association, Inc., P.O. Box 631, Lake Placid 12946
Trudeau Institute, Inc., Algonquin Avenue, Saranac Lake 12983
Trustees of Columbia University, Box 20, Lowe Memorial Library, New York 10027
University of Rochester, River Boulevard, Rochester 14627
USV Pharmaceutical Corp., 1 Scarsdale Road, Tuckahoe 10701
Waldemar Medical Research Foundation, Sunnyside Boulevard, Woodbury 11797
Westchester County Medical Center, Valhalla 10595
Westwood Pharmaceuticals, Inc., 468 Dewitt Street, Buffalo 14213
Wilson Memorial Hospital, Broome-D, Johnson City 13790
Wilson, Philip D. Research Foundation, 535 East 70 Street, New York 10021
Yeshiva University, 55 Fifth Avenue, New York 10003

NORTH CAROLINA

Appalachian State University, Boone 28608
Behavior Systems, Inc., 2008 Hillsboro Street, Raleigh 27607
Burroughs Wellcome Company, 3030 Cornwallis Road, Research Triangle Park 27709
Carnivore Evolutionary Research Institute, Route 3, Box 180, Pittsboro 27311
Duke University, Durham 27706
East Carolina University, Greenville 27834
Greer Laboratories, Inc., Box 800, Lenoir 28645
Lorillard Research Center, 420 English Street, Greensboro 27420

North Carolina State University, Raleigh 27607
Research Triangle Institute, P.O. Box 12194, Research Triangle Park 27709
University of North Carolina, Chapel Hill 27514
University of North Carolina at Charlotte, Charlotte 28205
University of North Carolina at Wilmington, 7205 Wrightsville Avenue, Wilmington 28401
Wake Forest University, Winston-Salem 27109

NORTH DAKOTA

Minot State College, Minot 58701
North Dakota State University, Fargo 58102
University of North Dakota, Grand Forks 58201

OHIO

Akron City Hospital,[1] 525 East Market Street, Akron 44309
Akron General Medical Center, 400 Wabash Avenue, Akron 44307
Allergy Laboartories of Ohio, Inc., 623 East 11th Avenue, Columbus 43211
Baldwin-Wallace College, Berea 4407
Batelle Memorial Institute, 505 King Avenue, Columbus 43201
Ben Venue Laboratories, Inc., 270 Northfield Road, Bedford 44146
Bio/Toxicological Research Associates, 533 North Broadway Street, Spencerville 45887
Borden, Inc., 50 West Broad Street, Columbus 43215
Bowling Green State University, Bowling Green 43402
Capital University,[1] Columbus 43209
Case Western Reserve, University Circle, Cleveland 44106
Central State University, Wilberforce 45384
Children's Hospital of Akron, Buchtel Avenue at Bowery Street, Akron 44308
Children's Hospital Elland Avenue and Bethesda, Cincinnati 45229
Children's Hospital Research Foundation, 561 South 17th Street, Columbus 43205
Christ Hospital Institute of Medical Research, 2141 Auburn Avenue, Cincinnati 45219
Cincinnati Milacron, Inc., 4701 Marburg Avenue, Cincinnati 45209
Cleveland Clinic Foundation, 2020 East 93rd Street, Cleveland 44120
Cleveland State University, 1983 East 24th Street, Cleveland 44115
College of Wooster, Wooster 44691
Columbus Technical Institute, 550 East Spring Street, P.O. Box 1609, Columbus 43215
Cox Coronary Heart Institute, 3525 Southern Boulevard, Kettering, 45429
Creative Biology Laboratory, 3070 Cleveland-Massillon Road, Barberton 44203
Cuyahoga Community College, 700 Carnegie Avenue, Cleveland 44115
Denison University, Granville 43023
Elyria Memorial Hospital, 630 East River Street, Elyria 44035
Fairview General Hospital, 18101 Lorain Avenue, Cleveland 44111
Fels Research Institute, Yellow Springs 45387
Good Samaritan Hospital, 3217 Clifton Avenue, Cincinnati 45220
Good Samaritan Hospital of Dayton, Dayton 45420
Grady Investment Corporation, 9211 Winton Road, Cincinnati 45231
Highland View Hospital, 3901 Ireland Drive, Cleveland 44122
Hill Top Research, Inc., Miamiville 45147
Hiram College, P.O. Box 1838, Hiram 44234
Huron Road Hospital, 18951 Terrace Road, Cleveland 44112
Jewish Hospital, 3200 Burnet Avenue, Cincinnati 45229
John Carroll University, Cleveland 44118
Kent State University, Kent 44240
Kettering, Charles F. Research Laboratory, 150 E South College Street, Yellow Springs 45387
Lakeland Community College, Mentor 44060
Marietta College,[1] Marietta 45750
Medical College of Ohio, P.O. Box 6190, Toledo 43614
Merrell-National Laboratories, 110 East Amity Road, Cincinnati 45215
Miami University, Office of the President, Oxford 45056
Miami Valley Hospital, 1 Wyoming Street, Dayton 45409
Mogul Corporation, Chagrin Falls 44022
Mt. Sinai Hospital, University Circle, Cleveland 44106
Muskingum College, New Concord 43762
North American Science Associates, Inc., 2261 Tracy Road, Northwood 43605
Notre Dame College, South Euclid 44121
Oberlin College, Oberlin 44704
Ohio Dept. of Health, 1571 Perry Street, P.O. Box 2568, Columbus 43216
Ohio Northern University, Ada 45810
Ohio State University, 190 North Oval Drive, Columbus 43210
Ohio University, Athens 45701
Ohio Wesleyan University, Delaware 43015
Otterbein College, Westerville 43081
Procter and Gamble Company, P.O. Box 39175, Cincinnati 45239
Rhodia, Inc., Route 250, Ashland 44805
Riverside Methodist Hospital,[1] 3535 Olentangy River Road, Columbus 43214
Saint Elizabeth Hospital, 1044 Belmont Avenue, Youngstown 44512
Saint Joseph's Hospital,[1] West 20 Street and Broadway, Lorain 44052
Saint Luke's Hospital Association of Cleveland, 11311 Shaker Boulevard, Cleveland 44104
Saint Thomas Hospital of Akron, Ohio, 444 North Main Street, Akron 44310
Saint Vincent Charity Hospital, 2351 East 22nd Street, Cleveland 44115
Saint Vincent Hospital and Medical Center, 2213 Cherry Street, Toledo 43606
Shriner's Hospital for Crippled Children, Burns Institute, 202 Goodman Street, Cincinnati 45219
University of Akron, Akron 44304
University of Cincinnati, Clifton Avenue, Cincinnati 45221
University of Dayton, 300 College Park, Dayton 45469
University of Toledo, 2801 West Bancraft Street, Toledo 43606
Welcome Independent Laboratories, Inc., 3154 Exon Avenue, Cincinnati 45241
Wittenburg University, Springfield 45501
Wright State University, Col. Glenn Highway, Dayton 45431
Xavier University, Victor Parkway, Cincinnati 45207
Youngstown State University, 410 Wick Avenue, Youngstown 44503

OKLAHOMA

Baptist Memorial Hospital, 5800 Northwest Grand Boulevard, Oklahoma City 73112
Oklahoma City University, 2501 North Blackwelder, Oklahoma City 73106
Oklahoma Medical Research Foundation, 825 Northeast 13th Street, Oklahoma City 73104
Oklahoma State Department of Health, 3400 North Eastern, Oklahoma City 73105
Oklahoma State University, Stillwater 74074
Southwestern State College, Weatherford 73096
University of Oklahoma, 660 Parrington Oval, Norman 73069

OREGON

Good Samaritan Hospital and Medical Center, 1120 Northwest 20th, Portland 97209
Oregon Regional Primate Research Center, 505 Northwest 185th Avenue, Beaverton 97005
Oregon State University, Corvallis 97331
Pacific University, Forest Grove 97116
Portland State University, P.O. Box 751, Portland 97207
University of Oregon, Eugene 97403
University of Oregon Dental School, 611 Southwest Campus Drive, Portland 97201
University of Oregon Medical School, 3181 Southwest Sam Jackson Park Road, Portland 97201

PENNSYLVANIA

Albert Einstein Medical Center, York and Tabor Road, Philadelphia 19141
Allegheny General Hospital, 320 East North Avenue, Pittsburgh 15212
Allen Products Co., Inc., P.O. Box 2137, R.D. 3, Allentown 18001
Bryn Mawr College, Bryn Mawr 19010
Bucknell University, Lewisburg 17837
Burron Medical Laboratories, Inc., 824 Twelfth Avenue, Bethlehem 18018
California State College, California 15419
Cannon Laboratories, P.O. Box 3627, Reading 19605
Carnegie-Mellon University, 4400 Fifth Avenue, Pittsburgh 15213
Centre Square Veterinary Clinic, 1030 DeKalb Pike, Centre Square 19422
Children's Hospital of Philadelphia, 1740 Bainbridge Street, Philadelphia 19146
College Misericordia, Dallas 18612
Contributors to the Pennsylvania Hospital, 8th and Spruce Streets, Philadelphia 19107
Coratomic, Inc., P.O. Box 434, Indiana 15701
Donald Guthrie Foundation for Medical Research,[1] 200 South Wilbur Avenue, Sayre 18840
Drexel Institute of Technology, 32nd and Chestnut Streets, Philadelphia 19104
Duquesne Univesrity of the Holy Ghost, Pittsburgh 15219
Eastern Pennsylvania Psychiatric Institution, Henry Avenue and Abbottsford Road, Philadelphia 19129
Federated Medical Resources, R.D. 2, Honey Brook 19344
Geisinger Medical Center, Danville 17821
General Electric Company, Valley Forge Space Center, King of Prussia 19406
Hahnemann Medical College and Hospital of Philadelphia, 230 North Borad Street, Philadelphia 19102
Hamot Medical Center, P.O. Box 339, Erie 161512
Indiana University of Pennsylvania, Indiana 15701
Institute For Cancer Research, 7701 Burholme Avenue, Philadelphia 19111
Jefferson Medical College of Philadelphia, 1025 Walnut Street, Philadelphia 19107
Lankenau Hospital, Lancaster and City Line Avenues, Philadelphia 19151
LaWall & Harrison Research Laboratories, Inc., 1921 Walnut Street, Philadelphia 19103
Lehigh University, Bethlehem 18015
Lincoln University, Lincoln University 19352
Lockhaven State College,[1] Lock Haven 17745
Lowrey, John C. DBA Dalmation Research Foundation, 720 Woodberry Road, York 17403
Lycoming College, Williamsport 17701
McNeil Laboratories, Inc., Camp Hill Road, Fort Washington 19034
M. B. Research Laboratories, Inc., P.O. Box 203, Spinnerstown 18968
Median School of Allied Health Careers, 12 8th Street, Pittsburgh 15222
Medical College of Pennsylvania, 3300 Henry Avenue, Philadelphia 19129
Mercy Catholic Medical Center, Landsdowne Avenue, Darby 19023
Mercy Hospital of Pittsburgh,[1] 1400 Locust Street, Pittsburgh 15219
Merrell-National Laboratories, Swiftwater 18370
Moravian College, Main and Elizabeth Avenue, Bethlehem 18018

Footnote at end of document.

N. L. Cappel Laboratories, Inc., Thud Ridge Farm, Cochranville 19330
Pennsylvania College of Podiatric Medicine, 8th at Race Street, Philadelphia 19107
Pennsylvania Department of Health, 2100 West Girard Avenue, Philadelphia 19130
Pennsylvania State University, 207 Old Main, University Park 16802
Pennwalt Corporation, 3 Penn Center, Philadelphia 19102
Penrose Research Laboratory, 34th Street and Girard Avenue, Philadelphia 19104
Pharmachem Corporation, 719 Stefko Boulevard, Bethlehem 18018
Pharmakon Laboratories, 1140 Quincy Avenue, Scranton 18510
Philadelphia College of Osteopathic Medicine, 48th and Spruce Streets, Philadelphia 19139
Philadelphia College of Pharmacy & Science, 43rd Street and Kingsessing Avenue, Philadelphia 19104
Philadelphia General Hospital, 34th Street and Civic Center Boulevard, Philadelphia 19104
Presbyterian University of Pennsylvania, 51 North 39th Street, Philadelphia 19104
Rachelwood Wildlife Research Preserve, R.D. 1, New Florence 15944
Rohm and Haas Company, Norristown & McKean Roads, Springhouse, 19477
Rorer, William H., Inc., 500 Virginia Drive, Fort Washington 19034
Sacred Heart Hospital, 4th and Chew Streets, Allentown 18102
Saint Vincent College, Latrobe 15650
Smith, Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia 19101
Susquehanna University, Selinsgrove 17870
Temple University of the Commonwealth, Broad and Montgomery Streets, Philadelphia 19122
University Health Center of Pittsburgh, Terrace and Desoto Streets, Pittsburgh 15213
University of Pennsylvania, 101 College Hall, Philadelphia 19104
Western Pennsylvania Hospital, 4800 Friendship Avenue, Pittsburgh 15224
Westinghouse Electric Corporation, Beulah Road, Churchill Borough, Pittsburgh 15235
Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown 17067
Wills Eye Hospital Research Institute, 1605 Brandywine Street, Philadelphia 19130
Wistar Institute, 36th and Spruce Streets, Philadelphia 19104
Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia 19101

PUERTO RICO

Ex-Lax, Inc., Call Box 1020, Humacao 00661
Institute of Health Laboratories, P.O. Box 10427, Caparra Heights Station, San Juan 00922
Lilly Industries, Inc., P.O. Box 71325, San Juan 00936
University of Puerto Rico, Rio Piedras 00931

RHODE ISLAND

Brown University, 79 Waterman Street, Brown Station, Providence 02912
Curran, Alton J., M.D., 314 Angell Street, Providence 02906
Memorial Hospital, Prospect Street, Pawtucket 02860
Miriam Hospital, 164 Summit Avenue, Providence 02906
Rhode Island College, Providence 02908
Rhode Island Hospital, 593 Eddy Street, Providence 02903
Roger Williams College, Old Ferry Road, Bristol 02809
Roger Williams General Hospital, 825 Chalkston Avenue, Providence 02908
St. Josephs' Hospital, 200 High Service Avenue, North Providence 02904
University of Rhode Island, Kingston 02881

SOUTH CAROLINA

Clemson University, Clemson 29631
Medical College of South Carolina, 80 Barre Street, Charleston 29401
University of South Carolina, Columbia 29208

SOUTH DAKOTA

South Dakota State University, Brookings 57006
University of South Dakota, Vermillion 57069

TENNESSEE

Baptist Memorial Hospital, 899 Madison Avenue, Memphis 38103
Beecham Laboratories, 501 Fifth Street, Bristol 37620
Meharry Medical College, 1005–18th Avenue, Nashville 37208
Memphis State University, Memphis 38111
Oak Ridge Associated University, P.O. Box 117, Oak Ridge 37830
Peabody, George College for Teachers, Box 512, Nashville 37203
Plough, Inc., 3030 Jackson Avenue, Memphis 38112
St. Judge Children's Research Hospital, P.O. Box 318, Memphis 38101
University of Tennessee, Knoxville 37916
Vanderbilt University, Nashville 37203

TEXAS

Alcon Laboratories, Inc., P.O. Box 1959, Fort Worth 76101
Bandy Laboratories, P.O. Box 727, Temple 76501
Baylor College of Dentistry, 800 Hall Street, Dallas 75235
Baylor University, Waco 76703
Baylor University College of Medicine, 1200 Moursund Avenue, Houston 77025
Brownsville Animal Res. Center, 1810 Central Avenue, Brownsville 78520
Callier Hearing and Speech Center, 1966 Inwood Road, Dallas 75235
Carwile, D.V.M., Henry F., Drawer 821, Montgomery 77356
Cone, Robert O. Jr., 523 East Court Street, Seguin 78155
Dryden Real Estate DBA Arashiyama West Primate Ranch, P.O. Box 1968, Laredo 78040
Franklin Laboratories, P.O. Box 669, Amarillo 79105
Helena Laboratories, 1530 Lindbergh Drive, Beaumont 77704
Methodist Hospital of Dallas, P.O. Box 5999, Dallas 75222
Redden, Dr. David R., Box 5218, NT Station, Denton 76203
Rice University, P.O. Box 1892, Houston 77001
Saint Anthony's Hospital,[1] 735 North Polk Street, Amarillo 79102
Saint Joseph's Hospital, 1919 La Branch, Houston 77002
Saint Paul Hospital, 5909 Harry Hines, Dallas 75235
Scott and White Memorial Hospital, 2401 South 31st Street, Temple 76501
Southern Methodist University, Dallas 75222
Southwest Research Institute, 8500 Culebra Road, San Antonio 78206
Southwest Texas State University, San Marcos 78666
Stillmeadow, Inc., 3223 LaCosta Drive, Missouri City 77459
S. W. Foundation for Research and Education, P.O. Box 2296, 10000 West Commerce, San Antonio 78206
Technology, Inc., 8531 North New Braunfels Avenue, San Antonio 78217
Texas A&M University, College Station 77843
Texas Christian University, Fort Worth 76129
Texas Eastern University, 3900 University Boulevard, Tyler 75701
Texas Heart Institute, Houston 77002
Texas Research Institute of Mental Sciences, 1300 Moursund, Houston 77025
Texas State Techincal Institute, Waco 76705
Texas Technical University, Lubbock 79409
Texas Woman's University, Box 23971, TWU Station, Denton 76204
Thuron Industries, Inc., 12200 Denton Drive, Dallas 75234
Trinity University, 715 Stadium Drive, San Antonio 78212
University of Houston, 3891 Cullen Boulevard, Houston 77004
University of Texas System, P.O. Box 7969, Austin 78712
Wadley Institutes of Molecular Medicine, 9000 Harry Hines, Dallas 75235

UTAH

Brigham Young University, Provo 84601
Intermountain Laboratories, P.O. Box 633, Salt Lake City 84110
Latter-day Saints Hospital, 325 8th Avenue, Salt Lake City 84103
Primary Children's Hospital, 320 Twelfth Avenue, Salt Lake City 84103
University of Utah, University Avenue at 2nd Street, Salt Lake City 84112
Utah State University, Logan 84321
Weber State College, 3750 Harrison Boulevard, Ogden 84403

VERMONT

Bennington College, Bennington 05201
Castleton State College, Castleton 05735
Lyndon State College, Lyndonville 05851
Middlebury College, Middlebury 05753
Putnam Memorial Hospital, Dewey Street, Bennington 05201
Saxton, George A., Jr., M.D., DBA Brattleboro Memorial Hospital, 9 Belmont Avenue, Brattleboro 05301
University of Vermont and State Agricultural College, Burlington 05401
Windham College, Putney 05346

VIRGINIA

Bionetics Research Laboratories, Inc., 101 West Jefferson Street, Falls Church 22046
Blue Ridge Community College, P.O. Box 80, Weyers Cave 24486
College of William and Mary, Williamsburg 23185
Cooke Engineering Company, 900 Slaters Lane, Alexandria 22314
Lynchburg College, Lynchburg 24504
Mason, George University, 4400 University Drive, Fairfax 22030
Medical College of Virginia, 12th and Broad Streets, Richmond 23219
Meloy Laboratories, 6631 Iron Place, Springfield 22151
Old Dominion University, P.O. Box 6173, Norfolk 23508
Research Institute of the Norfolk Area, 600 Gresham Drive, Norfolk 23507
Robins, A. H. Company, Inc., 1211 Sherwood Avenue, Richmond 23220
Shepard, Glenn H., M.D., Inc., 316 Main Street, Newport News 23601
University of Virginia, Charlottesville 22903
Virginia Polytechnic Institute, Blacksburg 24061
Washington and Lee University, Lexington 24450
Woodward Research Corp.,[1] 12310 Pinecrest Road, Herndon 22070

WASHINGTON

Bio Medical Research Laboratories, 1115 East Pike Street, Seattle 98122
Eastern Washington State College, Chency 99004

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[1] Inactive Registrant—research facility has suspended research activities but may resume research at a future time.

Port Steilacoom Community College, Box 99186, Tacoma 98499
Hollister-Stier Laboratories, Box 3145, Terminal Annex, Spokane 99220
Pacific Northwest Laboratories, P.O. Box 999, Richland 99352
Pacific Northwest Research Foundation, 1102 Columbia Street, Seattle 98104
Providence Hospital Research Center, 528 18th Avenue, Seattle 98122
Puget Sound Blood Center, Terry at Madison, Seattle 98104
Saint Joseph Hospital, Tacoma 98405
Seattle-King County Health Department, 1303 Public Safety Building, Seattle 98104
Sweden Freezer Manufacturing Co., 3401 17th Avenue, West Seattle 98119
University of Washington, Seattle 98105
Virginia Mason Research Center, 1000 Seneca Street, Seattle 98101
Washington State University, Pullman 99163
Western Washington State College, Bellingham 98225
Weyerhaeuser Company, P.O. Box 420, Centralia 98531

WEST VIRGINIA

West Virginia University, Morgantown 26506

WISCONSIN

Adolf Gundersen Medical Foundation, 1836 1910 South Avenue, La Crosse 54601
Altech Laboratories, P.O. Box 4186, Madison 53711
Appleton Memorial Hospital Association, 1818 North Meade Street, Appleton 54911
Bellin Memorial Hospital, 744 South Webster Avenue, Green Bay 54301
Beloit College, Beloit 53511
Bjorksten Research Foundation, P.O. Box 775, Madison 53701
Central Wisconsin Colony and Training School, 317 Knutson Drive, Madison 53704
Columbia Hospital, 3321 North Maryland Avenue, Milwaukee 53211
Fromm Laboratories, Inc., Grafton 53024
Marshfield Clinic Foundation For Medical Research and Education, 630 South Central Avenue, Marshfield 54449
Marquette University, 615 North Eleventh Street, Milwaukee 53233
Medical College of Wisconsin, 561 North 15th Street, Milwaukee 53233
Milwaukee Children's Hospital, 1700 West Wisconsin Avenue, Milwaukee 53233
Mt. Sinai Hospital, 948 North 12th Street, Milwaukee 53233
Regents of the University of Wisconsin, 750 University Avenue, Madison 53706
St. Joseph's Hospital-Laboratory, 5000 West Chambers Street, Milwaukee 53210
St. Luke's Research Foundation, Inc., 2900 West Oklahoma Avenue, Milwaukee 53215
St. Norbert College, De Pere 54115
Vocational, Technical and Adult Education, 211 North Carroll Street, Madison 53703
WARF Institute, Inc., 506 North Walnut, P.O. Box 2599, Madison 53701
Wausau Hospitals, Inc., Maple Hill 54401
Wisconsin Department of Agriculture, 801 West Badger Road, Madison 53711

WYOMING

Casper College, 125 College Drive, Casper 82601
Eastern Wyoming College, Torrington 82240
Laramie County Community College, 1400 East College Drive, Cheyenne 82001
University of Wyoming, Laramie 82070

(Sec. 6, 80 Stat. 351, as amended (7 U.S.C. 2136).)

Done at Washington, D.C., this 22nd day of February, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.77-5882 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Good Manufacturing Practice Regulations for Manufacture, Packing, Storage and Installation

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 820]

[Docket No. 75N-0140]

MEDICAL DEVICES

Good Manufacturing Practice Regulations for Manufacture, Packing, Storage, and Installation

The Food and Drug Administration (FDA) is proposing good manufacturing practice (GMP) regulations for the manufacture, packing, storage, and installation of medical devices under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). Comments are requested by June 29, 1977.

In addition, the Commissioner of Food and Drugs is proposing to make the final regulation effective 90 days after the date of publication of the final regulation.

On May 28, 1976, the Medical Device Amendments of 1976 (Pub. L. 94-295) were enacted into law, amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.). Section 520(f) of the act provides the agency with authority to prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of medical devices conform to current GMP requirements. These proposed regulations are designed to assure that devices will be safe and effective for their intended use and otherwise in compliance with the act.

Under section 520(f)(3) of the act, the Commissioner must establish an advisory committee for the purpose of advising and making recommendations to him with respect to these regulations. Under this provision, the Commissioner is authorized to request recommendations from this advisory committee on any petitions submitted requesting exemptions or variances from GMP requirements. The Device Good Manufacturing Practice Advisory Committee (GMP Advisory Committee) will review and comment on the proposed current good manufacturing practice rules prior to publication of the final regulation. A notice requesting nomination for members of this committee was published in the FEDERAL REGISTER of July 13, 1976 (41 FR 28817). A notice of establishment of the GMP Advisory Committee was published in the FEDERAL REGISTER of August 27, 1976 (41 FR 36233) giving the details of the charter of this advisory committee.

