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DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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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H.J. Res. 24..... Pub. L. 95–72
To provide for the designation of a week as "National Lupus Week". (July 25, 1977; 91 Stat. 282). Price: $.35.

H.R. 5638..... Pub. L. 95–73
To amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada. (July 26, 1977; 91 Stat. 283). Price: $.35.

H.R. 7636..... Pub. L. 95–74
Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes. (July 26, 1977; 91 Stat. 285). Price: $.40.

Table of Effective Dates and Time Periods—August 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

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
FSQS—Food Safety and Quality 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
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
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
DLA—Defense Logistics 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
HCFA—Health Care Financing 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
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—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
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

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
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
BRB—Benefits Review Board
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

ATBCB—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
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
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/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
ROAP—Reorganization, Office of Assistant to President
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

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

1976/1977 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 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 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
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
9	6.80
10 Parts:	
0-199	4.40
200-end	4.60
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20
14 Parts:	
1-59	6.00
60-199	5.10
200-1199	6.20
1200-end	2.20
15	5.35
16 Parts:	
0-149	5.50
150-999	4.25
1000-end	3.00

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

Title	Price
17	$6.75
18 Parts:	
1-149	4.25
150-end	$4.00
19	5.75
20 Parts:	
01-399	3.25
500-end	4.00
21 Parts:	
1-99	3.25
100-199	$4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
23	5.50
26 Parts:	
1 (§§ 1.501-1.640)	$4.00
300-499	4.35
600-end	2.40

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

28	$3.10
29 Parts:	
0-499	7.30
500-1899	5.50
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
34	1.00
35	3.50
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]	

Title	Price
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
70-79	4.90
80-end	6.20
48 [Reserved]	
49 Parts:	
1-99	2.05
100-199 (Rev. 12/31/76)	6.50
200-999	7.55
1000-1199	3.95
1200-1299	7.40
1300-end	3.60
50	4.20

Title 4—Accounts

CHAPTER II—FEDERAL CLAIMS COLLECTION STANDARDS (GENERAL ACCOUNTING OFFICE—DEPARTMENT OF JUSTICE)

PART 105—REFERRALS TO GAO OR FOR LITIGATION

Minimum Amount of Referrals to the Department of Justice

AGENCIES: General Accounting Office, Justice.

ACTION: Final rule.

SUMMARY: This rule raises from $400 to $600, exclusive of interest, the minimum amount of claims for referral by agencies of the United States to the Department of Justice for collection. This increase is based on inflation since 1970 when the existing $400 minimum was established. This is intended to reduce the number of claims referred to the Department of Justice for suit.

FOR FURTHER INFORMATION CONTACT:

Daniel P. Leary, Director of the Claims Division, General Accounting Office (202-275-3102).

Accordingly, 4 CFR Part 105 is revised to read as follows:

Section 105.6 of the Federal Claims Collection Standards (General Accounting Office—Department of Justice), 4 CFR 105.6, is revised so as to read:

§ 105.6 Minimum amount of referrals to the Department of Justice.

Agencies will not refer claims of less than $600, exclusive of interest, for litigation unless (a) referral is important to a significant enforcement policy or

(b) the debtor has not only the clear ability to pay the claim but the Government can effectively enforce payment having due regard to the exemptions available to the debtor under State or Federal Law and the judicial remedies available to the Government.

Dated: July 7, 1977.

GRIFFIN BELL,
Attorney General of the United States.

Approved: May 18, 1977.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.77-21977 Filed 7-29-77;8:45 am]

Title 7—Agriculture

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

[Valencia Orange Regulation 565, Amendment 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 22-28, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period July 22-28, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.865, Valencia Orange Regulation 565 (42 FR 37353) are hereby amended to read as follows:

§ 908.865 Valencia Orange Regulation 565.

* * * * *

(b) * * *

(1) * * *

(i) District 1: 273,000 cartons;

(ii) District 2: 427,000 cartons.

* * * * *

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

Dated: July 27, 1977.

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

[FR Doc.77-22074 Filed 7-29-77;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Authorization of Officer in Charge Charlotte Amalie, Virgin Islands To Issue Orders To Show Cause

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Immigration and Naturalization Service will authorize the Officer in Charge of this Service at Charlotte Amalie, Virgin Islands, to issue orders to show cause and notices of hearing to commence proceedings to determine the deportability of an alien. The amendment is necessary because Service investigative activity in the Virgin Islands has resulted in the issuance of increasing numbers of orders to show cause. At the present time these documents must be requested by telephone from the District Director at San Juan, Puerto Rico and subsequently confirmed in writing. The Service intends to eliminate the need for and cost of this additional work by amending the regulations to authorize the Officer in Charge at Charlotte Amalie, Virgin Islands to issue orders to show cause and notices of hearing.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. (202-376-8373.)

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 242.1(a) is being published in accordance with section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1.

This amendment will authorize the Officer in Charge at Charlotte Amalie, Virgin Islands to issue orders to show cause in order to commence proceedings to determine the deportability of an alien. Charlotte Amalie is under the administrative jurisdiction of the District Director at San Juan, Puerto Rico and orders to show cause needed to commence deportation proceedings against aliens in the Virgin Islands must now be issued by the District Director at San Juan. The usual practice is for the Officer in Charge at Charlotte Amalie to make the request for issuance of the documents by telephone with subsequent confirmation by mail. This procedure leaves a substantial margin for error especially in these cases where deportation charges involve multiple issues. During the period July 1976 through March 1977 Service investigative activity at St. Thomas and St. Croix, Virgin Islands, generated issuance of 923 orders to show cause. These documents had to be requested by telephone and confirmed by mail because the Officer in Charge at Charlotte Amalie did not have authority to issue orders to show cause. Authorizing the Officer in Charge at Charlotte Amalie to issue orders to show cause will save the time and expense now expended requesting these documents by telephone and awaiting written confirmation by mail from San Juan, and enable the Officer in Charge at Charlotte Amalie to operate more efficiently in this area of Service responsibility. Accordingly, 8 CFR 242.1(a) will be amended by adding the Officer in Charge at Charlotte Amalie, Virgin Islands to the list of Service officers authorized to issue orders to show cause.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations will be revised as set forth below:

In Part 242, § 242.1(a) will be amended by adding Charlotte Amalie, Virgin Islands in alphabetical sequence to the

list of offices indicated in the third sentence thereof. As amended, the third sentence reads as follows:

§ 242.1 Order to show cause and notice of hearings.

(a) *Commencement.* * * * Orders to show cause may be issued by district directors, acting district directors, deputy district directors, assistant district directors for investigations, and officers in charge at Albany, N.Y.; Charlotte Amalie, Virgin Islands; Cincinnati, Ohio; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Oklahoma City, Okla.; Pittsburgh, Pa.; Providence, R.I.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

* * * * *

(Secs. 103, 242, (8 U.S.C. 1103, 1252).)

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment pertains to agency organization and management.

Effective date: The amendment contained in this order will become effective on August 1, 1977.

Dated: July 27, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-22034 Filed 7-29-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 0—CONDUCT OF EMPLOYEES

Outside Employment and Other Activity

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations pertaining to the "Conduct of Employee." Since it is often difficult for NRC employees to determine what constitutes a conflict of interest with respect to outside employment or other activities, the Commission deemed it appropriate to specify these proscriptions in greater detail as set forth in the amendments which follow.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (301-634-1465).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission gives notice herewith that it has amended 10 CFR 0.735-40. NRC regulations presently prohibit NRC employees from engaging in any employment or outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Since it is often difficult for employees to determine what constitutes a conflict of interest with respect to outside employment or other activities, the Commission deemed it appropriate to specify these proscriptions in greater detail as set forth in the amendments which follow.

Because these amendments relate solely to matters of agency management of personnel, good cause exists for omitting notice of proposed rule making, and public procedure thereon.

Pursuant to section 2201(p) of Title 42 of the United States Code, Executive Order 11222 of May 8, 1965, 5 CFR 735-104, and sections 552 and 553 of Title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Part 0 are published as a document subject to codification.

In § 0.735-40, 1. the prefatory language of paragraph (a) is revised to read as follows: subparagraph (2) of § 0.735-40 (a) is redesignated as subparagraph (3); and a new subparagraph (2) is added as follows; 2. Paragraph (b) is revised to read as follows; 3. A new paragraph (f) is added as follows; 4. Paragraph (g) is revised to read as follows; 5. and paragraph (h) is added to read as follows.

§ 0.735-40 Outside employment and other outside activity.

(a) There is no general prohibition against employees engaging in outside employment or other outside activity; except that no employment or activity may be undertaken which is not compatible with the full and proper discharge of the duties and responsibilities of the employee's Government employment. Incompatible activities include but are not limited to:

(1) * * *

(2) Acceptance of any employment, fee, compensation, or payment of expense, from (i) A Commission licensee; (ii) an applicant for Commission license; (iii) an organization directly engaged in activities in the commercial nuclear field; (iv) a Commission contractor; (v) a Commission supplier; (vi) holder of a license issued by a State pursuant to an agreement between the Commission and the State; (vii) a trade association which represents clients concerning nuclear matters; or (viii) a law firm or other organization which is participating in an NRC proceeding or which regularly represents itself or clients before the NRC, unless written authorization is received pursuant to § 0.735-40(b). Ordinarily, an employee will be authorized to serve as an instructor at an academic institution which holds a Commission license, or to engage in other proposed activities of a similar character.

* * * * *

(b) In any case in which there is a question as to the propriety of outside employment in which an employee proposes to engage, or where prior written authorization is required pursuant to § 0.735-40(a)(2), the employee's office or division head shall prepare and transmit the following information to the appropriate individual(s) specified in paragraph (f) of this section: (1) Name and job title of the employee involved; (2) A brief summary of the employee's official NRC duties; (3) A brief description of the proposed employment or outside activity, including the compensation to be received; (4) The name and nature of the business of the employing individual or organization; (5) His views whether the outside employment or activity should be authorized.

* * * * *

(f) Employees of offices reporting to the Commission through the Executive Director for Operations must receive the written authorization of the Executive Director for Operations before engaging in activities covered by paragraphs (a)(2) and (b) of this section. The Executive Director for Operations before making his decision shall consult with the head of the employee's office or division and with the counselor or deputy counselor. Employees of boards, panels, and offices reporting directly to the Commission must receive the written authorization of the head of their office before engaging in activities covered by Paragraphs (a)(2) and (b) of this section. The head of the employee's office before making his decision shall consult with the counselor or deputy counselor before making his decision.

(g) Bona fide reimbursements for expenses of travel and such other necessary subsistence may be acepted if (1) It is not prohibited by paragraph (a) of this section, (2) if reimbursement from the government is not received; and (3) it is not proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967, or otherwise prohibited by law. Questions concerning application of the Comptroller General's decision should be referred to the counselor. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(h) An employee is not precluded by this § 0.735-40 or § 0.735-42 from:

(1) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization.

Dated at Washington, D.C., this 27th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22089 Filed 7-29-77;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Crude Oil Prices; Price Schedule for August 1977

AGENCY: Federal Energy Administration.

ACTION: Issuance of crude oil price schedule.

SUMMARY: This action extends for one month, until August 31, 1977, the price ceilings applicable to first sales of lower and upper tier crude oil which have prevailed since March 1, 1977. These price ceilings were intended to compensate by July 31, 1977, for all cumulative receipts in excess of those allowable under the statutory composite price limitation. These price ceilings are being continued in effect for an additional month as a precautionary measure, pending receipt of further actual price data, to assure compliance with statutory composite price requirements.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Edwin Mampe (Regulatory Programs), 2000 M Street NW., Room 2304E, Washington, D.C. 20461, 202–254–7200.

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5140A, Washington, D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION: Crude oil price controls are administered by the FEA under authority of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). Under the EPAA amendments enacted in 1975 by the Energy Policy and Conservation Act ("EPCA"), Congress provided FEA with flexibility to control domestic crude oil prices as long as the national weighted average first sale price (actual composite price) did not exceed $7.66 per barrel applicable to crude oil produced and sold in February, 1976 (statutory composite price). Beginning in March, 1976, FEA was authorized to increase the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price limitation may be adjusted upward at a rate not in excess of 10 percent annually.

Under FEA price regulations adopted to implement the statutory composite price restrictions, domestic crude oil is classified as lower tier (currently about 50 percent of total production), upper tier (about 36 percent) and stripper well (about 14 percent).

Stripper well crude oil, which is production from properties which have declined to a level of 10 barrels per day per well or less for a 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of the statutory composite price computation, stripper well crude oil is given an imputed value which approximates the average upper tier price (Section 121 of the Energy Conservation and Production Act, enacted August 14, 1976.).

Upper tier crude oil generally includes production from properties which first began producing after 1972 (except those which qualify as stripper well properties), plus incremental production from older properties which exceeds a certain base production level. The upper tier price (an average of about $11.00 per barrel currently) is generally designed to stimulate additional production from older properties and to encourage further exploration and development of domestic crude oil resources.

The lower tier price, which currently averages about $5.17 per barrel, applies to all U.S. production which is not exempt or which does not qualify as upper tier crude oil.

Under the two-tier pricing system established by the FEA on February 1, 1976, pursuant to the EPCA (41 FR 4931, February 3, 1976), the situation in February, 1976, was assumed to be as follows: Lower tier crude oil, estimated at 60 percent of total domestic production, was being sold at an average estimated price of $5.25 per barrel; upper tier crude oil (including, at that time, stripper well production), estimated at 40 percent of total domestic production, was being sold at an estimated average price of $11.28 per barrel; and the weighted average of the two tiers equalled the applicable statutory composite price for first sales of crude oil of $7.66 per barrel ($5.25×0.60+$11.26×0.40=$7.66)

FEA's Schedule No. 1 of Monthly Price Adjustments, issued effective March 1, 1976, pursuant to 10 CFR 212.77, provided for monthly increases in lower and upper tier price ceilings (41 FR 15566, April 13, 1976). Under this schedule, the full percentage amounts available to reflect the impact of inflation and to provide a production incentive were initially applied at equal rates to the upper and lower tier prices within the constraints of the adjusted statutory composite limit.

Adjustments to lower and upper tier price ceilings were also based on an estimated national decline rate of eight percent annually relating to lower tier crude oil production. It should be noted that as the percentage of upper tier crude oil increases relative to the percentage of lower tier crude oil, the composite or weighted average price of upper and lower tier crude oil increases automatically, even though there is no change in the upper tier or lower tier ceiling price. To illustrate this effect, a hypothetical lower/upper tier crude oil "mix" of 100 percent/0 percent would result in a "weighted average" price which equals the lower tier price (e.g., $5.25 per barrel) while the extreme opposite "mix" of 0 percent lower tier and 100 percent upper tier crude oil would result in a "weighted average" price which equals the upper tier price (e.g., $11.28 per barrel). Thus, using the foregoing illustrative prices, for each percentage point reduction in the amount of lower tier crude oil, there would be an increase of approximately six cents per barrel in the resulting actual composite price. Depending upon the magnitude of the shift in "mix" from lower tier crude oil toward upper tier crude oil, some or even all of the maximum 10 percent annual increase in the statutory composite price will be needed to account for this factor. Under the assumptions of Price Schedule No. 1, for example, the three percent annual price increase in the statutory composite price as a production incentive was projected increasingly to be accounted for by this shift effect rather than by actual increases in lower tier or upper tier crude oil prices, such that by mid-1978 the projected amount of the adjustments to the actual ceiling prices were reduced to levels which were less than the 6.8 percent rate of inflation then being used for projection purposes.

On June 30, 1976, FEA issued Price Schedule No. 2 which halted further monthly increases in ceiling prices for a period of two months, effective July 1, 1976, (41 FR 27730, July 6, 1976). Under this schedule, upper and lower tier crude oil price ceilings were held at the levels of June, 1976, for the months of July and August, 1976, in order to compensate for actual composite prices in excess of adjusted statutory composite price levels. This action was based primarily on actual preliminary data for February and March, 1976, indicating that the percentage of lower tier crude oil in February, 1976, was in the range of 56–57 percent, rather than 60 percent as previously estimated by FEA, and that the actual average lower and upper tier prices were about $5.07 and $11.44 per barrel, respectively, rather than $5.25 and $11.28 per barrel as estimated earlier. In addition, the applicable rate of inflation dropped from 6.8 percent to 3.5 percent on an annual basis. These factors prompted FEA to halt further monthly crude oil price increases temporarily until additional data could be received and analyzed.

Based on additional data available in August, 1976, FEA extended the freeze on lower and upper tier price ceilings for an additional 3 months, until November 30, 1976, by issuance of Price Schedule No. 3 (41 FR 37311, September 3, 1976). Final data for February–May, 1976, and preliminary data for June, 1976, confirmed the need for restrictions on further price increases in order to offset actual composite price receipts in excess of the statutory composite price limitation. Cumulative excess receipts were then estimated to be $120 million through June, 1976.

On November 6, 1976, FEA issued a notice of proposed rulemaking (41 FR 50960, November 18, 1976), proposing alternative means (including price rollbacks) in order to compensate for cumu-

lative excess receipts, which continued to increase despite the freeze on lower and upper tier price ceilings in effect since July 1, 1976. Shortly thereafter, on November 30, 1976, FEA issued Price Schedule No. 4, extending the crude oil ceiling price freeze for an additional month, until December 31, 1976 (41 FR 53333, December 6, 1976) with a view toward obtaining additional data before considering further corrective action. At the same time, FEA adopted an amendment to § 212.77 providing FEA with authority to reduce ceiling prices to the extent deemed necessary by FEA to achieve compliance with the FEAA.

Under Price Schedule No. 5, effective January 1, 1977 (42 FR 1456, January 7, 1977) FEA extended the freeze applicable to lower tier price ceilings and reduced upper tier price ceilings by 20¢ per barrel. This action was based on actual cumulative excess receipts of about $197 million as of September, 1976, and projected cumulative excess receipts of $270 million by December 31, 1976. The increases in cumulative excess receipts were attributed by FEA largely to a regulatory amendment to the definition of "property" and to a statutory amendment relating to the period for qualification for the stripper well exemption (both effective September 1, 1976) which caused a significant drop in the percentage of lower tier crude oil between August and September, 1976, and which could be expected to cause further greater-than-normal declines in the percentage of lower tier crude oil through November, 1976. (The effect on the actual composite price of such shifts in the proportion of lower tier crude oil was noted above.)

Data available in February, 1977, indicated that cumulative excess receipts were about $320 million as of December, 1976, or about $50 million in excess of the $270 million projected for December at the time of issuance of Price Schedule No. 5, due to a greater decline in the percentage of lower tier crude oil than anticipated. Consequently, Price Schedule No. 6, issued effective March 1, 1977 (42 FR 13013, March 8, 1977) provided for an additional reduction of 45¢ per barrel in upper tier price ceilings, and a continuation of the previous freeze on lower tier price ceilings, both to be continued until July 31, 1977. This action was intended to assure that cumulative excess receipts would be reduced to zero by that date.

The following table summarizes on a monthly basis the status of cumulative excess receipts since February, 1976, as described in the foregoing discussion, including the decline in such receipts since January 1, 1977. Data for April, 1977 are preliminary and data for May through August, 1977 are projected, based on the latest data available to FEA.

Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price [1]	Cumulative excess receipts (in millions)
1976:						
February	56.12	$5.05	$11.48	$7.66	$7.87	$49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	7.88	7.99	123
July	55.58	5.19	11.60	7.93	8.04	152
August	55.68	5.18	11.62	7.98	8.03	164
September	53.41	5.17	11.65	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	228
November	49.94	5.17	11.62	8.17	8.40	282
December	50.07	5.17	11.64	8.24	8.40	322
1977:						
January	50.61	5.17	11.44	8.30	8.28	316
February	49.52	5.18	11.39	8.37	8.33	308
March	49.18	5.15	11.03	8.44	8.19	246
April [2]	49.46	5.15	10.97	8.50	8.14	161
May [3]	49.15	5.17	10.99	8.57	8.18	65
June [3]	48.84	5.17	10.99	8.64	8.20	−39
July [3]	48.56	5.17	10.99	8.71	8.22	−159
August [3]	48.28	5.17	10.99	8.78	8.23	−293

[1] Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA.
[2] Preliminary.
[3] Projected. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, excluded due to uncertainties at this time concerning ANS production volumes and pricing levels for July and August.

As the above table indicates, all excess receipts are projected to have been eliminated as of the end of June, 1977 (final data for a particular month is not available until the end of the third month following that month). FEA has decided that a further one-month extension of the existing crude oil price schedule should be adopted. The reasons for this action include those summarized below.

(1) Experience since regulations to implement the statutory composite price limitation were first adopted has shown that the number of variables which affect the composite price computations pose serious problems for accurate forecasting of compliance with that limitation. This is indicated by the number of price schedules issued by FEA during this period of about a year and a one-half, and by the record of excess receipts as noted in the table above. These variables include, among others, periodic statutory and regulatory amendments which have affected the rate of decline in the percentage of lower tier crude oil (and thus directly affect the actual composite price), as well as changes in the rate of decline of lower tier crude oil which occur from month to month in the absence of any such amendments. This experience argues strongly for a more conservative approach in administering the lower and upper tier price ceilings. Accordingly, today's action is intended to permit FEA to obtain further actual price data to confirm that all cumulative excess receipts have been compensated for. In addition, this action is expected (based on current projections) to result in the accumulation of a reasonable amount of "deficit receipts" by the end of August 1977. FEA has concluded that such an approach to meeting the statutory composite price requirements is preferable, in that it should assist in avoiding the need in the future for any more drastic curative measures, such as price rollbacks. This position is consistent with notification issued on March 1, 1977, in connection with Price Schedule No. 6 (42 FR 13013, March 8, 1977), that FEA planned to accumulate a "bank" of deficit receipts which would be useful in compensating for any future misestimations in connection with compliance with statutory composite price requirements after July, 1977.

(2) The more conservative pricing policy outlined above is intended to further the EPAA goal of maximizing U.S. crude oil production by providing a more stable and predictable basis for future pricing actions than would a more liberal approach which might increase the potential for price freezes or price rollbacks.

The potential for price rollbacks or freezes generally tends to have an unsettling or disruptive effect on future crude oil production programs which should not exist with respect to long-term pricing policy. FEA policy has therefore been to avoid reductions in crude oil price ceilings, if at all possible, in complying with EPAA pricing restrictions.

However, as it was necessary to reduce upper tier price ceilings by 20¢ per barrel effective January 1, 1977, and by an additional 45¢ per barrel effective March 1, 1977, it cannot be assumed that future ceiling price reductions would be avoided simply by continuing to reserve such action as a last resort for achieving compliance with EPAA pricing requirements. This consideration is underscored by the fact that actual pricing data is not available until 3 months after the month in which the crude oil has been sold. The one-month extension of current ceiling price levels should greatly reduce the likelihood that price rollbacks or price freezes would be required to meet the statutory composite price limitation in the future and thus should provide a more stable basis for the implementation of a consistent pricing policy in the future, under the EPAA. This should, in turn, contribute to an improved climate for further development of domestic crude oil resources over the long term.

(3) In accordance with the National Energy Plan and consistent with the National Energy Act now being considered by the Congress, FEA expects in the near future to establish a new category of crude oil ("third tier") which would be permitted to be sold at a price level above the ceiling price of the present upper tier. Inclusion of this new category of crude oil will result in higher actual composite prices. Depending on

the precise definition of the crude oil eligible to be sold at "third tier" price levels, and the extent to which such "third tier" crude oil is produced, actual composite prices may begin to exceed the adjusted statutory composite price level. Thus, in addition to providing a stable basis for implementing the current crude oil pricing regulations under the composite price restrictions of the EPAA, the accumulation of "deficit receipts" will also serve to provide a certain measure of pricing flexibility during the time that the newly established "third tier" pricing category begins to stimulate new domestic production.

In view of the foregoing considerations, FEA has concluded that today's action is a prudent and appropriately cautious approach to the administration of lower and upper tier price ceilings under the composite price limitations of the EPAA.

FEA plans in the near future to issue a notice concerning the resumption of increases in lower and upper tier ceiling prices in September, 1977.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective August 1, 1977.

Issued in Washington, D.C., July 26, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Subpart D of Part 212 is amended to add an Appendix to read as follows:

APPENDIX.—Schedule No. 7 of monthly price adjustments; effective Aug. 1, 1977

Month	Lower tier, May 15, 1973 posted price,[1] plus—	Upper tier, Sept. 30, 1975 posted price,[2] less—
1976:		
February	$1.35	$1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration (FEA) on July 26, 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February, 1976, through July, 1977, as determined under 10 CFR 212.73, 212.74, and 212.77. With respect to crude oil to be produced and sold in the month of August, 1977, this schedule continues to hold lower tier price ceilings at the levels which have prevailed since June 1, 1976 (i.e., at the ceiling price levels for the month of June, 1976) and continues to hold the upper tier price ceilings at the levels which have prevailed since March 1, 1977.

This schedule is effective only through August 31, 1977. Price ceilings for subsequent months will be provided by Schedule No. 8, which FEA plans to issue on or about August 31, 1977.

[FR Doc.77-21948 Filed 7-27-77;11:12 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 317—ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Miscellaneous Amendments

AGENCY: Economic Development Administration, Commerce.

ACTION: Final rule.

SUMMARY: This regulation is an amendment of the Local Public Works Capital Development and Investment Program regulations which appeared in the May 27, 1977, FEDERAL REGISTER. It describes a refinement to the administration of the program necessitated by the revision of planning target figures for some applicants.

DATES: Effective date: July 26, 1977. Comments by August 31, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202-377-5441).

SUPPLEMENTARY INFORMATION: EDA recently announced revised planning target figures affecting various applicants in Round II of the Local Public Works Capital Development and Investment Program. These adjustments corrected errors in the original planning targets and distributed previously unallocated funds. This amendment is designed to allow applicants who received increases in their planning targets to apply such funds to projects for which financing arrangements have been completed.

Because this amendment relates to the EDA grant and loan program, it is exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 317 is amended as follows:

1. By revising § 317.13(a)(3) to read as follows:

§ 317.13 Types of grants.

(a) * * *

(3) The Federal share of any project for which a grant is made under this subsection shall be 100 percent of the cost of the project exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant, except to the extent that the Federal share of the project is increased by a change by EDA in the applicant's or endorser's planning target.

* * * * *

2. By revising § 317.35(f) to read as follows:

§ 317.35 Certifications.

* * * * *

(f) It contains certification by the properly authorized official of the Federal agency or State or local government that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished or replaced by funds requested under this part, except to the extent that the Local Public Works program share of the project is increased by a change by EDA in the applicant's or endorser's planning target.

* * * * *

(Sec. 701, Pub. L. 89-136, 79 Stat 570 (42 U.S.C. 3211); Pub. L. 94-369, 90 Stat 999 (42 U.S.C. 6701); Pub. L. 95-28, 91 Stat 116; Department of Commerce Organization Order 10-4 (September 30, 1975) as amended (40 FR 56702, as amended).)

Dated: July 26, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-21978 Filed 7-29-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 77-SW-4, Amdt. 39-2988]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77-10-05 by adding a new paragraph (g) requiring installation of the Bell Blade Inspection System (BIS) in accordance with newly revised procedures and instructions contained in Bell Helicopter Textron Service Instruction No. 212-61, Revision No. 2, dated March 28, 1977. These

revised procedures and instructions relocate the BIS conductive paint to improve detection of cracks in the blade retention area. Cracks in the blade retention area may result in loss of the main rotor blade. The amendment also adds a new paragraph (h) excluding recently approved "belted" main rotor blades from the AD requirements.

DATES: Effective date August 31, 1977. If the BIS system is used for frequent inspections, compliance with paragraph (g) is required within 300 hours' time in service after August 31, 1977.

ADDRESSES: Bell Helicopter Textron Service Instructions and Service Bulletins may be obtained from persons or offices noted in AD 77-10-05.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, or Alan G. Sumberg, General Attorney, ASW-7, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone number 817-624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 28897 to revise AD 77-10-05 by adding a new paragraph (g) requiring installation of the Bell BIS system in accordance with Revision 2 of Bell Service Instruction No. 212-61 for those blades identified in Bell Service Bulletin No. 212-77-10 that have the BIS installed. Compliance with paragraph (g) was required within 300 hours' time in service if and whenever the BIS system was used for the frequent inspections specified in AD 77-10-05, paragraph (b)(2).

In response to the proposal, two letters were received from helicopter operators objecting to the proposal and one from the National Transportation Safety Board supporting the proposal. A U.S. operator objected to installing the BIS system on the Model 212 helicopters and commented that visual inspections would maintain airworthiness of the blades. The agency notes a visual examination may be conducted, as specified in AD 77-10-05, paragraph (b)(1). The BIS inspection in paragraph (b)(2) may be used as an alternate for the visual inspection. A foreign operator also objected to installing BIS because it was thought the system was not trouble-free and was not durable.

AD 77-10-05 paragraph (b) requires either a visual inspection or an inspection using a properly installed and functioning BIS system. Installation of BIS is not otherwise required by the AD or by the proposal. The foreign operator also noted the blade coning is sometimes impossible to perform in a sensible way due to extreme weather conditions. The agency believes reference is made to the blade coning that is a part of the visual examination procedures referenced in AD 77-10-05. This procedure is a necessary and vital part of the visual inspections.

This foreign operator believes, without submitting any supporting data, that a lack of quality control during blade production has resulted in Model 212 main rotor blade service problems. AD 77-10-05 and the proposal were issued for the reasons noted in the notices and preambles, and lack of quality control was not one of the reasons.

The agency notes that the proposal would have made new paragraph (g) effective on August 15, 1977. To allow for adequate advance notice of the amendment, the effective date will be August 31, 1977.

Interested persons were afforded the opportunity to participate in the making of the amendment. Three letters were received as noted previously, and the amendment is changed from the proposal to clarify the applicability or effectivity of the new paragraph (g). Other changes are not necessary for the reasons indicated. Notice and public precedure of this clarification is not necessary.

The agency also discovered that AD 77-10-05 should not apply to the recently approved "belted" main rotor blade, P/N 212-015-501. Therefore, to limit the applicability of AD 77-10-05, new paragraph (h) has been included in the adopted rule. This particular change provides a limitation for AD 77-10-05 and notice and public procedure of the change made by paragraph (h) is not necessary.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and Alan G. Sumberg, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2893 (42 FR 10853), AD 77-10-05 is amended, effective August 31, 1977, by adding new paragraphs as follows:

(g) Within 300 hours' blade time in service, after August 31, 1977, and before using the BIS noted in paragraph (b)(2) of this AD, modify BIS installations on all main rotor blades, P/N 204-012-001 -23 and -29, and blades P/N 204-012-001-33, S/N's A2-04012, A2-04037 through A2-04042, A2-04045, A2-04046, A2-04134 through A2-04138, A2-04347, A2-04359, A2-04387, A2-04389, A2-04397, A2-04398, A2-04404 through A2-04411, A2-04455, A2-04457, AMR-04001 through AMR-04011, AMR-04013 through AMR-04015, AMR-04017 through AMR-04020, AMR-04023, AMR-04026, AMR-04030, and AMR-54001 through AMR-54011 to comply with Revision 2 of Bell Service Instruction No. 212-61, 204-32, or 205-45, revision of March 28, 1977, or later approved revision.

NOTE.—Bell Service Bulletin No. 212-77-10 lists these blades and serial numbers.

(h) This AD does not apply to Model 212 helicopters equipped with main rotor blades having P/N 212-015-501.

This amendment becomes effective August 31, 1977.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 21, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-22002 Filed 7-29-77;8:45 am]

[Docket No. 77-NW-19-AD; Amdt. 39-2989]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77-13-15 which requires inspections of the Body Station 910 floor beam lower flanges on Boeing Model 727 series airplanes. The amendment is necessary to clarify the inspection requirements of that AD.

DATE: Effective date: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Amendment 39-2944 (42 FR 33267), AD 77-13-15, was issued on June 22, 1977, to require inspections of the B.S. 910 floor beam lower flanges on affected Boeing Model 727 series airplanes. After issuing the amendment, the FAA became aware that clarification of the inspection requirements of paragraphs D and F, relative to terminating action from the AD, is necessary. Presently, paragraphs D and F state that a one-time inspection must be conducted in accordance with paragraph B. However, the low frequency eddy current inspection method of paragraph B.1 is not effective with the doublers or straps installed as required to achieve terminating action. Also, the low frequency eddy current inspection may not detect initial cracking which may be present at the time of strap installation. Therefore, the AD is being amended to specifically require that the inspections of paragraphs D and F be conducted per paragraph B.2, conventional eddy current or dye penetrant inspections, or paragraph B.3, an alternate method approved by FAA Engineering. Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon

are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2944, AD 77-13-15, is amended by striking out the words "paragraph B" from paragraphs D and F and inserting the words "paragraphs B.2 or B.3" in place thereof.

This amendment becomes effective August 1, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on July 21, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-22001 Filed 7-29-77;8:45 am]

[Docket No. 76-EA-85, Amdt. 39-2993]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing-Vertol Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires the removal and replacement of Forward and Aft Rotor Shaft and carrier assemblies on Boeing-Vertol 107-11 type helicopters. The retirement life of these parts has resulted from the presence of fatigue cracks in parts which caused premature removal for otherwise unlimited life parts.

EFFECTIVE DATE: August 8, 1977. Compliance is required in accordance with various programs within the AD.

ADDRESS: Pertinent Boeing-Vertol telexes and Service Bulletins may be obtained from the manufacturer at P.O. Box 16858, Philadelphia, Pa.

FOR FURTHER INFORMATION CONTACT:

P. Perrotta, Propulsion Section, AEA-214, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been a report of fatigue cracks being found on planet posts of the forward transmission shaft and carrier assemblies. The shaft had failed causing vibration and required removal at 7,268 hours in service. Lacking a definitive material or processing discrepancy, a life limit of 5,500 hours has been imposed on heretofore unlimited parts. It has been determined that a life limit of 10,000 hours in service is allowable where there had been shotpeening prior to 3,000 hours in service. As a precaution, the same criteria of 10,000 hours has been imposed upon aft shaft and carrier assemblies. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are P. Perrotta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adopting a new airworthiness directive, as follows:

BOEING-VERTOL. Applies to all Model 107-II helicopters (TC No. 1H16) certificated in any category

Compliance required as indicated unless already accomplished.

1. Within 50 hours' service time after the effective date of this AD, remove from further service any unshotpeened P/N A02D1259-3, A02D1269-1 or A07D1269-1 Forward Transmission Rotor Shaft and Carrier assembly which has accumulated 5,500 or more hours total time. Also, remove from further service any P/N A02D1259-3SP, A02D1269-1SP or A07D1269-1SP assembly which was shotpeened after accumulating 3,000 hours total time and which now has accumulated 5,500 or more hours total time. Replacement parts of the same design shall be retired from service prior to accumulating 5,500 hours total time.

2. Within 50 hours' time in service after the effective date of this AD, remove from further service any P/N A02D1259-3SP, A02D1269-1SP or A07D1269-1SP, Forward Transmission Rotor Shaft and Carrier Assembly that was shotpeened prior to 3,000 hours total time and which has accumulated 10,000 or more hours total time. Replacement parts of the same design shall be retired from service prior to accumulating 10,000 hours total time.

3. Within 50 hours' time in service after the effective date of this AD, remove from further service any P/N 107D2419-1 Aft Rotor Transmission Planet Carrier which has accumulated 10,000 or more hours total time. Replacement P/M 107D2419-1 Planet Carriers must be retired from service thereafter prior to accumulating 10,000 hours total time.

4. Rotor craft may be flown to a base where the maintenance required by this AD is to be performed; (Ref. FARs 21.197 and 21.199).

5. Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Chief, Engineer and Manufacturing Branch, FAA Eastern Region, may adjust the specified 50-hour compliance time.

(Boeing-Vertol Company Telex No. 8-1420-1-895 dated October 27, 1976, and Service Bulletin No. A107-335 apply to the Forward Transmission Rotor Shaft and Carrier Assembly only.)

Effective date: This amendment is effective August 8, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 25, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-22003 Filed 7-29-77;8:45 am]

[Docket No. 16612; Amdt. 39-2995]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol, Ltd., Type R 245/4-40-4.5/13, R 259/4-40-4,5/17 and R 209/4-40-4.5/2 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial and periodic inspection for cracks and replacement, if necessary, of the pitch lock pistons on Dowty Rotol propellers installed on certain aircraft. Cracks in the pistons could result in the inability to feather the propeller.

EFFECTIVE DATE: August 31, 1977. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Dowty Rotol, Inc., Staverton West, Sully Road, P.O. Box 5000, Sterling, Virginia 22170, telephone 703-450-5930.

A copy of each service bulletin is contained in the Rules Docket Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel: 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an initial and periodic inspection of Dowty Rotol propeller pitch lock pistons was published in the FEDERAL REGISTER at 42 FR

17136. The proposal was prompted by reports of cracks in the pitch lock piston on these propellers that could result in a loss of propeller oil and subsequent loss in the capability to feather the propeller.

Interested parties have been afforded an opportunity to participate in making of this rule and have submitted comments. The major concern of a commenter representing several air carriers was that replacement parts might be unavailable for compliance with the AD in all cases. The FAA has determined that this problem has been resolved and that parts are available.

The British Civil Aviation Authority has advised that one of the Dowty Rotol propellers was incorrectly listed in the proposed AD as type R259/4-40-4.5/2. The proper reference should have been type R259/4-40-4.5/17. Accordingly, this AD will apply to the following propeller types: Dowty Rotol Type R245/4-40-4.5/13, R259/4-40-4.5/17, and R209/4-40-4.-5/2.

Since a situation exists, in reference to the misdesignated propeller type number, that requires the immediate adoption of this amendment as to the proper propeller type, it is found that notice and public procedure hereon are impracticable and good cause exists for making this change from the proposed AD, and for making the amendment as to the properly designated propeller type numbers effective without further notice.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and R. J. Burton, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

DOWTY ROTOL. Applies to Dowty Rotol propeller types R245/4-40-4.5/13, R259/4-40-4.5/17 installed on but not necessarily limited to Convair 600 series airplanes and R209/4-40-4.5/2 installed on but not necessarily limited to Nihon YS-11 and 11A airplanes, except those propellers incorporating modification VP 2869 contained in Dowty Rotol Service Bulletin 61-875, Rev. 1, dated October 20, 1976. Compliance is required as indicated.

To prevent pitch lock piston cracking and subsequent inability to feather the propeller, accomplish the following:

(a) For propeller pitch lock pistons with 19,000 or more flights on the effective date of this AD, before further flight, comply with paragraph (d) of this AD.

(b) For propeller pitch lock pistons with less than 19,000 flights on the effective date of this AD, comply with paragraph (c) of this AD.

(c) For propeller pitch lock pistons, P/N RA 70089:

(1) Prior to the accumulation of 15,000 flights or within the next 100 flights, whichever occurs later, unless already accomplished within the last 900 flights, unless otherwise required by paragraph (e) of this AD, and thereafter at intervals not to exceed 1,000 flights from the last inspection until reaching 19,000 flights, inspect the pitch lock piston for cracks around the outside diameter at the location of the 0.025 inch radius in accordance with the procedures and instructions in Dowty Rotol Service Bulletin 61-873, Revision 1, dated October 20, 1976, or an FAA-approved equivalent.

(2) If a crack is found during an inspection required by paragraph (c)(1), before further flight, comply with paragraph (d) of this AD.

(d) Replace the pitch lock piston with either—

(1) A new zero time part, P/N RA 70089, in accordance with Dowty Rotol Service Bulletin 61-873, Revision 1, dated October 20, 1976, or an FAA-approved equivalent, and thereafter comply with paragraphs (c), (d), and (e) of this AD; or

(2) A new redesigned pitch lock piston and cylinder cover bush in accordance with Dowty Rotol Service Bulletin 61-875, dated October 20, 1976, or an FAA-approved equivalent.

(e) Prior to the accumulation of 19,000 flights on propeller pitch lock piston P/N RA 70089, comply with paragraph (d) of this AD.

(f) For the purposes of this AD, a flight is defined as a single takeoff and landing.

(g) This AD requires no further action after compliance with paragraph (d)(2) of this AD.

This amendment becomes effective August 31, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 25, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-21999 Filed 7-29-77;8:45 am]

[Docket No. 77-EA-33, Amdt. 39-2992]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 77-07-08 applicable to Fairchild Hiller FH-1100 type rotocraft. It has been determined that additional tension torsion bars may be defective and therefore the AD is being amended to include additional serial numbers.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Company, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT:

J. Chrastil, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that additional tension torsion bars in the field may be defective. The AD was issued originally to preclude failure of defective tension torsion bars due to improper hole surface finishes. This rule will include an additional 20 serial numbers. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Chrastil, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective August 5, 1977, by amending AD 77-07-08, as follows:

1. Delete the figure 1902 where it appears and insert in lieu thereof the figure 1922.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 21, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-21997 Filed 7-29-77;8:45 am]

[Docket No. 15728, Amdt. 39-2996]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. Model DH-104 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which supersedes AD 61-11-3, as amended, to further reduce retirement times for certain structural components of the wings, fuselage, and in some cases, the entire

wing assembly of Hawker Siddeley Aviation, Ltd., Model DH-104 airplanes due to fatigue.

DATES: Effective August 31, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable technical news sheets may be obtained from Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England, AL109TL, Attn: Technical Manuals Distribution Center. A copy of both technical news sheets is contained in the Rules Docket Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal was issued to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) which imposes mandatory retirement times for certain structural components of the wings, fuselage, and in some cases, the entire wing assembly of Hawker Siddeley Aviation, Ltd., Model DH-104 fication. The AD, as proposed, failed to FR 22094. The notice proposed to supersede Airworthiness Directive AD-61-11-3, as amended, to further reduce the retirement lives of the aforementioned components of the Model DH-104 airplanes and to provide for adjustments of the times specified in the AD if justified by the operator.

Paragraphs (c) and (d) of the AD proposed in the notice covered retirement times of the fuselage center section lower spar boom for airplanes which do not incorporate Hawker Siddeley Aviation (HSA) Modification 538, and for those airplanes that do incorporate such modification. The AD, as proposed, failed to note that the retirement times related to HSA Modification 538 also depended upon the subsequent incorporation of HSA Modification 686 within 3600 hours after the initial modification. Accordingly, this AD corrects the omission originally contained in the proposed AD to conform to HSA Technical News Sheet No. 119, Issue 10, dated July 19, 1971, referenced in the notice, by revising paragraphs (c) and (d) in the amendment.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received the FAA has re-evaluated the need for the proposed amendment and determined that it should be adopted.

Since a situation exists that requires immediate adoption of the modifications as set forth in paragraphs (c) and (d), it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service and Mr. R. J. Burton, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to deHavilland Model DH-104 "Dove" airplanes, all series, certificated in all categories.

Compliance is required as indicated.

To prevent possible fatigue failure of the wing structure, accomplish the following:

(a) Irrespective of the incorporation of Hawker Siddeley Aviation, Ltd., (HSA) Modification 539, for wings which have not had HSA Modification 780 incorporated, within the next 25 hours time in service after the effective date of this AD or prior to accumulation of 3400 hours, total time in service on the wing lower spar boom, whichever occurs later, and thereafter, at intervals not to exceed 3400 hours time in service, on the boom, replace it with a serviceable boom of the same part number or an FAA-approved equivalent.

(b) For wings which incorporate HSA Modification 780, replace the wing lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent—

(1) For Series 1A, 2A, 5A, 5BA, 6A airplanes, prior to the accumulation of 20,000 hours total time in service on the wing lower spar boom including the time in service prior to incorporation of the modification; and

(2) For Series 7A and 8A airplanes, prior to the accumulation of 16,000 hours total time in service on the boom including the time in service prior to incorporation of the modification.

(c) For airplanes which do not incorporate HSA Modification 538 in the area of the fuselage center section, or have Modification 538 incorporated but not the associated HSA Modification 686, within the next 25 hours time in service after the effective date of this AD or prior to the accumulation of 1800 hours total time in service on th fuselage center section lower spar boom whichever occurs later, and thereafter, at intervals not to exceed 1800 hours time in service on the boom, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

(d) For airplanes which incorporate HSA Modification 538 in the area of the fuselage center section, provided the associated HSA Modification 686 has been incorporated within 3600 hours time in service on the fuselage center section lower spar boom since incorporating Modification 538, within the next 25 hours time in service on the boom after the effective date of this AD or prior to the accumulation of 6700 hours total time in service on the fuselage center section lower spar boom, including time in service prior to incorporation of the modification, whichever occurs later, and thereafter at intervals not to exceed 6700 hours time in service, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

NOTE.—For airplanes which incorporate HSA Modification 779 in the area of the fuselage center section, no mandatory retirement time is imposed on the fuselage center section lower spar boom.

(e) Upon the request of an operator, the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East region may adjust a replacement interval specified in paragraphs (a), (c), or (d) of this AD, if the request contains substantiating data to indicate that the average operating spectrum of the particular airplane is less severe than the operating spectrum upon which the specified replacement times are based and that the adjustment requested is justified. Forward requests to FAA, Chief, Aircraft Certification Staff, c/o American Embassy, APO New York, N.Y. 09667.

NOTE.—Appendix 1 of HSA Technical News Sheet (TNS) No. 119, Issue 10, dated July 19, 1971, contains information with respect to data needed to determine an average operating spectrum.

(f) Unless already accomplished, on airplanes converted to series 7AXC or 8AXC in accordance with HSA TNS No. 181, Issue 3, dated November 21, 1966, replace the wings prior to the accumulation of one fifth the total hours time in service at conversion plus 16,000 hours time in service as determined in accordance with the instructions in paragraph 7 of HSA TNS No. 181, Issue 3, dated November 21, 1966, or an FAA-approved equivalent.

(g) Operators who have not kept records of time in service on any component to which a provision of this AD applies shall substitute airplane hours time in service in lieu thereof.

This amendment supersedes Amendment 289 to Part 507 of the Regulations of the Administrator (26 FR 4395), AD 61-11-3, as amended by Amendment 585 (28 FR 7394) and Amendment 662 (28 FR 14238).

This amendment becomes effective August 31, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation has determined that this document does lar A-107.

NOTE.—The Federal Aviation Administration has determind that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circu-

Issued in Washington, D.C., on July 21, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-21998 Filed 7-29-77;8:45 am]

[Docket No. 77-EA-30, Amdt. 39-2991]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) provides relief from AD 69-24-4 applicable to Piper PA-30 type airplanes. That AD required an increase in Vmc speed from 80 mph to 90 mph. However, the installation of Piper Kit 760-368 corrected the

deficiency in the airplane and would have permitted a return to the original Vmc except for AD 69-24-4. This rule permits such return.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Maher, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: AD 69-24-4 concerned the need to increase the Vmc (minimum control speed with critical engine inoperative) from 80 mph to 90 mph so as to comply with the applicable certifying regulations. With the installation of Piper Kit 760-368, a counter-rotating engine, the Vmc can be returned to 80 mph. Since this rule is relaxatory, notice and public procedure hereon are unnecessary and the rule (AD) may be made effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Maher, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective August 5, 1977, by amending AD 69-24-4, as follows:

1. Amend AD 69-24-4 by deleting the period and adding the phrase "except aircraft incorporating Piper Kit No. 760 368" at the end of the applicability paragraph.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended by (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 21, 1977.

WILLIAM E. MOGRAN,
Director, Eastern Region.

[FR Doc.77-31996 Filed 7-29-77;8:45 am]

[Docket No. 77-SO-13]

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

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Marathon, Florida. This action provides necessary controlled airspace for accommodation of IFR operations at the Marathon Flight Strip.

EFFECTIVE DATE: 0901 GMT, August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. Telephone 404-763-7648.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on Thursday, May 26, 1977, (42 FR 26992) which proposed the designation of the Marathon, Florida, transition area. No objections were received from this Notice.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division, and Ronald R. Hagadone, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 11, 1977, by adding the following:

MARATHON, FLORIDA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marathon Flight Strip (Lat. 24°43'33" N., Long. 81°03'05" W.); within 3 miles each side of the 251° bearing from the Marathon RBN, extending from the 6.5-mile radius area to 8.5 miles west of the RBN; excluding the portion outside the continental limits of the United States.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c): (14 CFR 11.-69)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on July 21, 1977.

PHILIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-21995 Filed 7-29-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS

PART 70—CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

AGENCY: Department of Commerce, Bureau of the Census.

ACTION: Final rule.

SUMMARY: This rule amends regulations of the Census Bureau by providing for cutoff dates for recognition by the Census Bureau of boundaries to be used in the 1980 Decennial Census. The purpose of Part 70 is to encourage municipalities and other units of government to complete any boundary changes sufficiently in advance of the decennial census to allow time for the Census Bureau to incorporate the changes into maps, control records, enumerator materials, computer tapes, and so on.

DATES: Effective on August 1, 1977.

FOR FURTHER INFORMATION:

Jacob Silver, Chief, Geography Division, Room 3203, FB-4, Washington, D.C. 20233, 301-763-5636.

SUMMARY INFORMATION: On May 27, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 27255) inviting written comments for consideration in connection with a proposed regulation which would adjust the cutoff dates for boundary changes from 1970 to 1980, would add a cutoff date for receipt of boundary changes, would define the term "municipality", and would make minor nonsubstantive changes in wording.

Interested persons were given until June 26, 1977, to submit written views and comments. No comments were received.

Therefore, under the authority of 13 U.S.C. 4, 15 CFR, Part 70 is amended to read as follows:

Sec.

70.1 Cutoff dates and effect on enumeration and data tabulation.
70.2 "Municipality" and "county subdivision" defined for census purposes.
70.3 Effect of boundary changes occurring or reported after the cutoff dates.

AUTHORITY: 13 U.S.C. 4; 32 FR 15154; and Department of Commerce Organization Order 35-2A (40 FR 42765).

§ 70.1 Cutoff dates and effect on enumeration and data tabulation.

For the tabulation and publication of data from the 1980 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries that are legally in effect on January 1, 1980 and have been officially reported to the Bureau no later than March 1, 1980. Respondents will be enumerated on the decennial census date as residing within the legal limits of municipalities, county subdivisions, counties, States, and equivalent areas as those limits exist on January 1, 1980.

§ 70.2 "Municipality" and "county subdivision" defined for census purposes.

For the purposes of this part, "municipalities" and "county subdivisions" are defined to include the areas identified by the Bureau of the Census as incorporated places (such as cities and villages) and minor civil divisions (such as townships and magisterial districts). A more complete description appears on pages X and XI of U.S. "Census of Population: 1970", Volume I, Part A.

§ 70.3 Effect of boundary changes occurring or reported after the cutoff dates.

Changes in boundaries that become effective after January 1, 1980, will not be recognized by the Bureau of the Census in taking the 1980 Decennial Census; the residents of any area which is transferred to another jurisdiction after that date will be enumerated in and reported by the 1980 census as residents of the area in which their residences were located on January 1, 1980. Changes occurring on or before January 1, 1980, but not officially submitted to the Bureau of the Census until after March 1, 1980, will not be recognized in the data tabulations prepared for the 1980 census except as necessary by the Bureau for its decennial census operations; only population counts will be reported for such areas.

Dated: July 27, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc.77-22012 Filed 7-29-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13806; File No. S7-603]

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

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: The release (i) makes permanent certain temporary amendments of the rule relating to the application of the alternative net capital requirement to brokers and dealers effecting transactions solely in municipal securities; (ii) extends until March 1, 1978 temporary provisions of the rule relating to the inclusion in net capital of certain good faith deposits and syndicate or joint account receivables arising in connection with municipal securities underwritings and undue concentration deductions, "haircuts," on positions in municipal securities; and (iii) affirms the Commission interpretation with regard to municipal securities which suspends the provision of the uniform net capital rule which requires the deduction from net worth of the carrying value of securities for which there is no ready market. This action is necessary since the temporary amendments noted in (i) and (ii) above will otherwise expire on August 1, 1977. The effect of the amendments is to make permanent certain temporary amendments to the rule and to provide the Commission with additional time to formulate permanent amendments, pertaining to municipal securities, with regard to the treatment of certain receivables, undue concentration deductions and securities for which there is no ready market.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1390.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 13488 (April 29, 1977) (42 FR 23799 (May 11, 1977)) ("Release No. 13488"), the Commission extended until August 1, 1977 the temporary provisions of Rule 15c3-1 (17 CFR 240.15c3-1) ("section 240.15c3-1") under the Securities Exchange Act of 1934 dealing with the items summarized above. The Commission took such action to afford interested members of the public the opportunity to express their views, especially by way of impact studies and other appropriate statistical compilations, concerning the nature of more permanent amendments to the temporary provisions. The Commission is in the process of formulating permanent amendments. In the interim, the Commission has determined that it is appropriate to: (i) make permanent those temporary amendments summarized above; (ii) extend until March 1, 1978, the temporary amendments relating to the treatment of certain receivables and undue concentration; and (iii) affirm the Commission's interpretation regarding positions in municipal securities for which there is no ready market.

The amendments to section 240.15c3-1 adopted herein are framed in light of considerations disclosed in the public's response to that invitation, and do not alter the existing regulatory scheme for such brokers and dealers. The Commission finds, pursuant to 5 U.S.C. § 553(b)(3)(B), that further notice and public procedure respecting these amendments is impracticable and unnecessary to the public interest. The Commission finds further that these amendments relieve regulatory restrictions within the meaning of 5 U.S.C. § 553(d)(1) and may therefore become effective less than thirty days from their publication.

STATUTORY BASIS, COMPETITIVE CONSIDERATIONS AND EFFECTIVE DATE

Pursuant to the Securities Exchange Act of 1934, and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. § 78o (c)(3), w(a), the Commission amends section 240.15c3-1 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective August 1, 1977. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's mandate under Section 15(c)(3) thereof, 15 U.S.C. § 78o(c)(3), to establish minimum financial responsibility standards for all brokers and dealers.

TEXT OF AMENDMENTS TO SECTION 240.15c3-1

The text of the amendments to section 240.15c3-1 is as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in subparagraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and, until March 1, 1978, receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than ninety (90) days from settlement of the underwriting with the issuer, and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than ninety (90) days from settlement of the underwriting with the issuer;

* * * * *

(f) *Alternative net capital requirement.* (1)(i).—A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to subparagraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in subparagraph (c)(1) of this section and certain deductions provided for in subparagraph (c)(2) of this section. Provided, that in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to the greater of $100,000 ($25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, 17 CFR 240.-15c3-3a) and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission

in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to the provisions of this paragraph (f), it shall continue to do so unless a change in such election is approved upon application to the Commission.

(ii) In the case of a municipal securities broker, as defined in section 3(a)(31) of the Securities Exchange Act of 1934, who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to subparagraph (k)(1) or (k)(2)(i), and who effects transactions only on a payment versus delivery basis with other brokers or dealers or municipal securities brokers or municipal securities dealers, and who does not hold funds or securities for, or owe money or securities to, customers and does not otherwise carry accounts of, or for, customers, in order to qualify to operate under this paragraph (f) such municipal securities broker shall at all times maintain net capital equal to the greater of $25,000 or 4 percent of aggregate debit items computed in accordance with Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a. *Provided*, That in order to qualify to operate under this paragraph (f), such municipal securities broker shall notify the Examining Authority for such broker and the Regional Office of the Commission in which the broker has its principal place of business, in writing, of its election to operate under this provision. Once a municipal securities broker has determined to operate pursuant to this paragraph (f), it shall continue to do so unless a change in such election is approved upon application to the Commission.

§ 240.15c3-1 [Amended]

In section 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows:

* * * *Provided further*, That until March 1, 1978, this provision shall not apply to municipal securities.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 28, 1977.

[FR Doc.77-22121 Filed 7-29-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-031]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Washington, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the periods in the morning and evening when the draw of the Lake Washington pontoon bridge between Seattle and Mercer Island may remain closed to the passage of vessels. This change is being made because of an increase in vehicular traffic. The extended closed periods will provide for a smoother flow of vehicular traffic.

EFFECTIVE DATE: This amendment is is effective on August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On February 28, 1977, the Coast Guard published a proposed rule (42 FR 11251) concerning this amendment. Interested persons were given until March 29, 1977, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Thirteen replies were received. Nine supported this proposal or had no objection thereto. Three objected on the grounds that the regulations, as proposed, were too restrictive. One reply was not relevant to the proposal.

These objections were forwarded to the applicant for consideration. Two objectors to the proposal indicated that weekday closed-periods would be acceptable, provided weekend closed-periods be eliminated. One of the objectors also requested that national holidays be excluded from closed-periods. One objector requested that the proposal be rejected in its entirety. Upon review of objections, the applicant requested that the proposal be modified to eliminate closed periods on weekends and holidays. The Coast Guard feels that the proposed regulations as modified will provide for the reasonable needs of navigation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.800(e)(1) to read as follows:

§ 117.800 Lake Washington, Wash.; pontoon bridge between Seattle and Mercer Island, Wash.

* * * * *

(e) * * *

(1) Provided, That the draw need not open from 6:30 a.m. to 9:30 a.m. and from 3 p.m. to 6:30 p.m., Monday through Friday, except holidays, for any vessel of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross ton or over, or a pile driver that is unable to pass the fixed spans, and

* * * * *

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

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order, as amended, and OMB Circular A-107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-22073 Filed 7-29-77;8:45 am]

[CGD 76-229]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wishkah and Hoquiam Rivers, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revoking the portion of the regulations for the bridge across the Wishkah River at Heron Street and the bridge across the Hoquiam River at Simpson Avenue to eliminate the use of the radiotelephone presently located on the Chehalis River bridge to request draw openings. This is being done because the Federal Communications Commission has advised that Limited Coast Stations operating on 2182 khz and 2738 khz will not be licensed after January 1, 1977, and because the radio telephone serving these three bridges has been used only twelve times to request bridge openings since 1971.

EFFECTIVE DATE: These amendments are effective on August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Since these amendments remove reference to radio frequencies which cannot be used, and relieve the bridge owner of the obligation of maintaining equipment that has not been utilized, notice and public procedures on these amendments are unnecessary.

DRAFTING INFORMATION

The principal persons involved in drafting these amendments are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF AMENDMENTS

The Chehalis River is the main tributary of the Grays Harbor estuary and the Hoquiam and Wishkah Rivers are both tributary to the Chehalis. The Chehalis River highway bridge was selected as the site for the radiotelephone because it has constant attendance (with morning and evening closed periods) whereas the Hoquiam and Wishkah River bridges do not have constant attendance. The Chehalis River is also the

main channel for ocean shipping while the Hoquiam and Wishkah accommodate fishing vessels, log rafts, recreation vessels and maintenance facilities. With constant attendance at the Chehalis River bridge, there have been no radiotelephone requests for operation of this bridge. Of the 12 radio requests for openings, 11 were directed to the Hoquiam River drawbridge and one to the Wishkah River drawbridge.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

1. Deleting the last two sentences in § 117.810(f)(5).

2. Deleting the last four sentences in § 117.810(f)(6).

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

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-22072 Filed 7-29-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Address Cards Arranged in Sequence of Carrier Delivery

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby modifies its mailing list sequencing service offered to customers by correcting wrong addresses and providing new addresses if mailers meet certain specific requirements. This change will aid the Postal Service by reducing the volume of costly undeliverable as addressed mail. It will also enable mailers to come to one source for information to correct their mailing lists. For each correction made (an address deletion or addition) the charge will be ten cents.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Gregory Whiteman (202-245-5630).

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER a proposal on the mailing list sequencing service (42 FR 22176). Sixteen comments were received, fifteen of which were favorable, one of which was against the proposal. These comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

Four commenters addressed the requirement that lists, to qualify for the proposed new service, contain at least 90 percent of the addresses within the ZIP code area. One commenter stated that 90 percent was higher than necessary and that 75 percent was a more equitable percentage. The 90 percent was said to be such a high percentage that it might invite "fudging" of lists to reach the 90 percent level and would cause administrative policing problems for the Postal Service. Additionally, this commenter felt that because of the inconsistency of sequencing and correcting lists in the past, most good lists could not meet the 90 percent criterion. The commentor also indicated that the 90 percent figure was so high as to exclude "name" lists from qualifying for the service. A second commenter stated that 50 percent was an acceptable level and that those who need the service most could not qualify at the 90 percent level. A third commenter addressed the need for a grace period to enable mailers to build their lists back to the 90 percent level. The fourth and final comment on the 90 percent issue indicated that 90 percent was exceptionally high and would prove too costly for most mailers.

The Postal Service is satisfied that under good industry practice a well-maintained ocupant list will contain no less than 80 percent to 90 percent of the possible addresses within the geographical area to which the list relates. To maintain the interstitial character of the new service and to ensure that it does not appear inconsistent with the statutory prohibition against making mailing lists available to the public, the Postal Service considers it desirable to set the permanent criterion toward the high side of this range of variation and has determined that it will adopt the 90 percent criterion. In light of the comments, however, the Postal Service has decided that the criterion should be temporarily lowered to 80 percent for the period from August 15, 1977, to January 31, 1978, to provide a grace period in which the owners of well-maintained lists that are currently at the low side of the range may have an opportunity to bring their lists up to the 90 percent standard before it becomes effective.

It is recognized that there may be attempts to inflate the percentage of addresses on an occupant list in order to qualify for the new service and that the higher the criterion for qualifying the greater may be the incentive to inflate, but the Postal Service considers that the administrative procedures which it is establishing for the implementation of these regulations will be adequate to ensure compliance with them.

The Postal Service agrees with the comment that in most situations a name and address list as distinguished from an occupant or street-address-only list, would not have a sufficient number of addresses to qualify. The Postal Service does not regard this as an important limitation, since owners of these lists normally do not want just an address but seek both specific names and addresses.

We considered the comment that the 90 percent figure was exceptionally high and would prove to be costly. In our opinion, the one-time cost of getting the mailing list to the 90 percent level would prove to be a cost-saving device upon future resubmission of lists for updating.

The issue of fees charged for this service also received four comments. Two commenters felt that the 10 cent fee was too high and would discourage mailers from using the service. A second commenter said that a fee for deletions was unwarranted and, during the initial grace period, would prove too costly since lists have deteriorated due to past Postal Service actions. The other comment generally indicated that the fee was excessive.

The Postal Service has concluded that it will adopt the proposed fee of 10 cents for each corrected address, added or deleted. This uniform fee is necessary to cover the costs, primarily employee time, of providing the service, which of course mailers are not required to utilize.

Two commenters addressed the issue of clarity of language. One commenter asked for clarification of procedure and a definition of "address" as it relates to a multi-unit dwelling. The Postal Service has clarified the text of the regulation to provide that a multi-unit dwelling is considered as a single address. The same commenter also suggested that the regulation clearly provide that a list composed of only the residence addresses, or the business addresses, in a ZIP code area, will qualify for the revised service so long as it contains 90 percent of the possible residence or business addresses in the area. This suggestion has been adopted in the final regulation. Also, one commenter asked whether the present list sequencing service for which no fee is charged is to be continued, with the new regulation change as an addition to the service, or if the present system is to be replaced entirely by the proposed service. The Postal Service has clarified this point in the final notice by providing expressly that list owners who do not meet the 90 percent criterion, or who do not wish the additional service, may obtain the more limited, earlier service. A charge will continue to be made for any incorrect addresses deleted but not for blank cards inserted in lieu of new addresses.

One commenter stated, in a separate issue, that the five digit ZIP Code should be replaced in the regulation to include an SCF area. The Postal Service will retain the five digit ZIP code criterion for procedural and operational ease of handling and expediting mailing of lists.

One final issue was addressed by a commenter who favored a discount for carrier walk sequenced mail. Since this comment does not relate to the proposed regulation change, it will not be dealt with here.

The Postal Service makes this regulation change in the full awareness of the provisions of 39 U.S.C. 412 which prohibits the Postal Service from making available to the public by any means or for any purpose any mailing or other list of names or addresses of Postal patrons or other persons. The Postal Service does not believe that this regulation change will be inconsistent with 39 U.S.C. 412, since the requirements that customers must meet to receive this additional service are designed to ensure that the additional street addresses pro-

vided do not constitute a list but are rather an interstitial correction of a bona-fide existing list.

Accordingly, the Postal Service hereby adopts the following revisions of the Postal Service Manual effective August 15, 1977, except that the 90 percent criterion of 122.53c is reduced to 80 percent during the period beginning on August 15, 1977, and extending to January 31, 1978.

PART 122—ADDRESSES

In 122.5 revise .53 to read as follows:

122.5 Mailing list services.

* * * * *

.53 Address cards arranged in sequence of carrier delivery.

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them.

Withdraw cards with nonexistent or other undeliverable addresses. Insert a card showing the correct address for each existing address that is not included in the owner's address cards, plates, or stencils and correct cards with incorrect addresses if the owner meets the following requirements:

a. Separate mailing lists must be submitted for each five digit ZIP Code area.

b. A mailing statement must be submitted by the owner showing:

(1) Whether the list is a residence only list, a business only list, or a combination list;

(2) The number of addresses contained in the list; and

(3) The list owner's or designated agent's name, address, and phone number.

c. The mailing list must contain:

(1) 90 percent of all residential addresses within the five digit ZIP Code area if the list is a residence only list, or

(2) 90 percent of all business addresses within the five digit ZIP Code area if the list is a business only list, or

(3) 90 percent of all addresses within the five digit ZIP Code area if the list is a combination list.

In calculating the total number of addresses within a five digit ZIP Code area, apartment units or office buildings with a series of addresses will be treated as one address.

Withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the owner's address cards, plates, stencils if the owner does not meet the requirements specified above. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing.

For each correction (deletion or addition of an address), the charge is 10 cents. For apartment or office buildings with a series of addresses, for which the range of the addresses is given on one card, the charge will be 10 cents for the card.

Local managers must check to see that customers whose lists have been arranged in sequence of carrier delivery ensure that bundles are prepared for each route with the individual pieces in delivery address sequence. This above service shall not be provided to customers who do not ensure the required premailing preparation is made.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

[FR Doc.77-22078 Filed 7-29-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Editorial Amendments in Reference to the Use of Type Approved Antenna Monitors by AM Broadcast Stations Operating Directional Antenna Systems

AGENCY: Federal Communications Commission.