Since December 1973, FDA has been involved in the development of current GMP regulations for medical devices. A concerted effort has been made by FDA to involve individuals and associations representing industry, health professionals, and consumer organizations in the development of GMP regulations. The Food and Drug Administration has also attempted to stimulate representatives of the industry to develop a number of unique GMP regulations applicable to specific types of devices. This endeavor was aided by technical and compliance experts from FDA headquarters and field offices who had background and experience relative to the regulation of the industry. The Food and Drug Administration then consolidated various draft proposals into a single draft regulation (an umbrella GMP) applicable to the entire device industry.

A notice of availability of the draft regulations was published in the FEDERAL REGISTER of August 8, 1975 (40 FR 33482). Interested persons were provided 60 days in which to submit comments. While the responses to the notice of availability varied, it was apparent that the interest in this subject is intense. The Food and Drug Administration distributed more than 3,000 copies of the draft regulations, and additional copies were reprinted and distributed by trade associations and the trade press. In view of the interest generated by the draft regulations and after a review of the initial comments, it became evident that the scope of the usual open public process should be broadened to provide for direct exchange of information between FDA and those persons concerned with the potential impact of GMP regulations. Therefore, FDA published in the FEDERAL REGISTER of October 9, 1975 (40 FR 47530) a notice announcing four public meetings to be held across the country to give interested persons the opportunity to present data, technical information, and views concerning the draft current GMP regulations. These meetings, which were held in November 1975 in cooperation with the Dallas, San Francisco, Chicago, and Baltimore District Offices of FDA, consisted of a preliminary interpretation of the draft regulations by a panel of FDA officials, followed by an open question and answer session during which the panel entertained specific questions, comments, and suggestions from the attendees. Approximately 1,200 persons attended these four meetings, and all questions and comments were recorded and transcribed.

In addition, 130 written comments responding to the draft regulations have been received and reviewed by FDA. These comments were received from a broad cross section of small and large firms that manufacture devices ranging from the relatively simple to the extremely complex.

In addition to comments received directly from manufacturers, FDA received responses from various trade and professional associations including the American Dental Trade Association; American Surgical Trade Association; the Compressed Gas Association; Coalition of Independent Ophthalmic Professionals; Pharmaceutical Manufacturers Association; Health Industry Manufacturers Association; National Electrical Manufacturers Association; Optical Manufacturers Association; Optical Wholesalers Association; Orthopaedic Surgical Manufacturers Association; and the Scientific Apparatus Makers Association. Comments were also received from industry consultants, attorneys, and representatives of academic institutions. All comments received and the transcripts for each of the four public meetings are on display in the office of the Hearing Clerk, Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

The Commissioner has reviewed both the written comments received in response to the notice of availability of the draft regulations and the transcripts of each of the four public meetings. He finds that the majority of comments are general in nature, i.e., primarily concerned with such issues as the overall concept of umbrella GMP regulations and their intended scope; the costs versus benefits associated with their implementation; descriptions of the manufacturing practices currently being employed within the industry; and the repercussions anticipated subsequent to the promulgation of such regulations. Although specific objections and tenable alternatives to the various measures proposed in the draft regulations were not generally contained with these comments, the Commissioner believes that the comments provided valuable information.

The Commissioner recognizes that the medical device industry consists of manufacturers whose devices and manufacturing processes differ significantly. This diversity of manufacturing processes affects the development of comprehensive GMP regulations equally applicable to all. Therefore, the Commissioner believes that GMP regulations applicable to all manufacturers should not be so specific as to indicate to every type of device manufacturer what he must be doing and how such manufacturing practices must be undertaken. Rather, the proposed GMP regulations should contain general requirements applicable to all manufacturers and fewer specific procedures than were enunciated in the draft regulations. The proposed umbrella GMP regulations identify specific areas of concern with the intent that the manufacturer will supply the details which, in his judgment, are appropriate for his device. This will mean that each specific device manufacturer should develop for the manufacture of such device a detailed set of procedures which implement the GMP regulations in this proposal. Such procedures will be used by FDA to determine whether a manufacturer is complying with the intent of these regulations.

The Food and Drug Administration expects to publish subsequent GMP regulations applicable to specific types of devices, thereby supplementing the umbrella GMP regulations. These GMP regulations will be of two types: One will contain requirements that will apply only to generic devices or individual classes of devices (e.g., pacemakers, eyeglasses, etc.); the other will contain requirements that will apply to certain devices or cross-class characteristics or processes (e.g., sterile devices, plastics, electrical properties, etc.).

The Commissioner believes that umbrella GMP regulations should distinguish between devices that are used to

support, sustain, or prevent impairment of human life or health, or that could present an unreasonable risk of illness or injury in the event of failure (critical devices) and those which do not (noncritical devices). This distinction has been incorporated into the proposed regulations by means of a two-tier approach which denotes general requirements applicable to all devices (critical and noncritical) and specific requirements applicable to only those devices classified as critical. The entire regulations are applicable to critical devices. The sections designated critical devices are applicable only to critical devices. Because of this two-tier approach, it is necessary that the terms "critical" and "noncritical" be meaningful and well understood. Therefore, the Commissioner is particularly interested in the response to the definition for critical device in proposed § 820.3.

The subpart in the draft regulations concerned with sterility (Subpart L) is deleted from the proposed regulations. Sterility requirements are technical and must be separated from an umbrella GMP, which is general. Sterility requirements apply to cross-class processes and will be addressed in a subsequent GMP regulation to be proposed in the FEDERAL REGISTER at a later date. Those comments concerning sterility made in response to the draft regulations will be discussed at the time the GMP regulation for sterile devices is proposed.

A number of comments agreed with provisions of the draft regulations and are therefore not addressed in the preamble to this document. Based on the comments received on the draft regulations and agency review, several other changes are made. A discussion of these changes is provided as follows:

GENERAL PROVISIONS

1. Two comments regarding the paragraph on "Limitations" indicated that the draft GMP regulation was too stringently written to apply as an umbrella GMP to all devices as a minimum requirement. It was requested that requirements for those devices whose failure in normal use would present an unreasonable risk of injury to the patient or user should be covered in a separate part applicable to specific product and class GMP's.

The Commissioner recognizes the problem raised in the comment and accordingly has specified more rigorous requirements for critical devices than noncritical devices as discussed in the two-tier approach above.

2. Three comments regarding the paragraph on "Applicability" noted that the cost of assuring the compliance of foreign manufacturers would be prohibitive to such an extent that inspections would be minimal, if at all, giving the foreign manufacturer a decided advantage over the domestic medical device industry.

The Commissioner rejects these comments. The same degree of control will be exerted over imported medical devices as that for domestic medical devices. The device GMP regulations apply to any device imported or offered for import into the United States. Devices which are questionable with respect to safety and effectiveness will be detained upon importation unless FDA is able to make the inspectional observations necessary to assure their safety and effectiveness.

DEFINITIONS

1. One comment suggested deletion of the definition of "automated quality control" which was defined in the draft regulation as "any computer or apparatus that performs quality control functions independently or semi-independently of manual control, and performs a decisionmaking function." The comment suggested that the definition was unnecessary because of the separate treatment given quality control and automated quality control in the draft GMP regulations. Several other comments recommended deletion of that part of the definition which implied that decisionmaking functions are performed by automated quality control equipment. It was emphasized that men make decisions and that computers do not.

The Commissioner rejects the comments suggesting deletion of the definition of "automated quality control" because he finds that such a definition is necessary to give the fullest understanding of the term as it is used in the proposal. The Commissioner agrees with the comments pertaining to decisionmaking functions being performed by automated quality control equipment and has modified the proposed definition accordingly.

2. Several comments suggested changing the part of the draft regulation which defined "component." It was asserted that the phrase "or any article or material intended for use in conjunction with the finished product" was redundant. Two additional comments suggested that "component" be defined as "any article or material used in the manufacture of a device which will appear in the finished product or any article or material specified by the manufacturer for use in conjunction with the finished product."

The Commissioner agrees with the comments and has incorporated the substance of the comments in the proposed definition.

3. Two comments suggested deleting part of the paragraph that defined "control number" as "any distinctive numeric or alphanumeric character(s), from which the complete history of manufacture, control, packaging, sterilization, and distribution of the device(s) can be determined." It was asserted that the phrase "from which the complete history of manufacture, control, packaging, sterilization, and distribution of the device(s) can be determined" could be construed as specifying the required use of a control number. It was suggested instead that "control number" be covered in the operating provisions of the GMP regulations.

The Commissioner disagrees with the comments and has specified the mandatory use of control numbers for critical devices and critical components. The use of control numbers for noncritical devices is optional. The Commissioner rejects the comments suggesting the deletion of the definition of "control number" because he finds that such a definition is necessary to give the fullest understanding of the term as it is used in the proposal. Several additional comments suggested that the definition for "control number" should be "any distinctive code designation from which a product/component could be traced subsequent to its manufacturing and distribution cycle."

The Commissioner disagrees with the comments because he finds the specific terms used in the proposed definition such as components, control, packaging, sterilization, production run, lot, batch, date code, or serial number are necessary to give the fullest understanding of the term as it is used in the proposal.

4. Several comments were received on "critical component" which was defined as "a component which, if defective or improperly manufactured in any manner or otherwise unsuitable for use, can be expected to unreasonably affect the safety or effectiveness of a device, and is of such a nature that it is feasible to individually identify." A few comments considered the definition of critical component too restrictive. It was suggested that this concept be deleted from an umbrella GMP and placed instead in the specific product and class GMP's for those products which have significant patient or user hazard. Two other comments would define "critical component" as a component which has a potential for failure, the occurrence of which would create a hazard to the safety of the patient or user and as such, would not be disclosed by normal quality control procedures.

The Commissioner has restricted the use of the term critical component to critical devices and has proposed a new definition which combines the substance of the draft definition and the definitions suggested above.

5. Several comments suggested alternative definitions for "critical operation," which was defined as "any operation in the production of a device that, if incorrectly done, contains a high potential for failure of product requirements of safety and effectiveness." It was suggested that "critical operation" be defined as any operation in the production of a device that, if incorrectly done, contains a high potential for failure of product requirements for safety and effectiveness essential to the health and physical welfare of the patient or user.

The Commissioner has restricted use of the term "critical operation" to critical devices and has proposed a new definition, which combines the substance of the draft and the definition suggested above.

6. One comment was received on the paragraph that defined a "quality control unit" as "any organizational element of the manufacturer having the authority and responsibility in accordance with § 810.20 (proposed § 820.20), to approve or reject components, in-process materials, packaging materials, and final products." It was suggested that this definition should be revised to take into con-

sideration two quality groups—quality control and quality assurance—as each is normally found in the corporate structure.

The Commissioner rejects the suggestion as the definition does not mandate the nomenclature of the organizational structure the manufacturer may wish to utilize. The Commissioner is concerned only that the organizational element of the manufacturer have the authority and responsibility in accordance with proposed § 820.20.

One additional comment asked how the draft definition of "quality control unit" will apply to custom manufacturers who may be building devices to customer specifications.

The Commissioner intends that custom manufacturers comply with the regulations. Custom manufacturers are directed to section 520(f) of the act, which authorizes persons subject to GMP requirements to petition the Secretary for an exemption on variance from one or more of the regulations.

7. Several comments suggested definitions for the following terms: "recondition," "repair," "complaint," "labeling," "labels," "sterility," "package," "manufacturer," and "manufacturing material."

The Commissioner has defined those terms necessary to clarify the regulations. These include definitions for the terms "manufacturer" and "manufacturing material." The term "complaint" is explained in proposed § 820.198. The terms "label" and "labeling" are defined in the act. The term "sterility" is deleted in favor of a specific GMP regulation for sterile devices to be published in the FEDERAL REGISTER at a later date. Other suggested terms do not require a definition since the meaning provided by a dictionary is sufficient. The Commissioner has proposed the following definitions that were not included in the draft regulations:

"Critical device" has been defined because of the importance of the term and its extensive use in the proposed regulations.

"Finished device" has been defined to distinguish between a device and a component.

"Manufacturer" has been defined to differentiate between a manufacturer and a distributor.

"Manufacturing material" has been defined to distinguish between manufacturing materials and a component.

"Noncritical device" has been defined to distinguish between critical and noncritical devices.

ORGANIZATION AND PERSONNEL

1. Several comments objected to the requirement in the draft regulations that the quality control unit and the production unit be organizationally and functionally independent of each other. It was suggested that this requirement ignored the practical realities existing within small manufacturing operations, in that production personnel at the plant level in small firms often serve as quality control inspectors and that to do otherwise in such firms would make production costs prohibitive. Several additional comments argued that GMP regulations should not dictate organizational structure but should, instead, require device manufacturers to document their organizational structure with clearly defined responsibilities and authority in regard to controls and product acceptance.

The Commissioner's intent is not to dictate organizational structure. He agrees that this regulation might cause problems within small manufacturing operations. It is felt that separation of the production and quality control functions is of the utmost importance, regardless of organizational size. The intent of the regulation is to clearly establish and delineate the authority and responsibilities of persons and organizations performing quality control operations. The proposed regulation now allows organizational flexibility while requiring responsibility and authority for implementation of a quality assurance program to be given to a quality control unit. Additionally, the Commissioner has deleted the draft regulation exempting small firms from certain requirements of the proposed regulations.

2. Several comments suggested deletion of the requirement that periodic quality control audits be made by a qualified individual to verify compliance with all aspects of the quality assurance program. It was interpreted that the regulation required and legislated a special audit of the quality assurance system which, by its nature, should be self-auditing on a continuous basis.

The Commissioner rejects the comments because he finds that systematic and periodic audits should verify compliance with all aspects of the quality assurance program and that these audits should be done by individuals not having responsibilities in the area audited.

3. A few comments suggested deletion of the draft regulations that required each employee to undergo orientation for each function that he or she performs, as well as deletion of the requirement that personnel performing aseptic techniques be trained by persons qualified in that field. It was felt that these two areas were covered without further delineation by the requirements for training in the introductory statement in this section.

The Commissioner agrees with the comments and has revised the proposal accordingly.

4. Several comments suggested deletion of that portion of the draft regulations regarding employees' personal health. It was suggested that this reference to individuals' personal health placed on the manufacturer the responsibility for the diagnosis and detection of illness in employees.

The Commissioner rejects these comments because it is important to exclude from the manufacturing process employees who exhibit diagnosed or apparent illness which may have an adverse effect on the product. The Commissioner has, however, deleted the reference to open lesions, as specific references to pathological conditions are not necessary because of the reference to "diagnosed or apparent illness" in the proposed regulation.

BUILDINGS

1. Several comments recommended deletion of the requirement that facilities be of suitable size, construction, and location to carry out adequately the manufacturing process. It was felt that these requirements are not directly related to product safety features. It was noted that many of the requirements must be fulfilled for compliance with occupational safety requirements. Additionally, a few comments argued that the size, construction, and location of a building, as used in the draft regulation, may or may not affect device manufacturing.

The Commissioner rejects these comments because it is felt that manufacturing conditions relative to building design and space may affect the safety and effectiveness of a device. This subpart has been retitled "Buildings" because "buildings" is the term used throughout the proposed regulation.

2. Several comments recommended rewording of the requirement in draft § 810.46 that environmental factors "be controlled to prevent contamination and provide proper conditions for the storage, manufacture, assembly, packaging and labeling operations for each product." It was suggested that the proposed regulation be stated as follows: "The environmental factors, to the extent that they adversely affect the safety and performance of the product, be controlled as follows (list of factors)." It was believed that this change would clarify the intent that only those environmental factors that could adversely affect the safety and performance of a device be subject to this regulation.

The Commissioner agrees and has incorporated the substance of the comment in the proposed regulation by inserting the words "when necessary." This is to ensure that the environmental factors listed are controlled only where they are a factor in product or process operation.

3. Several comments concerning environmental control suggested that explantions for each environmental factor were redundant. They offered the following rewording:

The environmental factors shall be controlled to minimize contamination and to provide adequate conditions for the storage, manufacture, assembly, packaging, and labeling operations for each product. Environmental factors to be given consideration, depending on the product or process involved, include: lighting, ventilation, temperature, humidity, air pressure, laminar air flow, screening and filtration and environmental testing.

The Commissioner agrees with the comments and has revised the substance of the proposed regulation accordingly.

4. A few comments objected to the requirement that adequate cleaning and sanitation meet product or process requirements. It was felt that the Occupational Safety and Health Act regulations extensively detail occupational safety and health requirements. It was suggested that deletion of this section would avoid the potential for conflicting regulations.

The Comissioner has determined that Occupational Safety and Health Act regulations do not include all of the cleaning and sanitation requirements stated in this GMP proposal. Although there are some areas of common interest, the Commissioner is not promulgating conflicting regulations. The scope of these regulations, as set forth in the "General Provisions" subpart of this document, necessitates requirements to assure the safety and effectiveness of devices. The Occupational Safety and Health Act regulations do not have this intent.

EQUIPMENT

1. Many comments suggested deletion of the draft regulation requirement that "There shall be for each piece of equipment a schedule of maintenance, adjustment, and cleaning that is appropriately related to the function of the equipment."

The Commissioner accepts the comments and has revised the proposed regulation to require scheduled maintenance, adjustment, and cleaning only where applicable.

Many comments suggested deletion of the draft regulation requirement that "For each piece of equipment subject to adjustment there shall be visibly posted in a prominent place on or about the equipment, a specification of the allowable tolerances within which the equipment performs its function." It was asserted that the maintenance of machine tolerances should not be imposed by legislation. It was argued that since the finished product is manufactured within stated tolerances, it is this tolerance that is important.

The Commissioner rejects the comments because it is necessary to monitor the quality of a device throughout the manufacturing process and not just at the point of finished device testing. The tolerance of a machine manufacturing a device is a quality point to be monitored on a schedule that is documented when performed. However, the Commissioner has modified this requirement so that the schedules are only required if applicable for the equipment.

2. Several comments recommended deletion of the requirement that the device should not be adversely affected by contact with equipment surfaces beyond established and documented limits.

It was noted that the introductory paragraph to the draft regulation stated that equipment should "be suitable" for its intended purpose and that this phrase defines the intent while allowing enough flexibility and interpretation for an umbrella GMP regulation.

The Commissioner accepts the comments and has deleted the specific surface design requirements in the proposed regulations.

3. Several comments objected to the requirement that quality control instruments and measuring equipment be appropriate for measuring the test parameter and conform to laboratory standards whose calibration is traceable to the prime standards at the National Bureau of Standards, U.S. Department of Commerce. It was pointed out that not all testing equipment has a calibration traceable to the National Bureau of Standards. It was recommended that the phrase, "where appropriate" be added at the end of the sentence.

The Commissioner agrees with the comments and has added the following alternatives to proposed § 820.62: "If prime standards do not exist for the parameter being measured, an independent reproducible standard shall be used. If none of the above exists, an in-house primary standard shall be developed and used."

4. Several comments objected to the specific language of the requirement for performing measurements, namely: "* * * the accuracy of the measurement equipment shall be added to the measured deviation from nominal and the sum shall not exceed the allowed tolerance for that parameter." It was contended that this regulation specified the accuracy these measurements must meet and that the added economic impact for these calculations would be prohibitive.

The Commissioner accepts the comments and has deleted this requirement from the proposal.

5. Several comments suggested deletion of the requirement that a determination be made of the validity of the design of, equipment used for, and/or programming used in an automated quality control process. It was asserted that this is a specialized area of limited applicability and, therefore, not appropriate in an umbrella GMP; the requirement is superfluous because it states the obvious; and that automated quality control equipment should meet the same requirements as other instrumentation and measuring equipment.

The Commissioner rejects the comments because automated quality processes are used for many devices covered under the umbrella GMP and therefore should be proper subject matter for this proposed GMP. The Commissioner agrees that this requirement states the obvious as does the entire regulation. However, the obvious to some is not the obvious to everyone, and the need for a regulation reiterating basics is apparent. The Commissioner believes that there are elements of automated quality control that are not present in manual systems and these additional elements should be regulated accordingly.

6. Many comments contended that required semiannual calibration for each piece of equipment was an unjustifiable and unreasonable economic burden. It was argued that such a requirement was inappropriate in an umbrella GMP regulation. Reference was made to military specification MIL-C-4566A which sets forth requirements for calibration systems without recommending a fixed maximum calibration level.

Several additional comments on calibration scheduling noted that these regulations cover a broad scope of device manufacturing equipment, including some equipment not requiring recalibration. It was proposed that the regulation be restated to require recalibration of each piece of equipment in accordance with an established schedule for that piece of equipment.

The Commissioner agrees with the comments and has modified the proposed regulation to require routine calibration of automatic, mechanical, or electronic measurement equipment.

CONTROL OF COMPONENTS, CONTAINERS, AND IN-PROCESS MATERIALS

1. Several comments concerning critical components contended that unless a more specific definition for critical components can be agreed upon, all references to "critical" components and "critical" operations should be deleted from the GMP regulations.

The Commissioner has redefined the terms "critical components" and "critical operations" in the proposal. The proposed regulations have been revised to restrict the use of these terms to sections of the regulations specifically dealing with critical devices.

2. Many comments suggested deletion of the requirements that personnel responsible for quality control of incoming components maintain a continual record of rejection percentages in an acceptance trend record. It was argued that such a requirement has no bearing on the performance of a product and is not appropriate to good manufacturing practices; it is a management tool not properly the subject of GMP's; it is costly recordkeeping that does not contribute to the assurance of safety or performance; it is a prerogative of the manufacturer and, as such, should not be legislated.

The Commissioner agrees with the comments as they apply to noncritical devices but believes such a record of supplier performance is essential for critical devices. Accordingly, the Commissioner has modified the regulation to make it applicable to critical devices only.

3. Several comments suggested deletion of the statement that the manufacturer is ultimately responsible for the quality and compatibility of all components made or supplied to him. Such a requirement could be interpreted to mean the manufacturer is solely responsible if a problem arises. It was noted that such is not the case under the act nor under the current product liability law. The comments indicated that such an interpretation would tend to limit legal remedies available to consumers and finished product manufacturers in a liability suit.

The Commissioner accepts the comments and has revised the proposal so that specific responsibility for component failure is not assigned.

4. Several comments addressed the requirement that a written agreement exist between the supplier and manufacturer providing for notification of changes made in components. The comments contended that it would be unreasonable, inefficient, costly, and impractical for the supplier to notify the manufacturer of changes made in each component of a noncritical nature.

The Commissioner agrees with the comments and has revised the proposal to apply to critical devices only.

PRODUCTION AND PROCESS CONTROLS

1. Several comments objected to the requirement in the draft regulation that "a critical operation performed manually shall be performed by a responsible and competent individual, and shall be checked by a second responsible and competent individual." Deletion of this requirement was recommended because the draft regulations on "Personnel" state that all employees must have capabilities commensurate with their assigned functions. It was asserted further that the performance of a capable person need not be checked by a second person.

The Commissioner rejects the comments because he believes that thorough verification is necessary for critical device manufacture. However, the proposed regulations have been amended to require verification for any critical operation by designated individuals or equipment.

2. Several comments recommended deletion of the requirement that a formal approval procedure for any change contemplated in the manufacturing and assembly process of a product be included in the master product record. It was suggested that a reference to the change approval procedures be permitted instead of inclusion of the actual document in the master product record.

The Commissioner agrees with the comments and has incorporated the substance of the suggestion into the proposed § 820.181 on Master Device Records.

PACKAGING AND LABELING CONTROL

1. Many comments believed that the regulations on labeling control were patterned after controls needed for the drug industry. It was implied that they are far too stringent for most medical devices and the imposition of unnecessary steps and restrictions would serve no useful purpose and would only increase the cost of the product.

The Commissioner has revised the regulations for critical device labeling to include the following controls: labeling receipt, storage, access restriction, and excess printed labels. This reflects the Commissioner's concern that critical device labeling operations be strictly controlled to prevent labeling mixups. However, the Commissioner has agreed with the comments in regard to noncritical devices and has modified the requirements for labeling of these products.

2. A few comments recommended rewording the requirements that containers and packages be suitable for their intended use and that such containers and their components may not adversely affect the device. It was suggested that the proposed regulation require product containers or packages to adequately protect the product from reasonably expected external factors that could alter or damage the product.

The Commissioner rejects the comments as applied to critical devices because the suggestion is too general to implement the intent of the regulation. However, he accepts the comments as applied to noncritical devices.

HOLDING AND DISTRIBUTION

1. Several comments objected to the specific language of the draft regulation which required a stock rotation system whereby the oldest approved products were distributed first. It was contended that such a requirement ignores the purpose of expiration dating and assumes that such dating will be ignored by the intended user. Additionally, the comment stated that a customer who wanted an entire lot of a particular product would be prohibited from purchasing it if there wree products still available from a previous lot.

The Commissioner agrees with the comments and has modified the proposed regulation to require stock rotation where appropriate.