ACTION: Order making editorial deletion in rules for AM broadcast stations.

SUMMARY: Provision in the AM broadcast station operator rules that requires stations with directional antennas and also employing Third Class Licensed Operators have type-approved antenna monitors fed with sampling system installed and maintained according to accepted standards of good engineering practice is being deleted. The provision is superseded by other rules effective June 1, 1977, and therefore unnecessary.

EFFECTIVE DATE: August 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 73 of the Commission's rules and regulations in reference to the use of type approved antenna monitors by AM broadcast stations operating directional antenna systems. Order.

Adopted: July 22, 1977.

Released: July 27, 1977.

1. On April 28, 1977, the Commission adopted an Order in the above-captioned matter making editorial amendments to delete and correct numerous provisions of the Rules that were no longer applicable after May 31, 1977. Specifically, the amended rules were in reference to AM directional antenna stations operating without type approved antenna monitors. Effective June 1, 1977, all AM stations with directional antennas were to have type approved antenna monitors installed and in operation.

2. Subsequent to the release of that Order we have received informal inquiries about the continued application of subparagraph (e)(2) of Section 73.93 concerning the special condition under which AM stations with directional antennas may employ duty operators who hold third class permits. That rule not only requires the stations to have type approved antenna monitors installed, but also requires that the monitor be fed by a "sampling system installed and maintained pursuant to accepted standards of good engineering practice."

3. The subparagraph (e)(2) of section 73.93 as discussed above was adopted by the Report and Order in Docket No. 18930 on June 1, 1972 (37 FR 11538, 35 F.C.C. 2d 290), by which the authority of third class licensed operators holding broadcast endorsements was extended to include operating AM stations with directional antenna systems. On January 29, 1973, the Commission established June 1, 1977, as the date by which all AM stations with directional antennas were to install type approved antenna monitors (38 FR 2689). On February 4, 1976, the Commission terminated Docket No. 19692 (41 FR 7399) by a Report and Order adopting standards for the design and installation of antenna monitor sampling systems. The question has been raised asking if the existing wording of section 73.93(e)(2) requiring the use of a "sampling system installed and maintained according to the standards of good engineering practice" meant that the sampling systems at stations employing third class operators must now meet all the technical specifications as contained in the rule section 73.68.

4. It was not our intention to require stations employing Third Class operators to modify existing sampling systems to meet the standards adopted in February 1976 as a condition for employment of such operators. It is for this reason, together with the unnecessary reference to the special requirement for the use of a type approved antenna monitor, that subparagraph (e)(2) of section 73.93 should be completely deleted. Its retention could result in misunderstanding and unnecessary inconvenience or expense to station licensees.

5. We conclude that, for the reasons set forth above, adoption of this amendment will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(B)(3)(b), inasmuch as this amendment would impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

6. Therefore, *it is ordered*, That, pursuant to sections 4 and 303 of the Communications Act of 1934, as amended, Part 74, Subpart D, of the Commission's Rules and Regulations are amended as set forth below, effective August 1, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

In § 73.93 of Part 73 of the Commission's Rules and Regulations, subparagraph (e)(2) is deleted and marked [Reserved]:

§ 73.93 Operator requirements.

• • • • •

(e)

(2) [Reserved]

• • • • •

[FR Doc.77-22077 Filed 7-29-77;8:45 am]

PART 87—AVIATION SERVICES

Editorial Amendment Concerning Use of Frequency 157.425 MHz in Great Lakes and Along the St. Lawrence Seaway

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Editorial amendment of Part 87 of the Commission's rules to limit the use of frequency 157.425 MHz in the Great Lakes and along the St. Lawrence Seaway to public correspondence. By a previous rulemaking this limitation was placed in Parts 2 and 83. This editorial Order will place a similar limitation in Part 87.

EFFECTIVE DATE: August 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: July 25, 1977.

Released: July 26, 1977.

Order. In the matter of Editorial amendment of § 87.183(j)(2) of the Commission's rules and regulations.

1. In most areas frequency 157.425 MHz is available for intership and commercial communications and may be assigned to ship stations aboard commercial transport vessels engaged in commercial fishing and between these commercial vessels and associated aircraft while engaged in commercial fishing activities (fish spotting).

2. In Docket No. 20838 amending Parts 2, 81 and 83 of the Commission's rules, however, frequency 157.425 MHz was limited in the Great Lakes area and along the Saint Lawrence Seaway to public correspondence use as the ship-to-shore half of VHF duplex Channel 88. It ceased to be available in those areas to ships for intership commercial communications and to ships and associated aircraft for fish spotting.

3. This Order will provide a corresponding amendment to § 87.183(j)(2) of the rules in order that Part 87, Aviation Services, also reflect this limitation on frequency 157.425 MHz in the Great Lakes area and along the Saint Lawrence Seaway. Authority for this amendment is contained in sections 4(i) and 303 (c), (f), (g) and (r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, 47 CFR 0.231 (d). Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. In view of the above: *It is ordered*, That the rule amendment set forth below is adopted effective August 9, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

In Part 87 Aviation Services, § 87.183 of the rules is amended to read as follows:

§ 87.183 Frequencies available.

• • • • •

(j) • • •

(2) Except in the Great Lakes and along the St. Lawrence Seaway the frequency 157.425 MHz is available for assignment to aircraft stations for communication with commercial fishing vessels while engaged in commercial fishing activities.

• • • • •

[FR Doc.77-22037 Filed 7-29-77;8:45 am]

Title 49—Transportation

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

[Docket No. 77-03; Notice 2]

PART 580—ODOMETER DISCLOSURE REQUIREMENTS

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the odometer disclosure statement that must be executed upon each sale of a motor vehicle. The former statement often proved confusing and was sometimes used in a misleading manner. The amended statement is clearer and less likely to be misused.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Kathleen DeMeter, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1834).

SUPPLEMENTARY INFORMATION: The disclosure statement is required by 49 CFR Part 580, Odometer Disclosure Requirements, a regulation issued by the National Highway Traffic Safety Administration (NHTSA) to implement the requirements of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513, as amended by Pub. L. 94-364; 15 U.S.C. 1901-1991). The regulation, which has been in effect since March 1, 1973, requires each transferor of a motor vehicle to give the transferee a written statement attesting to the accuracy of the vehicle's odometer.

Experience with the regulation has shown several respects in which it should be improved. In response to a petition for rulemaking submitted by the National Automobile Dealers Association, and in recognition of the need for improvements in the disclosure statement, the NHTSA issued a notice on February 9, 1977, (42 FR 9045) which proposed changes in the form and content of the odometer disclosure statement.

Differences between proposed and final rule. The final rule differs from the proposed rule in several respects. The notice had proposed to require the disclosure form to include the last license plate number, State and year. In view of the number of commenters who stated that this information was not needed to identify a vehicle or to trace a vehicle's history, the agency has decided to delete this requirement from the final rule.

The notice proposed a substantial enlargement of the disclosure form, including a certification that the odometer was either not altered, or altered for repair or replacement purposes only. This certification had been proposed in response to the NADA petition, and drew few critical comments. Two commenters raised Fifth Amendment questions concerning these additional boxes. The Department of Health, Education, and Welfare's Office of Consumer Affairs noted that these alternative certifications might give rise to possible violations of the transferor's right against self-incrimination since a wilful false certification may amount to an admission of a violation of the Act. The NHTSA, however, believes that no Fifth Amendment problem could arise. In cases dealing with this issue the Supreme Court has held that where the dominant purpose of a record-keeping requirement is to compel criminals to keep incriminating records, the statute is invalid and the 5th Amendment may be invoked. However, where the record-keeping requirements have an independent purpose and do not involve a selective group which is inherently suspect of criminal activities, the statute is valid and the 5th Amendment may not be invoked. All businessmen, as well as all consumers, who sell automobiles would be required to execute odometer disclosure statements. Statements are not required only of those individuals who are most often found to tamper with odometers. The primary purpose of a statement is to inform a potential buyer of the car's mileage so that he may have an index to the condition and value of the vehicle. The fact that individuals who tamper with vehicle odometers would be executing incriminating records is not the dominant purpose of this requirement. Consequently, these provisions will be retained in the final rule with one minor change suggested by a commenter. In view of the fact that these certifications actually involve three separate statements, instead of two as indicated in the NPRM, the NHTSA had decided to divide the second certification into two: First, that the odometer was altered and the mileage is identical to that

before repair; and second, that the odometer was altered and reset to zero, with a statement of the mileage on the original odometer or the odometer before repair.

Several commenters suggested that the transferee's name and address should be provided in a disclosure statement, in addition to his signature. This would provide a useful tool in tracing the vehicle's history and consequently, the NHTSA has decided to require that this information be included.

With the gradual conversion to the metric system now going on in the United States, the regulation has also been changed to provide for odometer readings that are expressed in kilometers where the vehicle records the distance traveled in metric units.

The bulk of the comments received were favorable. The primary objection was that the proposed final effective date of April 15, 1977, did not allow adequate time for new forms to be prepared and printed. In addition, it would have increased costs because it would not have allowed sufficient time for stocks of the present form to be depleted. In response to these comments, the agency has adopted an effective date of January 1, 1978.

One of the original goals of NHTSA was to link the disclosure statement as closely as possible to the documents required for transfer of ownership, so that buyers and sellers would know of the need for disclosure. To accomplish this goal in a manner that would not introduce an additional document into motor vehicle transactions, the agency proposed to use the certificate of title as the document for odometer disclosure.

The comments to that initial proposal persuaded the agency that providing the odometer reading on the title would not be feasible as the sole method of disclosure. NHTSA still believes, however, that placing odometer information on the certificate of title will be useful both to consumers and to law enforcement officials. This belief is substantiated by a recent resolution of the National Association of Attorneys General, which endorsed odometer information on State certificates of title as the most effective means to ensure a permanent record of the mileage history of a motor vehicle, and by the development by the American Association of Motor Vehicle Administrators of model procedures for the disclosure of odometer information on vehicle titles. Such a record would be easily accessible to governmental enforcement agencies as well as prospective purchasers of used motor vehicles.

The notice of February 7, 1977, proposed to allow the use of a State document containing odometer disclosure information if the State document contained "all" of the information required on the Federal form. A comment from the Attorney General of Ohio pointed out that it would be difficult for States to include "all" of the odometer information on their titles because of the limited space available. Consequently, NHTSA has decided to revise § 580.4(f) to accommodate those States that provide odometer information on their titles by establishing a procedure under which States can have their titles approved for use as odometer disclosure statements. In view of the utility of titles and their limited space, the procedure would permit shortening the odometer provisions on the title where necessary. Although a shorter disclosure might sacrifice clarity to a degree, the agency regards this as an acceptable price for gaining the benefits of a combined title and odometer disclosure.

States that wish to have their certificates of title satisfy the Federal odometer disclosure requirements must meet the basic provisions of the Federal requirement, with the following exceptions:

(1) The citation to the Federal law may be deleted in favor of a reference to State law. The reference provisions could then state that "Federal and State regulations require you to state the odometer mileage upon transfer of ownership. (Citation to State law instead of Federal law)."

(2) The initial statement of the odometer reading and the following alternate certifications should be included on the title. States may, however, condense that information as long as none of the certifications are lost. An example of such condensation could be "I certify to the best of my knowledge that the odometer reading is _____ and reflects the actual mileage of the vehicle described herein or (check if applicable).

☐ 1. The amount of mileage stated is in excess of 99,999 miles, or

☐ 2. The odometer reading is not the actual mileage."

(3) The transferee's signature must still appear on the title but it need not expressly indicate acknowledgement of receipt of the disclosures.

(4) The certification that the odometer was either not altered or altered for repair or replacement purposes may be deleted.

All deviations on the certificate of title from the Federal requirements must be approved by the NHTSA prior to the use of State titles as substitutes for the Federal form. The exceptions noted above are to be used by the States only as guides in preparing conforming titles. In order for the citizens of a State to use the certificate of title as their odometer disclosure form, the Administrator of the State Department of Motor Vehicles must first request an exemption from the provision of the disclosure requirement by submitting such request in writing with a copy of the proposed certificate of title. The NHTSA will then notify the Administrator of its decision to accept or refuse the request and the reasons for its decision. Upon receipt of the NHTSA's acceptance of the request for an exemption, the State may proceed with a campaign to notify consumers, dealers and distributors of such acceptance. It shall be the State's responsibility to publicize that its title may be used in place of the odometer disclosure statement.

Additional comments. One commenter asked whether there would be specifications for size. There are none, with the understanding that all print should be legible to the naked eye. Another commenter suggested that section 580.4 (c)(3) be changed to add the word "believed" so that the reading would be "I hereby certify that to the best of my knowledge the odometer reading as stated above is believed NOT to be the actual mileage. * * *" NHTSA considers this addition unnecessary because the certification already states "to the best of my knowledge."

A commenter proposed that the form should be amended to say that the names and addresses of prior owners are available from a State agency. NHTSA has determined that this should not be added. The addresses are not available from some State agencies and such a provision would therefore be of limited utility. Another addition that was suggested was to add a reference to the minimum damages and attorneys fees available under the Federal law. This was proposed to alert consumers to the fact that certain impediments to enforcement, such as the expense of lawyers and proof of actual damages, are removed by the Act. These references, like any other additions desired by the States or transferors, may be added, but will not be required due to space limitations and to a determination that they are not necessary if there is sufficient publicity of the law.

An individual commented that the seller should be allowed to estimate the amount of mileage difference and explain the error. There is certainly no prohibition against a seller doing so, but NHTSA sees no benefit to be gained in requiring this. A buyer can, and certainly should, request such information, but anyone who has violated the Act will, nonetheless, not provide a truthful statement of the mileage difference or the reason for that difference. The result could be that a buyer is unknowingly led into reliance on this false statement, whereas an independent check of his own could have produced the truth.

It was suggested that positive introductory statements be used for the certification sections. The commenter noted that in its experience, when a positive introductory statement is lacking, the seller fails to check any box. Its proposal would modify the statement as follows: "I _____ state that the odometer now reads _____ miles and I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

☐ (1) I hereby certify that the odometer reading reflects the amount of mileage in excess. * * *

☐ (2) I hereby certify that to the best of my knowledge the odometer reading as stated above is NOT * * *"

The NHTSA has not experienced the failure to check a box when a positive introductory statement is lacking and

consequently, will retain the statement in the proposed rule. Should it become evident that a positive introductory statement is needed, further rulemaking will be undertaken. It should be noted that the form suggested by this commenter would significantly shorten the length of this provision, thus it would be an acceptable alternative only where the odometer disclosure is on the certificate of title.

A suggestion was made to provide a notice that an auxiliary odometer had been used in the vehicle. The auxiliary odometer would interrupt the operation of the regular odometer and cause it to register less than the vehicle's actual mileage. The seller would therefore be required by the present language of the regulation to notify the buyer of the odometer error. In view of this, NHTSA considers it unnecessary to refer specifically to an auxiliary odometer.

It was also suggested that the owner of a vehicle be allowed to replace or adjust the odometer to reflect actual mileage. The commenter noted that occasionally odometers jump ahead 10, 20, or 30 thousand miles and if the odometer cannot be altered to read the actual mileage instead of the mileage on the odometer before repair or replacement, the trade-in value would be drastically decreased to the harm of the owner. NHTSA believes that the few cases in which the odometer malfunctions and rolls forward too fast are too slight to justify this provision. Such a provision would create a loophole for those who wanted to roll back their odometer and then claim that it was rolling over too fast and they had to fix it by moving it backward. Anyone whose odometer did jump could replace or repair the odometer, set it to zero so that a buyer would not be misled by the odometer reading, and upon sale provide a statement to the buyer that the mileage is NOT actual and that the actual mileage is less than that shown on the odometer or on the repair or replacement sticker. More importantly, it should be noted that the repair and replacement provisions, wherein the owner is required to reset the odometer to the mileage before repair or replacement or to zero, are part of the Motor Vehicle Information and Cost Savings Act (section 407(a)). Consequently, they are not susceptible to change by NHTSA, but only by Congress.

Requests by commenters that odometer readings be required on registration forms, that statements be required to be retained, and that manufacturers be required to furnish 6 digit odometers are not applicable to this rulemaking action. It should be noted that a retention requirement for odometer disclosure statements will be issued soon and that a proposed rule requiring tamper-proof odometers which indicate when they have exceeded 100,000 miles or kilometers was issued on December 7, 1976. The proposed effective date of the latter rule is September 1, 1979.

In consideration of the foregoing, Part 580, Odometer Disclosure Requirements, is amended to read as set forth below.

The lawyer principally responsible for this rule is Kathleen DeMeter.

Issued on July 25, 1977.

(Sec. 408, Pub. L. 92-513, 86 Stat. 962, as amended by Pub. L. 94-364, 90 Stat. 983 (15 U.S.C. 1988); delegation of authority at 49 CFR 501.8(1).)

JOAN CLAYBROOK,
Administrator.

1. § 580.4, *Disclosure of odometer information* is revised as follows:

§ 580.4 Disclosure of odometer information.

(a) Before executing any transfer of ownership document, each transferor of a motor vehicle shall furnish to the transferee a written statement signed by the transferor, containing the following information:

(1) The odometer reading at the time of transfer;

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address;

(5) The identity of the vehicle, including its make, model, year, and body type, and its vehicle identification number.

(b) In addition to the information provided under paragraph (a) of this section, the statement shall refer to the Motor Vehicle Information and Cost Savings Act and shall state that incorrect information may result in civil liability and civil or criminal penalties.

(c) In addition to the information provided under paragraphs (a) and (b) of this section,

(1) The transferor shall certify that to the best of his knowledge the odometer reading reflects the actual miles or kilometers the vehicle has been driven; or

(2) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles/kilometers, he shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading differs from the number of miles/kilometers the vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, he shall include a statement that the odometer reading is not the actual mileage, and should not be relied upon.

(d) In addition to the information provided under paragraphs (a), (b) and (c) of this section, the transferor shall certify that:

(1) The odometer was not altered, set back, or disconnected while in the transferor's possession, and he has no knowledge of anyone else doing so;

(2) The odometer was altered for repair or replacement purposes while in the transferor's possession, and the mileage registered on the repaired or replacement odometer was identical to that before such service; or

(3) The odometer was altered for repair or replacement purposes, the odometer was incapable of registering the same mileage, it was reset to zero, and the mileage on odometer before repair was ____ miles/kilometers.

(e) The transferee shall acknowledge receipt of the disclosure statement by signing it.

(f)(1) If the laws or regulations of the State in which the transfer occurs require the odometer disclosure to be made on the certificate of title, the transferor may make the disclosure required by this section by executing the State certificate of title. In order to utilize the certificate of title as a substitute for the Federal odometer disclosure statement, it must contain essentially the same information required by paragraphs (a), (b), (c), and (e) of this section. If the information contained on the State certificate of title varies in any way from that required for the Federal form, the State must obtain approval from the National Highway Traffic Safety Administration before its title can be used as a substitute for the Federal form. Such approval may be obtained by submitting a copy of the proposed certificate of title to the Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(2) The NHTSA shall respond to the State's request within 30 days of receipt of such request.

(3) If a document, other than the certificate of title, provided under the laws or regulations of the State in which the transfer occurs contains all of the statements required by this section, the transferor may make the disclosure required by this section either by executing the State document or by executing the disclosure form specified in § 580.6.

(g) If there is no State document as described in paragraph (f) of this section, the transferor shall make the disclosure required by this section by executing the disclosure form specified in § 580.6.

2. Section 580.6, Disclosure Form, is revised as follows:

§ 580.6 Disclosure form.

ODOMETER MILEAGE STATEMENT

(Federal regulations require you to state the odometer mileage upon transfer of ownership. An inaccurate or untruthful statement may make you liable for damages to your transferee, for attorney fees, and for civil or criminal penalties, pursuant to sections 409, 412, and 413 of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. 92-513, as amended by Pub. L. 94-364).

I, _____, state that the
(transferor's name, Print)
odometer of the vehicle described below now reads _____ miles/kilometers.

Check one box only.

☐ (1) I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the actual mileage of the vehicle described below.

☐ (2) I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the amount of mileage in excess of designed mechanical odometer limit of 99,999 miles/kilometers of the vehicle described below.

☐ (3) I hereby certify that to the best of my knowledge the odometer reading as stated above is NOT the actual mileage of the vehicle described below, and should not be relied upon.

Make	Model	Body type
Vehicle identification number		Year

Check one box only.

☐ (1) I hereby certify that the odometer of said vehicle was not altered, set back, or disconnected while in my possession, and I have no knowledge of anyone else doing so.

☐ (2) I hereby certify that the odometer was altered for repair or replacement purposes while in my possession, and that the mileage registered on the repaired or replacement odometer was identical to that before such service.

☐ (3) I hereby certify that the repaired or replacement odometer was incapable of registering the same mileage, that it was reset to zero, and that the mileage on the original odometer or the odometer before repair was ---------- miles.

Transferor's Address (seller) ----------
(Street)

(City) (State) (ZIP Code)
Transferor's Signature (seller) ----------
Date of Statement ----------
Transferee's Name and Address (buyer) ----

(Street)

(City) (State) (ZIP Code)
Receipt of copy Acknowledged ----------

(Transferee's signature, buyer)

[FR Doc.77-21828 Filed 7-26-77;11:37 am]

[Docket Nos. 73-19, 74-11; Notices 19, 22]

PART 581—BUMPER STANDARD

Damageability Requirements: Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to Petitions for Reconsideration; Correction.

SUMMARY: This notice corrects an inadvertent error in the notice that changed the format of Part 581, Bumper Standard, so that its numbering system conformed to the Code of Federal Regulations format (42 FR 24056; May 12, 1977). In that notice, the new numbering was not totally incorporated into the body of the regulation.

FOR FURTHER INFORMATION CONTACT:

Mr. Tim Hoyt, Office of Crashworthiness, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590. (202-426-2264).

SUPPLEMENTARY INFORMATION: On May 12, 1977, the National Highway Traffic Safety Administration published a FEDERAL REGISTER notice (42 FR 24056; FR Doc. 77-13235) responding to petitions for reconsideration of the March 4, 1976, notice (41 FR 9346) establishing a new bumper standard. The May notice also changed the format of Part 581. The text of the bumper standard was previously published in the format of a motor vehicle safety standard. Since the standard is actually an entire part within Chapter V of the Code of Federal Regulations its numbering system was revised in order that it could be properly codified.

When Part 581 was published with its revised format only the section headings were properly renumbered. The texts of the various sections were inadvertently left unchanged. This notice revises the section references in the body of the regulation to conform to the new format.

The principal author of this notice is Karen Dyson, Office of Chief Counsel.

In accordance with the foregoing, the following changes should be made to 49 CFR Part 581, Bumper Standard:

1. Section 581.5(a), (b) and (c)(9) should be changed to read as follows:

§ 581.5 Requirements.

(a) *Vehicles manufactured on or after September 1, 1978.* Each vehicle manufactured on or after September 1, 1978, shall meet the damage criteria of §§ 581.5 (c)(1) through 581.5(c)(9) when impacted by a pendulum-type test device in accordance with the procedures of § 581.7(b) under the conditions of § 581.6 at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of § 581.7(a) at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of § 581.6 at 5 mph.

(b) *Vehicles manufactured on or after September 1, 1979.* Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of § 581.5 (c)(1) through § 581.5(c)(7), and § 581.5 (c)(9) through § 581.5(c)(11), when tested in accordance with the requirements of § 581.5(a).

(c) • • •

(9) Except as provided in § 581.5(c)(8) there shall be no breakage or release of fasteners or joints.

• • • • •

2. In § 581.6 the introductory paragraph, paragraphs (b) and (b)(1) should be chagned to read as follows:

§ 581.6 Conditions.

The vehicle shall meet the requirements of § 581.5 under the following conditions.

• • • • •

(b) *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of § 581.7(a) and § 581.7 (b).

(1) The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C." The impact ridge and the surfaces in Planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. From the point of release of the device until the onset of rebound, the pendulum suspension system holds Plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for § 581.7(a), longitudinal; for § 581.7 (b), at an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

• • • • •

3. Section 581.7(a)(5) should be changed to read as follows:

§ 581.7 Test procedures.

(a) • • •

(5) For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes Plane A of the test device and with the test device inboard of the vehicle corner test positions specified in § 581.7(b).

• • • • •

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat 947 (15 U.S.C. 1912); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 26, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-21981 Filed 7-29-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Big Lake National Wildlife Refuge, Arkansas, to Squirrel and Raccoon Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Big Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel: October 1, 1977 through November 10, 1977. Raccoon: November 1, 1977 through November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvin L. Nichols, Refuge Manager, P.O. Box 67, Manila, Arkansas 72442. Telephone 501-564-2429.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game hunting is permitted on Big Lake National Wildlife Refuge, Arkansas. The open area comprising 11,035 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Upland game hunting for Squirrel and Raccoon shall be in accordance with all applicable State regulations subject to the following conditions:

1. Both Squirrel and Raccoon Hunting will close at sundown on November 10.

2. Only shotguns or .22 caliber rimfire rifles may be used.

3. Persons are prohibited from possessing, while on the refuge, either on their person or in their vehicle, game for which there is not an open season on the refuge.

4. A special permit is required for each hunt.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21960 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of the Hatchie National Wildlife Refuge, Tennessee, to Public Squirrel and Raccoon Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to the public for squirrel and raccoon hunting of Hatchie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel—August 27 through September 17, 1977. Raccoon—October 14 through October 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis B. Jordan, Hatchie National Wildlife Refuge, P.O. Box 187, Brownsville, Tennessee 38012. Phone 901–772–0501.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special Regulations; upland game hunting; for individual wildlife refuge areas.

Public hunting of squirrels and raccoons is permitted on the Hatchie National Wildlife Refuge, Tennessee, only on the areas designated by signs as being open to hunting. These areas comprising approximately 11,220 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following conditions:

1. All hunters must possess a Refuge Hunting Permit applicable for that particular hunt.

2. Hunters under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

3. Weapons: Only shotguns using No. 2 or smaller shot and .22 caliber rimfire rifles permitted.

4. Camping is prohibited.

5. Dogs are prohibited at all times except they are required during the raccoon hunt.

6. Raccoon hunting is permitted only on Tuesday, Friday and Saturday nights from sunset to midnight.

7. The operation of all motorized vehicles is prohibited in fields and woods and over roads and trails marked "closed". Vehicles may not be parked so as to block any road or thoroughfare.

8. No axes, saws or other cutting implements will be permitted during the raccoon hunt.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11959 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21965 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Lake Isom National Wildlife Refuge, Tennessee, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Lake Isom National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977 through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, P.O. Box 295, Samburg, Tennessee. Telephone 901–538–2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Lake Isom National Wildlife Refuge, Tennessee, only on the areas designated by signs as being open to hunting. These areas comprising 1,850 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977 through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tennessee 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Lake Isom refuge unit during the period(s) of October 3–October 8, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight only)

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tennessee 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21962 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Reelfoot National Wildlife Refuge, Kentucky, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Reelfoot National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977 through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, P.O. Box 295, Samburg, Tennessee. Telephone 901–538–2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Reelfoot National Wildlife Refuge, Kentucky, only on the areas designated by signs as being open to hunting. These areas comprising 2,034 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977 through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tennessee 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Long Point refuge unit during the period(s) of September 26–October 1, 1977 and October 3–October 8, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight)

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tennessee 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21963 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Reelfoot National Wildlife Refuge, Tenn., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Reelfoot National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977, through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Wendell Crews, Refuge Manager, Reelfoot National Wildlife Refuge, P.O. Box 295, Samburg, Tenn., telephone 901–538–2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Reelfoot National Wildlife Refuge, Tenn., only on the areas designated by signs as being open to hunting. These areas comprising 9,585 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977, through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tenn. 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Long Point refuge unit during the period(s) of September 26 through October 1, 1977, and October 3 through October 8, 1977. Raccoons may be taken, without limit, on the Grassy Island refuge unit during the period of September 26 through October 1, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight).

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tenn. 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21964 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Wapanocca National Wildlife Refuge, Ark., to Hunting (Squirrels and Raccoons)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Wapanocca National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrels: October 1, 1977, through October 15, 1977. Raccoon: October 15, 1977, through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill A. Grabill, Refuge Manager, Wapanocca National Wildlife Refuge, P.O. Box 257, Turrell, Ark., 72384, telephone 501-343-2595.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting for squirrels and raccoons is permitted on all wooded areas of Wapanocca National Wildlife Refuge, Ark., with the following exception: No hunting is permitted within 100 yards of any refuge building or structure. These areas comprising 3,085 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Public hunting shall be in accordance with all applicable State regulations subject to the following conditions:

SQUIRRELS

1. A special refuge permit is required for each hunter and will be issued in advance at refuge headquarters. Mail applications will be accepted. This permit will be valid for the entire refuge season.

2. Only shotguns and .22 caliber rimfire rifles may be used.

3. Access by vehicles on refuge roads may be restricted during periods of wet weather.

4. Each hunter under age 18 must be under the close supervision of an adult.

5. Cutting or burning trees, fires, camping, and littering are prohibited.

6. Each hunter is requested to complete and return the questionnaire attached to the hunting permit.

7. Use of dogs is prohibited.

8. There will be no limit to the number of hunt permits issued.

9. Use of boats is prohibited.

RACCOONS

1. A special refuge permit is required for each day of hunting. These permits may be applied for in advance. Mail applications will be accepted. All requests for permits must be received by October 6. A maximum of 20 permits will be issued for each night of the hunt. A draw will determine the permittees should more than 20 requests be received for a given day. All permits will be mailed to those hunters selected by the draw prior to the opening of the season.

2. Only shotguns and .22 caliber rimfire rifles may be used.

3. Access by vehicles on refuge roads may be restricted during periods of wet weather.

4. Each hunter under age 18 must be under the close supervision of an adult.

5. Cutting or burning trees, fires, camping, and littering are prohibited.

6. Each hunter is requested to complete and return the questionnaire attached to the hunting permit.

7. Dogs are required; however no more than two dogs per hunter will be permitted.

8. Use of boats is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21961 Filed 7-29-77;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

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Notice of Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $16,650 and a rate of assessment of $0.001 per hundredweight of potatoes for the functioning of the Washington Potato Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due August 17, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 113 and Order No. 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 946.230 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $16,650.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-tenth cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during the fiscal period, except potatoes for canning, freezing, and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 946.42(a).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: July 27, 1977.

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

[FR Doc.77-22075 Filed 7-29-77;8:45 am]

[7 CFR Parts 1006, 1012, and 1013]

[Docket Nos. AO-356-A16, AO-347-A19, and AO-286-A27]

MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the three Florida Federal milk orders, based on a handler proposal considered at a public hearing in June 1977. The proposed amendments would provide for the use of a single butterfat differential for adjusting the value of producer milk in all uses according to the butterfat content of the milk. This change would improve competitive relationships between milk processors regulated under the Florida orders and those regulated under other nearby orders.

DATE: Comments are due on or before August 11, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250. (202-447-7311).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued June 13, 1977; published June 16, 1977 (42 FR 30627).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas, and of the opportunity to file exceptions thereto. This notice is issued 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).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by August 11, 1977. Four copies are required for this proceeding. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the order as amended, were formulated, was conducted at Orlando, Fla., on June 29, 1977, pursuant to notice thereof.

The material issue on the record of the hearing relates to whether the orders should provide a single butterfat differential.

Adoption of a single butterfat differential. A single butterfat differential, 11.5 percent of the Chicago Grade A butter price for the month, should be used to adjust the class prices and the uniform prices of the Upper Florida, Tampa Bay and Southeastern Florida milk orders.

Presently, the Upper Florida and Tampa Bay orders provide for three different butterfat differentials. That for Class I is fixed at 7.5 cents (for each one-tenth percent of butterfat above or below 3.5 percent); for Class II it is 11.5 percent of the Chicago Grade A butter price for the month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the two classes, weighted by the proportion of butterfat in producer milk assigned to each class. The provisions are the same in the Southeastern Florida order, except that a Class III butterfat differential, identical to that for Class II, is provided.

A handler proposed that the Class I butterfat differential be 11.5 percent of the Chicago Grade A butter price for the month, thereby resulting in a single butterfat differential for adjusting the

class prices and the uniform prices of the three Florida orders. This is the same butterfat differential that is applicable to fluid milk products priced under all other Federal orders throughout the eastern part of the United States. No testimony in opposition to the proposal was presented at the hearing.

The proponent operates a plant under each of the Florida orders and distributes a full line of fluid milk products from each. This includes homogenized (whole) milk, at least two kinds of lowfat fluid milk products, skim milk, buttermilk, chocolate milk and chocolate flavored milk drink. The handler operates no retail routes, but disposes of fluid milk products through wholesale customers and institutions, such as chain stores, hospitals, and schools.

The proposal to make the Class I butterfat differential for the Florida orders the same as for most other orders stems from competition experienced with handlers located outside the three Florida markets. Proponent contended that if the three Florida markets operated in a vacuum there would be no particular adverse competitive effect in maintaining the present Class I butterfat differential. As it is, however, proponent supplies its own stores northward along the Georgia coast to Savannah, and inland to Waycross, Ga., from its plant at Jacksonville, Fla., regulated by the Upper Florida order. In doing this, proponent is not competitive with handlers regulated by the Georgia order whose cost for the skim milk component of Class I fluid milk products under such order is significantly less than it is for proponent under the Upper Florida order. In May 1977, for example, the Georgia butterfat differential was 11.6 cents as compared with the 7.5 cent Class I butterfat differential under the Florida orders.

The record establishes, also, that other handlers regulated by the Upper Florida order and located in Tallahassee compete with Georgia handlers both in Georgia and in Florida. In this connection, in April 1977, about 2.3 million pounds of packaged Class I fluid milk products were disposed of by handlers regulated by the Upper Florida order to locations inside the Georgia marketing area. This was about 4 percent of the total Class I sales for the Upper Florida market. Moreover, fluid milk products are distributed in the Upper Florida marketing area from Georgia regulated plants at Columbus, Ga., and Spartanburg, S.C.

In the disposition of Class I fluid milk products in competition with Georgia handlers, Florida handlers do not enjoy any particular offsetting advantage from the fact that the Florida Class I butterfat differential is lower than the Georgia Class I butterfat differential. This stems from the fact that there are no relatively high-fat Class I products any more.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in Federal order marketing areas. In 1967, for example, the average butterfat test in 67 Federal order markets for such sales was 3.46 percent.[1] This percentage declined yearly, and in 1975, the latest full year for which data are available, the comparable average butterfat test for 55 markets was 3.01 percent. On a percentage basis, the average butterfat content of these fluid milk products declined 13 percent from 1967 to 1975.

The declining average butterfat content of packaged fluid milk product sales in the three Florida markets has been similar to the national trend. In 1967, the average butterfat content of fluid milk products in the three markets was 3.58 percent.[2] The comparable average test for 1975 was 3.07 percent, a decline of 14 percent. The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat content of such products under the three Florida orders. Adopting the butterfat differential proposed, as provided in this decision, gives recognition to actual or potential competition in the sale of lowfat fluid milk products between Florida handlers and those regulated by other Federal orders, particularly the Georgia order.

The price difference per gallon of milk between Georgia and Upper Florida handlers increases substantially as the butterfat test of the milk decreases. At a test of 3.5 percent butterfat, the difference is 4.73 cents per gallon, which reflects the difference in the Class I price differentials for the two orders, with Upper Florida having the higher price. For a gallon of skim milk, this difference increases to 17.13 cents, reflecting the differing values for skim milk stemming from the fixed butterfat differential of 7.5 cents provided in the Upper Florida order and the 11.6-cent differential provided in the Georgia order for May 1977.

On the basis of data for April 1977, the butterfat test of packaged Class I disposition for the Upper Florida market averaged 2.76 percent. On this basis, Order 6 handlers were disadvantaged by about 2.6 cents per gallon in competing with Georgia regulated handlers. Proponent emphasized that milk sales are won or lost on the basis of a fraction of one cent. With a disadvantage of the size indicated, the long-term result could be a loss of fluid milk outlets, not only for Upper Florida handlers but for producers in the market as well.

The fixed 7.5-cent butterfat differential was adopted in the Florida orders at a time when the price of butter was substantially lower. The fixed differential was provided in the Upper Florida order about a decade ago. For the other Florida orders, it was provided earlier than that. At the time, the fixed Class I differential was higher than the Class II butterfat differential, and approximated the Class I butterfat differentials then provided in other Federal milk orders. This is no longer the case. For May 1977, for example, the Class I butterfat differential for the Georgia order as well as the Class II differential for the Florida orders, was 11.6 cents compared with 7.5 cents for the Florida orders. The Georgia differential was based on a Chicago Grade A butter price of $1.01 per pound, an increase of 49 percent from even 5 years ago when such price was 67.7 cents per pound.

The Class I butterfat differential adopted herein would provide the same value for Class I butterfat in the Florida orders as is provided in the Georgia order. This will result in placing both Georgia and Florida regulated handlers on a comparable basis in the disposition of fluid milk products.

The record establishes that adverse competitive conditions exist only between handlers regulated by the Upper Florida order and those regulated by the Georgia order. Nevertheless, the single butterfat differential should be adopted for all three Florida orders. If the Tampa Bay and Southeastern Florida orders were not included, the same competitive conditions would be created between handlers regulated by the Upper Florida order and handlers under the other two Florida orders that now exist between handlers regulated by the Upper Florida order and those regulated by the Georgia order.

Since the Class I butterfat differential for each of the Florida orders is fixed at 7.5 cents, it is of course known at the time of the advance announcement of Class I prices. This no longer would be the case. The differential adopted in this decision would be based on the butter price for the current month and thus would not be known until the 5th day of the following month, which is the case now for the Class II butterfat differentials for the three orders and the Class III butterfat differential for the Southeastern Florida order.

Since the same butterfat differential would apply to all classes of milk, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials for adjusting class prices need be set forth as such in the orders, nor is there any need for pooling the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, the orders should be modified to provide only for the announcement and use of a producer butterfat differential.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of an interested party. The brief, proposed findings and conclusions and the evidence

[1] Official notice is taken of the January 1973 and January 1977 Summary of Federal Milk Order Statistics issued by the Dairy Division, AMS, USDA.

[2] Official notice is taken of the Annual Summary for 1969 and 1976, Federal Milk Order Market Statistics, Statistical Bulletins No. 437, 5575 issued by the Dairy Division, C&MS and AMS, USDA.

in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

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

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

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

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

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

RECOMMENDED MARKETING AGREEMENTS AND ORDER AMENDING THE ORDERS

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.50, the preamble and paragraph (a) are revised to read as follows:

§ 1006.50 Class prices.

Subject to the provisions of § 1006.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

* * * * *

2. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1006.55 is revoked.

§ 1006.55 [Revoked]

4. In § 1006.60, paragraph (b) is revised to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each Class pursuant to § 1006.44(a)(11) and the corresponding step of § 1006.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1006.74;

5. In § 1006.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1006.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

6. Section 1006.62 is revised to read as follows:

* * * * *

§ 1006.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1006.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1006.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1006.75; and

* * * * *

8. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1006.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1006.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1006.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.50, the preamble and paragraph (a) are revised to read as follows:

§ 1012.50 Class prices.

Subject to the provisions of § 1012.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.95.

* * * * *

2. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1012.55 is revoked.

§ 1012.55 [Revoked]

4. Section 1012.60, paragraph (b) is revised to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.44(a)(11) and the corresponding step of § 1012.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1012.74;

* * * * *

5. In § 1012.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1012.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1012.62 is revised to read as follows:

§ 1012.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1012.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1012.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1012.75; and

* * * * *

8. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1012.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1012.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.50, the preamble and paragraph (a) are revised to read as follows:

§ 1013.50 Class prices.

Subject to the provisions of § 1013.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.15.

* * * * *

2. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

3. Section 1013.55 is revoked.

§ 1013.55 [Revoked]

4. In § 1013.60, paragraph (b) is revised to read as follows:

§ 1013.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1013.44(a)(12) and the corresponding step of § 1013.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1013.74;

* * * * *

5. In § 1013.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1013.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat as follows:

* * * * *

6. Section 1013.62 is revised to read as follows:

§ 1013.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1013.71, paragraph (a)(2)(i) is revised to read as follows

§ 1013.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of each handler's producer milk at the uniform price, as adjusted pursuant to § 1013.75; and

* * * * *

8. In § 1013.73, paragraph (a)(3) is revised to read as follows:

§ 1013.73 Payments to producers and to cooperative associations.

(a) * * *

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.61 adjusted pursuant to §§ 1013.74 and 1013.75, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

* * * * *

9. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

10. In § 1013.76, paragraphs (a)(2) and (b)(4) are revised to read as follows:

§ 1013.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1013.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

Signed at Washington, D.C., on July 26, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-22013 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17061]

AIRWORTHINESS DIRECTIVES

Dowty Rotol, Ltd., Type R193/4–30–4/50 and R193/4–30–4/61 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of the hub and drive center assembly of certain Dowty Rotol type R193/4–30–4/50 and R193/4–30–4/61 propellers for evidence of corrosion which could result in failure of the hub and driving center assembly and ultimate propeller failure. The proposed AD would affect propellers installed on, but not necessarily limited to, Fairchild Models F27A, F27F, F27J, FH227 and FH227–1; and Fokker F–27 Mks. 200, 400, 500 and 600 airplanes.

DATES: Comments must be received on or before September 13, 1977.

ADDRESSES: Send comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–24) Docket No. 17061, 800 Independence Avenue, SW., Washington, D.C. 20591.

The applicable service bulletin and documents may be obtained from:

Dowty Rotol Inc., Staverton West, Sully Road, Sterling, Virginia 22170, or Dowty Rotol Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

FOR FURTHER INFORMATION CONTACT:

P. A. Cormaci, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embasy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Several cases of severe corrosion have been found by the manufacturer on the hub and driving center assemblies of Dowty Rotol type R193/4–30–4/50 and R193/4–30–4/61 propellers.

This corrosion has been attributed to improper cadmium plating of the hub and driving center assemblies and could result in propeller failure and pose a potential hazard to the operation of the airplane.

Since this condition is likely to exist or develop in other products of the same type design, the proposed airworthiness directive would require the inspection of the hub and driving center assembly for corrosion and replacement, if necessary.

Drafting Information

The principal authors of this document are P. A. Cormaci, Europe, Africa, and Middle East Region, N. S. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Dowty Rotol, Ltd. Applies to Dowty Rotol Type R193/4–30–4/50 and R193/4–30–4/61 propellers of the following serial numbers which may be installed on, but not necessarily limited to, Fairchild Model F27A, F27F, F27J, FH–227, and FH–227–1; and Fokker F–27 Mks. 200, 400, 500 and 600 airplanes:

DRG/72/63	193/60/167
DRG/134/63	DRG/4/61
DRG/136/63	DRG/5/61
DRG/222/63	DRG/6/61
DRG/224/63	DRG/7/61
DRG/226/63	DRG/9/61
DRG/284/63	DRG/13/61
DRG/285/63	DRG/14/61
DRG/286/63	DRG/25/61
DRG/287/63	DRG/26/61
DRG/320/63	DRG/27/61
DRG/321/63	DRG/33/61
DRG/337/63	DRG/34/61
DRG/14/64	DRG/35/61
DRG/17/64	DRG/2/62
DRG/36/64	DRG/3/62
DRG/78/64	DRG/33/62
DRG/79/64	DRG/35/62
DRG/120/64	DRG/36/62
DRG/121/64	DRG/37/62
DRG/122/64	DRG/41/62
DRG/123/64	DRG/42/62
DRG/138/64	DRG/49/62
DRG/141/64	DRG/50/62
DRG/142/64	DRG/66/62
DRG/158/64	DRG/19/63
DRG/207/64	DRG/22/63
DRG/208/64	DRG/24/63
DRG/292/66	DRG/25/63
DRG/296/66	DRG/26/63

Compliance is required as indicated, unless already accomplished.

To reduce the possibility of propeller hub and driving center assembly failure due to corrosion, and subsequent possible propeller failure, accomplish the following:

(a) Within the next 1,000 hours time in service after the effective date of this AD, or at the next scheduled propeller overhaul, whichever occurs first, inspect the propeller hub and driving center assembly in accordance with Dowty Rotol Service Bulletin 61–882, dated March 11, 1977 (hereinafter SB 61–882), and the therein referenced Dowty Rotol Propeller Overhaul Manual Pub. No. 61–2–2, Repair Scheme Manual Pub. No. 923, and Process Specification Manual Pub. No. 872, or FAA-approved equivalents.

(b) If, as a result of the inspection required by paragraph (a) of this AD, propeller hub or driving center assembly corrosion is found to exceed the limits specified in Dowty Rotol Overhaul Manual 61–2–2 and Repair Scheme Manual Publication No. 923 Repair Schemes 650013110 and 650013110, or an FAA-approved equivalent, before further operation, replace the propeller hub and driving center assembly with a serviceable propeller hub and driving center assembly, or an FAA-approved equivalent.

(c) The equivalent means of compliance specified in paragraphs (a) and (b) of this AD must be approved by the Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 25, 1977.

J. A. Ferrarese,
Acting Director,
Flight Standards Service.

[FR Doc.77–22005 Filed 7–29–77;8:45 am]

[14 CFR Parts 71 and 75]

[Airspace Docket No. 77–SO–28]

PROPOSED ALTERATION OF FEDERAL AIRWAYS AND JET ROUTES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to realign V–56, J–4, and J–20 to extend from Meredian, Miss., direct to Montgomery, Ala., rather than via an intersection or the Cahaba Ala., VORTAC. The proposed action would straighten routes that now have a dogleg configuration and reduce the distance between Meridian and Montgomery.

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77–SO–28, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION, CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before August 31, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The Department of Air Force has advised FAA that they expect to decommission the Cahaba VORTAC on October 1, 1977, so that it could no longer be used as a navigation aid for V-56. This airway must therefore be realigned to eliminate Cahaba in its description. The Craig 2 MOA is expected to be altered to provide additional separation from the realigned airway. Jet Route J-4/J-20 which overlies V-56 must also be realigned if it is to continue to do so. The jet route and airway distance will be reduced by the proposed realignment.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) as follows:

§ 75.100 [Amended]

In § 75.100 (42 FR 707, 55863) Jet Route No. 4 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

In § 75.100 (42 FR 707) Jet Route No. 20 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

§ 71.123 [Amended]

In § 71.123 (42 FR 307) V-56 "Cahaba, Ala.;" is deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 25, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22000 Filed 7-29-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Regs. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Procedures, Payment of Benefits, and Representation of Parties; Consolidation of Hearings in Disability Cases With Common Issues

AGENCY: Social Security Administration, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment to the regulations provides for consolidation of hearings on the issue of medical improvement in cases of dual entitlement under both the Social Security Disability (Title II) and the Supplementary Security Income (SSI) (Title XVI) programs which involve the common issue of cessation of blindness or disability. The regulations applicable to the SSI program already provide for a hearing as the first step in the appellate process for SSI cases. However, the regulations applicable to the other social security programs provide for reconsideration as the initial appellate step in those cases. Current operating procedures provide that in such dual entitlement (Title II/Title XVI) disability claims, the appeal in the Title II case is accelerated to the hearing level. However, this procedure has not been formalized into the Title II Social Security regulations and, as a result, several requests for hearings under Title II in such dual entitlement medical cessation cases have been dismissed. The proposed rule prevents such dismissals.

DATES: Comments must be received on or before September 15, 1977.

ADDRESS: Prior to the final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to the notice will be available for public inspection during regular business hours at the Washington Inquiring Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Marval Cazer, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7463. Mr. Cazer will respond to questions but all comments on this regulation should be in writing as indicated below.

SUPPLEMENTARY INFORMATION: Regulations No. 4 now provide reconsideration review as the first appellate step after the initial decision in all title II disability insurance claims. Regulations No. 16, on the other hand, provide for a hearing as the first appellate step after the initial cessation decision due to medical improvement in supplemental security income disability cases. The amendment to Regulations No. 16 was published in the FEDERAL REGISTER on October 9, 1975 (40 FR 47489). It provided, among other changes, that in initial determinations involving medical cessation of disability or blindness, appeal by the recipient is directed to a statutory hearing before an official of the Bureau of Hearings and Appeals of the Social Security Administration.

Since a concurrent disability beneficiary (i.e., one entitled to benefits based on disability or blindness under both the Federal Old-Age, Survivors, and Disability Insurance program and the Supplemental Security Income Program) meets the needs test of the latter program, it is important to provide him due process protection and decide the issue of medical improvement promptly. While current operating procedures provide that in concurrent title II/title XVI disability claims the appeal in the title II case is accelerated to the hearing level, this administrative decision has not been formalized into the regulations pertaining to title II. In the absence of consistency between the title XVI regulations (§§ 416.1425(a)(4) and 416.1436(b)) and title II regulations (§§ 404.909, 404.910, and 404.917(a)) presiding officers at hearings have in a few instances dismissed requests for hearings under title II in dual entitlement medical cessation cases. By amend-

ing § 404.917 to show that the first appellate step in an appropriate dual entitlement case would be the hearing stage, the possibility of dismissal of the title II request will be eliminated and assure a smooth and prompt processing of consolidated hearings. Bypassing the administratively mandated reconsideration step will not adversely affect the rights of any claimant. In these situations, an appeal will merely be expedited to the statutory hearings level. The elimination of the reconsideration step in concurrent title II–title XVI medical cessation cases in no way affects the payment procedures currently in effect. Title XVI payments will continue until the beneficiary is notified of the decision made after the hearing he requested, whereas title II payments will end, as he will be advised in the notice of the initial determination, two months after the month his disability is found to have ceased.

The proposed amendment is to be issued under the authority contained in sections 205, 221(d), and 1102 of the Social Security Act, as amended, 53 Stat. 1362, as amended, 68 Stat. 1081, as amended, 86 Stat. 1432; 42 U.S.C. 405, 421(d), and 1302.

NOTE.—The Social Security 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.

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance Program).

Dated: June 11, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 19, 1977

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart J of Regulations No. 4 of the Social Security Administration, as amended (20 CFR Part 404), is further amended as set forth below:

1. Section 404.910 is revised to read as follows:

§ 404.910 Reconsideration; right to reconsideration.

The Social Security Administration shall, except as provided in § 404.910(d), reconsider an initial determination if a written request for reconsideration is filed, as provided in § 404.911:

(a) By or for the party to the initial determination (see § 404.905),

(b) By an individual as a wife, widow, divorced wife, surviving divorced wife, surviving divorced mother, husband, widower, child, parent, individual alleging equitable entitlement to a lump sum, or representative of a decedent's estate, who makes a showing in writing that his or her rights with respect to monthly benefits, a lump sum, a period of disability, or entitlement to hospital or supplementary medical insurance benefits, may be prejudiced by such determination. Such request for reconsideration is not applicable under this paragraph with respect to the revision of the Social Security Administration's earnings records.

(c) By a person as a widow, divorced wife, surviving divorced wife, surviving divorced mother, widower, child, parent, or individual alleging equitable entitlement to a lump sum, or representative of the decedent's estate relating to the revision of the Social Security Administration's record of the earnings (see § 404.905(g)) of a deceased individual.

(d) When the Social Security Administration has made an initial determination under title II that blindness or disability has ceased due to medical improvement and a hearing or right to hearing is pending under title XVI with respect to the same party and the same issue, appeal of the initial determination under title II shall be made directly to the hearing as provided in § 404.917.

2. Section 404.917(a) is amended to read as follows:

§ 404.917 Hearing; right to hearing.

An individual has a right to hearing about any matter designated in § 404.905, if:

(a) The Social Security Administration has made:

(1) An initial determination and a reconsideration of the initial determination; or

(2) A revised determination of an initial or reconsideration determination as provided in § 404.961; or

(3) An initial determination that blindness or disability has ceased due to medical improvement: *Provided*, That there is also pending a hearing or right to hearing under title XVI with respect to the same party and the same issue; and

* * * *

[FR Doc.77-22051 Filed 7-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

OIL AND GAS WELLS

Limitations on Percentage Depletion; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to limitations on percentage depletion in the case of oil and gas wells.

DATES: The public hearing will be held on August 31, 1977, beginning at 10 a.m. Outlines of oral comments are due by August 22, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4317, Washington, D.C. 20224. (202-566-3935.)

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 613A of the Internal Revenue Code of 1954 which appear in the FEDERAL REGISTER for May 13, 1977 (42 FR 24279). Section 613A was enacted by the Tax Reduction Act of 1975 and later amended by the Tax Reform Act of 1976. This statutory provision relates to limitations on percentage depletion in the case of oil and gas wells.

A correction notice was published in the FEDERAL REGISTER for May 24, 1977 (42 FR 26437).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by August22, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-22055 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-051]

BAYOU TECHE, LOUISIANA

Drawbridge Operation

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development, the Coast Guard is considering revising the regulations for the drawbridges across Bayou Teche at mile 75.2, S-96 at St. Martinville, and at mile 82.0, S-350 at Parks, to require that at least 24 hours notice be given. Presently, these drawbridges are required to open on signal from 5 a.m. to 9 p.m., and if at least 12 hours notice is given from 9 p.m. to 5 a.m. This change is being considered because of infrequent requests for openings of these bridges (St. Martinville,

mile 75.2, 1975–5, 1976–15; Parks, mile 82.0, 1975–3, 1976–9).

DATES: Comments must be received on or before August 31, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (202–426–0942).

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal.

The Commander, Eighth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended as follows:

§ 117.540 [Amended]

1. In § 117.540(b)(2), by deleting "Bayou Teche, mile 75.2, S–96 highway drawbridge at St. Martinville." and "Bayou Teche, mile 82.0, S–305 highway drawbridge at Parks." from the listing.

2. By revising § 117.245(j)(10) and deleting § 117.245(j)(11) to read as follows:

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

* * * * *

(j) * * *

(10) Bayou Teche, La.

(i) Mile 75.2, S–96 highway drawbridge at St. Martinville, and mile 82.0, S–350 highway drawbridge at Parks. The draws shall open on signal if at least 24 hours notice is given.

(ii) Mile 87.5, S–31 highway drawbridge at Ruth, mile 90.5, S–31 highway drawbridge, and mile 91.0, Southern Pacific Railroad drawbridge (removable span). The draws shall open on signal if at least 48 hours notice is given.

(11) [Deleted.]

* * * * *

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

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–22071 Filed 7–29–77;8:45 am]

[33 CFR Part 117]

[CGD 77–119]

MISSOURI RIVER, SOUTH DAKOTA

Drawbridge Operation

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Nebraska Department of Roads, the Coast Guard is considering revising the regulations for the drawbridge across the Missouri River, mile 805.7, at Yankton, South Dakota, to allow the bridge to be maintained in a fixed position. The bridge has been opened for the passage of a vessel once in the past five years. The Coast Guard is also considering amending the regulation for the Chicago and Northwestern bridge across the Missouri River, mile 1,066.5, at Pierre, South Dakota, to allow it to be maintained in a fixed position. The bridge has opened for the passage of a vessel once in the past ten years. These changes would provide for decreased costs for maintaining the bridges.

DATE: Comments must be received before August 31, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (202–426–0942).

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal.

The Commander, Second Coast Guard District, will forward any comments received with this recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.560(g)(9) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(9) Missouri River at Yankton and Pierre, South Dakota. The draw of the Yankton Highway at Yankton and the draw of the Chicago Northwestern Railroad bridge at Pierre need not be opened for the passage of vessels and paragraphs (b) to (e) of this section shall not apply to these bridges.

* * * * *

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

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–22070 Filed 7–29–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 769–6]

COMMONWEALTH OF VIRGINIA

Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia submitted amendments to the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as a revision to the State Implementation Plan (SIP).

These amendments consist of changes to Part II, Part III, Part V, and Part VII of the Virginia Regulations for the Control and Abatement of Air Pollution.

EFFECTIVE DATE: Public comments must be received on or before August 31, 1977.

ADDRESSES: Copies of the proposed revision and accompanying support material are available for public inspection

during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Attention: Mr. Harold Frankford.
Virginia State Air Pollution Control Board, Room 1106, Ninth Street State Office Building, Richmond, Virginia 23219. Attention: Mr. John Daniel, Jr. P.E.
Public Information Reference Unit, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be addressed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Attention: AH012VA.

SUPPLEMENTARY INFORMATION: On March 11, 1977 the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Virginia SIP. The Commonwealth requested these amendments be reviewed and processed as a revision to the Virginia SIP for the attainment and maintenance of National Ambient Air Quality Standards. The amendments consist of the following:

1. Amendments to Part II (General Provisions), § 2.02 (Establishment of Regulations and Orders). The Commonwealth of Virginia requests that amendments with respect to evidential public hearings, previously submitted by the Commonwealth on August 14, 1975 and proposed by EPA on November 19, 1975 (40 FR 53595) and March 28, 1977 (42 FR 16446) be withdrawn from further consideration as a revision of the Virginia SIP.

2. Amendments to Part III (Ambient Air Quality Standards). The amendments incorporate, by reference to § 3.07 (Nitrogen Dioxide), the recently promulgated EPA reference method (Appendix F of 40 CFR Part 50) for monitoring nitrogen dioxide. No changes to the text of § 3.07 have been made.

3. Amendments to Part V (New and Modified Sources), § 5.31 (Designated Standards of Performance) is amended by adding revisions to the New Source Performance Standards for fossil fuel fired steam generators and fluoride emissions.

4. Amendments to Part VII (Air Pollution Episode), § 7.02 (Oxidant Criteria Pollutant Level) is amended to change the photochemical oxidant level for the Alert Stage in State Region 7. (The Virginia portion of the National Capital Interstate Air Quality Control Region.) The change is from the present level of 200 micrograms per cubic meter ($\mu g/m^3$) (equivalent to 0.100 parts per million (ppm)) to a level of 400 $\mu g/m^3$ (or 0.200 ppm) for a one hour average oxidant concentration.

The Alert Stage level of 400 $\mu g/m^3$ (or 0.200 ppm) would then be uniform throughout Virginia. A new Health Advisory Stage of 200 $\mu g/m^3$ (0.100 ppm) has been added in this amendment for State Region 7.

The Commonwealth submitted proof that hearings regarding these amendments as required by 40 CFR 51.4 were held simultaneously on January 17, 1977 in Richmond and at Regional district offices in Abingdon, Radford, Lynchburg, Fredericksburg, Virginia Beach and Falls Church.

The public is invited to comment on whether the amendments to the Virginia Regulations to Control and Abate Air Pollution should be approved or disapproved as a revision to the Virginia SIP. All comments received on or before (30 days after publication of this notice) will be considered.

The Administrator's decision to approve or disapprove this proposed plan revision will further be based on whether these amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

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

Dated: July 15, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-21949 Filed 7-29-77;8:45 am]

[40 CFR Part 52]

[FRL 769-5]

TENNESSEE

Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: During the spring of 1975, EPA held discussions with the local air pollution control agencies in Tennessee concerning their program plans for fiscal year 1976. At that time, they were given information intended to help them develop a satisfactory procedure for assuming the implementation and enforcement of the New Source Review provisions of 40 CFR 52.21 (Regulation for the Prevention of Significant Air Quality Deterioration). The Knox County Department of Air Pollution Control responded by adopting, after public notice and public hearing, regulations and by submitting them for approval as a proposed implementation plan revision. The pupose of this notice is to announce these regulations as proposed rulemaking and to solicit public comment on them.

DATE: Comments must be received on or before August 31, 1977, to be considered.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Tom Helms of EPA's Air Programs Branch in Atlanta (see address below). Copies of materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM-213), 401 M Street SW., Washington, D.C. 20460.

EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

Knox County Department of Air Pollution Control, 701 E. Vine Avenue, Suite 305B, Knoxville, Tennessee 37915.

FOR FURTHER INFORMATION CONTACT:

Mr. Tom Helms, Chief, Air Programs Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308. (404-881-3043).

SUPPLEMENTARY INFORMATION: On August 12, 1976, the Technical Secretary of the Tennessee Air Pollution Control Board submitted to EPA Region IV, as a proposed implementation plan revision, changes which the Knox County Air Pollution Control Board had made in its regulations with a view to receiving authority to prevent significant deterioration of air quality in Knox County under 40 CFR 52.21. These changes consist of the addition of a new § 41.0, Regulation for the Review of New Sources.

Section 41.0 incorporates, for sources of criteria pollutants which emit 25 tons per year or more, the air quality increment limits of 40 CFR 52.21(c)(2)(i) together with the substance of paragraphs (d) and (e) of 40 CFR 52.21 as they provide for preconstruction review of new or modified sources, the application of best available control technology and public comment procedures.

The public is invited to submit written comments on the proposed Tennessee revision, specifically, on its suitability as an instrument for assuring implementation by the local agency of the new source review requirements of 40 CFR 52.21.

(Secs. 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5 and 1857g(a).)

Dated: July 26, 1977.

JOHN A. LITTLE,
Deputy Regional Administrator.

[FR Doc.77-21950 Filed 7-29-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Threatened Status for the Eastern Indigo Snake

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant

to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884: hereinafter the Act), which would determine the eastern indigo snake (*Drymarchon corais couperi*) to be a Threatened species. This snake presently occurs in Georgia and Florida; historically, it is also known from Alabama, Mississippi, and South Carolina.

DATE: All relevant comments and materials with regard to this proposed rulemaking received no later than October 30, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

"General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence."

This authority has been delegated to the Director.

The indigo snake, *Drymarchon corais*, is one of the largest snakes in the United States. The species ranges from the southeastern United States to northern Argentina and eight subspecies are currently recognized. Of these eight, two occur in the U.S. *Drymarchon corais erebennus* is known from Veracruz and Hidalgo, Mexico into southern Texas; *D. c. couperi* occurs only in Georgia and Florida at present although it is historically recorded from South Carolina, Alabama, and Mississippi.

Although *erebennus* and *couperi* are superficially similar, they can be distinguished by the following characteristics: (1) *erebennus* has prominent dark lines downward from the eye whereas *couperi* does not, (2) *erebennus* has a tendency for the forepart of the body to be brownish with some indication of a pattern whereas *couperi* is more uniformly blue-black in color and has no pattern, (3) *erebennus* has the third from last upper labial scale reaching the scale above it where as *couperi* has the third from last upper labial scale wedgeshaped and cut off from above by contact between adjacent labial scales, (4) normally, *erebennus* has 14 dorsal scale rows on the hindmost part of the body whereas *couperi* has 15.

Because of its large size and docile nature and because it makes a good pet, natural population of *D. c. couperi* have been exploited extensively. There is little indication that *D. c. erebennus* populations, or those subspecies occurring outside the U.S., are either declining or significantly in trade. For these reasons, only *D. c. couperi*, the eastern indigo snake, is included in this proposed rulemaking.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the eastern indigo snake are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The eastern indigo snake inhabits a region that is experiencing rapid development resulting in considerable loss of available habitat. Its preferred habitat includes well-drained soils that are ideal for human settlement, resulting in a serious decline in the populations of Eastern indigo snakes in many areas.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—The eastern indigo snake is in great demand by the pet trade with prime specimens selling for as much as $200–$250. The extremely docile nature of the snake and its large size make it highly desirable as a pet and therefore avidly sought by dealers. Commercial trade is probably the main cause for the decline of this species throughout its range.

3. *Disease or predation.*—Unknown.

4. *The inadequacy of existing regulatory mechanisms.*—The eastern indigo snake is strictly protected in both Georgia, Mississippi, and Florida. However, these States cannot effectively control the trade in snakes once they leave the State. If a species is taken in violation of a State's law and moved illegally across a State line, such action becomes a violation of the Lacey Act. However, it has been a common practice to claim that the indigo snakes in trade came from Alabama or South Carolina, where the snake has not been taken by experienced herpetologists in many years. This claim is virtually impossible to completely refute. Therefore, trade in illegally taken indigo snakes can continue in spite of strong State laws. There are no laws to protect the eastern indigo snake in Alabama or South Carolina.

5. *Other natural or manmade factors affecting its continued existence.*—In many areas in the southeast, burrows of the gopher tortoise are gassed in order to drive out rattlesnakes that use the tortoise burrows. Indigo snakes also use gopher tortoise burrows and recent research has indicated that eastern indigo snakes are harmed or killed by this practice.

EFFECT OF THE RULEMAKING

The effects of this determination and rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions that apply to all Endangered species. All of these prohibitions and exceptions also apply to any Threatened species unless a Special Rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and, for the convenience of the reader, are reprinted below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c) (1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The determination set forth in these rules also makes this species eligible for the consideration provided by section 7 of the Act. That section reads as follows:

INTERAGENCY COOPERATION

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat has yet been determined for this species, the other provisions of Section 7 are applicable.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governors of Florida, Georgia, Alabama, Mississippi and South Carolina, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat, or the lack thereof, to the eastern indigo snake;

(2) The location of and reasons why any habitat of the eastern indigo snake should or should not be determined to be Critical Habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the Eastern indigo snake.

Final promulgation of the regulations on the Eastern indigo snake will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2) (C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 22, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and Threatened Wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
Reptiles: Snake, Eastern indigo.	*Dymarchon corais couperi.*	NA.....	U.S.A. (Alabama, Florida, Georgia, Mississippi, South Carolina).	Entire.....	T	.....	NA.

[FR Doc.77-21810 Filed 7-29-77;8:45 am]

notices

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10 a.m., August 16, 1977, at 10 a.m., in the library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to discuss the new FTC trade regulation rulemaking procedures project being conducted by Professor Barry Boyer.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact Joseph B. Scott (202-254-7020). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

JULY 27, 1977.

[FR Doc.77-22004 Filed 7-29-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

COLLECTION AND USE OF FUNDS FOR COST OF SALVAGE TIMBER SALE OPERATIONS PURCHASER DEPOSITS

Adoption of Policy

AGENCY: Forest Service, USDA.

ACTION: Adoption of policy.