2. Many comments recommended deletion of the requirement that adequate distribution records, including the names of the initial and all subsequent known consignees, be maintained and be readily available.

Deletion of the requirements concerning "all subsequent consignees" was suggested because of the following reasons: Only the initial consignee should be responsible for maintaining records for subsequent consignees; manufacturers are in no position to know the identity of subsequent consignees; when selling through dealers, it is impossible to know more than the initial consignee for a long-lived product; this could be interpreted to mean that any time a manufacturer learns where one of his products is subsequently consigned, he must rush to his distribution records and record the name of the subsequent consignee; this could cause havoc with good recordkeeping and would impose a burden on the manufacturer, and the varied nature of medical device distribution makes compliance with this requirement difficult.

The Commissioner agrees, in part, with the comments and has deleted the requirement concerning distribution recordkeeping for noncritical devices only. This reflects his concern that critical device distribution records be readily available in the event of recall or other actions.

PRODUCT EVALUATION

1. Many comments suggested deletion of the requirement that each control number unit of production be retained prior to final product inspection for a sufficient period of time to allow the final product inspection to validly reflect the state of the product upon reaching its point of use.

It was stated that, as written, this regulation is confusing and contradictory; it describes redundant requirements in the master product record and the product history record; product retention or holding is part of the manufacturing procedure; some products undergo changes for long periods or throughout their life; and such a measurement will not assure that the product reaches the end-user in satisfactory condition.

The Commissioner accepts the comments and has deleted the requirement from the proposed regulation. However, the proposed regulations now require devices to be tested under operating conditions.

2. A few comments recommended deletion of the requirement that each number control unit of production of a product be fully tested, before release for distribution, for conformance with all requirements and specifications of safety and effectiveness established for the product. These comments contended that the requirement would be very costly and unnecessary.

The Commissioner rejects the comments because it is believed that final product testing reduces the incidence of faulty components or products, thereby lessening the possibility of injury to the user.

3. Several comments objected to the requirement that, upon completion of final product inspection, the control number unit of production shall not be released for distribution until all records and test results are checked by a responsible authorized individual. It was argued that final product release should not be dependent upon a single individual, assuming that all records and documentation are present, complete, and correct. Instead, individuals should be responsible for verifying all such documentation approval by authorized personnel along the manufacturing process.

The Commissioner rejects the comments because he finds that this type of responsibility should be a single, conscious act and should not be shared at intermittent time intervals. The Commissioner has proposed finished device release for critical devices by a designated individual who is responsible for releasing the device.

RECORDS AND REPORTS

1. Several comments objected to the requirement that all obligatory records be marked and separated into confidential and nonconfidential portions to aid FDA in determining which information retained or acquired by the agency is releasable under the Freedom of Information Act. It was asserted that this section is not relevant to GMP's; confidentiality is adequately defined and treated under the Freedom of Information Act and under 21 CFR Part 4; in addition to excessive documentation, this requires prior segregation of records on a continual basis for potential FDA release to the public.

The Commissioner rejects the comments because he believes that this requirement is relevant to GMP's as it applies to manufacturers' GMP records. Additionally, this regulation does not require excessive documentation, but, instead, requires the marking of already existing records. These records may be marked continually, sporadically, or not at all; specifics are left to the manufacturers discretion.

2. Many comments recommended changing the requirement that mandated the retention of all required records per-

taining to a product for a period of 2 years or the intended or actual known life of the product, plus 1 year, whichever is longer. It was believed that a limiting time should be established, and it was felt that 2 years was an adequate period for an umbrella GMP applicable to all devices.

The Commissioner rejects the comments but has revised the proposal to allow the manufacturer to designate the criteria for determining the record retention period, which shall be at least 2 years.

3. Many comments objected to the requirement that copies of all promotional material be included in the master product record. It was contended that inclusion of any promotional material in labeling control regulations added extra and unwarranted work unrelated to labeling control.

The Commissioner rejects the comments. He believes that controls on promotional material should be retained because claims could appear in promotional material that could change labeling requirements.

Several comments recommended deletion of the references to labels and labeling from the master product record. It was believed that this requirement was redundant since these are requirements under product specifications. It was also suggested that labels and promotional materials should not be a part of the master product record because these items are subject to constant change.

The Commissioner rejects the comments because the regulation does not require a duplication of labels and labeling in two different sections of the master device record. Approval of labels and labeling by designated persons is required. The approved material should then be placed or referenced in the master device file. The Commissioner feels the constant change mentioned in the comments necessitates the existence of a master device record with approved labeling material. There must be a primary source document for production personnel to use a reference so that old or inaccurate labels are not used inadvertently.

4. Several comments objected to the requirements that a product history record be prepared. It was maintained that not all devices require the same degree of control and that the draft regulation required extensive record development and retention well beyond the value returned. It was suggested that the requirement would be more appropriate in a specialized product GMP regulation, not an umbrella regulation.

The Commissioner has revised the regulations on device history records mandating specific requirements for manufacture of critical devices while the requirements for noncritical devices have been generalized.

Many comments contended that maintenance of the product history record in one location was impractical and unnecessary.

The Commissioner accepts the comments and is not requiring the cited records to be in one location. However, critical device final inspection requires that such records for critical devices be present, complete, and correct prior to distribution.

5. Several comments objected to the requirement in the draft regulation that design documents must be verified. It was stated that such a requirement is impractical, unnecessary, and is not a GMP.

The Commissioner agrees with the comment and has deleted such a requirement from the proposed regulations.

6. Many comments recommended deletion of the requirement that there shall be a written quality control manual for each product with at least one copy of the manual in each production area. It was stated that this kind of information is usually kept in category files; industry does not now have such manuals and this requirement would be an economic burden; much of the information provided would be redundant; and quality control procedures should be made a part of the master product record.

The Commissioner rejects the comments because he finds that the degree of control required for critical devices justifies specific requirements such as those found in the quality control manual. Information located in the manual such as sampling plan, formal change approval, and inspection checks would be extraneous if located in the master device record because those operations involve only quality control personnel. Accordingly, the Commissioner has revised the proposed regulations making specific requirements for critical device manufacturers, but has generalized requirements for noncritical devices.

7. Several comments objected to the requirements concerning dual records, programming, data input, and access security relative to automatic data processing. It was felt that the regulations attempted to fix responsibility and define the steps required so closely so as to prevent the exercise of necessary authority. They further felt this to be a management tool and its use a management prerogative.

The Commissioner agrees that this regulation fixes responsibility and is a proper objective of a regulation. However, the regulation has been rewritten to give management more latitude in the implementation of the regulation. The regulations for automatic data processing have also been revised to make this a requirement applicable only to critical devices. The Commissioner believes the degree of control needed for critical devices justifies this requirement.

8. A few comments recommended that the draft regulation concerning complaint files be rewritten to require written procedures and maintenance of records of all user reports to the manufacturer pertaining to injury, death, or any hazard to safety. It was also felt that records of such safety complaints should be located at, but not limited to, a centralized location where the responsibility for investigation resides.

The Commissioner rejects the comments as inadequate for the protection of the consumer. In addition to concerns about injury, death, and hazard to safety, the Commissioner believes the complaint files should also include any expressions of dissatisfaction regarding the identity, quality, durability, reliability, effectiveness, or performance of a device.

The Commissioner also finds it necessary that manufacturers maintain complaint records at the device manufacturing site because it is sometimes necessary to interview employees and review records concerning manufacturing failures resulting in complaints.

A few comments felt that the requirement that complaint files include all complaints creates the additional burden and cost of maintaining excessive files. They believed that the bulkiness of the file would be a reflection of a company's success in the marketplace. This information would be available to the manufacturers' competitors through the Freedom of Information Act and would be of limited value for consumer protection.

The Commissioner rejects the comments because it is believed that the number of complaints a manufacturer receives is more directly proportional to product design and adequate quality assurance systems that the total number of customers. Trade secrets are protected through provisions of the Freedom of Information Act and consumer interests are best served through the monitoring of complaint files.

9. Many comments objected to the requirement that reworked products attain the same level of quality, safety, and effectiveness as newly manufactured products.

It was believed that this requirement would impose tremendous financial burdens upon the medical device industry, and, if implemented, would require that products returned for repair, independent of age, much be made to attain all of the characteristics of current production.

The Commissioner agrees with the comments and has deleted this requirement from the proposed regulations.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

The inflationary impact of the proposed good manufacturing practice regulations for medical devices was carefully considered in accordance with Executive Order No. 11821, OMB Circular A–107, and the guidelines issued by the Department of Health, Education, and Welfare. The Commissioner had determined that the agency lacks the data that are needed to perform a valid assessment at this time and consequently he is deferring judgment on whether or not these regulations are likely to cause a major inflationary impact.

The Commissioner asks that interested and informed parties submit data in a form which is adaptable to the analytic framework documented in the "Preliminary Inflation Impact Review of the Pro-

posed Good Manufacturing Practices Regulations for Medical Devices," on file with the Hearing Clerk, Food and Drug Administration.

Economic data should address one or more of the following areas:

a. Medical device industry characteristics, such as annual revenues, employment, firm size distribution, etc.

b. Present levels of quality control costs (pre-manufacturing and production phases) and future levels anticipated as a result of these proposed regulations, as a percentage of annual sales.

c. Present levels of failure costs, for correcting defects before and after shipment and for fulfillment of guarantees, and future levels anticipated as a result of these proposed regulations.

d. Types of products manufactured and whether they are critical or noncritical devices.

e. Annual sales.

f. Numbers of employees (if any) that would be hired or released as a result of these proposed regulations.

g. Competitive advantage or disadvantage attributed to the proposal.

To the extent possible, respondents should cite the specific sections of the proposal, such as: Cleaning and sanitation, distribution records, device labeling, etc., and the special circumstances, if any, that account for any estimated economic impact. The Commissioner is particularly interested in learning whether the disparity between present and expected future costs is attributable to a company's belief that an existing quality control program is not in compliance with the proposed regulations or would be unlikely to be granted an exemption or variance.

The agency's subsequent analysis of the inflationary impact of the regulations will be based on data received and its availability for public examination and further comment will be announced in the FEDERAL REGISTER before any final regulations are promulgated.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 518, 519, 520(f), and 701(a) as amended, 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 562–565, 567–569 (21 U.S.C. 351, 352, 360(h), 360(l), 360j(f) 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Chapter I of Title 21 of the code of Federal Regulations be amended by adding new Part 820 to read as follows:

PART 820—GOOD MANUFACTURING PRACTICE FOR MEDICAL DEVICES; GENERAL

Subpart A—General Provisions

Sec.
820.1 Scope.
820.3 Definitions.

Subpart B—Organization and Personnel

820.20 Organization.
820.25 Personnel.

Subpart C—Buildings

820.40 Buildings.
820.46 Environmental control.
820.56 Cleaning and sanitation.

Subpart D—Equipment

Sec.
820.60 Equipment.
820.61 Measurement equipment.
820.62 Critical devices, measurement equipment.
820.68 Equipment calibration.

Subpart E—Control of Components, Containers, and In-Process Materials

820.80 Components.
820.81 Critical devices, components.

Subpart F—Production and Process Controls

820.100 Manufacturing specifications and processes.
820.101 Critical devices, manufacturing specifications and processes.
820.115 Reprocessing of devices or components.
820.116 Critical devices, reprocessing of devices or components.

Subpart G—Packaging and Labeling Control

820.120 Device labeling.
820.121 Critical devices, device labeling.
820.130 Device packaging.
820.131 Critical devices, device packaging.

Subpart H—Holding and Distribution

820.150 Distribution.
820.151 Critical devices, distribution records.

Subpart I—Product Evaluation

820.160 Finished device inspection.
820.161 Critical devices, finished device inspection.

Subpart J—Records and Reports

820.180 General requirements.
820.181 Master device record.
820.182 Critical devices, master device record.
820.184 Device history record.
820.185 Critical devices, device history record.
820.190 Quality control manual.
820.191 Critical devices, quality control manual.
820.195 Critical devices, automated data processing.
820.198 Complaint files.

AUTHORITY: Sec. 501, 502, 518, 519, 520(f), 701(a), 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 562–565, 567–569 (21 U.S.C. 351, 352, 360h, 360l, 360j(f), 371(a)).

Subpart A—General Provisions

§ 820.1 Scope.

The regulations set forth in this part describe current good manufacturing practice for methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of all devices for human use to assure that the device will be safe and effective and otherwise in compliance with the Federal Food, Drug, and Cosmetic Act. This Part 820 establishes basic requirements applicable to all devices for human use and additional requirements for critical devices. Every device manufacturer shall comply with the applicable provisions of this part and prepare and implement procedures complementing this regulation that are appropriate to the specific device manufactured.

(a) *Authority.* This Part 820 is established and promulgated under authority of sections 501, 502, 518, 519, 520(f), and 701(a) of the act (21 U.S.C. 351, 352, 360h, 360l, 360j(f), and 371(a)). The failure to comply with any regulation in this part in the manufacture, packaging, storage, or installation of a device renders the device adulterated under section 501(h) of the act. Such a device, as well as the person responsible for the failure to comply, is subject to regulatory action.

(b) *Limitations.* The current good manufacturing practice regulations in this part supplement regulations in other parts of this chapter except where explicitly stated otherwise. In the event it is impossible to comply with applicable regulations both in this part and in other parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other regulation.

(c) *Applicability.* The provisions of this Part 820 shall be applicable to any device, as defined in the act, that is manufactured, imported or offered for import in any State or Territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 820.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201–902, 1040 et seq. as amended (21 U.S.C. 321–392)).

(b) "Automated quality control" means any system used in the quality control decisionmaking functions that uses a computer or other apparatus for performing quality control functions independent of, or semi-independent of, manual control.

(c) "Component" means any material, substance, piece, part, or assembly intended for use during the manufacturing of a device which will appear in the finished product.

(d) "Control number" means any combination of letters and numbers from which the complete history of components, manufacture, control, packaging, sterilization, and distribution of the device can be determined; the control number may be in the form of designations such as "production run," "lot," "batch," "data code," or "serial number."

(e) "Critical component" means an individually identifiable component, assembly, or subassembly of a critical device that has a potential to cause a device failure or affect the safety, performance, or effectiveness of a critical device.

(f) "Critical device" means a device intended to support or sustain life or intended for surgical implant into the body, whose failure could result in permanent injury to the user, or which has been declared a critical device by the Commissioner after consultation with the Device Good Manufacturing Practice Advisory Committee authorized under section 520(f) of the act.

(g) "Critical operation" means any operation in the manufacture of a critical device that has a potential to cause a device failure or adversely affect the safety, performance, or effectiveness of a critical device.

(h) "Finished device" means a device, or any accessory to a device, that is ready to be used for its intended purpose whether or not packaged or labeled for commercial distribution: for example, a hemodialysis unit, disposable hemodialysis tubing, blood filters, syringes, needles, or diagnostic reagents.

(i) "Manufacturer" means any person(s), including repackers and relabelers, who manufactures, fabricates, assembles, or processes a device in whole or in part. It does not include those to whom the device is subsequently delivered or sold solely for distribution of the device in commerce.

(j) "Manufacturing material" means any material intended for use during the manufacture of a device but which is not intended to appear in the finished product, e.g., cleaning, mold-release, and lubricating agents.

(k) "Noncritical device" means all devices other than those designated as critical devices.

(l) "Quality control unit" means any organizational element of the manufacturer having authority and responsibility in accordance with § 820.20.

Subpart B—Organization and Personnel

§ 820.20 Organization.

The organization of each device manufacturer shall include a quality control unit which shall consist of one or more persons with the responsibility and the authority to perform formally established and documented quality assurance programs. Such a unit shall have the freedom to identify, initiate, recommend, or provide solutions to quality assurance problems and to verify the implementation of such solutions. Any unit that checks, audits, or otherwise verifies correct performance of operations shall be independent of the unit performing that operation.

(a) *Responsibilities of the quality control unit.* The quality control unit shall have the responsibility and authority to approve or reject all components, manufacturing materials, in-process materials, packaging materials, labeling, and finished devices and to review production records. It shall also be responsible for performing inspection checks during the manufacture of a device as set forth in the quality control manual, and also be responsible for approving or rejecting devices manufactured, processed, packed, or held under contract by another company.

(b) *Audit.* Planned and periodic audits of the quality assurance system shall be implemented to verify compliance with the effectiveness of the quality assurance program. The audits shall be performed in accordance with written procedures by appropriately trained individuals not having direct responsibilities in the areas being audited. Audit results shall be documented and reviewed by management having responsibility in the area audited. Followup action, including reaudit of deficient areas, shall be taken when indicated.

§ 820.25 Personnel.

There shall be sufficient personnel having the educational background, training, and experience necessary to ensure that their functions are adequately performed.

(a) *Personnel training.* All personnel shall have a thorough understanding of the functions they perform, necessary training and experience, and adequate information concerning applicability of their functions to pertinent provisions of this part. Quality control personnel shall be made aware of defects and errors likely to be encountered in their individual control function through a documented training program.

(b) *Personnel health and cleanliness.* Personnel in contact with the device or its environment shall be clean, healthy, and suitably attired to the extent that these factors may affect the finished device. Any personnel who by medical examination or supervisory observation appears to have a condition which could adversely affect the device shall be excluded from affected operations until the condition is corrected. Personnel with such conditions shall be instructed to report them to supervisory personnel.

Subpart C—Buildings

§ 820.40 Buildings.

Buildings in which manufacturing, assembling, packaging, packing, holding, testing, and labeling operations are conducted shall be of suitable design and contain sufficient space to facilitate adequate cleaning, maintenance, and other necessary operations. The facilities shall provide adequate space to prevent mixups and to assure orderly handling of the following: Incoming components; rejected or obsolete components; in-process components; finished devices; labeling; reprocessed, reworked and repaired devices; equipment; molds, patterns, tools, records, drawings, blueprints; testing and laboratory operations; and quarantined products.

§ 820.46 Environmental control.

Environmental conditions shall be controlled when necessary to prevent contamination and to provide proper conditions for each of the operations performed in each building pursuant to § 820.40. Conditions to be considered for control are lighting, ventilation, temperature, humidity, air pressure, airborne and other contamination, screening, and filtration. Periodic verification of environmental controls shall be performed and documented.

§ 820.56 Cleaning and sanitation.

There shall be adequate cleaning and sanitation to meet process requirements, including the following:

(a) *Personnel sanitation.* Washing and toilet facilities shall be clean and adequate. Clean dressing rooms shall be provided when necessary.

(b) *Vermin, pest, and insect control.* Procedures to control vermin, pests, and insects and safeguards to prevent contamination of equipment, components, in-process components, or finished devices by rodenticides, insecticides, fungicides, fumigants, hazardous substances, and other cleaning and sanitizing substances shall be documented.

(c) *Personnel practices.* Eating, drinking, and smoking by personnel shall be limited to designated areas, where necessary.

(d) *Sewage and refuse disposal.* Sewage, trash, by-products, chemical effluents, and other refuse shall be disposed of in a safe and sanitary manner.

(e) *Written cleaning procedures and schedules.* Written cleaning procedures and schedules shall be made available to appropriate personnel. Any special area requirements or warnings shall be posted.

Subpart D—Equipment

§ 820.60 Equipment.

Equipment used in the manufacturing process shall be appropriately designed, constructed, placed, and installed to facilitate maintenance, adjustment, and cleaning. All manufacturing materials or other substances used with such equipment or which may come in contact with the device shall not adversely affect the device.

(a) *Maintenance schedule.* There shall be, if applicable, a schedule for maintaining, adjusting, and cleaning the equipment. Such schedules shall be visibly posted on or near each piece of equipment, or be readily available to personnel performing these functions. A written record of these activities shall be maintained.

(b) *Inspection.* Periodic documented inspections shall be made of all equipment to ensure adherence to such schedules and to make certain the equipment is in the proper state of cleanliness and operating tolerances..

(c) *Adjustment.* Any inherent limitations or allowable tolerances shall be visibly posted on or near equipment requiring periodic adjustment.

(d) *Manufacturing materials.* Manufacturing materials including cleaning agents, mold-release agents, lubricating, or other substances used on or in the manufacturing equipment or the device shall be subsequently removed from the device or limited to specified amount that does not adversely affect the safety or effectiveness of the device. The use and removal of such manufacturing materials shall be documented.

§ 820.61 Measurement equipment.

All measurement equipment used for production and quality control shall have the capability of measuring to a degree of accuracy suitable for the intended purpose and have the capability of providing valid results. Documented periodic inspections shall be made of such measurement equipment to assure that it is maintained to the necessary degree of accuracy.

(a) *Production measurement equipment.* Production jigs, fixtures, tooling masters, templates, patterns, and other such inspectional standards shall be standardized prior to initial use and at periodic intervals. Such standardization shall be documented.

(b) *Automated quality control.* The following factors are pertinent in the documentation of design validity for automated quality control equipment:

(1) *Design of function.* The manufacturer shall determine the validity of the automated test and whether the method

will produce results directly applicable to the device being tested.

(2) *System compatibility.* All components of an instrument or equipment system used for quality control testing of a device shall be compatible with each other.

(3) *Programming.* When computers are used as part of an automated quality control system, the programs shall be verified by adequate and documented testing. Only designated personnel shall make program changes through a formal approval procedure.

§ 820.62 Critical devices, measurement equipment.

In addition to the requirements of § 820.61, the calibration of all measurement equipment used in the quality control program related to critical devices shall be traceable to the prime standards at the National Bureau of Standards, Department of Commerce. If prime standards do not exist for the parameter being measured, an independent reproducible standard shall be used. If none of the above exist, an in-house primary standard shall be developed and used.

§ 820.63 Equipment calibration.

Automatic, mechanical, or electronic measurement equipment used in the manufacturing of a device shall be routinely calibrated, inspected, or checked according to written procedures containing specific directions, schedules, limits for accuracy and precision, and provisions for remedial actions in the event accuracy and/or precision limits are not met. Written records of those calibration checks and inspections shall be maintained.

(a) *Calibrator.* Calibration shall be done only by persons having sufficient training, knowledge, and experience.

(b) *Calibration record.* The date of calibration, the individual performing it, and the calibration due date shall be indicated on each piece of equipment. A designated individual shall maintain a separate record showing calibration dates, methods, data, and by whom calibrated.

Subpart E—Control of Components, Containers, and In-Process Materials

§ 820.80 Components.

Components used in manufacturing a device shall be received, stored, and handled in a manner designed to prevent damage, mixup, contamination, or other adverse effect. Components shall be quarantined prior to acceptance or clearly identified as not yet accepted.

(a) *Acceptance of components.* There shall be a written procedure for acceptance of components. A designated individual shall maintain records of component acceptance and rejection. Upon receipt, each shipping container of components shall be visually examined for damage. When appropriate, components shall be inspected, sampled, and tested for conformance with specifications.

(b) *Storage and handling of components.* Components shall be stored in a manner designed to facilitate appropriate stock rotation procedures. Component control numbers or other identifications shall be easily viewable. All obsolete and rejected components shall be segregated from acceptable components and clearly identified. Records shall be maintained of all obsolete and rejected components.

§ 820.81 Critical devices, components.

In addition to the requirements of § 820.80, the following are required:

(a) *Acceptance of critical components.* All critical components shall be representatively sampled for testing and examination. The number of containers sampled and the amount to be taken from each container shall be based upon appropriate statistical criteria, the past quality history of the supplier, and the quantity needed for analysis and reserve. All critical components shall be identified with control numbers upon receipt. The rejection percentages for all critical device components shall be maintained by a designated individual and identified by supplier name.

(b) *Component supplier agreement.* There shall be a written agreement between the critical component supplier and the device manufacturer whereby the supplier agrees to notify the manufacturer of any subsequent change in a component, component test, inspection or procedure. Where such an agreement exists, the manufacturer shall not accept such a change until he determines the impact of the change on the finished device.

Subpart F—Production and Process Controls

§ 820.100 Manufacturing specifications and processes.

Written manufacturing specifications and processing procedures shall be designed, implemented, and supervised to assure that the device manufactured is consistent with specified procedures and the requirements of this part.

(a) *Specification controls.* (1) Specification control measures shall be established to assure that the design basis for devices, components, and packaging is correctly translated into approved specifications.

(2) Specification changes, including changes made concerning devices already distributed shall be subject to control measures as great as or greater than those applied to the original design before the changes and shall be approved by designated individuals. All such approvals of specification changes shall be documented and shall state the date of approval and the date the change becomes effective.

(3) To assure conformance with specifications, written testing and sampling procedures shall described in-process controls to be used when appropriate. The procedure shall be contained in the quality control manual under § 820.190.

(b) *Processing controls.* (1) All operations in the processing of a device shall be controlled in a manner designed to assure that the device conforms to applicable specifications.

(2) There shall be a formal approval procedure for any change in the manufacturing process of a device. Such changes shall be made available to appropriate personnel.

(c) *Trend analysis.* When appropriate, there shall be an ongoing trend analysis of components and finished devices to indicate statistical control of a process.

§ 820.101 Critical devices, manufacturing specifications and processes.

In addition to the requirements of § 820.100, the following critical operation controls shall apply:

(a) *Critical operation performance.* Critical operations shall be performed by designated individuals or equipment and shall be suitably verified.

(b) *Record of critical operation.* The individual performing a critical operation shall record that operation in the device history record as required in § 820.185. Such record shall identify the date performed, operator identification, and when appropriate, the major equipment used. Any individual checking a critical operation shall indicate the date checked, name of the checker, and when appropriate, identification of checking equipment used. The information shall be recorded immediately upon the completion of the operation or the check or at suitable intervals compatible with the operational process.

(c) *Critical components.* There shall be a device history record which shall identify each critical component of the device and shall include the information required in § 820.185.

§ 820.115 Reprocessing of devices or components.

(a) All finished device units rejected during finished device inspection and later reprocessed are subject to another complete final inspection.

(b) Reprocessing procedures shall be so devised, implemented, and supervised to assure that subsequent finished devices meet the original, or subsequently modified and approved, specifications.

§ 820.116 Critical devices, reprocessing of devices or components.

In addition to the requirements of § 820.115, the following reprocessing controls shall apply:

(a) *Reprocessing procedures.* There shall be written procedures for any reprocessing associated with the production of a critical device or component. These procedures shall indicate the design, equipment, and special reprocessing factors, such as change in material due to constant reprocessing, to assure that the reprocessed device or component meets approved specifications. The procedures shall include any special quality control methods or tests. The reprocessing procedures shall be designed so that the reprocessed device or component meets the same or equal specifications as the original device or component. Adulteration because of material, structural and molecular change due to reprocessing, and other like considerations must be addressed in the procedures. Special

care shall be taken to assure that the device or component to be reprocessed is clearly identified and separated from like devices or components not to be reprocessed. When there is a continual reprocessing of a component, such as waste from forms, dyes, etc., a determination of the effect of the reprocessing upon the component shall be made and documented. There shall be a formal approval procedure for instituting a new, or altering an approved, reprocessing procedure.

(b) *Reprocessing control.* Any reprocessed critical device or component shall conform to specifications of the original device or component. Written testing and sampling procedures to assure such conformity shall be contained in the quality control manual as required in § 820.191. Any prior quality control check shall be repeated on the reprocessed device or components if reprocessing could affect the specifications previously inspected. When it is necessary to reprocess a device or component rejected for other than a physically visible defect, appropriately quality control inspection shall be performed for all specifications.

(c) *Failure investigation.* The failure of a critical device or any of its components to meet specifications shall be thoroughly investigated. The investigation shall be conducted for distributed and undistributed devices and shall extend to other devices that may have been associated with the specific failure or discrepancy. A written record of the investigation shall be made including conclusions and followup.

Subpart G—Packaging and Labeling Control

§ 820.120 Device labeling.

There shall be adequate controls to maintain labeling integrity and to prevent labeling mixups.

(a) *Label integrity.* Labels shall be designed, printed, and applied so as to remain legible and attached to the device during the customary conditions of storage, distribution, and use.

(b) *Separation of operations.* Each labeling and packaging operation shall be separated physically or spatially in a manner designed to prevent mixups.

(c) *Area inspection.* Prior to the implementation of any labeling and packaging operation, there shall be an inspection of the area by a designated individual, other than the operator, to assure that devices and labeling materials from prior operations do not remain in the labeling or packaging area. Any such items found shall be destroyed, disposed of, or returned to storage prior to onset of a new or different labeling of packaging operation. A record of such inspection, including the date and person performing the inspection, shall be recorded in the device history record.

§ 820.121 Critical devices, device labeling.

In addition to the requirements of § 820.120, labeling materials issued for critical devices shall be examined for identity, including the presence of the correct expiration date, control number, storage instructions, handling instructions, and additional processing instructions, where applicable. The following are controls for critical device labels and labeling:

(a) *Labeling receipt.* Labels and other labeling shall not be released to inventory until a designated individual proofreads for accuracy a statistically selected sample against an approved final copy. The date and signature of the individual proofreading the labeling shall be recorded.

(b) *Storage.* Labels and labeling shall be stored and maintained in a manner which provides proper identification and prevents mixups.

(c) *Access restriction.* Access to labels and labeling shall be restricted to authorized personnel.

(d) *Excess printed labels.* All excess printed labels bearing control numbers shall be destroyed or appropriately altered at the conclusion of the packaging and labeling operation.

§ 820.130 Device packaging.

Package design, construction, and material shall be adequate to protect the device during customary conditions of processing, storage, handling, and shipment.

§ 820.131 Critical devices device packaging.

In addition to the requirements in § 820.130, for critical devices the following are required:

(a) *Device package design.* The device package shall be designed and constructed to protect the device from alteration or damage by expected external factors. When a form of external energy such as electromagnetic energy, heat, cold, or pressure could alter, damage, or otherwise adversely affect the device, the package shall be so designed and constructed to withstand the influx of such levels of energy as may be reasonably anticipated.

(b) *Storage and handling protection.* The device containers and packages shall be designed to withstand any reasonably anticipated factors to be encountered under normal and common storage and handling conditions of the device until ready for its intended use.

Subpart H—Holding and Distribution

§ 820.150 Distribution.

There shall be written procedures for finished device warehouse control and distribution to assure that only those devices authorized for release are distributed. Where appropriate, there shall be a system whereby the oldest approved devices are distributed first.

§ 820.151 Critical devices, distribution records.

In addition to the requirements of § 820.150, for critical devices adequate distribution records shall be maintained and made readily available. Such records shall include the name and address of the consignee, the name and quantity of devices, date shipped, and the control number used. These records shall be retained as required by § 820.180(b).

Subpart I—Product Evaluation

§ 820.160 Finished device inspection.

There shall be written procedures for finished device inspection to assure that specifications applicable to the finished device have been met. Prior to release for distribution, each production unit, lot, run, or control number shall be checked, including testing where necessary, for conformance with device specifications. A device shall be tested under those conditions in which it is expected to operate, e.g., temperature, humidity, pressure. Sampling plans used for testing and release of a device shall be statistically validated. Where appropriate, finished devices shall be held in quarantine until released.

§ 820.161 Critical devices, finished device inspection.

In addition to the requirements of § 820.160, a finished critical device shall not leave the control of the manufacturer for distribution until all acceptance records and test results are checked by a designated individual. Such individual shall assure that all records and documentation required for the device history record are present, complete, and correct, and shall authorize, by signature, the release of the finished device for distribution.

Subpart J—Records and Reports

§ 820.180 General requirements.

Except as specifically provided elsewhere, the following general provisions shall apply to all records required by this part. Required records include those listed in this subpart as well as records referred to in other subparts of Parts 820 through 829.

(a) *Confidentiality.* Those records deemed confidential by the manufacturer may be marked to aid the Food and Drug Administration in determining whether data and information may be disclosed under the public information regulation in Part 4 of this chapter.

(b) *Record retention period.* All required records pertaining to a device shall be retained for a period of time consistent with the design and expected life of the device, or other reasonably valid time period established by the manufacturer, but in no case less than 2 years from the date of release for commercial distribution by the manufacturer.

§ 820.181 Master device record.

The master device record, a compilation of records pertaining to the design and specifications of a device, shall be prepared, dated, and signed by a designated individual. The master device record shall include all specifications and procedures or appropriate references for each separate device entity. Any changes in the master device record shall be recorded with an authorizing signature. Any formal approval forms shall be a part of the master device record.

§ 820.182 Critical devices, master device record.

In addition to the requirements of § 820.181, for critical devices the master device record shall include the following specific material or references to the location of such materials:

(a) *Device specification.* The complete device specification documentation, including drawings, composition, formulation, and component specifications.

(b) *Production process specifications.* The complete production process specifications, including equipment specifications, production methods, production procedures, and production environment specifications.

(c) *Quality control specifications.* The complete quality control specifications, including the quality control checks utilized and the quality control apparatus used.

(d) *Critical components and critical component suppliers.* Full information concerning critical components and critical component suppliers, including the complete specifications of all critical components, the sources from whom they may be obtained, and written copies of any agreements made with suppliers.

(e) *Control number.* The manufacturer shall designate a production unit, which is identifiable under a unique control number, for purposes of traceability. The production unit may be production run, lot, batch, date code, serial number, or other designation.

(f) *Label and labeling.* Complete labeling procedures for the individual device and copies of all labels, labeling, and any promotional material.

(g) *Packaging specifications.* The complete packaging specifications, including methods and processes.

§ 820.184 Device history record.

Sufficient records shall be maintained to demonstrate that the device conforms to specifications.

§ 820.185 Critical devices, device history record.

In addition to the requirements of § 820.184, for critical devices there shall be a device history record for each control number which shall include complete information relating to the production and control of each production unit. This record shall identify the specific label, labeling, and control number used on each production unit and shall be readily accessible and maintained by a designated individual. The device history record shall include or reference:

(a) *Operation documentation.* The documentation of each critical operation performed in the manufacturing of a device, including the date performed, major equipment used, and signatures of performing and checking individuals.

(b) *Component documentation.* Documentation of each critical component used in the manufacturing of a device. This shall include:

(1) *Control number.* The control number of the critical components used in the manufacturing of a device.

(2) *Acceptance record.* The acceptance record of the component with signature of accepting individual.

(3) *Movement to/from storage.* The date each component was accepted into the storage area, the date moved into the production area, and the signature of the accepting individual.

(c) *Inspection checks.* The inspection checks performed, the methods and equipment used, results, and the date and signature of the inspecting individual.

§ 820.190 Quality control manual.

There shall be a manual containing written procedures or references for quality control inspection, specification checks, tooling, and standards covering each device.

§ 820.191 Critical devices, quality control manual.

In addition to the requirements of § 820.190 and other provisions of this part, for critical devices the quality control manual shall record or reference:

(a) *Device and component specifications.* All device and component specifications to be checked by the quality control unit.

(b) *Inspection checks.* The validated methods and equipment to be used for inspection checks.

(c) *Formal change approval.* A formal approval procedure for any change in the quality control of a device.

(d) *Sampling plan.* A description of each sampling plan utilized.

§ 820.195 Critical devices, automated data processing.

When automatic data processing is utilized, adequate checks shall be designed to prevent inaccurate data output, input, and programming errors. A duplicate copy of computerized information relating to the requirements of this part shall be made and stored in a separate geographical location. Hard copy reports shall be provided if requested by Food and Drug Administration representatives.

§ 820.198 Complaint files.

(a) Written and oral complaints representing any dissatisfaction relative to the identity, quality, durability, reliability, effectiveness, or performance of a device shall be reviewed by the quality control unit. This unit shall determine whether or not an investigation is necessary. Any complaint involving the possible failure of a device to meet any of its specifications shall be investigated in accordance with § 820.116(c).

(b) A written record of each complaint and investigation shall be maintained in a file designated for device complaints. The written records shall include the name of the device, control number, name of complainant, nature of complaint and reply to complainant. All complaints pertaining to injury, death, or any hazard to safety shall be maintained in a separate portion of the complaint file and shall be immediately reviewed and evaluated by a designated individual.

(c) When an investigation is made, the record shall include the findings of the proceedings and followup. When no investigation is made, the record shall include the reason and the name of the person responsible for such determination.

Interested persons may on or before June 29, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Ordinarily, 60 days is provided for comment on a proposal, but the Commissioner may reduce or extend this time period for good cause. Because of the nature and extent of the regulations being proposed, the Commissioner has concluded that 120 days should be allowed for public comments. In the absence of extraordinary circumstances, no extension of time for comment will be granted.

The inflationary impact of the proposed good manufacturing practice regulations for medical devices was carefully considered in accordance with Executive Order No. 11821, OMB Circular A-107, and the guidelines issued by the Department of Health, Education, and Welfare. The Commissioner had determined that the agency lacks the data that are needed to perform a valid assessment at this time and consequently he is deferring judgment on whether or not these regulations are likely to cause a major inflationary impact.

Dated: February 23, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-6142 Filed 2-25-77;10:01 am]

federal register

TUESDAY, MARCH 1, 1977

PART V

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

TAKING AND IMPORTING OF MARINE MAMMALS

Commercial Fishing Operations

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking of Marine Mammals Incidental to Commercial Fishing Operations

Final regulations are herein published to implement the final decision in the matter of the promulgation of such regulations authorizing the issuance of a permit to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean and governing the importation of yellowfin tuna. Proposed regulations on this matter were published on October 14, 1976, 41 FR 45015. The final decision is simultaneously published at page 12015 of this issue.

SUMMARY OF AMENDMENTS

1. *Section 216.24*(c)(5)(*vi*) has been added to require that a Category 2 certificate applicant document the status of the fine mesh webbing required on the vessel on which he intends to operate.

2. *Section 216.24*(*d*)(2)(*i*)(*A*) has been amended to add two subparagraphs. Subparagraph (*1*) has been added to prohibit the encircling of pure or mixed schools of coastal spotted dolphin, Costa Rican spinner, and eastern spinner dolphin stocks. Subparagraph (2) has been added to restrict encircling of pure schools to offshore spotted dolphin stock and common dolphin species only. The paragraph has been also amended to reflect the Director's method of assessing the separate stock mortalities in 1977.

3. *Section 216.24*(*d*)(2)(*ii*) has been amended to clarify the requirement that marine mammals incidentally taken in commercial fishing operations may not be retained.

4. *Section 216.24*(*d*)(2)(*iii*) has been amended to clarify where logs are to be sent.

5. *Section 216.24*(*d*)(2)(*iv*) has been amended for clarification.

6. *Section 216.24*(*d*)(2)(*iv*)(*A*) has been deleted and new subparagraphs (*1*) and (2) have been added to describe in detail the required installation of new fine mesh webbing on different classes of purse seiners.

7. *Section 216.24*(*d*)(2q(*iv*)(*E*)(*1*) has been renumbered as § 216.24(d)(2)(iv)(E).

8. *Section 216.24* (*d*)(2)(*iv*)(*E*)(*1*) has been renumbered as § 216.24(d)(2)(iv)(F) and its language amended to clarify placement of bunchlines.

9. *Section 216.24*(*d*)(2)(*iv*)(*E*)(*iii*) has been renumbered as § 216.24(d)(2)(iv)(G) and its language amended for clarification. Furthermore, a documentation requirement has been added for certificate holders on Class I vessels desiring to be granted a waiver of the two speedboat regulation.

10. *Section 216.24*(*d*)(2)(*iv*)(*E*)(*iv*) has been renumbered as § 216.24(d)(2)(iv)(H).

11. *Section 216.24*(*d*)(2)(*v*) has been renumbered as § 216.24(d)(2)(iv)(I) and the last two sentences have been transfered to the following new section.

12. *Section 216.24*(*d*)(2)(*iv*)(*J*) has been added to incorporate all the personnel requirements of porpoise rescue other than backdown, including adding a requirement for use of an inflatable rubber raft and facemask.

13. *Section 216.24*(*d*)(2)(*iv*)(*K*) has been added to require use of floodlights and searchlights in sets which continue after darkness.

14. *Section 216.24*(*d*)(2)(*vi*) has been renumbered as § 216.24(d)(2)(iv)(L) and has been amended to require an annual inspection of all purse seine vessels used by certificate holders, and to allow vessels unable to install the new fine mesh safety panel due to supply delays, to continue fishing until the webbing can be delivered.

15. *Section 216.24*(*d*)(2)(*vii*) has been renumbered as § 216.24(d)(2)(iv)(M) and has been amended to make suspension or revocation of a certificate a penalty for lack of proficiency in required release procedures, and recognizes the advisory capability of an established "Skipper's Panel" in determining proficiency of certificate holders.

16. *Section 216.24*(*d*)(2)(*viii*) has been deleted.

17. *Section 216.24*(*d*)(2)(*ix*) has been renumbered as § 216.24(d)(2)(iv)(N) and has been amended to add, as a requirement of the general permit application, documentation that the requested take is consistent with the purposes of the Act.

18. *Section 216.24*(*e*)(2)(*i*) has been amended to list all categories of fish, other than yellowfin tuna, which require documentation under these regulations.

19. *Section 216.24*(*e*)(2)(*ii*) has been added to list those categories under which yellowfin tuna is imported, and for which documentation under these regulations is required.

20. *Section 216.24*(*e*)(3) has been amended to reflect the use of a revised documentation form for importation of fish categories other than yellowfin tuna.

21. *Section 216.24*(*e*)(3)(*v*) has been deleted, as have subsections (A) and (B) thereunder. Statements under this section are no longer relevant.

22. *Section 216.24*(*e*)(3)(*vi*) has been renumbered as § 216.24(e)(3)(v).

23. *Section 216.24*(*e*)(*4*) has been added to establish the documentation requirements for yellowfin tuna products.

24. *Section 216.24*(*e*)(5)(*i*) has been added to prohibit unloading of yellowfin tuna from those countries whose vessels the Director has determined operate in the eastern tropical tuna purse seine fishery, unless documentation can be provided which allows him to determine that their fishing operations conform with our regulations and standards.

25. *Section 216.24*(*e*)(5)(*ii*) has been added to describe the procedures by which countries, listed by the Director pursuant to § 216.24(e)(5)(i), can apply for a finding of conformity with our regulations and standards.

26. *Section 216.24*(*e*)(*4*) has been renumbered as § 216.24(e)(6) and amended to reflect other renumbered sections.

27. *Section 216.24*(*e*)(5) has been renumbered as § 216.24(e)(7) and the 5 day redelivery deadline amended to be 30 days, in line with normal U.S. Customs procedures.

28. *Section 216.24*(*e*)(*6*) has been renumbered as § 216.24(e)(8) and amended to reflect other renumbered sections.

29. *Section 216.24*(*f*) has been amended to remove the requirement for a five day advance notice of departure for observer placement, and has added a requirement that accurate locations be supplied to the observer.

30. All Figures pertaining to § 216.24(d)(2) have been deleted. Sections 216.24(d)(2), 216.24(e) and 216.24(f) have been hereby published in their entirety to provide continuity and clarity in the regulations.

Dated: February 24, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Section 216.24 is hereby amended by adding a new subparagraph (c)(5)(vi), and by amending paragraphs (d)(2), (e), (f) and (g) as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(c) Certificates of Inclusion: * * *

(5) * * *

(vi) For 1977 only, all applicants for a Category 2 Certificate shall either, (A) provide a statement that small mesh webbing not exceeding 1¼" stretch mesh has been installed in the net of the vessel he intends to operate as required by (d)(2)(iv) (A) below; or (B) provide a statement that small mesh webbing not exceeding 1¼" stretch mesh is on order giving the expected delivery date. The Regional Director may require further documentation verifying an order for fine mesh webbing prior to issuing a certificate.

* * * * *

(d) * * *

(2) *Encircling gear; yellowfin tuna purse seining.* (i)(A) A certificate holder may take marine mammals so long as taking is an incidental occurrence in the course of normal commercial fishing operations, except that a certificate holder shall not encircle either (*1*) pure schools of coastal spotted dolphin (*Stenella attenuata*), and Costa Rican spinner or eastern spinner dolphin (*Stenella longirostris*) stocks or mixed schools including these stocks, or (2) pure schools of any species of dolphin except offshore spotted dolphin (*Stenella attenuata*) stocks and common dolphin (*Delphinus delphis*) stocks. The numbers of marine mammals that may be killed by U.S. vessels in the course of commercial fish-

ing operations will be determined by the Director and limited in the general permit. The mortality of marine mammals permitted under the general permit for yellowfin tuna purse seining, will be monitored according to methodology which will be published in the FEDERAL REGISTER. The effective date when fishing on a stock or species will be prohibited, will be published in the FEDERAL REGISTER not less than 7 days prior to that date. The Director may change the maximum number of marine mammals that may be killed, as specified in the general permit, whenever new information becomes available which results in the reevaluation of the population or OSP level of any stock or species.

(B) Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury. Each certificate holder shall take every possible step to minimize the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, including refraining from using a sharp or pointed instrument on porpoise and refraining from causing or permitting a purse seine under his control to be set around marine mammals when conditions of wind, sea, visibility, or the number of marine mammals and/or fish concerned would, in his judgment, be likely to prevent the effective use of the backdown and other procedures required herein. Such steps to minimize mortality and serious injury shall include, where appropriate, causing a purse seine already set on marine mammals to be released, and/or opened to facilitate release of marine mammals where such a step will, in his judgment, be effective and conditions prevent the effective use of the procedures required hereunder. The Director may publish findings relating to conditions of wind, sea, visibility or numbers of marine mammals and fish concerned which prevent the effective use of equipment and procedures required hereunder and result in an unacceptably high rate of incidental mortality and serious injury of marine mammals and under which conditions it would not be permissible to cause a set to be made on marine mammals.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage, or threat of personal injury. However, all marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "incidental catch", and may not be retained except where a specific permit has been obtained authorizing the retention.

(iii) All certificate holders shall maintain daily logs, in such form as the Regional Director, Southwest Region, National Marine Fisheries Service may prescribe, of all sets in which marine mammals are taken. Such logs must include the location, time and date of set; weather and water conditions; estimated number and species of marine mammals upon which the set was made; estimated number and species of marine mammals caught; method used to remove marine mammals from the net; amount and kind of tuna caught; and an actual count of marine mammals killed and seriously injured, if any, on each set. Such logs shall be subject to inspection at the discretion of the Southwest Regional Director, or his designated personnel. In addition, certified copies of all such logs shall be mailed or delivered to the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, within forty-eight hours after arrival in port.

(iv) A certificate will be valid only on a vessel equipped with a porpoise safety panel in its purse seine, and which uses other gear and procedures as described herein. Porpoise safety panels and all other gear used in the course of catching and landing yellowfin tuna, and for backdown and other marine mammal release procedures, shall be maintained in a functional and seaworthy condition. The requirements for the porpoise safety panel and other gear are as follows:

(A) (*1*) For purse seiners of 400 short tons carrying capacity or less, and for those greater than 400 tons carrying capacity built before 1961, the porpoise safety panel shall be a minimum of 100 fathoms in length (as measured before installation), except that the minimum length of the panel in nets deeper than 10 strips shall be determined at a ratio of 10 fathoms in length for reach strip that the net is deep. It shall be installed beginning at the outboard end of the number three bow bunchline, and shall extend toward the stern of the net, protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh, extending from the corkline downward to a minimum depth equivalent to one strip of 100 meshes of 4¼" stretch mesh webbing.

(2) For purse seiners greater than 400 short tons carrying capacity built after 1960, the porpoise safety panel shall be a minimum of 180 fathoms in length (as measured before installation). It shall begin in the second bow bunch at any point between the middle and the outboard end of the bunchline and shall extend toward the stern of the net protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh, extending from the corkline downward to a minimum depth equivalent to two strips of 100 meshes of 4¼" stretch mesh webbing.

(B) Each end of the porpoise safety panel must be identified with an easily distinguishable marker.

(C) Throughout the length of the corkline in which the porpoise safety panel is located, hand hold openings are to be secured so that the insertion of a 1⅜" diameter cylindrical-shaped object meets resistance.

(D) Throughout the length of the corkline in which the porpoise safety panel is located, corkline hangings shall be inspected by the certificate holder following each trip. Hangings found to have loosened to the extent that a cylindrical object with a 1⅜" diameter will not meet resistance when inserted between the cork and corkline hangings, must be tightened so that a cylindrical object with a 1⅜" diameter cannot be inserted.

(E) Purse seine vessels engaged in fishing operations involving setting on marine mammals shall carry a minimum of two speedboats in operating condition. All speedboats carried aboard purse seine vessels and in operating condition shall be rigged with towing bridles and towlines. Vessels that do not carry at least two speedboats in operating condition and properly rigged, may not conduct fishing operations which involve setting on marine mammals.

(F) On every set involving marine mammals, a minimum of two bow bunches shall be pulled. Bunchlines, other than bow bunchlines, shall be arranged around the perimeter of the net with both ends of some bunchlines unattached to permit towing from either end or one bunchline rigged in normal fashion with an adjacent one reversed. The arrangement of bunchlines around the perimeter of the net must allow at least three towing points to be established near one-quarter, one-half and three-quarter net from the bow ortza (end of the net). The ends of all bunchlines which can be utilized as towing points shall be marked so as to be clearly visible to speedboat drivers.