SUMMARY: Chief, Forest Service, adopts policies for the administration of deposits by timber purchasers to cover the cost of preparing and administering sales of insect-infested, dead, damaged, or down timber.

EFFECTIVE DATE: Upon publication in the Forest Service Manual.

FOR FURTHER INFORMATION CONTACT:

George Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: The National Forest Management Act of 1976 (Pub. L. 94-588) directs the Secretary of Agriculture to provide for the optimum practical use of wood from the National Forests In order to accomplish this objective in situations involving the salvage of insect-infested, dead, damaged, or down timber, Section 14(h) (90 Stat. 2960) of the Act authorizes the Secretary to require purchasers of such sales to deposit the funds necessary to cover the cost of sale preparation and administration.

On April 12, the Chief, Forest Service, requested comments on a proposed amendment to the Forest Service Manual which would implement this provision of the Act. Substantive comments which were received are summarized below.

DISCUSSION OF MAJOR COMMENTS

It was suggested that the definition of sales which qualify as salvage sales be clarified, particularly with regard to the inclusion of "associated trees for stand improvement." The definitions in FSM 2435.05 were revised in response to this suggestion.

A commentator suggested that overhead charges and related assessments should be charged to the fund "only in proportion to the timber share of all resource benefits to be accomplished." A paragraph was added to FSM 2435.1 to define overhead charges which can be assessed against the fund.

It was suggested that reference should be made in the Manual to the CFR constraint that salvage deposits shall not be permitted to create deficit sales. This is a reference to the provision of 36 CFR 223.4(b) which states: "Minimum rates in timber sale contracts will not be set higher than established minimum rates for purposes other than assuring adequate funds for reforestation." A sentence to this effect was added to FSM 2435.03.

Two commenters expressed concern about the impact of salvage sales on wildlife habitat. They urged that special provision be made for safeguarding and maintaining adequate numbers of dead and dying trees for cavity-nesting birds. This provision of the Act and the implementing Manual instructions deal only with an alternative method of financing salvage sales. It is expected that Forest Officers approving salvage sales will follow procedures for the protection of habitat just as they would for regular timber sales. Basic requirements for all sales are set forth in 36 CFR 223.3. In order to clarify the issue, additional instructions were added to FSM 2435.04.

Forest Service Manual provisions setting forth policy for implementing the salvage fund provisions of the National Forest Management Act are set forth below:

2435 *Collection and use of deposits for salvage sale operations.* Section 14(h) of the National Forest Management Act of 1976 authorizes collection of salvage sale funds to cover the cost to the Forest Service of preparing and administering sales of insect-infested, dead, damaged, or down timber, including necessary engineering work. The salvage sale fund (SSF) is a special fund available for preparing and administering salvage sales. The fund is intended to permit an increase in the volume of salvage sales beyond that normally financed by appropriated funds.

2435.01 *Authority.* Authority for requiring purchasers of salvage sales to make deposits to cover Forest Service costs of engineering, preparing, and administering such sales is given in Section 14(h) of the National Forest Management Act of 1976 (90 Stat. 2960) (FSM 1021). The law provides that amounts collected for salvage sale purposes are (1) to be a part of the payment for the salvable material, (2) deposited into a designated fund and available until expended, (3) not considered as monies received from the National Forests within the meaning of section 500 and 501 of title 16, U.S.C. (which require that 25 percent of monies received from each National Forest go to the States for schools and roads, and that 10 percent be spent for roads and trails in the National Forests), and (4) to be transferred to miscellaneous receipts in the Treasury of the United States when found to be in excess of the costs of accomplishing the purposes for which deposited.

2435.02 *Objective.* The objective is to provide for the optimum practical use of wood material in situations involving salvage, including the promotion of more effective utilization of salvable wood material. Such use and utilization is to be compatible with multiple use objectives, including protection of wildlife habitat, and shall reflect regional conditions and species characteristics.

2435.03 *Policy.*—1. To assist in obtaining optimum practical use of salvable wood material from National Forest lands, a salvage sale fund shall be established on each proclaimed National Forest which has salvage opportunities.

2. Funds authorized to be collected for deposit into the SSF shall only be from salvage sales or from other sales containing a salvable component to be sold.

3. Minimum rates in timber sales contracts shall not be increased to insure the collection of needed salvage funds. (36 CFR 223.4.)

2435.04 *Responsibility.* Two areas of responsibility are identified and assigned

to the officer authorized to approve the timber sale (FSM 2404.13): (1) Determination that the sale qualifies as a salvage sale. The Forest Officer making this determination must be guided by the definition in FSM 2435.05(a). (2) Approval of the SSF plan (FSM 2435.24) and subsequent revisions thereto.

Approval of a salvage sale carries with it the same responsibilities as approval of a normal timber sale. Forest Officers approving salvage sales must insure that the sale is in full compliance with 36 CFR 223.3 and the applicable land management plan. Particular attention needs to be given to retaining adequate habitat for cavity-nesting birds.

2435.05 *Definition of Qualifying Sales.*—1. *Salvage sale.* A salvage sale is one in which the primary reason for entry is to salvage insect-infested, dead, damaged, or down timber. It may also include associated trees for stand improvement, if it is efficient and desirable to include them in order to leave the area in a productive condition. An approved silvicultural prescription shall be prerequisite to including the following types of trees for stand improvement.,

a. Trees predicted to be in imminent danger of insect or disease attack or windthrow and other high risk trees that are expected to die from any cause before the next harvest (or compartment) entry. The harvest of high risk trees is applicable only to species, such as ponderosa pine, for which systems of risk or sanitation cutting have been developed.

b. Trees impacted by disease to the extent that their net growth is nominal and diseased trees that, if left in place, would adversely affect the growth of other trees.

c. Trees which because of their species or genetic inferiority are undesirable as a source of natural regeneration on the site.

d. Trees which must be removed for sale access and operations.

e. Trees in understocked stands requiring regeneration, when the agent causing the need for salvage, or the salvage operation itself, would create the understocked condition.

f. Trees in overstocked stands when thinning or release will benefit the vigor of the residual stand.

2. *Other sales.* Ordinarily, collection of salvage sale funds will be limited to salvage sales. Occasionally, however, there may be an identifiable component of a regularly programmed sale which contains a unit of blow-down, insect-infested or other salvage timber. When it is decided to include such salvage opportunities in a regular sale, collections may be deposited to SSF to cover the cost of preparing and administering the salvage component.

In the event timber included in a normal sale area is damaged by fire, insects, windthrow or other agent, salvage sale funds may be collected to cover the costs of preparing and administering the additional salvage volume on the sale.

All deposits to and expenditures from the salvage sale fund must be covered by an approved salvage sale plan (FSM 2435.23).

2435.1 *Authorized work and expenses.*—1. *Sale preparation.* Includes the reconnaissance, silvicultural prescriptions, design of logging systems, volume estimates, marking, associated land line location, compliance with NEPA, other timber support, and all other tasks necessary to prepare a contract for the removal of the timber.

2. *Supervision of harvest.* Includes the administration of contracts, inspection of the contract operations and measurement of the timber to insure proper payment is received for the material. It may also include supervision of force account logging.

3. *Engineering.* Transportation planning, reconnaissance, route location, surveying, materials investigation, compliance with NEPA, and other resource coordination needed to properly plan the needed roads.

4. *Design.* Includes the work necessary to completely prepare project drawings, specifications, and cost estimates.

5. *Construction supervision.* Includes the staking of designed roads on the ground and providing the necessary engineering control to insure proper payment or credit for work accomplished and to insure the project is constructed in accordance with the contract. Also includes supervision of force account construction.

6. *General administrative overhead,* utilities, transportation, supplies, materials and other expenses of similar nature, to the extent that such overhead is assessed against other available funds.

JOHN R. MCGUIRE,
Chief.

[FR Doc.77-22081 Filed 7-29-77;8:45 am]

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at 8:30 a.m. on Thursday, August 25, 1977, at the Deschutes National Forest Headquarters Office, 211 NE Revere, in Bend, Oregon 97701, for a field trip.

The purpose of the field trip is to review and discuss the Forest roads and highways, timber sales and wildlife habitas, recreation use, and their interrelationships to the Forest Land Management Plan.

The field trip will be open to the public. Persons who wish to accompany the Committee should notify the Forest Supervisor or Sandy Fergerson at 211 NE Revere, Bend, Oregon 97701, telephone (503) 382-6922. It will be necessary for the general public to provide their own transportation and lunches.

Written statements may be filed with the Committee before or after the meeting.

Dated: July 25, 1977.

JERRY G. ALLEN,
Acting Forest Supervisor.

[FR Doc.77-22019 Filed 7-29-77;8:45 am]

Soil Conservation Service

TOWN CREEK WATERSHED PROJECT, ALABAMA

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 a portion of the Town Creek Watershed project, Lawrence, Franklin, and Colbert Counties, Ala.

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. W. B. Lingle, State Conservationist, Soil Conservation Service, 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 and flood prevention. The planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 2.5 miles of channel work.

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, 138 South Gay Street, Auburn, Alabama 36830. 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 of the proposal will be taken until August 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: July 21, 1977.

JAMES W. MITCHELL,
Director, Watersheds Division.

[FR Doc.77-21958 Filed 7-29-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-7-95; Docket 30332, Agreement C.A.B. 26706, R-1 through R-16, Agreement C.A.B. 26719, R-1 through R-11, Agreement C.A.B. 26721, R-1 through R-7, Agreement C.A.B. 26725, R-1 through R-12]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Cargo Rate Matters

Issued under delegated authority July 21, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the

Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted at the recent Composite Cargo Traffic Conference held during May in Vancouver, propose new cargo rate structures to apply from October 1977 through September 1979 in the South Pacific, Western Hemisphere, part of the North/Central Pacific, and the Mid Atlantic markets.

SOUTH PACIFIC

Agreement C.A.B. 26706 would hold the minimum charges for any consignment at status quo for U.S. west coast points but would increase such charges by $4 to a level of $25 for all other Western Hemisphere points. Exclusive of the application of any currency-related adjustments, rates for general commodity shipments to/from Hawaii would, in general, be increased by 1.5 to 3.7 percent and by 1 to 2.8 percent to/from west coast points. In addition, rates and charges for containerized shipments would be increased by amounts varying from less than 0.1 to over 8.2 percent with the lesser increases applied to the smaller container types and the greater increases applied to the larger container types. Specific commodity rates (SCR's) from U.S. points would be increased 5 to 7 cents per kilogram and SCR's to U.S. points would be increased 5 to 7 percent. Finally, the agreement includes provisions which would limit the application of the minimum shipment charges and SCR's to traffic moving on direct routes to the Western Hemisphere rather than permitting such traffic to move indirectly via TC2 (Europe/Middle East/Africa) as presently permitted and provides for the equalization by January 1978 of the higher general commodity and container rates from Australia with the corresponding lower rates to Australia.

WESTERN HEMISPHERE (TC1)

In the U.S.-Mexico market, Agreement C.A.B. 26719 would increase the basic charge for minimum-sized shipments by $2 to a level of $23 except in certain instances where special circumstances have resulted in minimum charges set below the basic level. In those cases, the minimum charges would be increased by amounts ranging from $3 to $10. General commodity rates (GCR's) would increase by 6.1 to 13.5 percent; rates for containerized shipments would remain at status quo for certain points and be increased up to 11.2 percent at other points. Finally, specific commodity rates would increase by 7 percent southbound, except from New York where such rates would be increased by 7 cents per kilogram, and 10 percent northbound.

In the U.S.-Caribbean market (which includes Venezuela) the minimum charge would be increased by $2 to $26. However, in those cases where the charge is currently $20, the charge would be increased by 3 to $23. GCR's would be increased by 4.8 to 8.5 percent; rates for shipments tendered in containers would remain at current levels at certain points and take increases of up to 23.3 percent at other points. In general all SCR's would be increased by 10 percent except at Venezuela where such rates would be increased 5 percent northbound and deleted southbound.

Minimum charges in the U.S.-General America market would also be increased by $2 to a level of $26. GCR's would be increased by 2.7 to 5.7 percent with the lesser increases applied to the lower weightbreak rates and the greater increases applied to rates at the higher weightbreaks. Container rates would be increased approximately 24 percent and SCR's would be increased by 7 percent southbound and 10 percent northbound.

For U.S.-South America, including most of Colombia, the minimum charge would be increased by $1 to a level of $30 through June 1978 with an additional $1 increase to apply thereafter. To Barranquilla and Cartagena in Colombia the minimum charge would be increased by $2 to a level of $26. GCR's to markets in South America (excluding Colombia) would be increased by 2.8 to 4.5 percent southbound and by approximately 7 percent northbound. Container rates would take initial increases ranging from 13.5 to 24.1 percent with further increases in 9 month intervals to April 1979, to levels 23.4 to 48.7 percent above those now in effect. SCR's would be increased by 5 to 14 cents per kilogram. U.S.-Colombia GCR's, however, would be increased 5.6 percent southbound and 7 percent northbound. Container rates would remain at present levels through December 1977 and take increases of 1.9 to 4.5 percent effective January 1978. Lastly, SCR's in that market would be increased 5 to 6 cents per kilogram.

NORTH/CENTRAL PACIFIC

Agreement C.A.B. 26721 would establish North/Central Pacific cargo rates between the United States and the Indian Subcontinent only (defined as India, Pakistan, Afghanistan, Nepal, Bangladesh, and Sri Lanka). General cargo rates would be increased in amounts ranging from 2 to 3.5 percent over existing tariff levels, and specific commodity rates would be increased in amounts ranging from 1.1 to 7.8 percent.

MID ATLANTIC

Agreement C.A.B. 26725, which applies in U.S. air transportation only insofar as Puerto Rico/Virgin Islands-Europe rates are concerned, would increase minimum charges in air transportation by $2 to a level of $33. GCR's would be increased by approximately 5 percent and SCR's by 5 to 10 percent. Finally, the agreement would establish rates and charges for shipments tendered in containers to apply between San Juan and Madrid at levels related to the applicable 500 kilogram GCR rate.

CARRIER JUSTIFICATION

The purpose of this order is to establish dates for submission of carrier justification in support of the agreements and comments from interested person. The carriers' justification should include historical data as reported to the Board in Form 41 reports by functional account for total Atlantic, Western Hemisphere or Pacific services for the year ending March 31, 1977, adjusted to exclude operations in market areas not covered by an agreement and all scheduled passenger and charter operations pertaining to the market area covered by an agreement so as to establish the present economic status of cargo services in each market area covered by the subject agreements.[1] The carriers will also be expected to include a forecast for the year ending September 30, 1978, both including and excluding the increased rates for which approval is sought. The carriers are also expected to allocate costs between the passenger and cargo compartments of scheduled passenger aircraft by the "space method" stipulated by the Board in its April 2, 1970, decision in Docket 18381, *Nonpriority Mail Rates*, Orders 70-4-9 and 70-4-10.[2] In addition, the carriers are required to submit detailed traffic data showing revenue tonmiles and revenue by specific rate category as well as capacity and load-factor information both for the historical period and for the forecast period and including and excluding the increased rates for which approval is sought. Capacity, traffic and financial results in cargo operations must be separated into scheduled and nonscheduled services. Lastly, we expect the carriers to comment fully on the disproportionate increases in general commodity container rates contemplated in most markets in the Western Hemisphere with special attention to the staggered increases proposed in those rates in the "longhaul" U.S.-South America market.

Western Air Lines, Inc., a non-IATA carrier, will be required to file data similar to that required by the IATA carriers so that the Board may obtain a full economic picture of U.S. carrier operations in the U.S.-Mexico market and be in a position to make a meaningful disposition of the agreement in that area.

Accordingly, *it is ordered*, That:

1. All United States air carrier members of the International Air Transport

[1] For example, a justification for the South Pacific should exclude total North/Central Pacific operations, the North/Central Pacific justification should exclude total South Pacific operations, the Middle Atlantic justification should exclude North Atlantic operations, and the Western Hemisphere should exclude Puerto Rico. In addition the Western Hemisphere justification should be further broken down into geographic market areas, e.g., U.S.-Mexico, U.S. Caribbean, U.S. Central America and U.S.-South America.

[2] In furnishing the data requested, each carrier should provide complete explanatory notes and supporting detail including statistical data to describe the methods used in making the allocations.

Association shall file within fifteen calendar days after the date of service of this order, full documentation and economic justification for rates, charges and related conditions embodied in the subject agreements;

2. Western Air Lines, Inc., shall file within fifteen calendar days after date of service of this order, data similar to that required of the IATA carriers;

3. Comments and objections from interested persons shall be submitted within twenty-five calendar days after the date of service of this order;

4. Replies to submissions received in response to ordering paragraphs 1 and 2 above and replies to comments received pursuant to ordering paragraph 3 above shall be submitted within thirty calendar days after the date of service of this order; and

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board approval of the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22068 Filed 7-29-77;8:45 am]

[Docket No. 29058]

NORFOLK-ATLANTA SUBPART M PROCEEDING

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on September 13, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., July 26, 1977.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77-22069 Filed 7-29-77;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of Additional System of Records

The purpose of this notice is to adopt in final form an additional system of records.

On May 20, 1977, the Department of Commerce gave notice (42 FR 25900-01) that it proposed to adopt an additional system of records for the National Bureau of Standards, Nuclear Reactor Operator Licensees File, Commerce/NBS-8. The purpose of this system is to provide documentation that operators of the nuclear reactor facility, which NBS operates under license from the Nuclear Regulatory Commission, are trained, tested, qualified, and periodically requalified, as required by the NRC. The principal routine use of information in this system is disclosure to the NRC for the purpose of conducting audits of the qualifications of reactor operators. A new system report, dated May 3, 1977, was submitted to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Interested persons were invited to submit written data, views, or arguments on or before June 20, 1977. No comments were received in response to the notice.

The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB Director Lance in a letter to Secretary Kreps dated May 24, 1977.

Therefore, the Department adopts the additional system effective June 20, 1977. Because the complete text of the new system was published in the FEDERAL REGISTER on May 20, 1977, pages 25900-01, and the system is adopted without change, there is no need to republish at this time.

(5 U.S.C. 552a, sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).)

ELSA A. PORTER,
Assistant Secretary
for Administration.

JULY 22, 1977.

[FR Doc.77-22040 Filed 7-29-77;8:45 am]

PRIVACY ACT

Additional System of Records

The Department of Commerce hereby gives notice, in accordance with 5 U.S.C. 552(e) (4) and (11), section 3 of the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896), that it proposes to add a system of records to the previously-noticed systems of records. The system of records proposed to be added is Commerce/NBS-9, Participants in Experiments, Studies and Surveys.

This system is designed to encompass all participants in NBS experiments. It is a consolidation of three previously-noticed NBS systems and is an extension of the categories of participants covered in those three systems, by the substitution of general provisions for the more particular provisions of those three systems. The three previously-noticed systems are Commerce/NBS-4, Participants in Clincial Dental Projects; Commerce/NBS-5, Participants in Human Factors Studies; and Commerce/NBS-6, Participants in Psychoacoustic Experiments.

The purpose of information in this system is to provide research data to develop findings or recommendations. This system notice expands the routine uses of these records to allow information in this system to be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routines uses in the Prefatory Statement (41 FR 38953, September 13, 1976) also apply to this system.

The Commerce Department submitted a New System Report dated July 22, 1977, to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Although the Act requires the opportunity for public comment only on the proposed "routine uses", comments regarding any portion of this Notice will be given due consideration before final publication. Any interested person may submit written data, views or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026), U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230, any time on or before August 31, 1977. The comments received will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m. Monday through Friday (except holidays).

This system of records will become effective 60 days from the date of publication, unless the Department notices to the contrary.

(5 U.S.C. 552a(e) (4) and (11), section 3 of the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896); 15 U.S.C. 271 et seq.; 29 U.S.C. 651 et seq.)

ELSA A. PORTER,
Assistant Secretary
for Administration.

JULY 22, 1977.

COMMERCE/NBS-9

System name:

Participants in Experiments, Studies, and Surveys—Commerce/NBS-9.

System location:

Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:

Institute for Basic Standards, Room A363, Physics Bldg., NBS, Washington, DC 20234; Room R4011, NBS, Boulder, CO 80302.

Institute for Materials Research, Room B364, Materials Bldg., NBS, Washington, DC 20234.

Institute for Applied Technology, Room B117, Technology Bldg., NBS, Washington, DC 20234.

Institute for Computer Sciences and Technology, Room A200, Administration Bldg., NBS, Washington, DC 20234.

For those portions located with contractors, a complete list of contractors and addresses is available from the Associate Director for Administration, Room A1105, Administration Bldg., National Bureau of Standards, Washington, DC 20234.

Categories of individuals covered by the system:

Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

Categories of records in the system:

Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Authority for maintenance of the system:

15 U.S.C. 271 et. seq.; 29 U.S.C. 651 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in this system may, on occasion, be disclosed to Federal agencies and other outside organizatons whch have sponsored the research in connection with which the data were obtained. General routine uses in the Prefatory Statement (41 FR 38953, September 13, 1976) also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, electromagnetic storage material and microform.

Retrievability:

Filed alphabetically by name, or control number or other code identifier.

Safeguards:

During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

Retention and disposal:

Retained in accord with NBS's records control schedule.

System manager:

Director, Institute for Applied Technology, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Notification procedure:

Information may be obtained from: Associate Director for Administration, Room A1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, approximate date, and title of experiment, study or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4.

Records access procedures:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Records source categories:

Subject individuals and those authorized by the individual to furnish information.

[FR Doc.77-22041 Filed 7-29-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

ENVIRONMENTAL DETERMINATION

JULY 22, 1977.

On April 9, 1976 the Department of the Air Force announced in the FEDERAL REGISTER (41 FR 15038) its intent to prepare Environmental Impact Statements (EISs) on certain proposed management actions announced by Secretary of the Air Force Thomas C. Reed on March 11, 1976.

Among the actions for which an EIS was to be prepared was the transfer of KC-135 tankers to the Air Reserve Forces at Phoenix Sky Harbor International Airport, Arizona. After careful review of the Environmental Impact Assessment (EIA) it was determined that the proposed action was not a major Federal action significantly affecting the quality of the human environment nor was it likely to be highly controversial with regard to its environmental impacts. This conclusion is based upon the following:

a. The proposed action will result in an increase of approximately 190 guardsmen including approximately 50 full-time air technicians assigned. This increase is readily absorbable in the Phoenix area. Construction to support the proposed action would amount to approximately $2.8 million.

b. The proposed aircraft operations will comprise about 5 percent of the large jet aircraft events at the airport, will be normally conducted during daytime hours (7:00 a.m. to 10:00 p.m.), and will only very infrequently involve nighttime or Sunday flying.

c. Arrival and departure frequency of KC-135s would be similar to current KC-97 operations. Initial KC-135 launches will average 3.2/day on a 5 day/week basis with initial launch weights up to 240,000 pounds. In addition, touch and go (practice) landings would average no more than 3.6/day and would be performed with a lighter aircraft, 150,000 pounds or less, thus providing for departure climbout performance comparable to most large civilian aircraft.

d. Analysis of the projected new noise patterns, using worst case assumptions, indicates an increase of about 800 acres outside of airport boundaries impacted by noise levels L_{dn} 75 or greater. Seven hundred of these acres are now devoted to uses which the additional noise will not seriously impact. The remaining 100 acres impacted are currently devoted to uses considered incompatible with L_{dn} 75 or greater. This includes 67 acres of residential, 9-commercial, 2-churches, 5-drive-in movie, 8-school, and 10-prison.

e. The City of Phoenix has undertaken a Sky Harbor Development Program to make the city's future aviation needs compatible with sound land use planning to reduce noise exposure and safety hazards. Runway improvements, operational realignments, a land acquisition program and other actions are being contemplated or are underway to contain the 75 L_{dn} contour level within the new airport boundaries by 1985. These actions will decrease the noise impact of the KC-135 as well as that of the commercial airlines. The city's plan also takes into account the retrofitting of engines on the civilian aircraft. The Air Force is also exploring the possible retrofitting of the KC-135 with engines that would improve performance and reduce source noise levels and air pollution emissions.

f. The Phoenix area is in an Air Quality Maintenance Area (AQMA) for carbon monoxide, suspended particulates and photochemical oxidants. Air pollutant emissions data from the Maricopa County Department of Health Services (See table below) shows Sky Harbor Airport to be a minor contributor to Maricopa County pollution emission levels. The 161st ARG is, in turn, a minor contributor to Sky Harbor Airport emission levels.

Maricopa county pollutant emissions

[Tons/year]

Pollutants	County [1]	Sky Harbor [1]	KC-97 [2]	KC-135 [2]
NO_x	71,139	910	22	+16
HC	70,906	221	92	+5
CO	507,029	1,663	908	−831
SO_x	5,149	N/A	2	+1
PT	N/A	N/A	28	−24

NOTE.—N/A means not available.

[1] Source: Maricopa County Department of Health Services, Bureau of Air Pollution Control.

[2] Source: Source inventory, AFCEC. Delta: Refers to the difference in emissions between the KC-97 and KC-135.

The proposed action would insignificantly increase NO_x, HC and SO_x emission levels by 16.38, 5.16 and 1.24 tons/year respectively; hence, a small increase in photochemical oxidants is anticipated. Carbon monoxide would decrease by 831.16 tons/year and particulates by 23.67 tons/year. Visible emissions would increase.

g. The proposed action has been widely publicized in the local area and has been discussed by Arizona Air National Guard officials with local authorities and civilian groups. No opposition or adverse concern has surfaced from these activities.

For the reasons outlined above, the United States Air Force has decided not to file a Draft Environmental Impact Statement with the Council on Environmental Quality (CEQ) but has prepared an Environmental Determination.

Copies of the Environmental Determination and the supporting documentation are available upon request to the HQ USAF/PREV, Pentagon, Washington, D.C. 20330.

Comments and/or questions may be directed to Colonel Luis F. Dominguez, Environmental Planning Division, Civil

Engineering Directorate, Headquarters, U.S. Air Force (AF/PREV), the Pentagon, Washington, D.C. 20330, telephone 202-695-1422.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-22022 Filed 7-29-77;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Friday September 9, 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Panel will receive briefings and participate in discussions relative to the Defense Intelligence Agency's assessments of foreign military equipment, operations, and capabilities.

Dated: July 21, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.77-21959 Filed 7-29-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

FOSSIL ENERGY ADVISORY COMMITTEE

Meeting

JULY 26, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Fossil Energy Advisory Committee (FEAC), will hold a meeting on August 25, 1977, at the Lakeview Country Club, Training and Conference Center, Route 6, Morgantown, W. Va. The meeting will be open to the public and will begin at 9 a.m.

The following agenda items will be discussed:

9 to 9:15.—Opening Remarks by Dr. William E. Shoupp, Chairman, Fossil Energy Advisory Committee.

9:15 to 9:30.—Welcoming Remarks by Dr. Philip C. White, Assistant Administrator for Fossil Energy.

9:30 to 10:15.—Market Oriented Program Planning Study (MOPPS) by Harry R. Johnson, Executive Director for MOPPS.

10:15 to 10:30.—FEAC MOPPS Discussion.

10:30 to 11.—Department of Energy—Structure and Status by Dr. Philip C. White, Assistant Administrator for Fossil Energy.

11 to 11:30.—FEAC Department of Energy Discussion.

11:30 to 12.—Fossil Energy Methanol Program by Dr. Brian M. Harney, Chief, Refining and Chemicals Branch/Processes, Fossil Energy.

12 to 12:15.—FEAC Methanol Program Discussion.

12:15 to 1:15.—Recess for lunch.

1:30 to 2.—Fluidized Bed Combustion Overview by Dr. Steven I. Freedman, Assistant Director for Combustion and Advanced Power Development, Fossil Energy.

2 to 2:15.—FEAC Fluidized Bed Combustion Discussion.

2:15 to 3.—Report of Fossil Energy Task Force on Research Review by Dr. Alex G. Mills, Director, Division of Materials and Exploratory Research, Fossil Energy.

3 to 3:15.—FEAC Research Review Discussion.

3:15 to 3:45.—Hot Gas Cleanup Report by Chairman, Subcommittee on Hot Gas Cleanup.

3:45 to 4.—FEAC Hot Gas Cleanup Report Discussion.

4:00 to 4:30.—FEAC General Discussion.

In order to prepare for the Fossil Energy Advisory Committee (FEAC) meeting on August 25, 1977, the Subcommittee on Hot Gas Cleanup Technology will hold its meeting on the same morning of the full FEAC meeting from 7:30 a.m. to 8:30 a.m., in the Training and Conference Center, Lakeview Country Club, Morgantown, W. Va. No agenda is provided for this meeting. However, the Subcommittee on Hot Gas Cleanup will explore the general hot gas cleanup technology area and needs, and provide an independent assessment of ERDA's possible role. Discussion will focus upon: (1) options for Cleanup; (2) obstacles to success; (3) typical process schemes; and (4) preliminary economics.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than August 22, 1977, to Mr. George Fumich, Jr., Secretary, Fossil Energy Advisory Committee, U.S. Energy Research and Development Administration, Fossil Energy, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on August 19, 1977, to the Office of the Secretary of the Committee on 202-376-4644 between 8:30 a.m. and 5 p.m., eastern time.

(c) Questions at the meeting may be propounded only by members of the Fossil Energy Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee, Management Officer.

[FR Doc.77-22066 Filed 7-29-77;8:45 am]

[ERDA-1556-D]

HIGH FLUX NEUTRON SOURCE FACILITY, HANFORD RESERVATION, RICHLAND WASHINGTON

Availability of Draft Environmental Impact Statement

Notice is hereby given that the Energy Research and Development Administration (ERDA) has issued the Draft Environmental Impact Statement, ERDA-1556-D, High Flux Neutron Source Facility (HFNS), Hanford Reservation, Benton County, Richland, Washington, pursuant to ERDA's implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of ERDA's proposed actions to construct and operate the HFNS at the Hanford Reservation. The statement addresses the potential environmental impacts associated with the construction and operation of the HFNS which will be an irradiation facility used to support the materials development effort in the magnetic fusion energy program.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal, Washington State, local, and other public organizations and individuals who are known to have an interest in the project. Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Richland Operations Office, Federal Building, Richland, Washington.
San Francisco Operations Office, 1333 Broadway, Oakland, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be

furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E–201, Energy Research and Development Administration, Washington, D.C. 20545, (301–353–4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of the proposed project, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced public document rooms for inspection and will be considered in the preparation of the final environmental impact statement, if received on or before September 30, 1977.

Dated at Germantown, Md., this 26th day of July 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-22039 Filed 7-29-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FLR 729–5]

AIR QUALITY

Recommended Policy on Control of Volatile Organic Compounds

Correction

In FR Doc. 19385 appearing in the issue of Friday, July 8, 1977, the 3rd column, the last paragraph, the last four sentences should read as follows:

"* * * Uses, environmental distribution, and effects of perchloroethylene currently are being studied intensively by occupational health authorities and EPA. Findings from these investigations may have major impact on industrial users. In designing control regulations for perchloroethylene sources, particularly dry cleaners, consideration should be given to these findings as well as industry requirements and the costs of applying controls. Available control technology is highly cost effective for large perchloroethylene dry cleaning operations. However, for coin-operated and small dry cleaners, the same equipment would represent a heavy economic burden.".

On page 35315, in the 1st column, in that portion of the document under the heading, "Discussion", in the 3rd sentence, the word, "absorption" should read, "adsorption"; also, in the last sentence, the word, "photo chemical", should read, "photochemical".

In the 2nd paragraph, the fourth sentence, should read, "* * * Three separate forums * * *".

In the paragraph "3", the 15th line, the word, "parchloroethylene" should read, "perchloroethylene".

In the 3rd column, paragraph "16", the small type, the first line should read: "* * * selective regulation of CFM uses * * *".

[FRL 770–3; PP 7G1955 and 7G1959/T127]

ALDICARB

Establishment of a Temporary Tolerance

The Agricultural Research Center, Washington State University, Pullman, WA 99164, and the Agricultural Experiment Station, University of Idaho, Moscow, ID 83843, submitted pesticide petitions (PP 7G1955 and 7G1959) to the Environmental Protection Agency (EPA). These petitions requested that a temporary tolerance be established for combined residues of the pesticide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O* - (methylcarbamoyl) oxime and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or the raw agricultural commodity hops at 50 parts per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with two experimental use permits that have been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permits.

2. Washington State University and the University of Idaho must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The Universities must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration. Since aldicarb is an EPA-registered pesticide being used to conduct an experimental program, the usual requirement for keeping records of production (40 CFR 180.31(e)(4)) does not apply.

This temporary tolerance expires July 1, 1978. Residues not in excess of 50 ppm remaining in or on hops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerance. This temporary tolerance may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH–567), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington DC 20460 (202–755–4851).

Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: July 25, 1977.

MARTIN H. ROGOFF,
Director, Registration Division.