(G) Except as provided herein, on every set involving marine mammals, a minimum of two manned speedboats shall be in the water until backdown commences. Speedboats shall be prepared to hook onto either the bunchline towing points established along the perimeter of the net or onto the corkline, in order to tow the net to prevent net collapse and a formation of pockets of loose webbings, such as stern bends, which might entrap marine mammals. Other speedboats that are in operating condition shall be prepared for immediate use to tow if needed. Vessels of 400 tons carrying capacity or less which have an observer duly authorized by the Secretary aboard, may have a minimum of one manned speedboat in the water from the time the set is commenced until backdown has commenced, provided that, prior to departure, the certificate holder has presented the Regional Director with a signed statement declaring that the presence of an observer will displace the crewman who would operate the second speedboat on porpoise sets.

(H) Actual towing on the net shall be performed when, in the opinion of the certificate holder, towing is necessary to prevent net collapse or the formation of pockets of loose webbing. If towing the net has been necessary, the speedboats may unhook their towlines when towing is no longer needed, or their respective bunchlines begin to go up toward the power block or backdown commences.

(I) Backdown shall be performed following a net set where marine mammals are captured in the course of utilizing a purse seine for catching and landing yel-

lowfin tuna. Thereafter, other release procedures required in paragraphs (J) and (K) below shall be continued until all live animals have been released from the net. "Backdown procedure" means a series of maneuvers, which take place after the net is tied down following a set and pursing; and which keep the net open to the greatest degree to allow porpoise or other marine mammals to leave the pursed net over the net floats which are submerged as a result of the vessel moving astern.

(J) On a net set where marine mammals are captured, a minimum of two men shall be engaged in hand removal of marine mammals from the net, commencing with backdown and continuing through the sacking up operation. (1) A facemask and snorkel, in addition to an inflatable rubber raft suitable to be used as a porpoise observation-and-rescue platform, shall be carried on all tuna purse seine vessels operated by a certificate holder. The raft shall be launched inside the net near the time of tying down for the backdown maneuver and shall be employed by a crewman to assist the other rescuer(s) in disentangling and releasing live marine mammals from the net. The rescuer in the raft shall use the facemask and snorkel to determine whether all live marine mammals are out of the net making every effort to remove them before backdown is terminated. If live marine mammals remain in the net after backdown, the rescuer in the raft shall make every effort to herd the animals to areas where they can be easily released. Rescue efforts using the rubber raft shall be performed using due care for the safety of the rescuer. (2) The rescue procedures above, in conjunction with other rescue efforts, shall be continued until all live marine mammals are removed from the net prior to initiating brailing operations.

(K) All tuna purse seine vessels operated by a certificate holder shall be equipped with adequate floodlights suitable for use in darkness to attract fish toward the main vessel and a spotlight to intermittently illuminate the backdown channel and apex. If the backdown maneuver or other required release procedures proceed past one-half hour after sunset, lights shall be used as necessary, to insure that rescue procedures are properly performed and that all live marine mammals are removed from the net prior to initiating brailing operations.

(L) Purse seine nets and other gear and equipment utilized to catch and land fish under this section and to conduct a backdown and other procedures herein required, shall be maintained in a functional and seaworthy condition. Required vessel gear and equipment shall be subject to inspection and examination at least once annually by authorized NMFS personnel at a time and location determined by the Southwest Regional Director. Any vessel found to not be equipped with gear which is in conformity with these regulations and maintained in a functional and seaworthy condition, or whose master or managing owner has failed to notify the NMFS of delivery of fine mesh webbing as required below, shall be ineligible for use by a certificate holder for commercial fishing operations under this section. However for 1977 only, a certificate holder may operate a vessel not equipped with the fine mesh safety panel, as required in (A) above, provided that fine mesh webbing has been ordered and documented on his 1977 application for a certificate of inclusion, as specified in paragraph (c)(5)(vi), and that the webbing will be installed and inspected upon its receipt. Webbing delivered while the vessel is still at sea shall be installed and inspected prior to initiating a new fishing voyage. The master or managing owner shall notify the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, telephone (714) 293-6540 upon delivery of the fine mesh webbing. In no event shall a vessel greater than 400 short tons carrying capacity, not equipped with a fine mesh safety panel, be used by a certificate holder on any fishing voyage begun after 0001 hours, May 1, 1977.

(M) All certificate holders shall maintain proficiency sufficient to perform the procedures required herein. Certificate holders must attend, and satisfactorily complete, a formal training session conducted under the auspices of the National Marine Fisheries Service. At the training session, a certificate holder shall be instructed concerning the provisions of the Marine Mammal Protection Act of 1972, the regulations promulgated pursuant to the Act, the requirements of his certificate of inclusion and the appropriate general permit, and the fishing gear and techniques which are required or will contribute to reducing serious injury and mortality of porpoises incidental to purse seining for yellowfin tuna. In addition, for continuation or renewal of a certificate, a certificate holder may be required to attend other formal training sessions when there are substantial changes in the Act, the regulations or the required fishing gear and techniques. The certificate of any certificate holder who is found to lack proficiency in the procedures required herein shall be suspended or revoked. Determination by the Director to revoke or suspend a certificate may be based on recommendations from a "Skipper's Panel".

(N) Applicants for a general permit under this category, in addition to requirements under paragraph (b)(2) of this section, must demonstrate in the application that the requested taking of species or stocks during commercial fishing operations is consistent with the purposes of the Act and the applicable regulations established under section 103 of the Act. Failure to comply with the provisions of this permit or these regulations, including but not limited to: failure to submit upon demand to vessel, gear, equipment, or proficiency inspection or examination by authorized National Marine Fisheries Service personnel; falsification of logs and reports required hereunder; or failure to satisfy the requirements of any provisions of these regulations, will subject certificate holders, vessel masters, or owners to revocation of the certificate and/or right to be included under a general permit, and further subject certificate holders, vessel masters, or owners to the penalties provided for under the Act.

* * * * *

(e) Importation: (1) It shall be illegal to import into the United States any fish, whether fresh, frozen or otherwise prepared, if such fish were caught in a manner prohibited by these regulations or in a manner that would not be allowed in circumstances where a person subject to the jurisdiction of the United States would be required to have a certificate of inclusion in a general permit hereunder, whether or not any marine mammals were in fact taken incidental to the catching of the fish, unless the Director makes a finding and publishes such finding in the FEDERAL REGISTER, that such fishing, although not in conformity with the specific requirements of these regulations, is accomplished in a manner which does not result in an incidental mortality and serious injury rate in excess of that which results from fishing operations under these regulations.

(2) The following fish and categories of fish, which the Director has determined are involved with commercial fishing operations which cause the death or injury of marine mammals, are subject to the prohibitions and documentation requirements of this section:

(i) Salmon, halibut, and pilchards from South Africa. The following U.S. Tariff Schedule Item Numbers identify these categories of salmon, halibut, and pilchard products which are imported into the United States and are to be covered by the documentation and certification regulations of §216.24(e)(3):

110.20-25	Halibut, fresh or chilled.
110.20-30	Halibut, frozen.
110.20-45	Salmon, fresh or chilled.
110.10-50	Salmon, frozen.
110.70-40	Halibut, other—except portion controlled steaks.
111.48-00	Salmon, salted.
111.88-00	Salmon, smoked or kippered.
112.18-00	Salmon, preserved, not in oil.
112.20-00	Canned sardines/pilchards (from S. Africa).
112.22-00	Canned sardines/pilchards (from S. Africa).

(ii) Yellowfin tuna. The following U.S. Tariff Schedule Item Numbers identify the categories of tuna and tuna products under which yellowfin tuna is imported into the United States, and are subject to the importation restrictions of paragraph (e)(4) of this section after May 31, 1977:

110.10-20	Tuna; yellowfin, whole fish.
110.10-25	Tuna; yellowfin, eviscerated, head on.
110.10-30	Tuna; yellowfin, eviscerated, head off.
110.10-37	Tuna; yellowfin, other.
112.30-40	Tuna; canned, other than white meat, no oil—except cans marked "Other than yellowfin tuna".

112.34-00 Tuna; canned, other, no oil—except cans marked "Other than yellowfin tuna".
112.90-00 Tuna; canned, other, in oil—except cans marked "Other than yellowfin tuna".

(3) Salmon, Halibut, and Pilchards from South Africa. All fish and and categories of fish listed in paragraph (e)(2)(i) of this section shall be denied entry into the United States unless accompanied by a separate Fisheries Certificate of Origin (Standard Form 369-1) from each country whose flag vessels caught fish involved in the importation. The Fisheries Certificate of Origin should include the following information:

(i) The country of origin; and

(ii) The identity and quantity of fish; and, either

(iii) After the Director has published the finding referred to in paragraph (e)(1) of this section, a statement from a responsible official of the country of origin that the fishing technology permitted by the country of origin with respect to the species of fish presented for importation into the United States does not result in a rate of serious injury or death to marine mammals in excess of that which results from U.S. commercial fishing operations as prescribed by these regulations. Country of origin for the purposes of this section shall mean the country under whose fla_ the fish catching vessels are documented and whose fish are a part of any cargo or shipment of fish to be imported into the U.S. regardless of any transshipments; or

(iv) A statement by a responsible official of the country of origin or the master of the vessel which caught the fish that such fish were not caught in a manner prohibited for U.S. fishermen by these regulations. The statement shall identify the species, quantity, and exporter of the fish to which the statement refers; or

(v) Any nation may certify to the Director either (A) that all of its vessels fishing under its flag are fishing in conformance with these regulations; or (B) a list of the vessels, by name and official number, fishing under such nation's flag which are fishing in conformance with these regulations; or (C) that all of the vessels fishing under such nation's flag, with the exception of any vessels specifically listed by name and official number, are fishing in conformance with these regulations. If methods (B) or (C) are used, the shipping documentation must also show the name and official number of the vessel which caught the fish presented for importation.

(4) Yellowfin tuna. Prior to June 1, 1977, all yellowfin tuna listed in paragraph (e)(2)(i) of the 40 FR 56904, December 5, 1975, will continue to be subject to the importation restrictions of paragraph (e)(3) in 39 FR 32124, September 5, 1974, as amended. After May 31, 1977, all shipments of fish and products listed in paragraph (e)(2)(ii) of this section, from any nation, may not be unloaded into the United States unless a finding has been made pursuant to paragraph (e)(5)(i) below, and further, shall be denied entry into the U.S. unless accompanied by the following documentation: (i) A separate Yellowfin Tuna Certificate of Origin (Standard Form 370-1) from each country whose flag vessels caught yellowfin tuna involved in the importation. The Yellowfin Tuna Certificate of Origin must include the following information: (A) Country of origin of the fishing vessel(s) involved; (B) Exporter (name and address); (C) Consignee (name and address); (D) Identity and quantity of the yellowfin tuna to be imported, listed by U.S. Tariff Schedule Number; (E) Name of vessel(s) which caught the yellowfin tuna; (F) Fishing method used (i.e., purse seine, longline, pole and line, etc.); (G) Other documentation as may be required by the Director, subsequent to granting a finding in section (e)(5); (H) Must be signed by either a responsible government official of the country whose flag vessel caught the fish or the vessel master, below the following certification statements:

I certify that the yellowfin tuna described in (D) above was caught by flag vessels of a country either, (1) not required to obtain a finding from the United States Department of Commerce (National Marine Fisheries Service) under 50 CFR 216.24(e)(5), and the fish was not caught in a manner prohibited for United States fishermen by the United States Marine Mammal Regulations 50 CFR 216.24(d)(2); or (2) which has been found by the United States Department of Commerce (National Marine Fisheries Service) to be in conformance with the United States Marine Mammal Regulations 50 CFR 216.24-(e)(5).

I certify that the above information is complete, true and correct to the best of my knowledge and belief. I understand that my making a false statement may subject me to the criminal penalties under the Marine Mammal Protection Act of 1972.

(I) Must also be signed by the exporter, under the following declaration:

The undersigned hereby declares that, based on the above statements, the yellowfin tuna herein offered for importation into the United States, was caught by flag vessels of (country), in conformance with the United States Marine Mammal Regulations 50 CFR 216.24.

(5) (i) After May 31, 1977, it shall be illegal to unload into the United States any tuna or tuna products in the classifications listed in paragraph (e)(2)(ii) of this section, from countries of origin (as documented under (e)(4) above) whose vessels operate in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean, as determined by the Director, National Marine Fisheries Service; unless the Director makes a finding in consultation with the U.S. Department of State, and publishes such finding in the FEDERAL REGISTER that fishing operations in the country of origin are conducted in conformance with U.S. regulations and standards as stated in paragraph (d)(2) of this section. The Director may make a finding that, although not in conformity with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations. Upon such a finding unloading may be allowed. Country of origin for the purposes of this section (§ 216.24(e)) shall mean the country under whose flag the fish catching vessels are documented and whose fish are a part of any cargo or shipment of fish to be imported into the U.S. regardless of any transhipments.

(ii) Countries of origin desiring to obtain a finding which will allow the importation of products listed in paragraph (e)(2)(ii) of this section must submit, by appropriate government official, to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235, the following information: (A) A statement of the quantity and type (identified by tariff schedule numbers listed in paragraph (e)(2)(ii) of this section) of fish or fish products expected to be imported into the U.S. in the calendar year 1977; (B) A detailed description of the fishing technology and procedures utilized in tuna purse seine fishing to protect marine mammals so that a determination of conformance with 216.24 (d)(2) of these regulations can be made, or the effectiveness of any other equivalent technology or procedures be assessed; (C) A statement of the number of marine mammals killed or seriously injured (by species) incidental to the yellowfin tuna purse seine operations on porpoise for the previous year, and the manner in which the information was obtained (logbooks, observers, interviews, or other procedures); (D) A statement of the number of marine mammals which will be allowed to be killed or seriously injured incidental to yellowfin tuna purse seine operations in 1977 and the impact of such mortality or serious injury on the existing populations of marine mammals by species; (E) A statement of the procedures to be required, including quotas and other controls, which will meet the U.S. requirements to limit the level of mortality, and procedures for prohibiting sets on marine mammals after the level of mortality allowed is reached; (F) Copies of laws and regulations which protect and conserve marine mammals involved in fishing operations; and (G) A list of vessels which may be involved in the taking of marine mammals incidental to yellowfin tuna purse seining, and a list of United States citizens working on these vessels. Should a finding be made, the Director intends to require a periodic update of the above list of U.S. citizens as a condition of the finding. The Director may require verification of statements made in connection with requests to allow importations. The Director will reconsider a finding upon a request from, and the submission of additional information from, the county of origin.

(6) *Fish refused entry.* If fish is denied entry under the provisions of § 216.24 (e)(3) or § 216.24(e)(4), the District Director of Customs shall refuse to release the fish for entry into the United States and shall issue a notice of such refusal to the importer or consignee.

(7) *Release under bond. Provided however,* That fish not accompanied or covered by the required documentation or certification when offered for entry may be entered into the United States if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the required documentation or certification. The bond shall be in the amount required under 19 CFR 25.4(a). Within 90 days after such Customs entry, or such additional period as the District Director of Customs may allow for good cause shown, the importer or consignee shall deliver a copy of the required documentation or certification to the District Director of Customs, and an original of the required documentation or a copy of the certification to the Regional Director of the National Marine Fisheries Service, unless the District Director of Customs has received notification from the National Marine Fisheries Service that the fish is covered by a certification. If such documentation, certification, or notification is not delivered to the District Director of Customs for the port of entry of such fish within 90 days of the date of Customs entry or such additional period as may have been allowed by the District Director of Customs for good cause shown, the importer or consignee shall redeliver or cause to be redelivered to the District Director of Customs those fish which were released in accordance with this paragraph. In the event that any such fish is not redelivered within 30 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence under a bond given on Form 7551. Fish released for entry into the United States through use of the bonding procedure provided in this paragraph shall be subject to the civil and criminal penalties and the forfeiture provisions provided for under the Act if (i) the required documentation or certification is not delivered to the Regional Director of the National Marine Fisheries Service within 90 days of the date of Customs entry, or such additional period as may have been allowed by the District Director of Customs for good cause shown, or (ii) the required certification is not on file in the office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, within this 90 day period or such additional period as may have been allowed by the District Director of Customs for good cause shown. Fish refused entry into the United States shall also be subject to the civil and criminal penalties and the forfeiture provisions provided for under the Act.

(8) *Disposition of fish refused entry into the United States; redelivered fish.* Fish which is denied entry under § 216.24 (e) (3) or § 216.24(e) (4) or which is redelivered in accordance with § 216.24(e) (7) and which is 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 disposition shall not result in an introduction into the United States of fish in violation of the Marine Mammal Protection Act of 1972.

(f) (1) The master of any commercial fishing vessel engaged in fishing operations for which a general permit is required shall, upon the proper notification by the Director as described in this section, allow an observer duly authorized by the Secretary to accompany the vessel on any or all regular fishing trips for the purpose of conducting research and observing operations.

(2) Research and observation duties shall be carried out in such a manner as to minimize interference with commercial fishing operations. The navigator shall provide true vessel locations by latitude and longitude, accurate to the nearest minute, upon request by the observer. No owner, master, operator, or crew member of such vessel shall impair or in any way interfere with the research or observations being carried out.

(3) The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels. The master or managing owner of each vessel who has been notified that he is required to carry an observer, via certified letter from the National Marine Fisheries Service, shall notify the field office, Southwest Region, National Marine Fisheries Service, San Diego, California, telephone (714) 293-6540 at least five days in advance of their fishing voyage to facilitate observer placement. No vessel whose master or managing owner has failed to comply with the provisions of this section may engage in fishing operations for which a general permit is required. Any person violating any of the provisions of this section shall be subject to the penalties provided in the Act.

(g) Penalties and rewards: Any person or vessel, subject to the jursidiction of the United States shall be subject to the penalties provided for under the Act for the conduct of fishing operations in violation of these regulations. The Secretary shall recommend to the Secretary of the Treasury that an amount equal to one-half of the fine incurred but not to exceed $2,500 be paid to any person who furnishes information which leads to a conviction for a violation of these regulations. Any officer, employee, or designated agent of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

[FR Doc.77-5990 Filed 2-28-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

On October 14, 1976, the National Marine Fisheries Service (NMFS) proposed regulations to govern the taking of marine mammals incidental to yellowfin tuna purse seining in 1977, and gave notice of a hearing thereon, 41 FR 45015–45019. The hearing was presided over by an Administrative Law Judge, the Honorable Frank W. Vanderheyden.

The Director, National Marine Fisheries Service, published in the FEDERAL REGISTER (42 FR 3886) that on January 18, 1977, he received a recommended decision from Judge Vanderheyden.

In accordance with the procedural regulations published at 41 FR 43550–43552 on October 1, 1976, the final decision and regulations governing the issuance of permits to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean and governing the importation of yellowfin tuna into the United States, are herein published.

The Final Supplemental Environmental Impact Statement (FSEIS) is being filed concurrently with the publication of these regulations. Consequently, these regulations will be final thirty days from the date the Final Supplemental Environmental Impact Statement is filed.

Applications for a permit will be entertained commencing with the date of publication. However, no permit will be issued until 30 days after the Final Supplemental Environmental Impact Statement is filed with the Council on Environmental Quality (CEQ). The date when the Final Supplemental Environmental Impact Statement (FSEIS) is filed will be announced in the FEDERAL REGISTER.

Dated: February 24, 1977.

ROBERT W. SCHONING,
National Marine Fisheries Service.

DECISION IN THE MATTER OF THE PROMULGATION OF REGULATIONS AUTHORIZING THE ISSUANCE OF PERMITS TO ALLOW THE TAKING OF MARINE MAMMALS INCIDENTAL TO YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC OCEAN AND TO GOVERN THE IMPORTATION OF YELLOWFIN TUNA-DOCKET MMPAH #2-1976

BACKGROUND

On October 14, 1976, proposed regulations were published (41 FR 45015) pursuant to Section 103 of the Marine Mammal Protection Act (Act) to govern the taking of marine mammals incidental to yellowfin tuna purse seining activities under permits issued pursuant to Section 104, and to govern the importation of yellowfin tuna pursuant to Sections 101(a)(2) and 102(c)(3). The proposed regulations were to replace regulations voided as contrary to the Act, 16 USC 1361, et seq. by the U.S. District Court for the District of Columbia (CA 74–1465, and CA 75–0227, filed May 11, 1976), and to amend import regulations.

The National Marine Fisheries Services determined that the proposed rules contained a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107 and an Inflationary Impact Statement has been prepared. This determination is being reviewed in light of the final decision.

A Supplemental Draft Environmental Impact Statement to the Final Impact Statement filed on November 18, 1975 was made available to Federal Agencies and the general public for comment on November 12, 1976 (41 FR 50048). Comments on the Supplemental Draft Environmental Impact Statement were received from the Department of Labor, State of California Department of Fish and Game, Department of State, Department of the Interior, and Environmental Protection Agency. A final Supplement EIS will be filed with the Council on Environmental Quality concurrent with the publication of final regulations in the FEDERAL REGISTER.

In accordance with the Act, the proposals were the subject of a hearing on the record, presided over by an Administrative Law Judge (ALJ). The hearing was conducted in Washington, D.C., November 15, 16, 17, 18, and 19, 1976; San Diego, California, November 22, 23, 24, 26; and in Washington, D.C., November 29, 30 and December 1, 2, 3, and 4, 1976. Oral closing arguments were heard on December 22, 1976 in Washington, D.C. The hearing was conducted pursuant to expedited procedural rules published at 41 FR 43550, October 1, 1976.

The following parties participated at the hearing:

National Marine Fisheries Service; Marine Mammal Commission; Environmental Defense Fund, Alex Jay, American Littoral Society, Animal Protection Institute, Animal Welfare Institute, Connecticut Cetacean Society, Defenders of Wildlife, Environmental Policy Center, Friends of the Earth, Committee for Humane Legislation, Friends of Animals, Inc., Fund for Animals, Humane Society of the U.S. International Fund for Animal Welfare USA, National Parks and Conservation Society, The National Audubon Society, The Sierra Club, The Wilderness Society; American Tunaboat Association, Tuna Research Foundation; Zapata Ocean Resources Corporation; Pacific Legal Foundation; Fishermen's Union of America, Pacific and Caribbean Area AFL–CIO, The United Cannery and Industrial Workers of the Pacific; Commonwealth of Puerto Rico; Canadian Embassy, Department of State; and Japan Trade Center in New York.

The hearing focused on the following issues:

1. Estimated existing levels of the species and population stocks of the marine mammals involved in purse seining for yellowfin tuna;

2. The expected impact of the proposed regulations on the optimum sustainable populations of the species or population stocks involved;

3. The percentage of the initial unexploited species or population stock size which results in the maximum net productivity of the involved species and population stocks;

4. The economic feasibility of implementing the proposed regulations;

5. The technological feasibility of implementing the proposed regulations;

6. The rate of kill and total kill of the involved marine mammals by foreign countries;

7. The impact of the regulations on importation of yellowfin tuna and yellowfin tuna products;

8. The impact of implementing the proposed regulations on the tuna stocks.

CONSULTATION

The Act requires that I consult with the Marine Mammal Commission in promulgating regulations. The Commission was consulted prior to publication of the proposal and the Commission was a party to the proceedings. In addition, the Commission has filed exceptions, reply exceptions, and a letter from the Chairman, Dr. Douglas Chapman, which it has asked to be considered as satisfying its consultation right. It is my conclusion, therefore, that the consultative requirements of the Act have been satisfied. Additionally, as required by the conditions of the delegation of authority for decision making to me, I have consulted with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary of Commerce on this decision with specific emphasis on the critical issues of depletion and quotas.

ALJ'S RECOMMENDED DECISION

The Administrative Law Judge (ALJ) recommended to me on January 17, 1977, based on reliable and probative evidence in the record as a whole, that the proposed regulations for the year 1977 be adopted as the final regulations, as amended by his findings of fact and conclusions of law. On January 21, 1977 (42 FR 3886) I notified the public of receipt of the Judge's recommended decision. I hereby adopted and incorporate by reference the Judge's decision except insofar as it is inconsistent with what is hereinafter set forth. In each instance where I make a specific determination, I will make reference to the decision of the Administrative Law Judge. Where appropriate, I will summarize the positions taken by other parties. In those instances in which I support the decision of the Administrative Law Judge, and the justification supporting such a decision in the recommended decision is persuasive and convincing, I will adopt both the decision and the rationale. Where I concur in the Judge's decision but wish to modify or add to the Judge's rationale, I will make appropriate comments.

DETERMINATIONS

In making my decision, Section 103(a) of the Act and the opinion of the U.S. District Court of the District of Columbia require that my decision be supported by the evidence on the record. That evidence is to be the best scientific evidence avail-

able. The public, including those government agencies with special expertise, was afforded an opportunity to participate and to introduce evidence at a formal hearing on the record. In view of this and after having reviewed the record, it is my conclusion that my decision is based on among other things the best scientific evidence available at this time and is supported by evidence on the record. I have determined that the proposal, procedures, and the decision satisfy the requirements of Section 1373 of the Act and the Court's opinion to make available to the public reasonable estimates of the existing population level of each species affected, the optimum sustainable population of each species, and the expected impact of the regulations on an optimum sustainable population for each species. As I understand the Act and the Court's opinion, I must be assured that the allowed taking will not be to the disadvantage of the marine mammals involved and is otherwise consistent with the purposes and policies of the Act, and I have so concluded.

Decision Criteria

In framing the detailed decision which follows, a number of complex interrelated legal and scientific, particularly biological and statistical, subjects are addressed. These include marine mammal population levels, optimum sustainable population levels, depletion of stocks, mortality limits, and quotas derived from these limits. Although each of these subjects is individually covered in my decision, some overview of the background and the interrelationship of the factors considered is important in understanding the decision.

Population levels of the various species and stocks of marine mammals affected by the yellowfin tuna purse seine fishery were developed by a workshop of prominent scientists and extensively reviewed in the administrative hearing While these population levels satisfy the criteria for population determination in the Act, it must be recognized that they are statistically determined mid-point levels. For stocks that have been little impacted by the fishery, these mid-point estimates are considered satisfactory. However, for decision purposes two other levels besides mid-point were determined. These have been termed the reasonably confident and virtually certain levels and represent levels of increasing confidence of 97.5 percent and 99.9 percent, respectively, that an individual species or stock is at or above the level indicated. Similar confidence levels, that is mid-point, reasonably confident, and virtually certain, have been applied to the net reproductive rate which provides a guide to whether individual stocks and species can sustain a measured level of mortality. The reproductive rate of a stock is important in determining historic population levels, the limit of take that can be allowed without disadvantage to the stock, and the optimum sustainable population.

Population Levels

In the October 14, 1976 Federal Register notice of proposed regulations, as required by the Act (Section 103(d) (1)), I published a statement of the estimated existing levels of the species and population stocks. The Administrative Law Judge and all parties to the hearing who discussed species and stock size, except the American Tunaboat Association and Tuna Research Foundation and the unions, agreed with the accuracy of and underlying rationale for the stock size. The basic rationale comes from the "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" (Southwest Fisheries Center Administrative Report Number LJ-76-29). The population estimates in the record are updated to reflect information obtained since the workshop. A group of experts, including some with population dynamics expertise, was assembled by the National Marine Fisheries Service to conduct this workshop on porpoise stock assessment. The report contains estimates of existing population sizes, a determination of the levels of existing populations relative to optimum sustainable populations, and assessments of the impopulation estimates in the record are pact of various levels of incidental kill upon the existing population levels.

This report, which is a part of the record, assembled for the first time since the Act was enacted scientific information sufficient to make the determinations required by the Act for stocks of concern. The hearing record also includes testimony from a number of the workshop participants strongly supporting the workshop analyses.

The most significant criticism in the record of the workshop's product was from the industry and the unions. These groups alleged underestimations of populations based on a number of factors. However, the workshop participants had already considered many of the factors raised. In my opinion these groups did not successfully counter the testimony of workshop participants who testified at the hearing or the findings of the workshop on population sizes. Therefore, I conclude, as did the Judge, that the requirement of Section 103(d)(1) has been met. The population estimates for the relevant species are based on the best scientific evidence available and are as follows:

Species or stock— Management units:	*Estimated population level*
Spotted dolphin (coastal)	[1]
Spotted dolphin (offshore)[2]	3,674,000
Spinner dolphin (Costa Rican)	[1]
Spinner dolphin (eastern)	1,292,000
Spinner dolphin (whitebelly)[3]	549,000
Common dolphin (northern)	400,000
Common dolphin (central)	230,000
Common dolphin (southern)[4]	800,000
Striped dolphin (northern)	18,000
Striped dolphin (north-equatorial)[5]	230,000
Bottlenosed dolphin	588,000
Rough-toothed dolphin	450
Fraser's dolphin	7,800
Risso's dolphin	7,500
Short-finned pilot whale	60,000
Melon-headed whale	[1]
Pygmy killer whale	[1]

[1] Unknown.
[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified southwestern stock.
[4] Including the tentatively identified Equatorial-Oceanic stock.
[5] Including the tentatively identified south-equatorial stock.

Source: 41 FR 45016 (Oct. 14, 1976).

Optimum Sustainable Population

A major issue involved in the hearing was the expected impact of the regulations on the optimum sustainable populations (OSP) of the species or population stocks involved. It is my duty therefore to make a determination regarding optimum sustainable populations and to be assured that the regulations being promulgated will maintain populations at or above optimum sustainable levels.

I have published a definition of optimum sustainable population (41 FR 55536). That definition is repeated here to facilitate the understanding of my decision. "Optimum sustainable population is a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and growth less losses due to natural mortality." The stock assessment workshop participants believed that the term maximum productivity should be interpreted as maximum net productivity. Maximum net productivity was interpreted and defined as being the lower limit of the range of OSP.

The workshop report cited a range of 50–70 percent as the lower bound of OSP; however, subsequent to the workshop some participants felt that a more definitive statement must be made and that 60 percent was a prudent approximation of a single value.

Testimony was presented which supported this range and both a 50 percent and 60 percent lower bound. The ALJ recommended that 50 percent be accepted. Some individuals and parties to the hearing, including the Marine Mammal Commission, recommended that the lower bound of OSP be set at 60 percent.

Based on these factors and following an in-dept review of the record and required consultation, I have decided not to adopt the ALJ's recommendation. It is my decision that the range of 50–70 percent best describes the lower bound of OSP that can be determined on the evidence available to date.

Depletion

A determination of depletion must in significant part be based on the optimum

carrying capacity and optimum sustainable population definitions, associated with depletion, in the Act.

Section 101(a)(3)(B) of the Marine Mammal Protection Act requires that, except for purposes of scientific research, no permit may be issued during the moratorium for the taking of any stock or species of marine mammals designated as depleted. Three tests are provided for determining depletion. One test is whether the number of individuals within a species or population stock is below the optimum carrying capacity for the species or stock within its environment. Optimum carrying capacity is a characteristic of the habitat. However, the definition of optimum carrying capacity refers to optimum sustainable populations which refers to the number of animals. Therefore, I have concluded as a matter of law that a species or stock is below the habitat's optimum carrying capacity when the number of individuals is below the optimum sustainable population, and consequently is depleted.

In my original proposal the eastern spinner dolphin was considered depleted. Although the hearing covered this question extensively, the subject of eastern spinner depletion was addressed principally in terms of the relation of its population to OSP. Thus the selection of a particular percentage as the lower bound of OSP was the key factor used by parties in recommending for or against depletion. However, there was agreement among all parties except the Committee for Humane Legislation and Friends of Animals that the stock of eastern spinner dolphins could withstand a take of about 6,500 because the population would still increase with virtual certainty.

The ALJ, having recommended that 50 percent be used as the lower bound of OSP, did not recommend that the eastern spinner dolphin be considered depleted. However, evidence presented during the hearing indicated that despite the eastern spinner dolphin population being at 54 percent of its initial stock size and within the 50–70 percent range, the probability of it being depleted was slightly greater than that of not being depleted.

Having reviewed the record, and in consideration of the probability of the eastern spinner dolphin being depleted and the recommendations of the Marine Mammal Commission, and after the required consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary of Commerce, I have decided not to adopt the Administrative Law Judge's recommendation and have determined that the eastern spinner dolphin population should be considered depleted at this time.

LIMITATIONS ON MORTALITY

The major issue involved in the proposal and in the record is the number of marine mammals which could be incidentally killed in the course of commercial fishing, if permits were issued, and the resultant impact on optimum sustainable populations.

It was contended by the Committee for Humane Legislation that taking as defined in the Act includes all effects of fishing operations and is not limited to just mortality. However, as recognized by the Committee for Humane Legislation, the incidental take is addressed in the Act in terms of reduction of "mortality and serious injury." It is this context that is predominant in the final consideration. The provisions of the regulations are intended to reduce the total incidental mortality and serious injury. The regulations will allow incidental taking provided porpoise mortality does not exceed the quotas in the permit.

It was proposed by the National Marine Fisheries Service that individual limits on mortality be established under permit for 11 separate stocks or species with the sum of these limits totalling 29,920. The Marine Mammal Commission recommended 12 individual quotas totalling 50,158 plus an accidental mortality of 6,587 eastern spinner. The Environmental Defense Fund recommended 13 individual quotas totalling 53,120 including an accidental mortality of 6,500 eastern spinner. The Environmental Defense Fund and the Marine Mammal Commission recommendations concluded that, in the aggregate, a 1977 quota should be lower than the previous year's mortality in order to continue to reduce the mortality from year to year. The latest projected mortality on the record for 1976 is between 86,000 and 112,000. The Committee for Humane Legislation was opposed to any taking and did not make numerical recommendations other than zero. The American Tunaboat Association, Tuna Research Foundation, Fishermen's Union of America, Pacific Legal Foundation and Commonwealth of Puerto Rico recommended an aggregate quota of 96,100 with no individual species or stock limits.

The ALJ recommended a quota of 96,100, comprised of 13 separate stock quotas, concluding that separate quotas are required. I adopt the recommendation of the Judge that separate quotas are required. Ten of the quotas for "nontarget" species are the same as NMFS proposed, based on the average take over the past five years, and were supported by all parties except the Committee for Humane Legislation. I have concluded that those ten quotas will not be to the disadvantage of those stocks and species and I have adopted the ALJ's recommendation of the taking of a total of 8,120 from those ten stocks. The ALJ's proposed quotas for these ten stocks and for the three major stocks involved in the fishing represent maximum biological limits of take for 1977. They are:

Species or stock—Management units:	*Estimated population level*
Spotted dolphin (off-shore) [1]	64,393
Spinner dolphin (eastern)	6,587
Spinner dolphin (whitebelly) [2]	17,000
Common dolphin (northern)	400
Common dolphin (central)	1,600
Common dolphin (southern) [3]	5,600
Striped dolphin (northern)	40
Striped dolphin (north-equatorial) [4]	400
Bottlenosed dolphin	60
Rough-toothed dolphin	5
Fraser's dolphin	5
Risso's dolphin	5
Short-finned pilot whale	5
Total	96,100

[1] Including the tentatively identified southwestern stock.
[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified equatorial-oceanic stock.
[4] Including the tentatively identified south-equatorial stock.

Source: 41 FR 45016 (Oct. 14, 1976).

It must be recognized that three levels of confidence were associated with the individual population estimates, reproductive rates, and the resultant calculations of allowable mortality found in the ALJ's recommended maximum limits. These levels which were extensively discussed on the record are (1) virtually certain, (2) reasonably confident, and (3) mid-point. In considering the record it is clear that the three major stocks are in different states of abundance and hence mortality limits should be established accordingly, that is, based on appropriate application of confidence levels related to the status of the separate stocks. The status of these three stocks relative to their initial stock size are:

	Percent
Offshore spotted dolphin	64
Eastern spinner dolphin	54
Whitebelly spinner dolphin	76

Since I concluded in my decision that the eastern spinner dolphin is depleted, no incidental take of the eastern spinner dolphin can be permitted even though about 6,600 could be taken with a virtual certainty that the population will increase with that level of mortality. For the whitebelly spinner dolphin, I have determined that, since the population is above the range of the lower bound of OSP, that is above 50–70 percent, a take at the mid-point level of 7,840 can be permitted and such take would not be to the disadvantage of the population. For the off-shore spotted, I have concluded that the record justifies the take be limited to a number less than allowable at the reasonably confident level but that such take could be greater than the virtual certainty level initially proposed. For that reason, I have determined that a take of 43,090 off-shore spotted dolphins, which is midway between these levels, would not be to the disadvantage of that stock. Although the limits I have

determined for the three major stocks differ from those recommended by the ALJ, I believe that the record, the finding of depletion for the eastern spinner porpoise, and the recommendations of the Marine Mammal Commission all support these limits.

In summary, I have accepted the ALJ's recommendations in part and, based on my review of the record and in consideration of the need to provide individual upper limits of allowable take for stocks and species that will not be to the disadvantage of them, have established the following upper limits of U.S. mortality for 1977.

Species or stock—Management units:	*Estimated population level*
Spotted dolphin (off-shore)[1]	43,090
Spinner dolphin (whitebelly)[2]	7,840
Common dolphin (northern)	400
Common dolphin (central)	1,600
Common dolphin (southern)[3]	5,600
Striped dolphin (northern)	40
Striped dolphin (north equatorial)[4]	400
Bottlenosed dolphin	60
Rough-toothed dolphin	5
Fraser's dolphin	5
Risso's dolphin	5
Short-finned pilot whale	5
Total	59,050

[1] Including the tentatively identified southwestern stock.
[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified equatorial-oceanic stock.
[4] Including the tentatively identified south-equatorial stock.

Source: 41 FR 45010 (Oct. 14, 1976)

Permits, if and when issued, will limit taking by killing in the eastern tropical Pacific Ocean to those stocks and species listed above.

The order of the District Court pointed out that Section 1374(d)(3) of the Act imposes a burden on the applicant for a general permit to demonstrate in the application that the requested taking will be consistent with the Act and the applicable regulations. Therefore, unless otherwise indicated by the Court of Appeals for the District of Columbia Circuit, the final determination on permit issuance will be made following public review of a permit application and my review of the application, public comments, and the regulations.

QUOTA

As indicated in my decision regarding limitations on mortality, appropriate safety factors (confidence levels) have been applied to determine the allowable U.S. mortality on an individual stock basis. I have also concluded that the existing populations of marine mammals involved are at the mid-point level of confidence. Further, I consider the limitations on mortality established herein adequately recognize the mandate of the Act to reduce the incidental mortality and serious injury of marine mammals, as well as insure that the take will not operate to the disadvantage of the stocks and species involved. Therefore, in establishing a quota for 1977, no further reduction in the take levels beyond those already determined by the limitations on mortality is required.

The proposed U.S. quotas were developed by subtracting the estimated foreign mortality from a proposed total mortality by all fleets. Industry contended that it would be appropriate to apportion the quota by the ratio of the percentage of tuna caught on porpoise by U.S. and foreign vessels. The Judge found that the division of quota issue would appear to be moot, based on his recommended quota levels. Because I must be assured that the total mortality of individual species and stocks will not be to their disadvantage, I have considered the estimated foreign mortality in setting U.S. quotas.

OBSERVERS

Section 216.24(f) of the proposed regulations provided that observers could accompany tuna purse seine vessels for the purpose of conducting research and observing operations.

The Judge concluded that there exists no legal requirement on the part of the vessels to continue to permit observers to remain on board after quotas have been reached. I have adopted this conclusion and intend to place observers on vessels operated by certificate holders only while quotas remain in effect.

The Judge further recommended that regulations be amended to provide that observers shall have the opportunity to evaluate whether or not the certificate holder is performing according to the regulations.

Although I agree with its thrust, I have not adopted this recommendation since observer data collection procedures and forms for 1977 already include a provision for evaluation of the use or non-use of required gear and procedures, and accordingly, I consider additional regulations on this unnecessary. Since observer field record forms and procedures have been revised in consultation with the Marine Mammal Commission and the public, the concern of some parties to the hearing that observers would not record such information has been satisfied.

SKIPPER PANEL

There is considerable information in the record regarding use of a panel of expert skippers to evaluate the performance of skippers with respect to porpoise mortality. The Judge recommended that such a panel be established. There was general agreement, supported by the testimony of expert fishermen and industry leaders, that poor performers should be identified and corrective steps taken to reduce excessive mortality caused by less proficient certificate holders.

I have concluded that the holder of a general permit under the regulations shall establish a skipper panel for the purpose of making recommendations to the National Marine Fisheries Service. The general permit issued will include a requirement that the permit holder formulate a panel and advise the National Marine Fisheries Service of the members and the organizational rules and procedures within 30 days of issuance of the permit. Upon formal recognition of the panel by the National Marine Fisheries Service, the panel will be expected to review the performance information from the observer logs and make recommendations to the National Marine Fisheries Service regarding each certificate holder's proficiency including, but not limited to, recommendations to suspend a certificate or for further training, as appropriate in each case. Recommendations of the skipper panel will be given great weight; however, final action will be the responsibility of the National Marine Fisheries Service.

SEVEN-DAY NOTICE

The Judge recommended that the National Marine Fisheries Service provide a 21-day notice in the FEDERAL REGISTER prior to the imposition of a prohibition of setting on porpoise. The industry supported a 30-day notice period. The Environmental Defense Fund advocated a 21-day notice period in order to minimize harm to the industry. The concern was that with only a 7-day notice as currently provided by the National Marine Fisheries Service, the fleet could be left with large operating expenditures paid in advance when an abrupt cessation of porpoise fishing was announced. This testimony was in the context of the 1976 season when an aggregate quota of 78,000 was reached in October and there was no advance notice that the quota was about to be reached. Fishermen contended that with a 7-day notice they did not receive adequate notice to plan or change their fishing strategy and it caused them economic harm.

However, receiving and analyzing observer data and publishing a FEDERAL REGISTER Notice requires a minimum of 15 days. With a 21-day notice period, the National Marine Fisheries Service would have to predict the closing of fishing on porpoise stocks at least 36 days before such a closing. Such a time frame will severely hamper the ability of the National Marine Fisheries Service to make reasonably accurate estimates of porpoise kill and to prohibit setting after a species or stock quota is reached. Because of the implementation of individual species/stocks limits in 1977 which will require precise monitoring and because the welfare of the porpoise is of prime concern, I have concluded that a 7-day notice in the FEDERAL REGISTER is appropriate.

I do realize the potential impact to the fleet of a 7-day notice period. To minimize this potential impact of the short notice period and to keep all interested parties advised of progress towards the limits imposed in a general permit, observers will submit radio reports semi-weekly and public notice of the estimated kill will be made available weekly, based on the prior week's radio reports and observer data from completed trips. This reporting procedure will also provide a better data base on which to base projections. Moreover, the methodology for computing the mortality has been revised in order to account for incomplete trip data which were previously excluded.

The proposed revised methodology will be published in the FEDERAL REGISTER for public comment.

Further, because the stocks of offshore spotted dolphin, whitebelly spinner dolphin, common dolphin (all stocks), and striped dolphin (all stocks) are the primary stocks and species involved, I have determined that setting on all stocks of porpoise during yellowfin tuna purse seining will be prohibited when quotas on the above species and stocks have been reached, notwithstanding the fact that the quotas on other species may not have been reached.

MIXED SCHOOLS SETS

In view of the depleted status of the eastern spinner and the establishment of individual stock and species quotas, additional prohibitions of sets on certain mixed and pure schools are required. Accordingly, I have determined that during yellowfin tuna purse seining, fishermen may not set on pure schools of eastern spinner, Costa Rican spinner, or coastal spotted dolphin or mixed schools which include these species, or pure schools of any other species except offshore spotted and common dolphin.

IMPORT PROVISIONS

The Judge discussed the import provisions of the proposed regulations extensively in his recommended decision and concluded, in sum, that with his suggested additions and changes, the import provisions are in agreement with the appropriate provisions of the Act and represent the most effective vehicle to obtain some control of porpoise mortality by foreign flag vessels. I have adopted his conclusions in my decision with certain exceptions.

I have adopted the Judge's recommendations regarding labeling of canned tuna as other than yellowfin, seeking a list of United States citizens crewing foreign seiners, and allowing a three-month grace period from the date of promulgation of final regulations before importation provisions become effective.

I have not adopted the Judge's recommendation to require a statement from nations requesting a finding concerning past enforcement actions under their laws and regulations. The intent of United States importation regulations is to establish a current set of requirements which the National Marine Fisheries Service will consider in determining other nations' compliance with our standards.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY

I am required by the Act to consider the economic and technological feasibility of implementing the regulations.

Several witnesses testified and evidence was submitted regarding the technical feasibility of implementing the proposed gear modifications and fishing technique requirements.

Testimony from experienced and successful fishermen indicate that if the fishermen astutely practice the prescribed methods of reducing porpoise mortality, the rate of kill, and consequently the total mortality can be reduced.

Industry representatives testified that the proposal to limit mortality to 29,920 of 11 separate stocks and species with the attendant prohibition on encircling mixed schools containing spinner porpoise would be economically disastrous to the industry.

I am convinced by the record and the Administrative Law Judge's recommendations that my initial proposal was more stringent than necessary to protect the species and stocks involved and that a virtual certainty finding on all stocks is not required.

The Administrative Law Judge concluded that the interests of the marine mammals should come first. However, I am required to also consider the economic feasibility of implementing the regulations. There are many uncertain and variable factors which affect the economic feasibility. Whether conditions, availability of other species of fish, business costs, prices of fish and normal business decisions all have an effect on the economic feasibility. The economic analysis which is part of the record indicates that the imposition of a quota below 80,000 will adversely affect the profitability of purse seiners, at least in the short run. Notwithstanding the impact of the even lower level set by this decision, the primary consideration must be the protection of the animals.

GEAR REQUIREMENTS

Several witnesses testified and evidence was submitted regarding the technical feasibility of implementing the proposed gear modifications and fishing technique requirements. On many of the proposed requirements there was no controversy. Thus, I adopt the proposed gear and fishing technique requirements except as noted below. However, even where I adopt a portion of my original proposal, I will discuss the issues involved where one or more parties disagreed with the proposal.

The evidence makes clear that a large proportion of porpoise mortality is caused when porpoise become entangled in the purse seine nets. The record also makes clear that the proposal for a 1¼ inch mesh porpoise safety panel in the net can lead to a substantial reduction in porpoise kill. There was no disagreement over those facts and I adopt as did the Judge, this requirement with two minor exceptions. There was much testimony on the record concerning the amount of the 1¼ inch mesh required on Class I and Class II vessels. The evidence shows that the proposed net requirements may not be fully adaptable to these vessels. The National Marine Fisheries Service in its brief, proposed an amendment to the proposed regulations concerning the amount of fine mesh net. The Judge adopted this revised proposal because he agreed that these vessels would have problems in complying with the proposed regulations requiring 180 fathoms of 1¼ inch webbing. I adopt the Judge's recommendation.

There was general agreement that the entire fleet will not be able to obtain this fine mesh net in the early part of the year because of the inability of manufacturers to produce enough fine mesh net by the first of the year. The American Tunaboat Association, the Environmental Defense Fund, and the National Marine Fisheries Service submitted alternative proposals to allow fishing on porpoise without the fine mesh net under certain circumstances. I adopt the recommendation of the Judge that all boats must have ordered the fine mesh nets before they can fish on porpoise and that they have the webbing installed and inspected prior to departure on their next fishing voyage after delivery of the nets or 0001 hours, May 1, 1977, as the latest date for installation for vessels over 400 tons carrying capacity. In addition, I have concluded that vessel operators must document that they have ordered webbing if it has not been installed at the time they make application for a certificate of inclusion and to notify the National Marine Fisheries Service when the webbing has been delivered. I have added these requirements because they are consistent with the Judge's proposal and rationale and they help assure that these essential porpoise safety panels are installed as soon as possible.

The Judge recommended that regulations should require the use of speedboats and rescuers when backdown and release occur in darkness. Regulations already require their use on all sets and therefore this recommendation is already in effect and will remain so.

The Judge also recommended that all tuna boats be required to have floodlights and that such floodlights be used during the backdown procedures if sets occur in darkness. I adopt this proposal and the Judge's rationale. If backdown in darkness continues to cause higher mortality levels, NMFS will consider prohibiting sets which might not be completed prior to darkness.

One issue not addressed in the NMFS proposal was the use of a rubber raft and a facemask during backdown to aid in determining whether any live porpoise remain in the net and effecting their release. Use of such devices was proposed in the course of the hearing based on results of the *Elizabeth CJ* experimental gear/behavioral research. Such devices have not been subject to full field testing, but the American Tunaboat Association representatives raised no objection to the suggestion that these instruments be required. The Judge has adopted this suggestion and I adopt this recommendation and the rationale of the recommended decision with one exception. The Judge recommended use of a rubber raft with a glass bottom in lieu of a facemask. Such a device has not been adequately tested. Therefore, I have concluded that the use of a glass bottom raft or other means of underwater viewing is encouraged but will not be permitted in lieu of a facemask for this purpose.

The Judge recommended that all vessels have two speedboats regardless of

vessel class or observer status. The Judge found, and there was no disagreement, that the use of speedboats during backdown is essential for porpoise rescue. The NMFS proposal permitted Class I vessels having an oberver to have only one speedboat in the water on porpoise sets because space limitations on these vessels preclude carrying an oberver and sufficient personnel to operate two speedboats and perform other essential tasks. However, the Judge found the evidence as not convincing to show that an observer displaces a speedboat operator on all Class I vessels. Thus, he recommended two speedboats be in the water on porpoise sets on all vessels unless a certificate holder can show with certainty that the above described crewman displacement will occur. I adopt this recommendation and the Judge's rationale.