[FR Doc.77-22084 Filed 7-29-77;8:45 am]

[FRL 770–5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Equivalent Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another equivalent method for the measurement of ambient concentrations of ozone (photochemical oxidants corrected for interferences due to nitrogen oxides and sulfur dioxide). The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on chemiluminescence of Rhodamine B organic dye. The method is:

"Philips PW9771 0_3 analyzer" consisting of the following components:

PW9771/00 0_3 monitor with PW9724/00 Disc.-set, PW9750/00 Supply cabinet, PW9750/20 Supply unit

operated with a 0.5 ppm range, with or without any of the following accessories:

PW9733/00 Sampler; PW9753/00 Air sampler (manifold); PW9750/30 Frame for M.T.T.; PW9750/41 Control clock 60Hz; PW9732/00 Sampler line heater.

This method is available from Philips Electronic Instruments, Inc., 85 McKee Drive, Mahwah, N.J. 07430, or N. V. Philips Gloeilampenfabrieken, Eindhoven, the Netherlands. A notice of receipt of application for this method appeared at 41 FR 36538, August 30, 1976.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent con-

sistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instructional manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B–1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD–76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

THOMAS MURPHY,
Acting Assistant Administrator for Research and Development.

JULY 26, 1977.

[FR Doc.77-22083 Filed 7-29-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST SERVICE WORKING GROUP

Schedule of Meeting

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

JULY 27, 1977.

Pursuant to Public Law 92-463, notice is hereby given of the following meeting for August 1977.

WARC–79 AM BROADCASTING SERVICE GROUP

The meeting of the AM Broadcasting Service Group originally scheduled for Monday, August 15, and the possible continuation thereof on Wednesday, August 17, 1977, have been rescheduled for Tuesday, August 23, with a continuation, if necessary, on Friday, August 26, 1977. These meetings will be held in Room A-110 of the Main Commission Building Annex, 1919 M Street NW., Washington, D.C., from 10:30 a.m. until 12:30 p.m.

Chairperson: D. C. Everist.

FCC Liaison: Dennis Williams.

The Agenda for the meeting is as follows:

1. Call to Order by the Chairperson.
2. Approval of Minutes of the previous meeting.
3. Draft reply to Comments of Fifth Notice of Inquiry, Dkt. No. 20271.
4. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22035 Filed 7-29-77;8:45 am]

[Docket No. 21319]

THOMAS A. TWILLEAGER

Citizens Band Radio Station License

Adopted: July 1, 1977.

Released: July 27, 1977.

In the matter of the application of Thomas A. Twilleager, 324 S.E. 27th Avenue, Portland, Oregon 97214, for citizens band radio station license.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-entitled application for a Citizens Band radio station license signed by Thomas A. Twilleager on March 31, 1976.

The applicant is the former licensee of Citizens Band radio station KBY–4860. That license was revoked, effective May 30, 1974, in Docket No. 19803, Thomas A. Twilleager, FCC 74D–24, following a hearing held September 25, 1973. An Initial Decision, issued April 1, 1974, found and concluded, inter alia, that Twilleager had operated his radio station in violation of various Commission Rules and that he had made misrepresentations of material facts, which continued throughout the hearing process. No exceptions were filed to the Initial Decision and it became final on May 30, 1974 (FCC 74R–215, released June 12, 1974). The Initial Decision also ordered Twilleager to cease and desist from violation of Sections 301 and 307(a) of the Communications Act of 1934, as amended.

Twilleager violated the Cease and Desist Order by engaging in the unlicensed operation of radio transmitting apparatus on August 26 and 28, 1974, and January 18, 1976. On October 8, 1976, the United States District Court for the District of Oregon permanently enjoined Twilleager from further violation of the Commission's Cease and Desist Order and from operation of a radio transmitter in violation of Sections 301 and 307(a) of the Communications Act (Civil No. 76–78).

In view of the Findings and Conclusions of the Initial Decision (FCC 74D–24) and his unlicensed radio operation subsequent to an Order to Cease and Desist from such operation, it cannot be determined that a grant of Twilleager's application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the application for hearing. The findings and conclusions of the Initial Decision shall be res judicata as to the applicant and shall not be relitigated in this proceeding. Additionally, Twilleager's unlicensed operation on August 26 and 28, 1974, and January 18, 1976, is conclusively established by the judgment of the United States District Court for the District of Oregon in the above mentioned injunctive proceeding. These matters are also res judicata and will not be relitigated.

Accordingly, it is ordered, Pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Section 1.973(b) of the Commission's Rules, that the captioned application is designated

for hearing, at a time and place to be specified by subsequent Order, upon the following issues:

1. To determine the effect of the facts and conclusions contained in the prior Initial Decision upon the applicant's requisite qualifications to be a licensee of the Commission.
2. To determine the effect of the applicant's unlicensed operation of radio transmitting equipment subsequent to the release of an Order to Cease and Desist upon the applicant's requisite qualifications to be a licensee of the Commission.
3. To determine, in light of the evidence adduced under the foregoing issues, whether the applicant has the requisite qualifications to be a licensee of the Commission.
4. To determine whether a grant of the captioned application for a Citizens Band radio station license would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-22036 Filed 7-29-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; Hawaii and New York Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Hawaii and New York of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(C), the Federal Energy Administration has determined that an environmental impact statement is not required for either of these plans.

Single copies of the environmental assessments of the State Plans for Hawaii and New York are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box OD, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by August 10, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 26, 1977.

J. PETER LUEDTKE,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-21946 Filed 7-29-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; the Territory of Guam Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the Territory of Guam of its Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the Plan for Guam are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views and arguments with respect to the environmental assessment to Executive Communications, Box OC, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Guam Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by August 10, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 26, 1977.

J. PETER LUEDTKE,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-21947 Filed 7-29-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-709]

CINCINNATI GAS AND ELECTRIC CO.

Order Approving Settlement Agreement and Denying Motion To Vacate Order of June 23, 1976 and To Reject Settlement Agreement

JULY 25, 1977.

On April 19, 1977, the Cincinnati Gas and Electric Company (CG&E) tendered for filing a settlement agreement, along with a motion seeking Commission approval of the agreement, in resolution of all issues arising in these proceedings, with the exception of a fair wholesale electric rate increase for the Village of Georgetown, Ohio (Georgetown).[1] The settlement agreement terminates as to the Union Light, Heat, and Power Com-

[1] The Village of Georgetown participated in settlement negotiations but did not reach agreement with CG&E. The City of Covington did not engage in the settlement discussions, but fully acquiesced in the settlement agreement by a letter dated May 2, 1977 and addressed to the Commission Secretary.

pany (Union) [2] and other intervenors [3] proceedings begun on May 25, 1976, when CG&E filed with the Commission proposed changes in its FPC Electric Tariff, First Revised Volume No. 1 for wholesale electric service to Georgetown and its FPC rate Schedule 36 for wholesale electric service to Union. The proposed changes would increase annual charges to Georgetown by $76,164 and Union by $7,512,390. Pursuant to the Commission's order of June 23, 1976, the proposed changes became effective August 25, 1976, subject to refund. By this order the Commission hereby approves the settlement agreement.

The settlement agreement reduces the proposed annual increase for Union to $4,435,967, based on the estimated twelve month period ending December 31, 1976. In its motion seeking approval of this agreement, CG&E requests an expeditious resolution of this matter independent of the proceedings involving CG&E and Georgetown. Notice of the filing of the agreement was issued on April 26, 1977, providing for comments due on or before May 13, 1977. The Commission Staff and the City of Covington filed comments in support of the agreement. Finding that the settlement agreement complies with the Commission's rules and regulations, the Commission hereby approves and adopts the settlement agreement as it applies to Union.

On May 13, 1977, Georgetown tendered for filing a motion to vacate the Commission's order of June 23, 1976 accepting CG&E's proposed tariff sheets for filing, to reject CG&E's initial filing, to refund with interest revenues collected by CG&E in excess of the settlement rate in Docket Nos. E-8885 and E-8546, to order CG&E to comply with the rate agreed upon in Docket Nos. E-8885 and E-8546, and to protest the motion for approval of the settlement agreement filed in these proceedings, unless the same settlement rate is made applicable to Georgetown. Both CG&E and Staff filed timely reply comments to Georgetown's motion to which Georgetown responded. On June 10, 1977, the Commission filed a notice of its intent to act on this matter. Staff filed additional comments on July 1, 1977.

The Commission's rules and regulations provide for a full and fair hearing of complaints filed with this Commission in protest of applications for wholesale electric rate increases.[4] On June 21, 1976, Georgetown filed a timely complaint in these proceedings, raising substantially the same allegations and issues as it raises in its motion of May 13, 1977. On June 23, 1976, the Commission accepted CG&E's proposed tariff sheets for filing and, in response to the various complaints, protests, and petitions to intervene filed in these proceedings, set the matter for hearing. Georgetown did not seek rehearing of this Commission order. On July 2, 1976, Georgetown raised several objections to CG&E's initial filing in these proceedings,[5] but did not request the Commissionto reject the initial filing or to vacate the order of June 23, 1976. Nearly eleven months later, on May 13, 1977, Georgetown now seeks to vacate this Commission order and to reject CG&E's initial filing. Staff argues that Georgetown should be estopped by laches from attacking CG&E's filing at this late date. The Commission finds Georgetown motion untimely and accordingly denies it.

Georgetown further requests the Commission order CG&E to refund amounts collected since the effective date of these rates, August 25, 1976, "in excess of the amount that would have been collected under the settlement rate of Docket Nos. E-8885 and E-8546, with interest at nine percent." [6] The proposed tariff sheet originally filed in Docket No. ER76-709 contained the following language:

> Where applicable, the net monthly bill shall be increased to reflect the appropriate amount of Ohio Public Utility Excise Tax and the Public Utility Commission of Ohio Maintenance Tax.[7]

Georgetown claims that the prior Settlement Agreement purports to require CG&E to place both Georgetown and Union on the same rate schedule "at some time subsequent to termination of (Docket Nos. E-8885 and E-8546.)," [8] and that in Docket No. ER76-709 CG&E should charge Georgetown and Union identical rates, as reflected in the settlement agreement. Since Union is not located in Ohio, CG&E's sales to Union are not subject to the Ohio Public Utility Excise Tax and to the Public Utility Commission of Ohio Maintenance Tax. Georgetown and CG&E are in dispute as to whether the company may collect these taxes from Georgetown in Docket No. ER76-709. Staff submits that the prior settlement agreement resolved only the question as to whether Union and Georgetown would be treated differently on the basis of purchase volumes and load characteristics.[9]

In the event that the Commission decides not to reject CG&E's initial filing in Docket No. ER76-709, Georgetown objects to the CG&E motion for approval of the settlement agreement filed in this proceeding, "unless the same settlement rate is made applicable to the Village of Georgetown." The settlement agreement in this proceeding reflects the negotiations between CG&E and Union. Georgetown would have the Commission apply to Georgetown the exact settlement rate which Union has agreed to pay, without a provision to allow CG&E to recover the Ohio taxes for its sales to Georgetown. OG&E did not agree to charge that settlement rate to Georgetown in this proceeding since it does not include this provision.

The Commission is willing to apply the settlement rate in Docket No. ER76-709 to Georgetown, subject to the condition that the rate applicable to Georgetown complies with the Commission's rules and regulations. In Opinion No. 644,[10] the Commission determined that Ohio excise taxes are properly recoverable through wholesale electric rates:

> City argues that the imposition of an excise tax by the State of Ohio on revenues of CEI derived from wholesale business is unconstitutional, even though CEI is, in fact, currently paying the tax and believes it to be legal. All parties recognize that the legality of such a tax is not an issue over which this Commission has jurisdiction. Our Staff urged, however, and the Administrative Law Judge decided, that this cost should be excluded from CEI's rates, to be reinstated only upon a final determination that such tax is legal.
>
> It has been argued that if this tax is eliminated from the presently proposed rates, and if it is found that such tax may be legally collected, CEI may file to adjust its rates prospectively. *We must reject this proposal as being wholly inconsistent with the teachings of Hope, wherein it was stated that a regulated public utility is entitled to recover its reasonably and prudently incurred costs as well as a reasonable return on its investment.* The effect of this proposal would necessarily deprive CEI of the oppor-

[2] Union is a CG&E subsidiary serving Interlake, Inc., the residents of the City of Covington, and certain residents of the Commonwealth of Kentucky.

[3] Interlake, Inc., the Commonwealth of Kentucky, and the City of Covington, Kentucky.

[4] 18 CFR § 1.6.

[5] The Commission denied the relief request by Georgetown on August 3, 1976.

[6] The Commission assumes that by this particular request Georgetown seeks refunds in Docket No. ER76-709 in the amount Georgetown would have paid if it were subject to Union's rate schedule. Otherwise, Georgetown would be seeking to pay only the amount allowed in Docket Nos. E-8885 and E-8546, without regard to the rate increase proposed in Docket No. ER76-709. This conclusion is deduced from Georgetown's later statement in its May 13, 1977 motion that it is agreeable to paying the increased rates reflected in the settlement agreement filed in Docket No. ER76-709.

[7] FPC Electric Tariff, First Revised Volume No. 1, First Revised Sheet No. 5, Rate WS-P, issued May 25, 1976, effective June 24, 1976.

[8] Paragraph 8 of the Settlement Agreement dated May 14, 1975, in Docket Nos. E-8885 and E-8546 reads as follows:

8. Since Georgetown requests the same rate as The Union Light, Heat and Power Company, CG&E shall file, pursuant to § 205(d) of the Federal Power Act, at some time subsequent to termination of these consolidated cases a notice of revised rate schedule for wholesale electric service to both Georgetown and The Union Light, Heat and Power Company. Such revised rate schedule shall be designed to contain a single demand step and a single energy step. Such filing will contain two cost of service studies. One will utilize twelve month average coincidental peak for allocation purposes and the other will be premised upon a single annual coincidental peak for such allocation, with testimony in support of the letter allocation approach. In consideration therefor, Georgetown withdraws its Complaint filed December 5, 1973, and all issues raised thereunder, with prejudice, forever barred from raising or complaining of said issues in any proceeding before the Commission, the foregoing covenants of CG&E being complete and adequate satisfaction for Georgetown in these cases.

[9] Georgetown's original complaint in Docket No. E-8546 protested only the rates and charges to Georgetown, which at the time were different from those charged to Union. Ohio taxes were not at issue in that proceeding.

[10] *City of Cleveland, Ohio* v. *Cleveland Electric Illuminating Company*, Docket Nos. E-7631 and E-7633; and City of Cleveland, Docket No. E-7713, issued January 11, 1973.

tunity to recover this cost for the period

until new rates may be put into effect in the event the tax is upheld.

The Administrative Law Judge would seemingly avoid this result by ordering reparations upon a final determination that the tax may be legally imposed. Such a solution might appear to be equitable to both parties if we were empowered to order such reparations. We doubt, however, that the Federal Power Act grants us that authority. We are, however, fully authorized to condition this order to require CEI to reduce its rates and refund any excessive revenues collected under rates herein ordered in the event that it is subsequently determined that CEI is not legally required to pay this tax. (Emphasis supplied.)

Affirming this part of Opinion No. 644, the United States Circuit Court of Appeals for the District of Columbia stated as follows:

The petition presents for our decision contentions that the Commission erred (a) in adhering to the rates filed by CEI despite the claims that they did not accurately reflect those previously agreed to; (b) in prescribing permanent rates allegedly lacking substantial supporting evidence; (c) *in including the amount of the Ohio excise tax in the makeup of the permanent rates*; and (d) in sanctioning the charge for late payment. We agree with the City on the first point, and with the Commission on the others." (Emphasis supplied; footnotes omitted.)[11]

Footnote 37 of the court's decision states in pertinent part:

37. In calculating the permanent rate, note 20 supra, the Commission made an allowance for Ohio taxes being levied against CEI's gross receipts from the load transfer service. The applicability of the tax to that operation was at the time the subject of litigation in state tribunals, and on that account the City insists that the tax was outlawed for ratemaking purposes. We do not agree. *Taxes, like other necessary operating expenses, may properly be included as rate components*. e.g., Georgia Ry. & Power Co. v. Railroad Comm'n, 262 U.S. 625, 633, 43 S. Ct. 680, 682, 67 L. Ed. 1144, 1148 (1923); Galveston Elec. Co. v. City of Galveston, 258 U.S. 388, 399, 42 S. Ct. 351, 356, 66 L.Ed. 678, 684–685 (1922); City of Chicago v. FPC, 147 U.S. App. D.C. 312, 336, 458 F2d 731, 756 (1971), cert. denied, 405 U.S. 1074, 92 S. Ct. 1495, 31 L. Ed.2d 808 (1972); CEI was paying and had to continue payment of the tax until such time as the proper authorities in Ohio might rule to the contrary. (Emphasis Supplied).

Upon review of the documents filed with the Commission, we find no basis to relieve Georgetown of its responsibility to pay amounts equal to Ohio excise taxes incurred by CG&E in its sales to Georgetown. However, with regard to all other aspects of the settlement agreement, we find that the settlement rates are acceptable to Georgetown. Accordingly, we shall request Georgetown to notify the Commission as to its acceptance of the settlement rate, with a provision to allow CG&E to collect amounts equal to the Ohio excise taxes, within thirty days of the issuance of this order. Should Georgetown reject this proposal, the Commission shall order additional proceedings before the Presiding Administrative Law Judge.

[11] *City of Cleveland* v. *F.P.C.*, 525 F. 2d 845, (D.C. Cir., 1976).

The Commission further finds that Georgetown has no standing to object to the settlement agreement between CC&E and Union. Georgetown is not harmed by it. The Commission therefore denies Georgetown's motion to reject the settlement agreement as it applies to Union. CG&E's motion for approval of the settlement agreement filed in Docket No. ER76–709 is accordingly granted.

The Commission finds: (1) The motion for approval of the settlement agreement filed on April 19, 1977 in these proceedings should be granted.

(2) Georgetown's motion of May 13, 1977 should be denied in its entirety.

(3) Applicant should be required to refund to Union any amounts reflecting the difference between its proposed rates and the rates required to be filed by this order.

The Commission orders: (A) The motion for approval of the settlement agreement filed on April 19, 1977, in these proceedings are hereby granted.

(B) Georgetown's motion of May 13, 1977, is hereby denied in its entirety.

(C) The Commission hereby orders Georgetown to file a written statement of its election to accept or reject a rate equal to the settlement rate in addition to the applicable Ohio excise tax, within 30 days of the issuance of this order

(D) Within 60 days of the issuance of this order, Applicant shall file revised tariff sheets pertaining to rates applicable to Union, in accordance with the findings and conclusions of this decision and with the Commission's Rules and Regulations.

(E) This order, to the extent that it approves the settlement of issues agreed to by all parties herein, is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against CG&E or any person or party.

(F) Within 30 days of the Commission's approval of Applicant's substitute tariff sheets filed pursuant to Paragraph (D) above, Applicant shall report to the Commission refunds made to Union for the period beginning on August 25, 1976, when these proposed rates became effective, with interest at 9 percent per annum from the date of payment to date of refund, in accordance with the Commission's Rules and Regulations. A copy of the refund report shall also be sent to the State Commission.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22064 Filed 7-29-77;8:45 am]

[Docket No. G-1704]

CITIES SERVICE GAS CO.

Petition To Amend

JULY 22, 1977.

Take notice that on July 11, 1977, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. G–1704 a petition to amend the Commission's order of October 23, 1951, issued in the instant docket (10 FPC 1461) pursuant to section 7(c) of the Natural Gas Act so as to authorize an increase in the maximum shut-in wellhead pressure in its Colony Storage Field, Anderson County, Kansas, and in its McLouth Storage Field, Jefferson and Leavenworth Counties, Kans., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order issued October 23, 1951, Petitioner was granted authorization to acquire gas storage rights, develop and operate the Colony Storage Field in Anderson County, Kansas, at a maximum storage pressure of 285 psig with a corresponding bottom hole pressure of 291 psig at the average storage reservoir depth of 882 feet, and the McLouth Storage Field in Jefferson and Leavenworth Counties, Kans., at a maximum storage pressure of 500 psig with a corresponding bottom pressure of 518 psig at the average storage reservoir depth of 1427 feet.

Petitioner request authorization herein to (1) increase the maximum stabilized shut-in wellhead pressure of the Colony Storage Field to 433 psig with a corresponding bottom hole pressure of 441 psig at the average storage reservoir depth and (2) increase the maximum stabilized shut-in wellhead pressure of the McLouth Storage Field to 684 psig with a corresponding bottom hole pressure of 714 psig at the average storage reservoir depth.

Petitioner states that withdrawals from the North Welda, South Welda and the Colony Storage Fields feed into a common intake at the Welda Compressor Station where the gas is compressed into Applicant's Welda-Ottawa pipeline system. It is stated that on June 20, 1977, Petitioner was granted authorization to construct, among other things, approximately 4.80 miles of pipeline and appurtenant facilities in North Welda Storage Field and approximately 6.18 miles of pipeline and appurtenant facilities in South Welda Storage Field. Applicant states that this construction would replace deteriorated pipelines which would be abandoned and correct excessive pressure drops, and that it would also increase the peak day deliverability of the North Welda Storage Field from 70,000 Mcf per day to 81,000 Mcf per day and increase the peak day deliverability of the South Welda Storage Field from 72,000 Mcf per day to 92,500 Mcf per day. As a result of the required increased intake pressure of the Welda Compressor Station, the peak day deliverability from the Colony Storage Field would decrease from 108,000 Mcf per day to 91,500 Mcf per day, and this results in a net increased peak day deliverability of 15,000 Mcf per day from the three fields with the same wellhead shut-in pressure and storage inventory, it is said.

Petitioner indicates that this shut-in pressure would result in an increase in

the pressure gradient from approximately .330 psi per foot to approximately .500 psi per foot in the storage reservoir and would increase the storage inventory an estimated 4,500,000 Mcf.

It is stated that in Docket No. G-9887, Petitioner was authorized to drill and equip additional storage wells in McLouth Storage and to install additional horsepower at its Tonganozie Compressor Station, which compresses gas in and out of the McLouth Gas Storage Field. It is further stated that Petitioner was again authorized to install additional horsepower at the Tonganoxie Compressor Station in 1963 in Docket No. CP64-108.

It is indicated that Petitioner was authorized in Docket No. CP76-206 to construct additional looping of existing pipeline in the McLouth Storage Field, and that in Docket No. CP76-335, Petitioner was authorized to install an additional 2400 horsepower at its Tonganozie Compressor Station. Petitioner states that the additional looping in the McLouth Storage Field and the additional horsepower at Tonganozie Station would improve peak day deliverability from the McLouth Storage Field.

Applicant states that the requested shut-in pressure at its McLouth Storage Field would result in an increase in the pressure gradient from approximately .360 psi per foot to approximately .500 psi per foot in the storage reservoir and would increase the storage inventory an estimated 5,700,000 Mcf.

It is stated that the increased pressure at Petitioner's Colony Storage Field and McLouth Storage Field would not impair the integrity of the reservoir. The wells and related pipeline facilities have been designed to withstand an operating pressure in excess of 684 psig, it is said.

Petitioner asserts that authorization for the requested increase in stabilized shut-in wellhead pressure would provide the ability to inject an estimated additional 4,500,000 Mcf in the Colony Storage Field and an estimated additional 5,700,000 Mcf in the McLouth Storage Field and the ability to withdraw during the winter heating season these volumes of vitally needed additional gas to serve the high priority customer demands of customers attached as of January 1, 1978. This pressure would permit additional deliveries from these two storage fields during the winter heating season, offsetting the declining deliverability of wells which supply Applicant's system, it is indicated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 12, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22057 Filed 7-29-77;8:45 am]

[Docket No. CP77-474]

COLUMBIA GULF TRANSMISSION CO., AND TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Pipeline Application

JULY 22, 1977.

Take notice that on June 30, 1977, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 22027 and Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), hereinafter jointly referred to as Applicants, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 4,000 horsepower pipeline compressor units in Block 245, Vermilion Area, Offshore Louisiana; authorizing an increase in the compression authorized by the Commission in its order issued June 28, 1976 in Docket No. CP75-262 from 3,550 hp. to 4,000 hp.; and providing for a one-year construction period commencing on the date the above-mentioned facility authorizations are issued.

It is stated that the proposed facilities are required to provide capacity for transportation of 696,600 Mcf of gas per day through the Project 601 facilities.[1] Columbia Gulf would be entitled to 476 Mcfd and Tennessee 220,000 Mcfd of such capacity.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 15, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22056 Filed 7-29-77;8:45 am]

[1] Applicants refer to their pipeline facilities extending from Vermilion Block 245 via West Cameron Block 601 to West Cameron Block 643 and Vermilion Block 245 compression authorized in Docket Nos. CP73-48 and CP75-262, together with the compressor facilities proposed in this application as "Project 601".

[Docket No. R-478]

EL PASO NATURAL GAS CO.

Payment of Refunds

JULY 25, 1977.

Take notice that on July 15, 1977, El Paso Natural Gas Company ("El Paso"), in compliance with the Commission's letter order issued April 29, 1977, at Docket No. R-478, tendered for filing a Report of Refunds Made on May 11, 1977, to its interstate jurisdictional and nonjurisdictional customers entitled thereto. El Paso states, by said letter order, the Commission accepted El Paso's Report of Intended Disposition of Refunds filed with the Commission on March 4, 1977, at Docket Nos. R-478 and RP72-150, et al., as constituting satisfactory compliance with the Settlement Agreement dated August 6, 1976, approved by Commission order issued February 16, 1977, at Docket Nos. RP72-150 (Rate Design), et al.

El Paso states the Report of Refunds Made encompasses producer-supplier refunds received by El Paso aggregating $30,853,944.12 [1], inclusive of interest. Of said $30,853,944.12 in refunds received, El Paso has distributed to its interstate system customers $30,535,822.88, plus additional accrued interest thereon to the date of distribution aggregating $513,206.49, for a total of $31,049,029.37. Additionally, El Paso, in accordance with the approved Report of Intended Disposition of Refunds, distributed to Northwest Pipeline Corporation, $36,194.51, inclusive of interest, of the total refunds

[1] In addition to the producer-supplier refunds received by El Paso through April 30, 1977, aggregating $25,471,247.49, that were the subject of El Paso's Report of Intended Disposition of Refunds dated March 4, 1977, El Paso received additional producer-supplier refunds aggregating $5,382,696.63 during the period March 1, 1977, through May 6, 1977. The jurisdictional and non-jurisdictional keyed portions of such additional producer-supplier refunds were included in the total refunds distributed to El Paso's customers entitled thereto on May 11, 1977, as herein described.

received by El Paso and applicable to El Paso's former Northwest Division System operations.[2]

El Paso states that a copy of the filing has been served upon each of El Paso's interstate affected customers Northwest Pipeline Corporation, El Paso's former Northwest Division customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before August 12, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22067 Filed 7-29-77;8:45 am]

[Docket No. CP77-503]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Application

JULY 25, 1977.

Take notice that on July 11, 1977, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP77-503 an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place of certain facilities which were used to transport gas for the account of Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the Emergency Natural Gas Act of 1977, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that on February 11, 1977, it commenced the emergency transportation of natural gas for the account of Panhandle, and that such emergency transportation would terminate at the expiration of Emergency Natural Gas Act of 1977 on July 31, 1977.

It is stated that Panhandle contracted to purchase certain volumes of gas from Montana Power Company (Montana) and W. A. Moncrief, Jr. (Moncrief) and said gas was delivered to Panhandle through transportation and exchange arrangements with Applicant in Grant County, Kansas.

The gas Panhandle contracted to purchase from Montana and Moncrief was delivered to Northern Utilities, Inc.'s (NU) facilities for Applicant's account in Fremont County, Wyoming, and NU delivered this gas to Applicant at an existing interconnection of NU's and Applicant's facilities located in the vicinity of Casper, Wyoming, it is indicated. Applicant states that Panhandle received said volumes of gas from Applicant at an existing gathering line interconnection in Grant County, Kansas and at the newly constructed emergency interconnection where Panhandle's 20-inch transmission line crosses Applicant's 16-inch transmission line located in Grant County, Kansas.

Applicant and Panhandle propose to use the emergency interconnection in Grant County, Kansas on a contingency or emergency basis to facilitate the transportation and/or exchange of natural gas between the parties should such a need arise in the future. Applicant states that this interconnection would provide it and Panhandle with additional flexibility on their systems should future transportation arrangements need to be arranged.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 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) as 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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22066 Filed 7-29-77;8:45 am]

[Docket No. CP77-509]

NORTHERN NATURAL GAS CO.

Application

JULY 25, 1977.

Take notice that on July 13, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-509 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation and delivery of natural gas to Federated Rural Electric Association (Federated), and to abandon measuring facilities located in Jackson County, Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks approval to abandon the transportation and delivery of natural gas to Federated and to abandon and remove certain measuring facilities of Jackson TBS No. 5 which consist of 2 EMCO No. 5 positive displacement meters through which interruptible volumes are delivered to Federated as fuel for electrical generation and 1 rockwell 1600 meter which measures firm volumes of gas delivered to Federated for space heating of a building.

It is stated that Federated has advised Applicant that it no longer desires natural gas service for electrical generation and has requested that the measuring facilities associated with deliveries of gas for electrical generation be removed and that the contract for natural gas service for large volume electrical generation sales be terminated. Applicant further indicated that Federated requests that the small volume firm meter be retained for space heating requirements. The estimated cost of removing the measuring facilities is $700 which would be financed from cash on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 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.

[2] On September 21, 1973, the Commission granted approval at Docket Nos. CP74-14, et al., permitting El Paso to abandon the Northwest Division System properties and authorizing Northwest Pipeline Corporation ("Northwest") to acquire such properties. Divestiture of El Paso's Northwest Division System properties to Northwest was consummated as of January 31, 1974. The allocation of the applicable producer refund amounts to the two (2) systems is shown in Schedule D under the Tab denominated Summary of Refunds Received and Distributed.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22062 Filed 7-29-77;8:45 am]

[Docket No. CP77-506]

NORTHWEST PIPELINE CORP.

Application

JULY 25, 1977.

Take notice that on July 13, 1977, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP77-507 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000 and that the cost of any single project would not exceed $500,000. These costs would be financed by Applicant through working funds, supplemented, as necessary, by short-term borrowings, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 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) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22060 Filed 7-29-77;8:45 am]

[Docket No. E-6957]

SOUTHEASTERN POWER ADMINISTRATION

Request for Extension of Commission Confirmation and Approval of Rate Schedules

JULY 22, 1977

Take notice that on July 11, 1977, the Department of the Interior (Interior), on behalf of the Southeastern Power Administration (SEPA) filed a request for extension of Commission confirmation and approval of Wholesale Power Rate Schedule JW-1 (Revised), which covers the sale of firm power and accompanying energy generated at the Jim Woodruff Project to preference customers. Request is also made for Commission confirmation and approval of Wholesale Power Rate Schedule JW-2-A which covers the sale of electric energy generated at the Jim Woodruff Project to Florida Power Corporation. Rate Schedule JW-2-A supersedes Schedule JW-2 (Revised) and contains a fuel adjustment clause consistent with Commission Order No. 517. Approval of these rate schedules is requested for a 5 year period beginning August 20, 1977, and ending August 19, 1982.

Any person desiring to comment on said application should file written comments with the Federal Power Commission. All such comments should be filed by August 12, 1977. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22059 Filed 7-29-77;8:45 am]

[Docket No. CI77-298]

TENNECO INC.

Supplemental Order

JULY 25, 1977.

On July 1, 1977, Tenneco Inc. (Tenneco) filed a second supplement to its February 28, 1977, petition for declaratory order as previously supplemented on March 17, 1977. In its pleading Tenneco provides additional information regarding the alleged release of natural gas under dedication to Tennessee Gas Pipeline Company (Tennessee) which is the subject of the investigation instituted in the above referenced docket.

In its petition Tenneco identifies the following additional fields: (1) Decker's Prairie Field, Harris County, Texas (sales by Bonanza Pipe Line Company, Inc.), (2) Agua Dulce Field, Nueces County, Texas (sales by Logue and Patterson), and (3) Flores Field, Starr County, Texas (sales by Corpus Christi Leaseholds, Inc.).

Tenneco also states that in the Seeligson Field, Jim Wells County, Texas, a field previously discussed in Tenneco's pleadings, the Cattle-Land Oil Company acquired, as of October 1, 1967, Shell Oil Company's (Shell) interest in the acreage covered by Shell's contract with Channel Industries Gas Company (Channel). According to Tenneco sales under that contract, which totaled about .2 Bcf, have ceased. Tenneco states that sales by Sun Oil Company (Sun) from this field to Channel are currently being made under a 1965 Sunray-Channel contract and averaged 5,629 Mcf per day in 1976.

Finally, Tenneco notes that in Docket No. CI76-738, there is currently pending an application filed by N. R. Murchison relating to 160 acres in the Stedman Island Field which at one time was covered by a 1952 contract between Aransas Dock and Channel Company (Aransas), as seller, and Tennessee as purchaser. The application in Docket No. CI76-738 requests the Commission to confirm that abandonment authorization was obtained in 1960 when the Commission was informed that production had ceased, or, in the alternative to grant abandonment. The 1952 Aransas-Tennessee contract covered certain acreage subsequently acquired by Mobil Oil Corporation. In 1966 and 1967 Mobil sold to Channel about 2.4 Bcf of gas produced from that acreage. Tenneco requests that any question as to the Mobil acreage be considered in Docket No. CI76-738. Since Mobil has not filed an abandonment application with respect to its acreage in the Stedman Island Field, we do not agree that the question of Mobil's sales to Channel should be considered in Docket No. CI76-738. This issue is properly part of the

Tenneco investigation and shall be considered therein.[1]

The issues raised in Tenneco's July 1, 1977, supplemental petition are properly part of the investigation which was set for hearing in the June 6, 1977, order issued in this proceeding. Accordingly, we shall make the additional affected producers respondents to this proceeding.

The Commission orders: (A) Bonanza Pipe Line Company, Inc., Logue and Patterson, Corpus Christi Leaseholds, Inc. and Cattle-Land Oil Company are hereby made respondents in the above-entitled proceeding. The above respondents shall comply with the procedures established in the Commission's June 6, 1977 order herein.

(B) This proceeding is expanded to cover the properties discussed in the body of this order.

(C) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before August 5, 1977, in accordance with the Commission's Rules of Practice and Procedure. Parties who have already filed such notices or petitions in this docket need not again file for intervention.

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

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22063 Filed 7-29-77;8:45 am]

[Docket No. CP77-505]

TEXAS GAS TRANSMISSION CORP.

Application

JULY 25, 1977.

Take notice that on July 12, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP77-505 an application pursuant to section 7(c) of the Natural Gas Act as implemented by section 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction during a three-year period following February 10, 1978, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant states that the total volume of natural gas to be injected into the prospective underground storage projects would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed three-year project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from cash on hand.

Applicant states that upon successful completion of the testing and development of any underground storage reservoir, Applicant would file an application for authorization to utilize said storage reservoir as an integral part of its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 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) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22061 Filed 7-29-77;8:45 am]

[Docket No. RI77-105]

TEXAS WELL SERVICE, INC.

Petition for Special Relief

JULY 22, 1977.

Take notice that June 14, 1977, Texas Well Service, Inc. (Applicant), P.O. Box 6432, Corpus Christi, Tex. 78411, filed an application for special relief in Docket No. RI77-105, pursuant to Commission Order No. 481.

Applicant seeks authorization to charge $2 per Mcf for gas sold from the Juan Stillman, Jr., Lease and the Salvador Yzaguirre Lease, Duval County, Tex. Applicant proposes to re-enter and to redrill both the Stillman Lease Well which is presently shut-in and the Yzaguirre Lease Well which is plugged. Applicant further states that unless the requested increase is granted, it will be unable to develop said acreage.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 11, 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 Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22058 Filed 7-29-77;8:45 am]

[Docket No. ID-1598]

WILLIS S. WHITE, JR.

Application; Correction

JULY 7, 1977.

In FR Doc. 77-17442 appearing on page 30915 in the issue for Friday, June 17, 1977, in the list of positions for which Willis S. White has applied "President" should in each case read "President and Director." This notice in Docket ID-1598 was issued by the Federal Power Commission on June 9, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22065 Filed 7-29-77;8:45 am]

FEDERAL RESERVE SYSTEM

CLEVETRUST CORP.

Proposed Acquisition of Lake Life Insurance Company

CleveTrust Corporation, Cleveland, Ohio, has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Lake Life Insurance Company, Wilmington, Delaware, a proposed de novo subsidiary. Notice of the application was published on March 8, 1977 in The Plain Dealer and The Morning News, newspapers circulated, respectively, in Cleveland, Ohio, and Wilmington, Delaware.

Applicant states that the proposed subsidiary would engage in the activity of underwriting as reinsurer credit life and credit accident and health insurance di-

[1] Mobil was previously made a respondent in this proceeding and therefore there is no need to add them as a respondent, but the proceeding will now also cover the subject properties of Mobil.

rectly related to extensions of credit by the bank holding company system. Such activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 23, 1977.

Board of Governors of the Federal Reserve System, July 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-21861 Filed 7-29-77;8:45 am]

FIRST TEXAS BANCORP, INC.

Acquisition of Bank

First Texas Bancorp, Inc., Georgetown, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank, Belton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1977.

Board of Governors of the Federal Reserve System, July 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-21862 Filed 7-29-77;8:45 am]

NORTHEAST UNITED BANCORP, INC., OF TEXAS

Order Approving Acquisition of Bank

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First State Bank, Bedford, Texas ("Bank").

The subject proposal is an amendment to Applicant's original application to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank through an exchange of shares of Applicant for shares of Bank. That application was approved by the Board by Order of January 19, 1976 (41 FR 3782). Because Applicant was not able to acquire all of the shares of Bank as proposed, Applicant requested the Board to amend its Order to permit Applicant to acquire 75 percent or more of the shares of Bank through an exchange of shares. By Order of November 5, 1976, the Board granted Applicant's request (41 FR 50347). It appears that Applicant is unable to consummate the transaction as amended. Applicant now proposes to acquire 51 percent or more of the voting shares of Bank through cash purchase rather than through an exchange of shares. In view of the length of time that has elapsed since the Board issued its first Order approving the application and the substantial amendments that Applicant has made to the proposal, the Board has considered the amended proposal as if it were a new application.

Notice of the amended application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 107th largest banking organization in Texas, controls one bank with aggregate deposits of approximately $50.4 million, representing one-tenth of one percent of the total deposits in commercial banks in the State.[1] Applicant's acquisition of Bank would increase Applicant's share of total State deposits by 0.06 percent and would not result in a significant increase in the concentration of banking resources in Texas. Approval of the subject application would result in Applicant becoming the 62nd largest banking organization in Texas.

Bank holds deposits of approximately $30 million, representing 1.0 per cent of the total deposits in commercial banks operating in the Fort Worth banking market,[2] and ranks as the 17th largest of 51 commercial banks in the market. The three largest banking organizations in the market control, in the aggregate, 63.3 per cent of the market's deposits. Applicant is the ninth largest of 40 banking organizations in the Fort Worth banking market. Its sole subsidiary, Northeast National Bank of Fort Worth, Texas ("Northeast"), holds deposits of $50.4 million, representing 1.6 percent of the market's total commercial bank deposits. To the extent that Northeast Bank and Bank operate in the Fort Worth banking market, some amount of existing competition would be eliminated as a result of the consummation of this proposal. However, Northeast Bank and Bank are located in separate suburbs of Fort Worth seven and one-half miles apart and in view of the sizes of the institutions involved and the large number of banks competing in the market, it does not appear that the effects on existing competition would be significant. Moreover, even after consummation of the proposal, Applicant would control only 2.6 per cent of the market's deposits (about one-third of the deposits held by the market's third largest banking organization, and less than one-tenth of the deposits held by the first or second largest banking organization in the market), and several independent banks in the market would remain available for acquisition by holding companies not presently represented in the market. Accordingly, on the basis of the record, the Board concludes that consummation of the proposal would not have any significantly adverse effects on competition.

The financial and managerial resources of Applicant and its subsidiary bank are considered satisfactory and the future prospects for each appear favorable. In view of Applicant's commitment to inject $200,000 of equity capital into Bank following its acquisition, the same conclusions generally apply with respect to Bank's financial and managerial resources and future prospects. Although Applicant will incur debt of approximately $2.8 million as a result of the acquisition of Bank's shares, it appears that Applicant will be able to service this debt through the earnings of Northeast Bank and Bank, without placing any undue strain upon the capital position of either bank. Thus, the banking factors lend some weight toward approval of the application. Applicant proposes to increase the rates of interest paid on Bank's time and savings deposits, increase the parking facilities

[1] All banking data are as of December 31, 1976, and reflect holding company formations and acquisitions approved through June 30, 1977.

[2] The Fort Worth banking market, the relevant geographic market for purposes of analyzing the competitive effects of this proposal, is approximated by the Fort Worth RMA.

at Bank, and, at a later date, provide trust services for customers of Bank. Therefore, the considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and, in the Board's view, are sufficient to outweigh any slight adverse effects on existing competition that might result from consummation of the proposal. Therefore, on the basis of all of the facts of record, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.[3]

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective July 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22008 Filed 7-29-77;8:45 am]

PEOTONE BANCORP, INC.

Order Approving Formation of a Bank Holding Company

Peotone Bancorp, Inc., Peotone, Ill., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 80 per cent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Ill. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $19.8 million).[1] Upon acquisition of Bank, Applicant would control the 506th largest bank in Illinois, with approximately 0.03 percent of total deposits of commercial banks in the State. Bank is the 9th largest of 22 banks competing in Will Couty, the relevant banking market, holding about 3 per cent of the total commercial bank deposits therein. Applicant's principals are associated with and exert considerable management influence over two other Illinois banks, one in Westville and the other in Cambridge. Since the instant proposal is essentially a corporate reorganization, and because Bank and the other two banks are each located in separate banking markets, consummation of the proposal would neither eliminate existng or potential competition nor increase the concentration of banking resources in any relevant area. Thus, it is concluded that competitive considerations are consistent with approval of the application.

The condition of the two other banks with which Applicant's principals are associated suggests that they will conduct the operations of Applicant and Bank in a satisfactory manner. Although Applicant will incur debt in connection with the proposal, the projected income from Bank should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Therefore, considerations relating to the financial and managerial resources and future prospects of Applicant and Bank are regarded as generally satisfactory and consistent with approval.

Although Applicant proposes no immediate substantive changes in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors, effective July 25, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-22009 Filed 7-29-77;8:45 am]

[3] In its consideration of Applicant's original proposal, the Board considered comments submitted by First National Bank of Euless, Euless, Texas ("Protestant"), regarding the competitive effects of Applicant's proposed acquisition of Bank. Protestant's comments in opposition to approval of Applicant's proposal and the Board's analysis of those comments are set forth in the Board's Order approving Applicant's original proposal (41 FR 3782 (1975)). Upon review of Protestant's comments in light of the subject proposal, the Board is of the view that the facts do not justify altering those findings of record.

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich and Coldwell. Absent and not voting: Governors Jackson, Partee and Lilly.

[1] All banking data are as of December 31, 1976.

FOREIGN-TRADE ZONES BOARD

[Order No. 120]

PORT EVERGLADES AUTHORITY

Approval for Establishment of a Temporary Foreign-Trade Zone Site in Broward County, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Port Everglades Authority, Grantee of Foreign-Trade Zone No. 25, has applied to the Board for authority to establish, operate, and maintain a temporary zone site for a period not to exceed three years in the City of Dania, Broward County, Florida;

Whereas, the application was accepted for filing on March 11, 1977, and notice inviting public comment was given in the FEDERAL REGISTER on March 17, 1977 (41 FR 14926);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is needed to provide immediate zone services for the business community until the recently approved permanent zone, which is under construction, is ready for occupancy;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to establish, operate and maintain a temporary zone site in the City of Dania, Broward County, Florida, in conformity with the application filed March 11, 1977, for a period not to exceed three years from the date of this Board Order. The authority given in this Order is subject to local approval of the District Director of Customs and the District Army Engineer regarding compliance with their requirements relating to foreign-trade zones. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the new site.

Signed at Washington, D.C., this 19th day of July 1977.

JUANITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:
JOHN J. DAPONTE,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.77-22026 Filed 7-29-77;8:45 am]

[Order No. 121]

SAN FRANCISCO PORT COMMISSION

Approval of Application To Relocate Foreign-Trade Zone No. 3 to Piers 19 and 23, San Francisco, Calif.

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) has adopted the following Order:

Whereas, the San Francisco Port Commission, Grantee of Foreign-Trade Zone No. 3, has made application (filed May 10, 1977) for authority to relocate Foreign-Trade Zone No. 3 from its present two sites at King Street and Berry Street to a consolidated site at Piers 19 and 23, the Embarcadero, San Francisco, Calif;

Whereas, public notice of the application has been given and full opportunity has been afforded all interested parties to be heard (42 FR 24076, May 12, 1977);

Whereas, an Examiners Committee has investigated the proposal and recommends approval of the application; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Foreign-Trade Zones Board Regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the relocation of Foreign-Trade Zone No. 3 from its present sites at King Street and Berry Street to a new site at Piers 19 and 23, the Embarcadero, San Francisco, Calif. The Grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone.

This order shall be effective as of June 13, 1977.

Signed at Washington, D.C., this 19th day of July 1977.

JUANITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

JOHN J. DAPONTE,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.77-22027 Filed 7-29-77; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: U.S. Office of Education/National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the November 1 Report to Congress Committee of the National Advisory Council on Bilingual Education. The purpose of this meeting is to review and recommend changes for the advisory council's 1977 annual report to Congress. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE: August 22, 1977 November 1 Report to Congress Committee Meeting 9 a.m. to 4:30 p.m.

ADDRESS: Reporter's Building, Conference Room 412, 300 7th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. John C. Molina, Director, Office of Bilingual Education, Reporter's Building, Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The proposed agenda for the meeting on August 22, 1977 includes: review and recommend changes for the advisory council's 1977 annual report to Congress.

Records will be kept of all Council proceedings and shall be available for public inspection 14 days after the meeting in Room 421, Reporter's Building, 300 7th Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on July 27, 1977.

JOHN C. MOLINA,
Director, Office of Bilingual Education.

[FR Doc.77-22038 Filed 7-29-77;8:45 am]

Office of the Secretary

OFFICE OF HUMAN DEVELOPMENT

Reorganization Order

Under the authority of section 6 of reorganization Plan No. 1 of 1953 and pursuant to the authorities vested in me as Secretary of Health, Education, and Welfare, I hereby order organizational changes in the Office of Human Development as follows:

I. ORGANIZATION

A. The Office of Human Development is redesignated the Office of Human Development Services and will remain as a principal operating component within the Office of the Secretary.

B. The Office of Human Development Services will be headed by the Assistant Secretary for Human Development Services who will report directly to the Secretary. The Deputy Assistant Secretary for Human Development Services will act as the Assistant Secretary in the absence or disability of the Assistant Secretary or in the event there is a vacancy in that position.

C. The Office of Human Development Services will consist of the following principal program elements and headquarters staff units, the heads of which report directly to the Assistant Secretary for Human Development Services:

PRINCIPAL PROGRAM ELEMENTS

Administration for Children, Youth, and Families
Administration on Aging
Administration for Handicapped Individuals
Administration for Public Services
Administration for Native Americans

HEADQUARTERS STAFF UNITS

Office of Planning, Research, and Evaluation
Office of State and Community Affairs
Office of Administration and Management
Office of Policy and Management Control

D. The Office of Human Development Services will have 10 regional offices headed by Regional Administrators for Human Development Services, who report directly to the Assistant Secretary for Human Development Services. The reporting relationships of the regional heads of the rehabilitation services and aging programs are unaffected by this order.

II. ORGANIZATIONAL TRANSFERS

A. To the Administration for Children, Youth, and Families are transferred:

Office of Child Development
Office of Youth Development
That part of Public Services Administration concerned with the Child Welfare Services Program, namely Title IV-B Child Welfare Services and the Child Welfare Services Training Program

B. To the Administration for Handicapped Individuals are transferred:

Rehabilitation Services Administration (the Commissioner of the Administration for Handicapped Individuals also serves as Commissioner of the Rehabilitation Services Administration)
Developmental Disabilities Office
Architectural and Transportation Barriers Compliance Board (the Assistant Secretary will continue to serve as Chairperson)
President's Committee on Mental Retardation
Office for Handicapped Individuals (redesignated as Office for Handicapped Individuals Advocacy which will continue to report directly to the Assistant Secretary)

C. To the Administration for Public Services are transferred:

Public Services Administration (less Child Welfare Services Program)
Office of WIN

D. To the Administration for Native Americans are transferred:

Office of Native American Programs
Intradepartmental Council on Indian Affairs

E. The Administration on Aging is retained as currently constituted.

F. To the Office of Planning, Research, and Evaluation is transferred:

Office of Planning and Evaluation (less the functions related to the Operational Planning System)

G. The Office of Administration and Management is retained as presently constituted (less Equal Employment Opportunity function and certain organization and management analysis responsibilities).

H. To the Office of State and Community Affairs are transferred:

Office of Public Information
Office of Veterans Affairs
Office of Consumer Affairs
Office of Volunteer Development
Office of Rural Development
Office of Manpower
Office of Regional Operations

I. To the Office of Policy and Management Control are transferred:

Executive Secretariat
That part of Office of Planning and Evaluation concerned with the Operational Planning System
That part of Office of Administration and Management concerned with the Equal Employment Opportunity function and certain organization and management analysis functions

J. To the various offices of the Regional Administrators for Human Development Services are transferred the Offices of the Assistant Regional Directors for Human Development and the Regional Manpower Staffs.

III. CONTINUATION OF REGULATIONS

Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy and interpretations with respect to the Office of Human Development and the Office of the Assistant Regional Directors for Human Development, heretofore issued and in effect prior to the date of this Reorganization Order, or to become effective subsequent to said date, are continued in full force and effect.

IV. CONTINUATION OF DELEGATIONS OF AUTHORITY

Pending further delegations and redelegations consistent with this Order, all delegations of authority heretofore made to the Assistant Secretary for Human Development and all redelegations thereunder are continued in full force and effect. Delegations and redelegations by the Commissioner, Rehabilitation Services Administration, and Commissioner, Administration on Aging, are unaffected by this Order.

V. FUNDS, PERSONNEL, AND EQUIPMENT

Transfers of organizations and functions effected by this Order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies, and other resources.

Effective date: This Reorganization Order shall be effective July 26, 1977.

Dated: July 26, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-21979 Filed 7-29-77;8:45 am]

SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT

Determination of Equivalency

Section 601 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) amended section 212 of the Immigration and Nationality Act to, among other things, provide that certain aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession or who are coming to participate in a program under which they will receive graduate medical education shall be excluded from entering the United States unless, in addition to other requirements, they have passed Parts I and II of the National Board of Medical Examiners' Examination or an equivalent examination as determined by the Secretary of Health, Education, and Welfare.

For purposes of administration of this section, the Secretary of Health, Education, and Welfare has determined that successful completion of medical school examinations leading to the degree of Doctor of Medicine, awarded by a school of medicine located in the United States or Canada, accredited by a body or bodies approved for this purpose by the Commissioner of Education, will be considered equivalent to the passing of Parts I and II of the National Board of Medical Examiners' Examination.

Dated: June 1, 1977.

R. MOURE,
Acting Assistant Secretary for Health.

Approved: July 26, 1977.
JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-22048 Filed 1-29-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 14347]

FLORIDA

Opportunity for Public Hearing and Republication of Proposed Withdrawal; Correction

JULY 26, 1977.

In 42 FR 36558-36559 of July 15, 1977, paragraph 8 of FR Document No. 77-20371 should read:

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-22025 Filed 7-28-77;8:45 am]

[ES 14837]

MINNESOTA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Department of the Interior, Fish and Wildlife Service, filed application Serial No. ES 14837 on December 20, 1974, for the withdrawal of the following described land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws:

FIFTH PRINCIPAL MERIDIAN, MINNESOTA

T. 138 N., R. 39 W.,
Tract 37, 5.20 acres;
Tract 38, 0.20 acre.

The applicant proposes to use the land as a refuge for migratory birds and will manage it as a satellite of the Tamarac National Wildlife Refuge located approximately six miles to the North. The land, composed of two islands within a meandered lake, will provide upland nesting cover and a food source for migratory waterfowl and upland game birds.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 10, 1975, Volume 40, page 29095, Document No. 75-17905.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910, on or before September 15, 1977. Upon determination by the Director that a public hearing will be held, a notice of public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. Hearings are scheduled and conducted in accordance with BLM Manual section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the Director, Eastern States Office, Bureau of Land Management at the above address on or before September 15, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on

October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-22024 Filed 7-29-77;8:45 am]

(NM 31141 and 31145)

NEW MEXICO

Applications

JULY 25, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch and one 8⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 5, lot 5;
Sec. 6, lot 12.
T. 32 N., R. 10 W.,
Sec. 28, lots 2 and 3;
Sec. 32, lots 1 and 2.

These pipelines will convey natural gas across 0.522 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22017 Filed 7-29-77;8:45 am]

[NM 29722]

NEW MEXICO

Application

JULY 22, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 28 N., R. 13 W.,
Sec. 16, N½NE¼, SW¼NE¼, S½NW¼;
Sec. 17, S½NE¼, E½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 18, SE¼SE¼;
Sec. 19, lot 2, N½NE¼, E½NW¼.
T. 29 N., R. 13 W.,
Sec. 20, N¼SW¼, SE¼SW¼;
Sec. 28, SW¼SW¼;
Sec. 29, S½NE¼, E½SE¼;
Sec. 33, W½NW¼, SE¼NW¼, NE¼SW¼, SW¼SW¼.

This pipeline will convey natural gas across 5.77 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22020 Filed 7-29-77;8:45 am]

National Park Service

CRATER LAKE NATIONAL PARK, CRATER LAKE, ORE.

General Management Plan and Environmental Assessment; Availability

This announcement is to provide public information that the National Park Service has completed a general management plan for Crater Lake National Park, Crater Lake, Oregon, which is now available for review. An environmental assessment was completed on the draft plan and is also available for 30 days from the date of this notice. Both documents are on file for review or may be obtained at the following offices:

Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Washington 98101.
General Superintendent, National Park Service, Box 128, Klamath Falls, Oregon 97601.
Superintendent, Crater Lake National Park, Box 7, Crater Lake, Oregon 97604.

The general management plan is the park-wide plan for meeting the management objectives for the park. It charts a long-range strategy for resource management, visitor use, and development at a level of detail that will facilitate implementation of proposed actions.

The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, and a description of the alternatives selected as the proposed action.

On April 15, 1976, the National Park Service announced in the FEDERAL REGISTER (Volume 41, page 15881) that an environmental impact statement would be prepared for this project. This announcement was made early in the planning process prior to definition of the proposed action. During project planning, alternatives were selected that will produce less impacts than previously contemplated. Upon preparation of this environmental assessment, it is now determined that implementation of the proposed general management plan will not produce a significant environmental impact on the human environment. Therefore, an environmental impact statement is not required, and none will be prepared.

Dated: July 15, 1977.

RUSSELL E. DICKENSON,
Regional Director, Pacific Northwest Region.

[FR Doc.77-21993 Filed 7-29-77;8:45 am]

DEPARTMENT OF JUSTICE

DELMARVA POWER AND LIGHT CO.

Notice of Proposed Consent Judgment in Action To Join Emission of Pollutants

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on July 20, 1977, a proposed consent decree and appended compliance schedule in *United States* v. *Delmarva Power and Light Company* were lodged with the United States District Court for the District of Delaware at Wilmington at the request of the Environmental Protection Agency. The proposed decree and schedule require Delmarva Power and Light Company to achieve compliance at its Indian River Generating Station Unit No. 3 with the Delaware State Implementation Plan regulation for the control of particulate emissions from fuel burning equipment through the institution of a program of inspection, modification and testing of Unit No. 3. The compliance schedule requires the company to install additional equipment on Unit No. 3's existing control technology and to submit a report to EPA showing Unit No. 3's compliance with the particulate regulation by May 8, 1978, and further requires, in the event compliance is not achieved through the use of the additional equipment, that the company use flue gas conditioning treatment or replace its electrostatic precipitators to produce final compliance by February 5, 1981. The consent decree would be in settlement of an action against the company for a violation of Section 113 of the Clean Air Act, 42 U.S.C. § 1857c-8.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments on the proposed decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Delmarva Power and Light Company*, D. J. Ref. 90-5-2-1-68.

The proposed consent decree and compliance schedule may be examined at the office of the United States Attorney, Wilmington, Delaware, at the Environmental Protection Agency, Region III offices, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania, at the office of the Clerk of the United States District Court for the District of Delaware, and at the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, 9th and Pennsylvania NW., Washington, D.C. A copy of the proposed decree may be obtained by mail or in person from the Pollution Control Section.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-22028 Filed 7-29-77;8:45 am]

INTERLAKE, INC.

Notice of Proposed Consent Decree in Action To Enjoin Emission of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 10029, notice is hereby given that on or about July 18, 1977, a proposed consent decree in *United States* v. *Interlake, Inc.*, was lodged with the District Court for the Northern District of Illinois. The proposed decree would require Interlake, Inc. to bring its by-product coke production facility in Chicago into compliance with Illinois Air Pollution Control Regulations on a specific schedule, the final date of which is 34 months from entry of the decree.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Interlake, Inc.*, D.J. Ref. 90-5-2-1-44.

The proposed consent decree may be examined at the office of the United States Attorney, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, Illinois, 60604, at the Region V Office of the Environmental Protection Agency, Enforcement Division, 230 S. Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Department of Justice, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-22029 Filed 7-29-77;8:45 am]

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1977 Aggregate Production Quota Oxycodone for Conversion

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to 0.100 of Title 28 of the Code of Federal Regulations.

On June 7, 1977, a notice of the proposed revised aggregate production quota for 1977 for Oxycodone For Conversion was published in the FEDERAL REGISTER (42 FR 29110-11). All interested parties were invited to comment or object to the proposed aggregate production quota on or before July 5, 1977. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the aggregate production quota for the controlled substance listed below, expressed in grams of anhydrous base, be established as follows:

Basic class:	*Issued 1977*
Oxycodone for conversion	8,400

This order is effective upon publication.

Dated: July 25, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-21945 Filed 7-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER AND LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Pennsylvania Power and Light Co., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 12, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Allegheny Electric Cooperative, Inc., as an owner of the Susquehanna Steam Electric Station, Units 1 and 2.

The information was filed by Pennsylvania Power and Light Co. in connection with their application for construction permits and operating licenses for two boiling water nuclear reactors. The Pennsylvania Power and Light Co. was issued two construction permits on November 2, 1973, for their Susquehanna Steam Electric Station, Units 1 and 2. Construction is underway on a site located in Salem Township, Luzerne County, Pa.

The original antitrust portion of the application was submitted on March 23, 1971, and Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on May 7, 1971 (36 FR 8529). The Notice of Hearing was published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20090).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pa. 18701.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attn.: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Allegheny Electric Cooperative, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before August 23, 1977.

Dated at Bethesda, Md., this 16th day of June, 1977.

For the Nuclear Regulatory Commission.

ANTHONY BOURNIA,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-20443 Filed 7-15-77;8:45 am]

NOTE.—This document originally appeared at the 37882 in the FEDERAL REGISTER for Monday, July 25, 1977. It is reprinted in this issue without change.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE VERMONT YANKEE NUCLEAR POWER PLANT

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Vermont Yankee Nuclear Power Plant, will hold an open meeting on August 16, 1977, in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review operating experience and other matters pertinent to the Vermont Yankee Nuclear Power Plant.

The agenda for subject meeting shall be as follows:

TUESDAY, AUGUST 16, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Vermont Yankee Nuclear Power Corporation, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business,

including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 9, 1977 to Mr. Elpidio Igne, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 2727 H Street NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt. 05301.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 15, 1977, to the Office of the Executive Director of the Committee, telephone 202-634-1919, Attn.: Mr. Elpidio Igne, between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 23 and November 23, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt. 05301.

Copies may be obtained upon payment of appropriate charges.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-22213 Filed 7-29-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP ON TRANSPORTATION OF RADIOACTIVE MATERIALS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Working Group on Transportation of Radioactive Materials will hold an open meeting on August 23, 1977, at the Sheraton La Guardia Hotel, 90-10 Grand Central Parkway, New York, N.Y. 22369. The purpose of this meeting is for the Working Group to receive an updated briefing on Interim Report, dated April 29, 1977, "Transport of Radionuclides in Urban Environs—Status Report on Assessment Methodology and General Study Development" (hereafter referred to as the Interim Report).

The agenda for subject meeting shall be as follows:

TUESDAY, AUGUST 23, 1977

8:30 A.M.-8:45 A.M.

The Working Group with any of its consultants who may be present will meet in Executive Session to explore their preliminary opinions, based upon their independent review of the Interim Report and associated documents, regarding matters which should be considered.

8:45 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Working Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants.

At the conclusion of this session, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 16, 1977, to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should be based on the Interim Report, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

2. The NRC's five Regional Offices of Inspection and Enforcement:

Region I: 631 Park Avenue, King of Prussia, Pa. 19406.

Region II: Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.

Region III: 799 Roosevelt Road, Glen Ellyn, Ill. 60137.

Region IV: Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.

Region V: Suite 202, 1990 N. California Boulevard; Walnut Creek, Calif. 94596.

3. The four major reference collections of the New York City Public Library.

Copies of the Interim Report may be obtained from:

1. U.S. Environmental Protection Agency, Region II: Regional Office of Radiation Programs, Attn.: Paul Giar-

dina, Chief, Room 9071, 26 Federal Plaza, New York, N.Y. 10007.

2. U.S. Nuclear Regulatory Commission, Office of Standards Development, Transportation and Product Standards Branch, Attn.: Norman A. Eisenberg, telephone 301-443-6910, 5650 Nicholson Lane, Rockville, Md. 20853.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 22, 1977, to the Office of the Executive Director of the Committee, telephone 202-634-1374, Attn.: Mr. Gary Quittschreiber, between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 30 and November 23, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-22214 Filed 7-29-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE SHEARON HARRIS NUCLEAR POWER PLANT

Change of Meeting Location

The August 6, 1977, meeting of the ACRS Subcommittee on the Shearon Harris Nuclear Power Plant, announced in the FEDERAL REGISTER on July 18, 1977, page 36899, will be held at the following location: Mezzanine Auditorium, Insurance Building, Davie and Salisbury Streets (Salisbury Street entrance), Raleigh, N.C.

In addition, paragraph four (4) of the agenda listed in cited FEDERAL REGISTER notice, is hereby corrected to read "* * * the Carolina Power and Light Company * * *" and to delete "* * * the Pacific Gas and Electric Company * * *"

All other items regarding this meeting remain the same.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-22215 Filed 7-29-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Change in Agenda

Item A.(3), Regulatory Guide 1.XX, "Normal Water Level and Discharge at Nuclear Power Plants" has been deleted from the agenda for the meeting on August 10, 1977, of the ACRS Subcommittee on Regulatory Activities.

All other matters pertaining to this meeting remain the same as announced in the FEDERAL REGISTER on July 25, 1977, page 37880.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-22216 Filed 7-29-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 26, 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

U.S. CIVIL SERVICE COMMISSION

Application of Candidate Form for Internship in Personnel Management, SFP-758, annually, Indians in jurisdiction of San Francisco region, Warren Topelius, 395-5872.

SMALL BUSINESS ADMINISTRATION

Application for Pollution Control Financing Guarantee—Issuer's Request for Guarantee Commitment, SBA-1136, 1136A, on occasion, all small business requesting assistance, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service, Turkey Ham Label and Minimum Count Questions, single time, households in U.S.A., Gaylord Worden, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Grants for Guidance and Counseling, Programs Pub. L. 94-482, sec. 342(B)(1), OE-578-1, annually, States and territories, Lowry, R. L., 395-3772.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation, Questionnaire—Lake Mead Fishing Survey for Nevada, Department of Fish and Game, single time, fishermen and recreationalists visiting the area, Maria Gonzalez, 395-6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration:

Driving While Intoxicated Arrest Procedures, single time, police officers, Strasser, A., 395-5867.

Minority Business Enterprise/Small Business Survey of Sponsors, on occasion, UMTA-assisted transit, agencies and contractors, economics and general government division, Strasser, A., 395-3451.

REVISIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Chromium Ferroalloys—Importers' Questionnaire, single time, importers of high-carbon ferrochromium, Evinger, S. K., 395-3710.

Chromium Ferroalloys—Consumers questionnaire, single time, consumers of high-carbon ferrochromium, Evinger, S. K., 395-3710.

VETERANS' ADMINISTRATION

Application for Residency or Internship, 10-2850B, on occasion, residents and interns, Warren Topelius, 395-5872.

Application for Employment—Professional Nurse, 10-2850A, on occasion, nurse applicants, Warren Topelius, 395-5872.

Application for Physicians and Dentists, 10-2850, on occasion, physicians and dentist applicants, Warren Topelius, 395-5872.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Occupational Wage Survey Program, 2751A, 2752A, 2752B, 2753F, 2753G, other (see SF-83), establishments in specified SIC's and SMSA's, Strasser, A., 395-5867.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, A. Training Activities Information, B. Section 402 Record of Completed Training, HS-193, HS-194, annually, State governments, Lowry, R. L., 395-3772.

Federal Railroad Administration, Regulations Governing Proposed Transactions Submitted to the Secretary of Transportation under section 5(3)(F) of the Interstate Commerce Act, on occasion, common carrier by rail, Lowry, R. L., 395-3772.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Acceptance and Supplementary Information Report, on occasion, college teachers/professors, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census:
Annual Yarn Production, MA-22-F, annually, yarn producers, C. Louis Kincannon, 395-3211.
Narrow Fabrics (Statistical Survey), MA-22G, annually, producers of narrow fabrics, C. Louis Kincannon, 395-3211.