In summation, I find that these gear and fishing technique requirements are not only technically feasible and supportable on the record, but also essential to reducing porpoise mortality.

FOREIGN KILL

The best available estimate of the rate of kill by foreign vessels is that contained in the workship report. The workshop decided to use an intermediate asssumption that the non-U.S. kill rate for 1973–1975 was the same as the 1972–73 U.S. average, or approximately two and one-half (2½) times the current U.S. rate.

The estimated foreign kill was published in the supplemental EIS. Since those estimated levels of kill totalling approximately 41,000 were not disputed, it is concluded that those are the best available estimates of foreign kill.

IMPACT ON TUNA STOCKS—INTER-AMERICAN TROPICAL TUNA COMMISSION

There is testimony in the record that the limits proposed by the National Marine Fisheries Service would have an adverse impact on the tuna stocks. Section 103(b)(4) of the Act requires that I consider the effect on the conservation, development, and utilization of fishery resources. Testimony and evidence indicated that if the proposed quotas were implemented, there would be an adverse effect on tuna stocks as a result of fishing effort being shifted to non-porpoise associated fish, primarily in inshore areas. In general, non-porpoise associated tuna are young yellowfin. A concentration of fishing effort on these young fish would be harmful in the long-term.

The Administrative Law Judge found that the proposed regulations would result in a decilne in the supply of all tuna, particularly yellowfin. Inter-American Tropical Tuna Commission (IATTC) regulations limit the take of yellowfin inside the Commission Yellowfin Regulatory Area (CYRA) to 15% following closure of the yellowfin quota. Unless a substantial reduction in mortality occurs, yellowfin fishing outside the Commission Yellowfin Regulatory Area may be restricted by imposition of a prohibition on setting on off-shore spotted and whitebelly dolphin. When that occurs, fishing effort will be concentrated inside the Commission Yellowfin Regulatory Area. This concentrated effort will impact on the tuna stocks in inshore areas, however the impact is difficult to quantify.

MARINE MAMMAL LOGS

The proposed regulations direct certificate holders to maintain daily logs in a form prescribed by the NMFS of all sets in which marine mammals have been taken, together with other specified information ifcluding but not limited to, the actual count of marine mammals killed or seriously injured in any set. The Judge recommended that these logs be under oath in affidavit form because an affidavit will assure greater authenticity to such reports. I agree with the Judge that greater authenticity of the logs will result from affidavits. However, because many of the vessels return to foreign ports during the year, it would be impossible to obtain such affidavits within 48 hours after arrival of the vessels in port as is required by our regulations. Therefore, I have decided to require certified logs. A certification will be stamped upon the logs advising the signer that false statements may be subject to criminal penalties.

[FR Doc.77-5991 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART VI

ENVIRONMENTAL PROTECTION AGENCY

■

PHOSPHATE FERTILIZER PLANTS

Availability of Final Guideline Document

ENVIRONMENTAL PROTECTION AGENCY

[FRL 683-1]

PHOSPHATE FERTILIZER PLANTS

Final Guideline Document Availability

The purpose of this notice is to announce the availability of the final guideline document for the control of atmospheric fluoride emissions from existing phosphate fertilizer plants. This action triggers the development of state plans to control fluoride emissions from existing phosphate fertilizer facilities under section 111(d) of the Clean Air Act. The Act requires that "designated" pollutants controlled under standards of performance for new stationary sources (section 111(b)) also be controlled at existing facilities in the same source category. New source performance standards for five sources of fluoride emissions within the phosphate fertilizer industry were promulgated August 6, 1975 (40 FR 33152). Fluorides are considered a designated pollutant and therefore must also be controlled under section 111(d).

On November 17, 1975 (40 FR 53340), EPA promulgated a new subpart B to 40 CFR Part 60 establishing procedures and requirements for submittal of state plans for control of designated pollutants from designated facilities under section 111(d). A summary of subpart B and a discussion of the basic concepts underlying it appear in the preamble published in connection with its promulgation. In brief, subpart B provides that after a standard of performance applicable to emissions of a designated pollutant from new sources is promulgated, the Administrator will publish a draft guideline document containing information pertinent to the control of the same pollutant from designated (i.e., existing) facilities. He will also publish a notice of availability of the draft guideline document, and invite comments on its contents. After publication of a final guideline document for the pollutant in question, the States will have nine months to develop and submit plans for control of that pollutant from designated facilities. Within four months after the date for submission of plans, the Administrator will approve or disaprove each plan (or portion thereof). If a State plan (or portion thereof) is disapproved, the Administrator will promulgate a plan (or portion thereof) within six months after the date for plan submission. These and related provisions of subpart B are basically patterned after section 110 of the Act and 40 CFR Part 51 (concerning adoption and submittal of State implementation plans under section 110).

The notice of availability of the draft guideline document for existing phosphate fertilizer plants was published in the FEDERAL REGISTER on May 12, 1976 (41 FR 19585). Fourteen comment letters were received on the draft guideline document; nine from industry, three from State agencies, and two from other governmental agencies. Copies of the comment letters are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. 20460. A summary of the comments and EPA's responses may be obtained upon written request from the EPA Public Information Center (PM-215), 401 M Street, S.W., Washington, D.C. 20460. Copies of the final guideline document are available at the same address (specify "Final Guideline Document: Control of Fluoride Emissions from Existing Phosphate Fertilizer Plants.")

None of the comments warranted a change in the emission guidelines. However, several comments necessitated changes in the guideline document. The more significant issues raised by the commenters are discussed as follows:

1. *Welfare-Related Pollutant.* In announcing the availability of the draft guideline document, the Administrator also announced his determination that atmospheric fluoride emissions from the phosphate fertilizer industry are welfare related. This decision was primarily based upon the findings of the National Academy of Science (N.A.S.) report Fluorides. One commenter challenged this determination on the basis that the N.A.S. report's analysis of atmospheric fluoride threshold limits were obtained using specially controlled experimental conditions. EPA can find no fault in using accepted scientific methodology (controlled conditions) for analyzing these effects. The commenter gave no reason to suspect that equal concentrations of fluoride in the ambient air resulting from fertilizer facility emissions will not have the same effect on farm crops as was demonstrated during the tests summarized by N.A.S. Therefore, EPA finds no reason to alter its determination that atmospheric fluoride emissions cause or contribute to the endangerment of the public welfare.

2. *Emission Guidelines.* Four commenters stated that they consider the emission guidelines to be too strict. Their argument was that the costs associated with retrofitting control equipment capable of achieving the emission guidelines outweigh the benefits derived from such a control level.

The emission guidelines recomended in the document reflect the Administrator's judgment on the degree of control attainable with the best system of emission reduction (considering the cost of installing such system in existing facilities) that has been adequately demonstrated for existing phosphate fertilizer plants. EPA evaluated the costs of existing facilities to comply with the guideline and determined that the costs are reasonable. The commenters did not provide any data or information which would support changing this determination.

There were three comments questioning the reliability of spray-crossflow packed bed (SCPB) scrubbers as the principal control device for achieving the fluoride emission guidelines. Specifically, concern was raised over the possibility of plugging if gypsum pond water is used rather than fresh water. EPA realizes that any control device will require periodic maintenance, including the SCPB scrubber. Since the plants having SCPB scrubbers that underwent emission tests to obtain background data for the new source performance standards experienced no insurmountable problems with plugging when using recycled gypsum pond water, EPA is promulgating the guideline as proposed.

3. *Implementation of Guidelines by States.* Five of the commenters assumed that the emission guidelines were to be considered as Federal requirements and questioned the necessity of Federal standards where adequate State regulations currently are in effect. Since atomspheric fluorides are determined to have welfare-related rather than health-related effects, the procedures explained in 40 FR 53340 grant the States a degree of flexibility in establishing their control plans. States may balance the emission control benefits against other factors of public concern in developing emission standards or may choose to not revise existing State standards which currently provide adequate protection of public welfare. Compliance times must be included in the development of any plan, and its submission must meet the procedural requirements of subpart B. However, less stringent emission standards or longer compliance times for specific designated faciliities may be provided in the plan on a case-by-case basis provided the State demonstrates that factors specific to any facility or groups of facilities justify the application of less stringent standards or final compliance times. Examples of typical factors that could upon close analysis provide such justification are:

(a) Unreasonable cost of control because of plant age, location or process design;

(b) Physical impossibility of installing control equipment, or

(c) Existing State standards that closely approximate the guidelines or have been shown to be adequate for controlling welfare related environmental effects.

Conversely, no action by EPA precludes a State from adopting more stringent emission standards or compliance times than those specified in subpart C or in the guideline document.

One commenter suggested a 24-month compliance time instead of the 17-month compliance time proposed. He specifically mentioned the two week time period allowed for startup of the control device as being too strict. EPA concurs with the commenter that two weeks is an insufficient interval from equipment installation to final compliance for any facility, and has lengthened this interval to six weeks. This makes the final guideline compliance time 18 months. The final guideline compliance time is representative of typical time periods for completion of each milestone, but EPA recognizes that atypical situations are more probable with retrofit projects. For

this reason the final guideline document states that the compliance time may exceed 18 months, when approved by the state, for plants having justifiable reasons for additional time.

4. *Control Costs.* The estimated costs associated with implementing the draft guideline were criticized as being too low by two commenters. EPA agrees that certain capital expense items were not computed at current prices and has thus recomputed the installed costs of control equipment. Also, in response to one commenter that the indirect costs of retrofitting an existing plant are higher than those in the draft guideline document, the indirect costs were recomputed at 50 percent of the direct cost values. The updated cost figures required changes in Tables 1–4, 1–5, and 7–1 in the final guideline document. However, impacts of the increased costs were not of sufficient magnitude to require any changes in the guideline emission levels.

5. *General.* In response to two comments noting inconsistencies within the document concerning the level of fluoride emissions from existing fertilizer facilities (Table 9–2), the guideline document estimates of fluoride emissions from typical facilities have been revised to show lower emission levels. Table 9–1 was also changed to show a slightly less total yearly emission level to the atmosphere from all phosphate fertilizer facilities nationwide. The revised figures were based on updated information on both the recent advances in fluoride emission controls by existing fertilizer facilities and more accurate estimates of fertilizer production levels. The increase in estimated yearly production levels also resulted in increasing the projected energy demands associated with retrofit controls that are shown in Table 9–10. These changes corrected the inconsistencies noted by the commenters in the draft guideline document, but did not effect the guideline emission levels.

Effective date: The nine-month period during which the States are to develop their control plans begins March 1, 1977.

(Secs. 111(d), 114, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-6(d), 1857c-9, 1857g(a).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949.

Dated: February 22, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77-6134 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART VII

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

CIVIL PROCEDURES

Interim Regulations

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 621—CIVIL PROCEDURES

Interim Regulations

As of March 1, 1977, the Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801 (sometimes called the 200 mile limit fishing law), establishes the exclusive fishery management authority of the United States (1) over all fish (except certain species of tuna) within the Fishery Conservation Zone, the body of water adjoining the U.S. territorial sea and extending 200 miles from the coastline, and (2) over all anadromous species of fish (such as salmon) and Continental Shelf fishery resources (such as lobster and certain crabs) beyond the Fishery Conservation Zone.

As of March 1, no foreign vessel may fish within the Fishery Conservation Zone (or beyond the Zone for anadromous species or Continental Shelf resources of the United States) except in accordance with the terms of a permit issued by the United States under the Act. In addition, U.S. vessels fishing in the Zone (or beyond the Zone for anadromous or Continental Shelf resources) will as of March 1 be fishing in accordance with any fishery management plans which have been prepared by one of the eight Regional Fishery Management Councils created by the Act, after a Council's plan for a particular fishery is put into effect by regulations of the Secretary of Commerce published in the FEDERAL REGISTER. The Secretary of Commerce, acting through the Director of the National Marine Fisheries Service (NMFS), has published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8813), regulations governing foreign fishing. Regulations for domestic fishing will be published in 50 CFR Chapter VI from time to time as the Secretary approves individual fishery management plans. As is detailed in § 621.1 and § 621.2 below, the Act subjects violators to three types of penalties: (1) Warning citations issued by authorized enforcement officers; (2) civil penalties (administrative fines) assessed against the violator by the Department of Commerce (up to $25,000 for each violation); and (3) criminal penalties imposed as to certain offenses by the federal courts, with maximum sentences of imprisonment for one year and a fine of $100,000 for each offense. In addition, a fishing vessel used in the commission of an offense and any illegally caught fish are subject to forfeiture to the United States. Further, a permit issued to a fishing vessel which is involved in a violation may be revoked, suspended, or modified under certain conditions.

The regulations in this new Part 621 of Title 50 establish the rules and procedures which will apply to those consequences of a violation which are the responsibility of the Department of Commerce, namely, the assessment of civil money penalties (Subparts B and C); sanctions against a fishing permit (Subpart D); and actions the Department of Commerce may take in some situations to lessen the effect of forfeiture of a fishing vessel or its catch of fish (Subpart E). The issuance of citations is addressed in joint regulations of the Department of Commerce and Coast Guard published in 50 CFR Part 620. (42 FR 11839.)

Subpart A serves as an introduction. It contains, in addition to an explanation of the actions which Part 621 governs (summarized above), a statement of enforcement policy, a definitions section, and certain document filing rules which apply to all the other Subparts. Special notice should be taken of the definition of "Director," a term which is used throughout these regulations and which includes the designee of the Director, National Marine Fisheries Service. The Service Director does not intend personally to make every decision required by these regulations, but will delegate to his five Regional Directors major responsibilities to act for him on a day to day basis. This will allow decisions to be made not only in a more timely manner, but also at the local level where the circumstances of a violation may more readily be placed in proper perspective.

Subparts B and C govern the assessment of civil money penalties against a violator by NMFS: Subpart B controls when the right to a hearing is waived; and Subpart C details the hearing and appeal procedures to be followed in the event action under Subpart B does not result in conclusion of the case. Upon completion of the investigation of a violation deemed appropriate for civil penalty action (as opposed) for example to referral to the U.S. Attorney for criminal prosecution), a Notice of Violation would be served on the violator (Respondent) to advise him of the circumstances on the alleged violation and the proposed penalty to be assessed against him (§ 621.21). Respondent would have 45 days to decide on a course of action: he could choose not to contest the charge by paying the proposed penalty or a compromise amount that might be offered in the violation notice; he could dispute the charge or argue that the proposed penalty is too harsh by sending a Petition for Relief under § 621.22; or he could do nothing. After the 45 day period, NMFS would take into account any relief petition filed, once again review the case in light of statutory factors such as the history of any prior offenses by Respondent and his ability to pay the fine (§ 621.23), and serve a Notice of Assessment of civil penalty on Respondent (§ 621.24). An additional time period is provided at this point for Respondent to react to the assessment notice, either by paying the assessed penalty or by requesting under § 621.25 that the matter be referred for hearing. If Respondent did neither, the assessment would become final under § 621.26 and be referred to the U.S. Attorney for collection by court order (§ 621.27).

The Hearing and Appeal Procedures of Subpart C are triggered by a hearing request. Hearings will be formal in nature, held before an Administrative Law Judge, appointed under § 621.31, who will have broad powers to conduct this "administrative trial" of the case (§ 621.33). Special rules are contained in § 621.32 to implement section 4 of the Government in the Sunshine Act, Pub. L. 94-409, 5 U.S.C. 557(d), with respect to contacts between NMFS employees who will be involved in deciding the case and interested persons outside NMFS.

After Respondent and the attorney representing NMFS had submitted their evidence at the hearing, made oral argument, and prepared legal briefs for consideration by the Administrative Law Judge (§ 621.34–.38), the Judge will render his written decision, finding whether Respondent committed the violation charged and what money penalty, if any, should be assessed (§ 621.39). Unless Respondent or the agency attorney appealed that decision, it would become final in 45 days (§ 621.41). An appeal from either side would be acted upon by NMFS under § 621.40, taking account of arguments made in the appeal, and the decision that resulted would be the last step in the administrative decision process. If Respondent desired, he could then bring the matter before a federal court for the judicial review provided in section 308(b) of the Act.

Subpart D, Permit Sanctions, describes the manner in which a permit issued under the Act to a fishing vessel may be revoked, suspended, or modified. Section 621.51 notes that the subpart applies to all types of foreign and domestic fishing vessel permits. Permit sanctions may be taken when a vessel is used to commit a violation of the Act or when a civil penalty or criminal fine relating to the vessel has not been paid (§ 621.52). The specific types of permit sanctions authorized are detailed in § 621.53. The succeeding sections set forth the procedure to be followed by NMFS if it proposes to take action against a permit, including giving notice of the sanction to the permit holder (§ 621.54), convening a fact-finding hearing if the permit holder has not had a previous opportunity to present his case at a hearing (for example, during a civil penalty assessment under Subpart B and C) (§ 621.55), and making a final decision after a hearing (§ 621.56).

The final Subpart, Remission of Forfeitures, details the circumstances under which NMFS may entertain a Petition for Relief from Forfeiture. The Subpart gives effect to those provisions of section 310(c) of the Act which make applicable to forfeitures under the Act certain provisions of the Customs laws, particularly 19 U.S.C. 1604–1618. Special attention is invited to the statement in § 621.61(b) that remission of a forfeiture (release of seized property upon compliance with specified conditions) is in the nature of executive clemency granted only when the purposes of the Act would be served. A Petition must be filed within 60 days of the seizure and contain a full showing of

the reasons believed to justify the requested relief (§ 621.62). NMFS would then conduct an investigation, which might include the appointment of an examiner to hold a fact-finding hearing (§ 621.63). If the NMFS decision grants the requested relief, it will set out conditions for the property release, which may include payment of a specified sum of money and the requirement that the property be exported from the United States (§ 621.64). If the conditions had not been satisfied 60 days after the decision (or satisfactory arrangements for later compliance made), the relief granted would expire and NMFS would refer the matter to the appropriate U.S. Attorney for judicial forfeiture of the property (§ 621.65). Section 621.66 permits NMFS to release in limited circumstances part or all of the seized property before final decision on a petition, usually upon payment of the property's value, which will be held for later action by NMFS or a court.

Effective date: As stated earlier, the management authority of the Act is effective beginning March 1, 1977. In order for NMFS to properly carry out its enforcement responsibilities, it is necessary that these regulations be effective at the earliest possible time. Important authorizations and procedures for meeting NMFS responsibilities under the Act, and significant due process safeguards, are contained in this Part 621, without which the interests of justice and other public interests served by the Act may be frustrated. For these reasons, it is hereby for good cause found that the advance notice, public procedures, and delayed effectiveness provisions of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective March 1, 1977, as Interim Regulations applicable to civil procedures initiated as to any violation of the Act occurring on or after that date.

In the interest of public participation in the rulemaking process, comments on these regulations will be received until May 31, 1977, after which time amendments will be made as necessary to take proper account of comments received and experience gained during this period. Comments or questions may be directed to Stephen J. Powell, Assistant General Counsel, National Oceanic and Atmospheric Administration, Room 5814 Main Commerce Building, Washington, D.C. 20230, telephone (202) 377-3043.

Dated: February 28, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Chapter VI of 50 CFR is amended by adding the following Part 621:

Subpart A—Introduction

Sec.
621.1 Purpose and scope.
621.2 Enforcement policy.
621.3 Filing and service of documents.
621.4 Definitions.
621.5–20 [Reserved]

Subpart B—Assessment Procedure

621.21 Notice of violation.
621.22 Petition for relief from proposed assessment.
621.23 Decision by the Director.
621.24 Notice of assessment.
621.25 Request for hearing.
621.26 Final administrative decision.
621.27 Payment of final assessment.
621.28 Compromise of civil penalty.
621.29–30 [Reserved]

Subpart C—Hearing and Appeal Procedures

621.31 Commencement of hearing procedures.
621.32 Ex parte communications.
621.33 Duties and powers of judge.
621.34 Participation by parties.
621.35 Record.
621.36 Settlements.
621.37 Interlocutory appeals.
621.38 Proposed findings and conclusions.
621.39 Initial decision.
621.40 Appeals.
621.41 Final decision.
621.42–50 [Reserved]

Subpart D—Permit Sanctions

621.51 Application of subpart.
621.52 Basis for sanctions.
621.53 Nature of sanctions.
621.54 Notice of permit sanction.
621.55 Opportunity for hearing.
621.56 Hearing and decision.
621.57–60 [Reserved]

Subpart E—Remission of Forfeitures

621.61 Application of subpart.
621.62 Petition for relief from forfeiture.
621.63 Investigation.
621.64 Decision on petition.
621.65 Compliance with decision.
621.66 Release of seized property pending decision.

AUTHORITY: 16 U.S.C. 1801–1861.

Subpart A—Introduction

§ 621.1 Purpose and scope.

(a) Section 308 of the Act authorizes the Secretary to assess a civil penalty, in an amount not to exceed $25,000 for each violation, against any person found to have committed an act prohibited by section 307. Each day of a continuing violation is considered a separate offense. The Director has been delegated the authority to assess these administrative money penalties.

(b) Section 204(b)(12) of the Act details the circumstances under which the Director is to revoke, suspend, or modify certain foreign fishing vessel permits. Regulations implementing specific fishery management plans will contain provisions for permit sanctions in respect both to foreign and domestic fishing vessels.

(c) Section 310(c) of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures and the compromise of claims, applicable to forfeitures of fishing vessels and fish alleged to be authorized under the Act. The Department of Commerce is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(d) The regulations in this Part provide uniform rules and procedures for the assessment of civil penalties (Subparts B and C), permit sanctions (Subpart D), and the remission or mitigation of forfeitures (Subpart E).

§ 621.2 Enforcement policy.

(a) The Act provides four basic penalty categories for violations, in ascending order of severity as follows: (1) Issuance of a citation by the enforcing officer, usually at the scene of the offense (see 50 CFR 620); (2) assessment by the Director of a civil money penalty; (3) for certain violations, judicial forfeiture action against the vessel and its catch; and (4) criminal prosecution of the owner or operator for some offenses. It shall be the policy of the Agency to enforce vigorously and equitably the provisions of the Act by utilizing that form or combination of authorized penalties best suited in a particular case to this end.

(b) Processing of a case under one penalty form usually means that other penalties are inappropriate in that case. However, further investigation or later review may indicate the case to be either more or less serious than initially considered, or may otherwise reveal that the penalty first pursued is inadequate to serve the purposes of the Act. Under such circumstances, the Agency may pursue other penalty forms either in lieu of or in addition to the action originally taken.

(c) If a fishing vessel for which a permit has been issued under the Act is used in the commission of an offense prohibited by section 307 of the Act, the Agency may impose permit sanctions whether or not civil or criminal action has been undertaken against the vessel or its owner or operator. In some cases, the Act requires permit sanctions following the assessment of a civil penalty or the imposition of a criminal fine. In sum, the Act treats sanctions against the fishing vessel permit to be the carrying out of a purpose separate from that accomplished by civil and criminal penalties against the vessel or its owner or operator.

§ 621.3 Filing and service of documents.

(a) Whenever the regulations in this part require service of a document or other paper, such service may effectively be made on the agent for service of process or on the attorney for the person to be served. Refusal by the person to be served, or his agent or attorney, of service of a document or other paper shall be considered effective service of the document or other paper as of the date of such refusal.

(b) Whenever the regulations in this Part or in an order issued hereunder require a document or other paper to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is re-

quired. Time periods shall begin to run on the day following the date of the document, paper, or event which begins the time period and, unless otherwise provided by law or these regulations, includes the last day of the period, unless such day is a Saturday, Sunday, or Federal holiday, in which event it includes the next following day which is not a Saturday, Sunday, or Federal holiday.

(c) If an oral or written application is made to the Director within 10 calendar days after the expiration of a time period established in this Part for the required filing of documents or other papers, the Director may permit a late filing if he finds reasonable grounds for an inability or failure to file within the time period. All such extensions shall be in writing. Except as provided in this paragraph or by order of an administrative law judge under Subpart C of this Part, no requests for an extension of time may be granted.

§ 621.4 Definitions.

Unless the context otherwise requires, terms in these regulations have the meanings prescribed in section 3 of the Act, and special reference is made to the following terms: "Fishery conservation zone," "fishery resource," "fishing vessel," and "Secretary." In addition, the following definitions apply:

(a) *Act.* Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 to 1882.

(b) *Director.* Director, National Marine Fisheries Service, or his designee.

§§ 621.5–621.20 [Reserved]

Subpart B—Assessment Procedure

§ 621.21 Notice of violation.

(a) A notice of violation shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice of violation shall contain: (1) A concise statement of the facts believed to show a violation; (2) a specific reference to the provisions of the Act, regulation, permit, or governing international fishery agreement allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall advise the respondent of his right to file a petition for relief pursuant to § 621.22 of this part, or to await the Director's notice of assessment.

(b) The respondent shall have 45 calendar days from the date of the notice of violation in which to respond. During this time he may:

(1) Undertake informal discussions with the Director;

(2) Accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) File a petition for relief; or

(4) Take no action, and await the Director's decision under § 621.23 of this part.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 621.24 of this part and of the opportunity described in § 621.25 of the part for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 621.22 Petition for relief from proposed assessment.

The respondent may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief from the proposed assessment with the Director at the address specified in the notice within 45 calendar days of the date thereof. The petition shall be in writing and signed by the respondent, his attorney, or his designated agent for service of process. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition must set forth in full the legal or other reasons for the relief requested and should, if addressed to the amount of penalty to be assessed, be responsive to the factors in § 621.23 of this part which will guide the Director in this respect.

§ 621.23 Decision by the Director.

Upon expiration of the period provided in § 621.22 of this part for the filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into account information available to him concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, including such showing as may have been made by the respondent pursuant to §§ 621.21 (informal discussions), 621.22 (petition for relief) of this part, or upon further request by the Director.

§ 621.24 Notice of assessment.

The Director shall serve notice on the respondent personally or by registered or certified mail, return receipt requested, of his decision pursuant to § 621.23 of this part. The notice of assessment shall set forth the facts and conclusions upon which the Director decided that the violations charged were committed by the respondent and that the penalty assessed is appropriate.

§ 621.25 Request for hearing.

Except where a right to request a hearing is deemed to have been waived by operation of § 621.21(c) (by acceptance of the proposed penalty or compromise) of this part, the respondent may, within 45 calendar days of the date of notice of assessment, file a dated written request for a hearing. The request should state the respondent's preference as to the place and date for a hearing and should either enclose a copy of the notices of violation and assessment or refer to the National Marine Fisheries Service file number. The request must be served upon the Director personally or by registered mail, return receipt requested, at the address specified in the notice of assessment.

§ 621.26 Final administrative decision.

(a) If no request for a hearing is filed as provided in § 621.25 of this part, the Director's assessment shall become effective and shall constitute the final administrative decision and order of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for hearing is timely filed in accordance with § 621.25 of this part, the date of the final administrative decision in the matter shall be as provided in Subpart C of this Part 621.

§ 621.27 Payment of final assessment.

(a) Respondent shall make full payment of the civil penalty assessed within 30 calendar days of the date upon which the assessment becomes effective as the final administrative decision and order of the Secretary under § 621.26, or § 621.41 of this part, or, if judicial review of the assessment is initiated under section 308(b) of the Act during such 30 day period, within 10 calendar days after the appropriate court has entered final judgment in favor of the Secretary (unless the court's order provides otherwise). Payment shall be made by mailing or delivering to the Director at the address specified in the notice of assessment a check or money order made payable in the amount of the assessment to the "Treasurer of the United States."

(b) Upon any failure to pay the civil penalty assessed, the Director, through the General Counsel of the National Oceanic and Atmospheric Administration ("NOAA") or his designee, may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or the Director may take action under § 621.28 of this part.

§ 621.28 Compromise of civil penalty.

(a) In his sole discretion the Director may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty which has been imposed under this Part 621, or which is subject to such imposition.

(b) The compromise authority of the Director under this section shall be in addition to any similar power provided in the Act or in these regulations, and may be exercised either upon the initiative of the Director or in response to a request of the alleged violator or other interested person.

(c) If the Director takes action under this section prior to the issuance of a notice of violation pursuant to § 621.21 of this part or after a final assessment becomes payable pursuant to § 621.26 or § 621.41 of this part he shall prepare a document indicating the action taken and citing this section and section 308 (d) of the Act as his authority. Once a case has been assigned for hearing under § 621.31 of this part, the Director will, except in unusual circumstances, defer any compromise action under this section until the judge has rendered his written decision in the matter. Neither the exist-

ence of the compromise authority of the Director under this section nor the Director's exercise thereof at any time shall be considered to change the date upon which an assessment becomes effective, under other regulations in this Part 621, as the final administrative decision and order of the Secretary.

(d) If compromise action is requested or otherwise becomes appropriate for the Director's consideration during the pendency of a petition for relief from forfeiture, filed under Subpart E of this part, the Director may consolidate in a manner consistent with the provisions of Subpart E his consideration of the two matters.

Subpart C—Hearing and Appeal Procedures

§ 621.31 Commencement of hearing procedures.

(a) Following receipt of a writen request for hearing filed in a timely manner in accordance with § 621.25 of Subpart B of this part, the Director will commence proceedings under this Subpart V by the assignment of an administrative law judge to the case. Written notice of the assignment shall promptly be given to the respondent, together with the name and address of the attorney who will represent the Director in the proceedings (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the administrative law judge and a copy served on the opposing party (respondent or agency representative).

(b) The Director shall file with the administrative law judge, and furnish to the respondent and agency representative, a copy of the notices of violation and assessment, any response of the respondent thereto, other correspondence exchanged by the respondent and the Director, and other pertinent documents and materials.

§ 621.32 Ex parte communications.

(a) For purposes of this section, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports.

(b) Upon assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, neither the judge nor any of the following agency employees shall make or knowingly cause to be made to any interested person outside the Department of Commerce an ex parte communication relevant to the merits of the proceeding:

Director, Deputy Director, Associate Director, Assistant Director for Fisheries Management, Enforcement Division Chief, and all Regional Directors, National Marine Fisheries Service.

(c) Upon notice of the assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, no interested person outside the Department of Commerce shall make or knowingly cause to be made to the judge or to an agency employee listed in paragraph (a) of this section an ex parte communication relevant to the merits of the proceeding.

(d) An agency employee or judge who makes or receives a prohibited communication shall cause to be placed in the hearing record the communication and any response thereto and the judge, or Director, as appropriate, may take action in this respect consistent with these regulations, the Act, and 5 U.S.C. sections 556(d) and 557(d).

(e) This section shall not apply to communications to or from the agency representative; however, the agency representative may not participate or advise in the initial decision of the judge or the agency review thereof except as witness or counsel in the proceeding in accordance with the regulations in this part. This section shall be interpreted so as not to diminish the compromise authority of the Director under § 621.28 of this part. In addition to the foregoing requirements of this section, the judge shall not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(Sec. 4, Pub. L. 94-409, 5 U.S.C. 557(d).)

§ 621.33 Duties and powers of judge.

(a) The administrative law judge shall have all powers and responsibilities necessary to preside over the parties and the proceeding, to hold pre-hearing conferences, to conduct the hearing, and to make the initial decision, in accordance with these regulations and 5 U.S.C. sections 554 and 557, including the authority and duty to:

(1) Rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, provided, however, that the respondent and the agency representative shall be parties; and provided further that the judge shall prior to ruling ascertain the views of the other parties and base his ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings;

(2) Ascertain, both prior to scheduling a hearing and at other times he considers appropriate, from the record at hand or upon further inquiry to the parties, whether a reasonable basis exists for settlement of the matter of simplification of the issues by consent; and hold conferences or otherwise require the parties to consider settlement or to simplify the issues;

(3) Schedule the time and place of the pre-hearing conference or hearing, continue the hearing from day to day, adjourn the hearing to a later date or a different place, and reopen the hearing at any time before issuance of his initial decision, all in his discretion, having due regard for the convenience and necessity of the parties;

(4) Regulate the course of the hearing and the conduct of the participants, including the power to establish rules for media coverage of the proceedings, to close the hearing in the interests of justice, and to strike testimony of a witness refusing to answer a question ruled to be proper;

(5) Administer oaths and affirmations;

(6) Rule on discovery requests and whenever the ends of justice would thereby be served, take or cause depositions or interrogatories to be taken;

(7) Receive, exclude, limit, and otherwise rule on offers of proof and evidence, provided that formal rules of evidence shall not apply to the proceeding; irrelevant, immaterial, unreliable, nonprobative, or unduly repetitious or cumulative evidence shall be excluded; and hearsay evidence shall not be inadmissible as such;

(8) Rule on motions, procedural requests, and similar matters;

(9) Examine and cross-examine witnesses and introduce into the record on his own initiative documentary or other evidence;

(10) Rule on requests for appearance of witnesses or production of documents and take appropriate action short of subpoena upon a failure of a party to effect the appearance or production of a witness or document ruled relevent and necessary to the proceeding;

(11) Require a party or witness at any time during the proceeding to state his position concerning any issue or his theory in support of such position;

(12) Take official notice of any matter not appearing in evidence which is among the traditional matters of judicial notice; or of technical, or scientific facts within the general or specialized knowledge of the Department of Commerce as an expert body; or of a nonprivileged document required by law or regulation to be filed with or prepared or published by a duly constituted Government body; or of any public document reasonably available to the public; provided, that the parties shall be advised of the matter so noticed and given reasonable opportunity to show the contrary; and

(13) Prepare and submit the initial decision and certify the record in accordance with § 621.39 of this part.

(b) The judge shall enter no order which purports in and of itself to effectuate the forfeiture of any property seized or otherwise detained in connection with the proceedings, except that:

(1) He may take account in an order of dismissal or similar decree under § 621.36 of this part that voluntary forfeiture of such property forms a part of a settlement agreement between respondent and the agency representative; or

(2) He may recommend to the Director at the time the initial decision is submitted under § 621.39 of this part that the Director either pursue or not pursue forfeiture or that the Director respond affirmatively to a petition for relief from forfeiture submitted under Subpart E of this part.

(c) The judge shall enter no order which purports in and of itself to revoke, suspend, or modify any permit issued under the Act to a vessel used in the commission of a violation which is a subject of the proceeding, except that:

(1) He may receive for the record, on his own initiative or at the request of a party, evidence otherwise admissible which is relevant to the question of what vessel was invoked in the commission of the violations with which respondent has been charged and to the question of what revocation, suspension, or modification of the permit (or, if the permit was issued under section 204(b) of the Act, what modification of all permits issued to the nation under whose flag such vessel operates) the Director might appropriately order pursuant to Subpart D of this part; and

(2) He may recommend to the Director at the time the initial decision is submitted under § 621.39 of this part that the Director pursue or not pursue certain permit sanctions under Subpart D of this part.

§ 621.34 Participation by parties.

(a) The respondent and agency representative and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of his case or defense, and conduct oral argument at the close of testimony, provided, however, that this section shall not be interpreted to diminish the powers and duties of the judge provided in § 621.33 of this part.

(b) Failure of the respondent, agency representative, or other party to appear at the hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

§ 621.35 Record.

(a) The Director shall provide the services of an official reporter to transcribe verbatim the testimony taken and arguments made in the hearing. Copies of the official transcript may be obtained from the reporter upon payment of the applicable rates fixed by the contract with the reporter.

(b) The official transcript, exhibits, briefs, requests, and other documents and papers filed or officially noticed in the proceeding shall constitute the exclusive record for decision.

§ 621.36 Settlements.

An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final administrative decision of the Secretary, shall terminate the proceedings and vacate any initial or administrative appellate decision which has been issued. However, if settlement is reached before the judge has submitted his initial decision and certified the record under § 621.39 of this part, the judge may require submission to him of a copy of the agreement solely to assure himself that his consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

§ 621.37 Interlocutory appeals.

(a) At the request of a party or on his own motion, the judge may certify to the Director for review a ruling which does not finally dispose of the proceeding if the judge determines that such ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter before him.

(b) Upon certification to him by the judge of an interlocutory ruling for review, the Director shall expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 calendar days of certification. The Director's order on a interlocutory appeal shall not be considered the final administrative decision of the Secretary except by operation of other provisions in this part.

(c) No interlocutory appeal shall lie as to any ruling not certified to the Director by the judge. Objections to noncertified rulings shall be a part of the record and shall be subject to review at the same time and in the same manner as the Director's review of the initial decision of the judge upon any appeal therefrom under § 621.40 of this part.

§ 621.38 Proposed findings and conclusions.

Unless a different schedule is established by the judge in his discretion, the parties may file proposed findings of fact and conclusion of law, together with supporting briefs, within 30 calendar days after the judge closes the hearing. Reply briefs may be submitted within 15 calendar days after receipt of the proposed findings are conclusions to which they respond, unless the judge sets a different schedule.

§ 621.39 Initial decision.

(a) After expiration of the period provided in § 621.38 of this part for filing reply briefs, the judge shall render a written initial decision upon the record in the case, setting forth therein:

(1) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge shall not be bound by the amount proposed or assessed in the notice of violation, notice of assessment, or elsewhere, but shall decide the matter de novo, stating his reasons in view of the applicable factors which must be considered, as set forth in section 308(a) of the Act and § 621.23 of this part;

(2) Reasons for the rejection of findings and conclusions proposed by the parties;

(3) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(4) Such other matters as he considers appropriate, including his recommendations, if any, regarding forfeiture action and permit sanctions, as described in paragraphs (b) and (c) of § 621.33 of this part.

(b) The judge shall submit the initial decision to the Director, serve copies on the parties, and transmit to the Director the record of the proceeding together with his certification to the effect that, to the best of his knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

§ 621.40 Appeals.

(a) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Director, at the address specified in the notice of assessment, within 45 calendar days of the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellant takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on the other parties.

(b) The Director shall decide the appeal upon the record already made or he may issue orders specifying the filing of supplemental briefs, remanding the matter for the receipt of further evidence by an administrative law judge, or otherwise assisting in his determination of the matter.

(c) The decision of the Director shall be in writing and shall state the reasons for his acceptance or rejection of exceptions taken by the appellant. To the extent the Director's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision shall be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

§ 621.41 Final decision.

(a) Unless a notice of appeal is timely filed in accordance with § 621.40, the initial decision of the judge shall become effective and shall constitute the final administrative decision and order of the Secretary on the 45th calendar day from the date it is rendered.

(b) If a notice of appeal is timely filed as provided in § 621.40 of this part, the Director's decision thereon shall become effective and shall constitute the final administrative decision and order of the Secretary on the date thereof, or as otherwise specified by the Director in the decision.

Subpart D—Permit Sanctions

§ 621.51 Application of subpart.

The provisions of this subpart shall govern the revocation, suspension, and modification of any permit issued under the Act for a fishing vessel, including:

(a) Permits issued for foreign fishing vessels pursuant to section 204(b) of the Act in respect to a governing international fishery agreement;

(b) Registration permits issued for foreign fishing vessels pursuant to sec-

tion 204(c) of the Act with respect to an existing international fishery agreement, except to the extent that such agreement is inconsistent with the provisions of this subpart; and

(c) Permits issued for fishing vessels of the United States in accordance with section 303(b)(1) of the Act and regulations issued by the Secretary under section 305 of the Act implementing a fishery management plan, except to the extent such regulations are inconsistent with the provisions of this subpart.

§ 621.52 Basis for sanctions.

(a) The Director may take action under this subpart with respect to a permit issued under the Act for a fishing vessel if:

(1) The fishing vessel for which the permit was issued has been used in the commission of an offense prohibited by section 307 of the Act; or

(2) A civil penalty pertaining to a fishing vessel for which the permit was issued has been assessed under Subparts B or C of this Part 621 but full payment of the penalty has not been made in accordance with § 621.27 of this part; or

(3) A criminal fine pertaining to a fishing vessel for which the permit was issued has been imposed under section 309 of the Act but full payment of the fine has not been made in accordance with the Court's decree.

(b) If the provisions of subparagraphs (a)(2) or (a)(3) of this section are met and the fishing vessel involved is a foreign fishing vessel the permit for which was issued under section 204(b) of the Act in respect to a governing international fishery agreement, the Director shall take action under this subpart with respect to such permit.

(c) Any permit which is suspended solely on the basis described in subparagraph (a)(2) of this section shall be reinstated by affirmative order of the Director promptly upon his receipt, in the manner prescribed by § 621.27 of this part, of full payment of the civil penalty assessed, together with interest thereon at the annual rate of 6 per cent computed from the date payment first became overdue under § 621.27 of this part.

§ 621.53 Nature of sanctions.

In his discretion and subject to the requirements of this subpart, the Director may take any of the following actions or combinations thereof with respect to a permit issued under the Act:

(a) Revoke the permit and, if appropriate, prohibit the issuance of a permit in future years to the fishing vessel involved, or impose additional requirements for such future issuance;

(b) Suspend the permit, either for a specified period of time or until certain stated requirements are met, or both;

(c) Modify the permit, as by imposing additional conditions and restrictions thereon and, if the permit was issued for a foreign fishing vessel operating under a governing international fishery agreement, by imposing additional conditions and restrictions on the application of the foreign nation involved which was approved under section 204 of the Act, and on any of the permits issued under such application.

§ 621.54 Notice of permit sanction.

(a) The Director shall prepare a notice of permit sanction setting forth the sanction to be imposed and the basis therefor. If an opportunity for hearing is provided by § 621.55 of this Part, the notice will advise that the permit holder has 30 calendar days from receipt of the notice in which to request or waive a hearing. The notice shall further state the effective date of the sanction, which shall not be earlier than 30 calendar days after the date of the notice unless the Director takes action under paragraph (c) of this section. If a hearing opportunity is provided and a hearing is requested in a timely manner, the sanction shall become effective pursuant to § 621.56 of this Part, unless the Director provides otherwise pursuant to his authority under paragraph (c) of this section.

(b) The notice of permit sanction shall be served personally or by registered or certified mail, return receipt requested, on the owner or operator of the fishing vessel for which the permit was issued. However, if the vessel is a foreign fishing vessel, service shall be made on the agent for service of process for such owner or operator, except that if no agent for service of process has been appointed, or if the identity or location of such agent is unknown to the Director, service may be made on the consular or other officials of the foreign nation involved through, and as considered appropriate by, the U.S. Department of State.

(c) The Director may make the permit sanction effective immediately or otherwise earlier than 30 days after the date of the notice of permit sanction if he finds, and summarizes such finding and the basis therefor in the notice, that substantial harm to a fishery resource of the United States may result from a later effective date. If an opportunity for hearing in respect to a permit sanction made effective under this paragraph is provided by § 621.55 of this Part, the Director shall expedite the hearing process.

§ 621.55 Opportunity for hearing.

(a) The owner or operator of the fishing vessel for which the permit was issued, or his designated agent for service of process, shall have 30 calendar days from receipt of the notice of permit sanction to request a hearing. The Director, shall not, however, be required to hold a hearing if such owner or operator had, with respect to the violation which forms the basis for the permit sanction, the previous opportunity to participate as a party in a judicial hearing on a criminal charge brought under section 309 of the Act or in an administrative hearing on a civil penalty action initiated under section 308 of the Act and Subparts B and C of this Part, whether or not he so participated in such a hearing, and whether or not such a hearing was held.

(b) If no hearing opportunity is required by paragraph (a) of this section, the Director may nonetheless order a hearing if he determines that there are material issues of fact or equity to be further explored.

§ 621.56 Hearing and decision.

(a) If a timely request for the hearing provided by § 621.55(a) of this Part is received or the Director orders a hearing under § 621.55(b) of this Part, the Director shall appoint a hearing examiner to conduct a fact-finding inquiry into the matter.

(b) If the Director has initiated sanctions under § 621.53(c) of this part as to more than one permit and has received hearing requests properly made under § 621.55 of this Part from the owners or operators of two or more of the affected fishing vessels, he may order the hearings to be consolidated into a single proceeding.

(c) The hearing examiner shall hold an informal hearing in the matter and expeditiously thereafter furnish the Director a report with recommendations.

(d) Upon receipt of the report and recommendations of the hearing examiner, the Director shall as soon as practicable decide the matter and serve notice of his decision on the permit holder in the manner provided by § 621.54(b). The decision of the Director shall be final and unappealable.

§§ 621.57—621.60 [Reserved]

Subpart E—Remission of Forfeitures

§ 621.61 Application of subpart.

(a) Authorized enforcement officers are empowered by section 311 of the Act to seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) which reasonably appears to have been used in violation of the Act, of any permit or regulation issued pursuant to the Act, or of any applicable international fishery agreement. Enforcement agents may also seize illegally taken or retained fish, as well as other evidence related to a violation. Section 310 provides for the judicial forfeiture of such vessels and fish. This subpart establishes procedures for filing with the Director a petition for relief from forfeitures incurred or alleged to be authorized under section 310 of the Act.

(b) For purposes of this Part, the "remission or mitigation of a forfeiture" or "relief from forfeiture" means action by the Director, following coordination as necessary with other federal agencies and the courts, to release from the custody of the United States property seized and subject to forfeiture under the Act, or part of such property, upon compliance with any terms and conditions set by the Director, such as payment of a stated amount in settlement of the forfeiture aspects of a violation. Although the Director may properly combine his consideration of a petition for relief from forfeiture with other consequences of a violation of the Act, his action in remission or mitigation of a forfeiture shall

not be considered dispositive of a criminal charge which may be filed under section 309 of the Act, or a civil penalty which may be assessed under Subparts B and C of this Part, or a permit sanction which may be imposed under Subpart D, unless the action expressly so states. Remission or mitigation of a forfeiture is in the nature of executive clemency granted in the sole discretion of the Director only when consistent with the purposes of the Act and the provisions of this subpart.

§ 621.62 Petition for relief from forfeiture.

(a) Any person having an interest in a fishing vessel, fish, or other property seized and subject to forfeiture under the Act may file a petition for relief from such forfeiture. The petition shall be addressed to the Director and filed within 60 days of the seizure by mailing or delivering the petition to the Regional Director, National Marine Fisheries Service, nearest to the place where such property is held:

Seattle, Washington 98109
Terminal Island, California 90731
Juneau, Alaska 99801
Gloucester, Massachusetts 01930
St. Petersburg, Florida 33702

(b) The petition need not be in any particular form, but shall set forth the following:

(1) A description of the property seized;

(2) The date and place of the seizure;

(3) The interest of petitioner in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;

(4) The facts and circumstances relied upon by petitioner to justify the remission or mitigation;

(5) Any request for release under § 621.66 of all or part of the seized property pending final decision on the petition, together with any offer of payment petitioner makes in return for such release, and the facts and circumstances relied upon by petitioner in the request; and

(6) The signature of petitioner, his attorney, or other authorized agent. A false statement in a petition will subject petitioner to prosecution under 18 U.S.C. 1001.

§ 621.63 Investigation.

The Director shall promptly cause an investigation to be made of the facts and circumstances shown by the petition and the seizure, and he may in this respect appoint an examiner to find the facts, by informal hearing on sworn testimony or otherwise, and to prepare a report with recommendations.

§ 621.64 Decision on petition.

(a) After the investigation authorized by § 621.63, the Director shall decide the matter and notify petitioner. The Director may remit or mitigate the forfeiture, on such terms and conditions as under the Act and the circumstances he deems reasonable and just, if he finds:

(1) That the forfeiture to which the property is subject was incurred without willful negligence and without any intention on the part of petitioner to violate the Act; or

(2) That other circumstances exist which justify remission or mitigation of the forfeiture.

(b) Unless he determines no valid purpose would thereby be served, the Director will condition a decision to remit or mitigate a forfeiture upon the submission by petitioner of an agreement, in a form satisfactory to the Director, to hold the United States and its officers or agents harmless from any claim based on loss of or damage to the seized property. If petitioner is not the beneficial owner of the property, the Director may require petitioner to submit such an agreement executed by the beneficial owner. The Director may also require that the property be promptly exported from the United States.

§ 621.65 Compliance with decision.

A decision by the Director to remit or mitigate the forfeiture upon stated conditions, as upon payment of a specified amount, shall be effective for 60 days after the date of the decision. If petitioner has not within such period complied with the stated conditions, in the manner prescribed by the decision, or made arrangements satisfactory to the Director for later compliance, the matter will promptly be referred to the Attorney General of the United States to effect judicial forfeiture in full of the seized property to the United States under section 310 of the Act.

§ 621.66 Release of seized property pending decision.

(a) Upon request in the petition for relief from forfeiture, and taking account of any interim report or recommendation of an examiner appointed under § 621.63, the Director may order the release, pending final decision on the petition, of all or part of the seized property upon payment by petitioner of the full value of the property to be released or such lesser amount as the Director in his sole discretion deems sufficient to protect the interests served by the Act.

(b) If the Director grants the request, he will cause the amount paid by petitioner to be deposited in a suspense account maintained for the purpose. The amount so deposited shall for all purposes be considered to represent the property seized and subject to forfeiture under the Act and payment of the amount by petitioner constitutes a waiver of any claim of defective seizure, custody and control, commingling of proceeds, or related defenses. The Director will cause records to be kept of amounts deposited in the suspense account and will retain such deposits pending his further order or a court order issued under sections 310 or 311 of the Act.

(c) The provisions of paragraph (b) of § 621.64 of this Part will apply to a release of property made under this section.

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