DEPARTMENT OF LABOR

Employment Standards Administration, Records to be Kept by Employers—Rulemaking, WH-1261, on occasion, employers covered by Fair Labor Standards Act, Warren Topelius, 395-5872.
Employment and Training Administration:
Request for College Advisory Opinion, MA 6-77, on occasion, Job Corps counselors, Marsha Traynham, 395-4529.
Job Corps Placement and Assistance Record, MA 6-78, on occasion, SESAS, Job Corps centers and other placement agencies, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-22160 Filed 7-29-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON SPACE SYSTEMS

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Advisory Group on Space Systems.

DATE: August 25-26, 1977.

TIME: 9:30 a.m. to 5 p.m., August 25, 1977. 8:30 a.m. to 3:30 p.m., August 26, 1977.

PLACE: Room 305, Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500. Telephone 202-395-4692.

PURPOSE OF ADVISORY GROUP: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on achievement of national goals and objectives will be identifying and evaluating the implications of technological advances such as the availability of the reusable space shuttle and other supporting systems on future space applications programs, specifically those related to military systems.

AGENDA: Classified discussion of draft materials prepared as part of the policy review process for the President and the National Security Council.

REASON FOR CLOSING: The Committee will be reviewing sensitive classified national security information involving design and employment of space systems. These discussions come under exemption 1 of the Government in the Sunshine Act, Section 552b(c), Title 5, U.S.C.

AUTHORITY FOR CLOSING: The Director, Office of Science and Technology Policy has determined that this meeting deals with matters classified for national security and therefore should be closed.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-22018 Filed 7-29-77;8:45 am]

RAILROAD RETIREMENT BOARD

DETERMINATION UNDER SECTION 2(h)(4) OF THE RAILROAD UNEMPLOYMENT INSURANCE ACT OF THE ENDING OF A "PERIOD OF HIGH UNEMPLOYMENT", AS DEFINED IN SECTION 2(h)(2) OF THAT ACT

In accordance with the provisions of Section 2(h)(4) of the Railroad Unemployment Insurance Act (45 U.S.C. § 352(h)(4)) as amended, the Railroad Retirement Board has determined that a "period of high unemployment" (as defined in Section 2(h)(2) of the Railroad Unemployment Insurance Act) shall end with the 20th day after there is a national "off" indicator as defined in section 203(d) of Public Law 91-373, as amended, as proclaimed by the Secretary of Labor at any time in the interval from July 20, 1977 through September 20, 1977, and that a "period of high unemployment" shall begin on the 20th day after there is a national "on" indicator as defined in section 203(d) of Public Law 91-373, as amended, as proclaimed by the Secretary of Labor at any time in the interval from July 20, 1977 through September 20, 1977.

The Secretary of Labor has proclaimed a national "off" indicator for the week ending July 2, 1977. Accordingly, the "period of high unemployment" (as defined in Section 2(h)(2) of the Railroad Unemployment Insurance Act) which began July 1, 1975, shall end with July 22, 1977. Consequently, no extended benefit period under the second proviso of Section 2(c) of that Act shall begin after that date.

Dated: July 25, 1977.

By authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-22021 Filed 7-29-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13796; File No. SR-Amex-77-18]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 20, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange is proposing to amend its listing standards for foreign companies that exceed the Exchange's normal listing criteria for size and earnings, but are unable to satisfy the criterion for domestic share distribution.

The text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The purpose of the proposed amendments to the Company Guide is to provide an alternate set of listing standards for companies organized under the laws of countries other than the Dominion of Canada and the United States or its political subdivisions that meet many times over the normal size and earnings yardsticks for listing on the Exchange. For those companies meeting the prescribed alternate size and earnings yardsticks, the Exchange will consider the acceptability of distribution of the company's shares and shareholders on a worldwide basis.

The adoption of the proposed alternate listing standards for foreign companies will be in the public interest, since eligible companies would be expected to comply with Amex reporting standards and other policies concerning shareholder protection. However, the Amex will exercise some discretion to provide for adequate periods of adjustment with respect to the business practices and other requirements for foreign countries.

The Exchange believes that listing securities of premier foreign companies in accordance with the proposed listing criteria and conformance with Exchange requirements will aid international capital flow and enhance public interest in the market while maintaining customary protection for the investing public.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments

concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street SW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 22, 1977.

EXHIBIT A

TEXT OF PROPOSED RULE AMENDMENTS

It is proposed that Sections 110, 231 and 232 of the American Stock Exchange Company Guide be amended to read as follows:

Brackets [ ] indicate words to be deleted.
Italics indicate words to be added.

§ 110. Securities of Foreign Companies—[Provisional] Alternate requirements for listing shares of foreign companies, other than companies organized under Canadian law, are set forth at § 231-236. [Since conditions vary so greatly in different foreign countries and with respect to different companies in the same country, these requirements serve as a general guide rather than as a set of inflexible rules.] *Foreign companies are required to comply with current Exchange standards and other policies concerning shareholder protection. The Exchange may, however, exercise discretion in providing adequate periods of adjustment to take into account the significant differences in business and disclosure practices and other requirements of foreign countries.*

(c) [PROVISIONAL] REQUIREMENTS FOR LISTING FOREIGN SHARES (§ 231-236).

§ 231. General—[special requirements for listing shares of Companies organized under the laws of countries other than the United States of America or the Dominion of Canada are summarized below.] *The shares of foreign companies other than companies organized under the laws of Canada which meet the public distribution standards for domestic companies in the United States may be considered for listing under § 101. The shares of foreign companies which do not meet the share distribution requirements for domestic companies may be considered for listing under the alternate requirements set forth in § 232.* Since *business practices* [conditions] vary so greatly in different foreign countries, and with respect to different companies in the same country, these requirements are published as a guide to applicants rather than as a set of inflexible rules. [In some cases, the Exchange may determine that additional requirements are necessary in the interest of the public, or that some of the customary requirements are inapplicable.]

Normally, shares of foreign companies are listed as ["American Shares" or] "American Depositary Receipts" (*sometimes designated as "American Shares"*) of an acceptable American bank or trust company, representing the deposit of an equivalent amount of underlying foreign shares. Consideration will be given to the direct listing of actual foreign share certificates only in special cases where the form of the security itself, the facilities for ready transferability in [the] New York City [Metropolitan area (see § 801)], prompt interchangeability with certificates outstanding in the primary foreign market, and arrangements for distributing dividends and other rights and benefits to American holders are equivalent to those provided by the use of American Depositary Receipts.

§ 232. Eligibility—[In determining eligibility for listing, consideration is given to all matters affecting the marketability of the issue, including the total number of shares outstanding, whether there is a broad foreign market, whether foreign shares outstanding are readily interchangeable into American Certificates, the facility with which domestic and international transactions may be effected, and the effect of the Interest Equalization Tax.] *Companies which do not qualify for listing under the requirements set forth in §§ 101 and 102 may be considered for listing under the following alternate requirements.*



The purpose of these alternate listing requirements is to provide standards for foreign companies that do not meet the Exchange's share distribution requirements in the United States. For foreign companies meeting the prescribed alternate size and earnings standards, the Exchange will consider the acceptability of distribution of the company's shares and shareholders on a worldwide basis.

The Exchange recognizes, however, that in many foreign countries the use of "bearer" shares is widespread, as contrasted to the practice in the United States of registering shares on the company's books and records. In those situations, it would be difficult for a company to certify that it meets the alternate requirement of 2,000 round-lot shareholders on a worldwide basis. Therefore, when such certification is not possible, the Exchange will require assurance of an Exchange member firm(s) as to the liquidity and depth of the market for the company's shares. The Exchange may also conduct its own investigation to determine whether a broad and independent market exists for the company's shares, and may deny listing where the issue does not appear suitable for auction market trading.

[FR Doc.77-21992 Filed 7-29-77;8:45 am]

[Release No. 34-13803; File No. SR-CBOE-1977-16]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. (78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions, italics indicate new material)

Rule 4.11. Position Limits

(a) Subject to the provisions of paragraph (b) of this Rule, no member shall make, for any account in which it has an interest or for the account of any customer, *any* [an opening] transaction [on any exchange] in any option contract dealt in on the Exchange *or in any related security if* the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate *option* position in excess of 1,000 option contracts [(whether long or short)] of the put class and the call class on the same side of the market *for* [covering] the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange floor.

(b) The 1,000 option contract position limit imposed by paragraph (a) of this Rule may be increased by up to an additional 1,000 option contracts on either side of the market at any given time to the extent that each such additional option contract is offset on the other side of the market, on a share-for-share basis, by any combination of (i) a position in the underlying security, (ii) positions in options relating to the same underlying security, or (iii) a position in a security immediately exchangeable or convertible into the underlying security without restriction other than the payment of money.

* * * Interpretations and Policies

.01 The term "same side of the market" as used in Rule 4.11 may be illustrated by the following table.

SAME SIDE OF THE MARKET	SAME SIDE OF THE MARKET
Long Stock	Short Stock
Long Call	Short Call
Short Put	Long Put
Long Convertible or Exchangeable Security	Short Convertible or Exchangeable Security

[.01 The following examples illustrate the operation of position limits established by Rule 4.11:

(a) Customer A, who is long 1,000 XYZ calls, may at the same time be short

1,000 XYZ calls, since long and short positions in the same class of options (i.e., in calls only, or in puts only) are on opposite sides of the market and are not aggregated for purposes of Rule 4.11.

(b) Customer B, who is long 1,000 XYZ calls, may at the same time be long 1,000 XYZ puts. Rule 4.11 does not require the aggregation of long call and long put (or short call and short put) positions, since they are on opposite sides of the market.

(c) Customer C, who is long 700 XYZ calls, may not at the same time be short more than 300 XYZ puts, since the 1,000 contract limit applies to the aggregation of long call and short put positions in options covering the same underlying security. Similarly, if Customer C is also short 600 XYZ calls, he may not at the same time be long more than 400 puts, since the 1,000 contract limit applies separately to the aggregation of short call and long put positions in options covering the same underlying security.]

.02 Where a position in excess of 1,000 contracts on the same side of the market is permitted to exist by virtue of paragraph (b) of Rule 4.11, no closing transaction or exercise transaction may be made if as a result there would remain outstanding any options in excess of 1,000 contracts on the same side of the market not offset on the other side as required by said paragraph (b).

.03 In the event an exercise notice is assigned to an outstanding short position or an outstanding position expires through the passages of time, and if as a result there remain outstanding options in excess of 1,000 contracts on the same side of the market not offset on the other side as required by paragraph (b) of Rule 4.11, then all such excess unmatched options must be liquidated.

.04 The following examples illustrate the operation of position limits established by Rule 4.11:

(a) Customer A who is long 700 XYZ calls, may at the same time be short up to 300 XYZ puts since the 1000 contract limit paragraph (a) of Rule 4.11 applies to the aggregation of long call and short put positions in options relating to the same underlying security.

(b) If customer A, in addition to being long 700 XYZ calls is also long 500 XYZ puts, then customer A may add to his long call position or may be short XYZ puts such that the aggregate number of long calls and short puts does not exceed 1,500 contracts. The 500 contracts in excess of the standard 1,000 contract position limit are permitted under paragraph (b) of Rule 4.14 by virtue of the 500 contract long put position on the other side of the market.

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule change is to increase the size of permitted options position under certain defined circumstances, while at the same time to retain the essential protection heretofore provided by the position limit rule. This would be accomplished by permitting options positions as large as 2,000 contracts on the same side of the market so long as each contract in excess of the present 1,000 contract limit is either offset by a position in the underlying security (or a security exchangeable or convertible into the underlying security), or represents part of a share-for-share options spread.

The proposed modification to the position limit rule is limited to those circumstances where there is a need for a change in the present limit. Such a need has been identified in the case of Market-Makers, especially those having responsibilities in options where both puts and calls are traded, and in the case of institutional users and potential users of options who are constrained from full participation in the options market by the existing position limit.

In the former case, Market-Makers in puts and calls are confronted with more than double the market-making obligations of Market-Makers in calls only, but with the same 1,000 contract position limit that must be shared between the two classes on account of the aggregation requirements of the position limit rule. As put trading expands to all of the underlying securities on which calls are now available, the demands on Market-Makers will be even greater, reflecting not only the doubling of the number of series of options relating to each underlying security, but also the geometric increase in the number of spreads, straddles and other combinations among the different series. Since Market-Makers often hold options in spread positions, the additional 1,000 contracts permitted by the proposed rule change in the case of spreads would provide put and call Market-Makers with the flexibility needed to meet their additional responsibilities.

In the case of institutional investors and other investors whose interest in options generally relates to writing options against their large stock portfolios, many of these investors cannot today justify engaging in options transactions limited to writing options against a maximum of 100,000 shares of stock. Since the proposed rule change would only apply in respect of what are essentially spread or covered options, it should provide these investors with an opportunity to write against larger stock portfolios without increasing the likelihood that options may be used for manipulative purposes.

In drafting the proposed rule change, it has been recognized that for purposes of compliance and enforcement the position limit rule should not become so complex as to not be understandable by member firms and their customers. For this reason, the rule refers to offsetting positions in general terms, and does not attempt to confine the expanded limit to particular types of spreads or positions in related securities.

For the reasons described above, the Exchange believes that the proposed rule change is consistent with standards of the Securities Exchange Act of 1934, as amended. In this connection it should be noted that the current 1,000 contract position limit was first established several years ago, prior to the commencement of trading of listed options, and the limit was set at an especially conservative level in relation to the eligibility criteria for underlying securities. The past several years of listed options trading experience, in view of the Exchange, has demonstrated that the present 1,000 contract limit can safely be enlarged to the extent proposed herein without any untoward consequences to securities markets, investors or the public interest.

Comments have not been solicited nor received concerning the proposed rule change.

CBOE does not believe that the proposed rule change will impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 31, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZIMMONS,
Secretary.

JULY 25, 1977.

[FR Doc.77-21990 Filed 7-29-77;8:45 am]

[Release No. 13804; SR-MSE-77-11]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 25, 1977.

On April 29, 1977, the Midwest Stock Exchange, Incorporated, 120 South La Salle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change eliminates the monthly reporting by

member firms of open options exercise positions. According to the Exchange, such information is available to the Exchange from the Options Clearing Corportation, and would be duplicative if also required from the members.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-13645, June 17, 1977) and by publication in the FEDERAL REGISTER (42 FR 31854 (June 23, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on April 29, 1977, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21974 Filed 7-29-77;8:45 am]

[Rel. No. 20117; 70-6031]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock Pursuant to Employees' Share Ownership Plan and Request for Exemption From Competitive Bidding

JULY 26, 1977.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") ity Holding Company Act of 1935 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell from time to time through December 31, 1979, up to 300,000 shares of its authorized but unissued common stock, par value $1, through a NEES Companies Employees' Share Ownership Plan ("Plan"). The proceeds of the sale will be used for investment in NEES' subsidiaries, for payment of NEES' indebtedness, or for general purposes.

Each employee of NEES and its direct and indirect subsidiaries, Granite State Electric Company, Massachusetts Electric Company, Narragansett Electric Company, New England Energy Incorporated, New England Power Company and New England Power Service Company ("Employers") who has completed at least one year of service as of January 1, 1976, will participate in the Plan as of that date. Each other employee will become a participant on the first day of the Plan year in which he completes one year of service. Participation in the Plan will terminate when employment terminates.

The Employers will contribute to a trust ("Trust") in each year an amount equal to the additional one percent investment tax credit allowed for the Plan year under Section 46(a)(2)(B)(i) of the Internal Revenue Code ("Code"). In addition, if an appropriate election is made on the consolidated federal income tax return and to the extent matched by participant contributions, the Employers will contribute to the Trust in each Plan year commencing on or after January 1, 1977, an amount not in excess of an additional one-half of one percent investment tax credit under Section 46-(a)(2)(B)(ii) of the Code. Contributions to the Trust by the Employers will be made for each Plan year on the due date (unless extended) for filing the consolidated federal income tax return for the corresponding tax year. The trustee, the First National Bank of Boston, will purchase common shares of NEES on or before the thirtieth day following the date of the contribution. In the case of Plan years beginning after December 31, 1976, if the full amount of the investment credit is not utilized for a Plan year because the credit is limited on the basis of the tax payable for the year, then that portion of the additional credit not so utilized shall be contributed to the Trust at the time when such portion is so utilized.

Participants shall not be required to make contributions to the Trust. However, if elected by NEES on its consolidated federal income tax return, participants may, for Plan years commencing on or after January 1, 1977, make contributions in an aggregate amount not in excess of an additional one-half of one percent investment credit, which contributions will be matched in a like amount by the Employers. The amount of the contributions to be made by a participant for a Plan year will be based on the ratio of his compensation for the Plan year to the total compensation of all participants making matching contributions. Participant contributions shall be invested by the trustee in NEES common shares within thirty days of payment.

The value of common shares purchased from NEES will be based on the average of the closing prices on the New York Stock Exchange-Composite Transactions listing for the twenty consecutive trading days immediately preceding the purchase date. The trustee will be required to purchase common shares directly from NEES unless the market value of a common share is less than 80 percent of book value, in which case NEES management will instruct the trustee whether to purchase shares from NEES or in the open market.

A separate account for each participant, reflecting the number of common shares credited thereto, will be established and maintained by the trustee. If participant contributions are made to the trust, two accounts shall be maintained for each participant, one for Employer contributions and the other for participant contributions. Contributions to the Trust by the Employers of an amount determined pursuant to Section 46(a)(2)(B)(i) of the Code, less an amount equal to the expenses of the Plan but not in excess of statutory limitations, shall be combined and allocated to the account of each participant based on the ratio of the participant's compensation for the Plan year for which the contribution is made to the total compensation of all participants for such Plan year. Contributions to the Trust by the Employers of an amount determined pursuant to Section 46(a)(2)(B)(ii) of the Code shall be combined and allocated to the contributions of each participant.

Cash dividends received on common shares held by the trustee, less an amount necessary to pay expenses of administering the Plan but not in excess of statutory limitations, will be invested by the trustee in common shares as soon as practicable. Common shares so purchased will be allocated to each participant's account or accounts based on the ratio of the common shares in each account to the total common shares in all participants' accounts.

As soon as practicable after the end of each Plan year, each participant will be furnished a statement showing the status of his account or accounts at the beginning and end of the Plan year, any changes in his account or accounts during the Plan year, and other information that may be pertinent.

A participant's account or accounts shall become distributable to him (or, in the event of his death, to the beneficiary designated by him) upon the determination of his participation. A participant may, subject to certain restrictions, prior to termination of employment apply for a distribution of a portion or all of the balance in his account or accounts, if such portion or balance has been allocated to his account or accounts for a period of at least eighty-four months begining after the month in which the allocation was made. Distributions shall be made in whole common shares. Any fractional share allocated to a participant's account shall be paid in cash. A participant shall at all times have a fully vested and nonforfeitable right to the common shares credited or creditable to his account or accounts.

The Board of Directors of New England Power Service Company shall have the sole authority to appoint and remove the trustee. The trustee shall have the sole responsibility for administration of the Trust and the management of Plan assets held under the Trust, as and to the extent set forth in the Trust. The trustee will accept and hold in the Trust contributions made by the Employers or participants pursuant to the Plan. A committee ("ESOP Committee") shall be the named fiduciary, which shall have authority to control and manage the operation and administration of the

Plan. Among other duties, the ESOP Committee will deliver or cause to be delivered to each participant proxy statements and other communications which are distributed to owners of NEES common shares. Each participant shall have the right to direct the trustee to exercise the voting rights with respect to all the whole and fractions of common shares allocated to his account.

No amendment of the Plan may be made which will (1) deprive any participant or beneficiary of any part of an account existing on the date of such amendment; (2) result in the reversion to an Employer of any part of the funds contrary to the provisions of the Plan; or (3) increase the duties or liabilities of the trustee without its written consent. Any Employer, with the written consent or vote of the board of directors of each other Employer, may terminate the Plan at any time.

NEES requests on exemption from the competitive bidding requirements of Rule 50 under Rule 50(a)(5) for the proposed issuance and sale of common stock to the Plan.

The fees and expenses to be incurred in connection with the proposed sale of the common shares are estimated at $150,000 through 1981. Pursuant to Internal Revenue Service regulations, these fees and expenses will be paid from the Trust. Included in such estimate are fees, in an amount to be specified by amendment, for services to be performed, at cost, by New England Power Service Company (an affiliate of NEES). It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 18, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21975 Filed 7-29-77;8:45 am]

[Release No. 13800; SR-NESDTCO-77-7]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change Relating to Cash Settlement With the Depository Trust Co.

JULY 25, 1977.

On May 24, 1977, the New England Securities Depository Trust Company ("NESDTCO"), 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would enable NESDTCO and the Depository Trust Company ("DTC") to make cash settlement with each other directly upon the receipt and delivery of securities at DTC.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 29991, June 10, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13598, June 6, 1977. No letters of comment were received.

In addition, by letter dated July 22, 1977, which was incorporated in the proposed rule change and included in the public file, NESDTCO provided additional information and made certain representations in connection with the submission.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-7 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21973 Filed 7-29-77;8:45 am]

[Release No. 34-13795; File No. SR-PSE-77-15]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pacific Stock Exchange Incorporated ("PSE") hereby requests permission to expand by thirty the number of underlying listed stocks in which it may approve trading in options. The accomplishment of such a proposed change in current PSE procedures would expand to a total of eighty the number of options which PSE would be authorized to trade. PSE has had pending since November 1976, a proposed rule change in File No. SR-PSE-76-40 to expand from thirty to fifty the number of options which PSE is authorized to trade.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit an expansion in PSE's program of trading options.

The proposed rule change will enable PSE to increase the number of underlying stocks on which PSE trades options. PSE believes it consistent with the protection of investors and the public interest that it be permitted to expand the number of options it trades. PSE is presently trading call options in the thirty underlying stocks for which it has authorization and contemplates utilization of the additional options for which it seeks trading authority in File No. SR-PSE-76-40 in a relatively short period of time. Accordingly, further progress in PSE's efforts to establish a viable regional options trading facility necessitates the proposed increase in the number of classes of options traded on PSE.

PSE believes that the experience it has gained in its current options trading program, as well as the capabilities it has developed in the areas of data collection, communication systems and surveillance procedures are more than sufficient to accommodate the increased volume of trading which would result from the approval of the requested additional options classes.

Comments were not, and are not intended to be, solicited with respect to the proposed rule change.

The proposed rule change will not impose any burden on competition. Rather, it will encourage competition by contributing to PSE's viability as a competitive options trading facility.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 31, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 22, 1977.

[FR Doc.77-21991 Filed 7-29-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

HOUSTON DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration, Houston District Advisory Council will hold a public meeting at 9 a.m., Tuesday, August 23, 1977, in Gemini Rooms A and B, University of Houston Continuing Education Center, 4800 Calhoun, Houston, Tex., 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 John L. Carey, District Director, U.S. Small Business Administration, One Allen Center, Suite 705, Houston, Tex. 77002 (713-226-4897).

Dated: July 25, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-21952 Filed 7-29-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on August 16, 1977.

The purpose of this meeting is to review and update the list of eligible universities under Title XII; to review a questionnaire to be sent to the university community for expanding the information on university interests and capabilities for participating in the Title XII program; to review current status of Title XII pilot projects; to review progress on preparation of Committee guidelines; to review a draft report on strengthening U.S. universities under XII; to review a draft report on contracting; and to receive an interim report on Committee participation in the AID fiscal year 1979 budget review.

The meeting will begin at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Ramada Inn, Rosslyn, 1900 Fort Myer Drive, Arlington, Va. The meeting room designation will be posted in the lobby of the Inn on the day of the meeting. The meeting is open to the public. Any interested person may attend, may file written statements with the committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher Riggs, Deputy to the Associate Assistant Administrator, Technical Assistance Bureau, is designated as AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: July 27, 1977.

FLETCHER RIGGS,
A.I.D. Advisory Committee Representative Joint Committee for Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc.77-22202 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 17059]

REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES

Request for Recommendations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for recommendations.

SUMMARY: This notice requests recommendations from the users of the national airport and airway system on ways to reduce nonessential Federal expenditures for aviation. Under recently enacted Congressional legislation, the Secretary of Transportation is required to take this action and to consider any recommendations submitted in response to this notice.

DATES: Recommendations must be received on or before August 31, 1977.

ADDRESS: Send recommendations in duplicate to: Federal Aviation Administration, Office of Management Systems, AMS-1, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

E. Nootenboom, Acting Director, Office of Management Systems (AMS-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8020.

SUPPLEMENTARY INFORMATION: Interested users of the national airport and airway system are invited to submit any recommendations they may desire in response to this notice.

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058.

Section 25 of the Airport and Airway Development Act Amendments of 1976 (Pub. L. 94-353; 49 U.S.C. 1704) provides as follows:

> The Secretary of Transportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance, and administrative costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such systems on methods of reducing nonessential Federal expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users.

Accordingly, the purpose of this notice is to solicit recommendations from users of the national airport and airway system, as provided in Section 25, for the purpose of reducing nonessential Federal expenditures for aviation. The function of soliciting and considering these recommendations has been delegated to the Federal Aviation Administrator.

The principal authors of this document are Melvin L. Rutt, Office of Management Systems, and Joseph M. Dorsey, Office of the Chief Counsel.

(Sec. 25, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704); sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3); sec. 11.45, Federal Aviation Regulations (14 CFR 11.45).)

Issued in Washington, D.C., on July 11, 1977.

E. NOOTENBOOM,
Acting Director of Management Systems.

[FR Doc.77-21972 Filed 7-29-77;8:45 am]

Materials Transportation Bureau

OFFICE OF HAZARDOUS MATERIALS OPERATIONS

Hazardous Materials Regulations Exemption; Grants and Denials of Applications

Correction

In FR Doc. 77-21008 appearing on page 37893 in the issue of Monday, July 25, 1977, on page 37894, the 10th entry should read as follows:

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
•	•	•	•	•
5643-X	DOT-E 5643	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.315(a)(1)...	To ship liquefied helium in an insulated non-DOT specification portable tank. (Modes 1 and 3.)

[Docket No. IP77-4; Notice 2]

C. H. WATERMAN INDUSTRIES

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by C. H. Waterman Industries of Athol, Mass., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 3, 1977 (42 FR 12284) and an opportunity afforded for comment.

Paragraph S4.1.2.3.1 of Standard No. 208 requires passenger cars to be equipped with lap and shoulder belt systems conforming to Motor Vehicle Safety Standard No. 209, Seat Belt Assemblies. Paragraph S4.3 of Standard No. 209 requires such assemblies to incorporate automatic-locking retractors (subparagraph (i)) and emergency-locking retractors (subparagraph (j)). Petitioner is an importer of motor vehicles which it converts to electric propulsion. Seven passenger cars that it brought into the United States in August 1975 lack the emergency, and automatic-locking retractor required of occupant restraint systems. The company argued that the noncompliance is inconsequential because the vehicles' restraint systems comply with all requirements in effect before January 1972, and because the NHTSA has provided it a temporary exemption from the retractor requirements of Standard No. 208, expiring May 1, 1977 (Docket No. EX75-4; Notice 4, 41 FR 53384).

No comments were received on the petition.

In view of the facts that there are only seven passenger cars involved, that the noncompliance is narrow in scope, and that the petitioner has been provided a temporary exemption from the requirements that it did not meet, petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by C. H. Waterman Industries is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 26, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-21980 Filed 7-29-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX77-2; Notice 2]

H. C. M. COMPANY, INC.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice denies the petition by H. C. M. Company, Inc. of Yakima, Washington, for a 3-year exemption from 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, Air Brake Systems. The Company had petitioned on the basis that compliance would cause it substantial economic hardship.

Notice of the petition was published on January 27, 1977 (42 FR 5177), and an opportunity afforded for comment.

The petitioner is a manufacturer of "straddle trailers" which it defines as "a specialized agricultural commodity hauling trailer which features 'drive over' hydraulic lifting arms which suspend the load for transit." H. C. M. stated that it manufactured eight straddle trailers in 1975 and "no other vehicles". The vehicles are equipped with air brake systems but, according to petitioner, "there are no manufacturers currently making components which can be adapted to these axles to achieve the requirements of Motor Vehicle Safety Standard No. 121 with regard to 'antiskid'." Further, a mechanical spring parking brake could be added to achieve compliance but that "would cause overwidth of the vehicle" which would mean it could be neither sold nor operated. Petitioner argued that the exemption would be in the public interest since fruit producers and haulers have found the trailer uniquely suitable to their needs. It also argued that an exemption can be viewed as consistent with the objectives of the National Traffic and Motor Vehicle Safety Act since "the (current) air brakes have a safety record of 100 percent." The company had a net income of $16,250 in the fiscal year ending December 31, 1975.

Three comments were received on the petition. It was supported by Fruehauf Corporation and Utility Trailer Manufacturing Co., and opposed by Kornylak Corporation. Freuhauf believes that a limited number of exempted trailers would present no safety problem. Utility argues that H.C.M.'s trailer is similar to a type that is exempted until June 30, 1977, from certain requirements of Standard No. 121 and should also be exempted. Kornylak, however, a competitor of H.C.M.'s who manufactures conforming straddle trailers that do meet Standard No. 121, feels strongly that H.C.M. can and should do likewise, and has asked that it be required to recall and remedy any nonconforming trailers it may have produced.

Pursuant to section 123(a)(1)(A) of the National Traffic and Motor Vehicle Safety Act, the Administrator may temporarily exempt a manufacturer upon a finding

> (1)(A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted.

On March 29, 1977, counsel for H.C.M. informed NHTSA that "H.C.M. has now obtained a Kelsey-Hayes antiskid device which can be incorporated in trailers and be operative. All such trailers hereafter manufactured will incorporate the Kelsey-Hayes antiskid device therein." Full conformity is not yet achieved and it appears that an exemption is required because of the lack of a conforming parking brake system.

Dispositive of the petition, however, is counsel's letter which also disclosed that H.C.M. had manufactured 10 nonconforming straddle trailers during 1976. This is significant because on August 13, 1975, NHTSA informed H.C.M. that the straddle trailer was not excluded from Standard No. 121, and must comply with it. H.C.M.'s manufacture of 10 noncomplying trailers after that date with the knowledge that it should have conformed constitutes a wilful violation of the standard, and overrides its arguments of hardship and for good faith efforts at conformity. Accordingly, the petition of H.C.M. for temporary exemption from Standard No. 121 is hereby denied. NHTSA intends to press for notification and remedy with respect to these trailers.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on July 22, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc.77-21827 Filed 7-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MIDLAND NATIONAL BANK

Suspension of Trading

On my opinion that the public interest and the protection of investors so require, trading in the common stock of Midland National Bank, Milwaukee, Wisconsin, is hereby suspended pursuant to section 12(i) and 12(k) of the Securities Exchange Act of 1934 for an additional three-day period, commencing at the opening of business on July 27, 1977.

Dated: July 26, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-22011 Filed 7-29-77;8:45 am]

Office of the Secretary

[Department Circular Public Debt Series—No. 19-77]

7⅝ PERCENT TREASURY BONDS OF 2002-2007

JULY 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,000,000,000 of United States securities, designated 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5) issued under Department of the Treasury Circular, Public Debt Series—No. 4-77, dated January 27, 1977, except that interest will accrue from August 15, 1977, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular. With this exception, the securities are as described in the following excerpt from the above circular:

"2.1. The securities will be dated February 15, 1977, and will bear interest[1] from that date, payable on a semiannual basis on August 15, 1977, and each 6 months thereafter on February 15 and August 15 until the principal becomes payable. They will mature on February 15, 2007, but may be redeemed at the option of the United States on and after February 15, 2002, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"2.4 Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued on denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed."

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, August 4, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 3, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price in two decimals of accepted competitive tenders, and competitive tenders at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in

[1] On February 4, 1977, the Secretary of the Treasury announced that the interest rate on the bonds would be 7⅝ percent per annum.

part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Dept, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistance Secretary.

[FR Doc.77-22117 Filed 7-29-77;8:45 am]

[Department Circular Public Debt Series, No. 18-77]

TREASURY NOTES OF AUGUST 15, 1984
Series B-1984

JULY 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of August 15, 1984, Series B-1984 (CUSIP No. 912827 GX 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 15, 1977, and will bear interest from that date, payable on a semiannual basis on February 15, 1978, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000,, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 3, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 2, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of

any securities of this issue prior to the deadline established in Section 3.1 for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for thi purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commerical banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tends will only be notified if the tender is not accepted in full or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

David Mosso,
Fiscal Assistant Secretary.

[FR Doc.77-22118 Filed 7-29-77;8:45 am]

[Department Circular Public Debt Series—No. 17-77]

TREASURY NOTES OF AUGUST 15, 1980
Series H-1980

July 28, 1977.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Lib-

erty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Notes of August 15, 1980, Series H-1980 (CUSIP No. 912827 GW 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 15, 1977, and will bear interest from that date, payable on a semiannual basis on February 15, 1978, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Tuesday, August 2, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 1, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder

for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.5. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-22119 Filed 7-29-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 448]

ASSIGNMENT OF HEARINGS

JULY 27, 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 57697 (Sub-No. 6), Lester Smith Trucking, Inc.; MC 61592 (Sub-No. 394), Jenkins Truck Line, Inc.; MC 74321 (Sub-No. 125), B. F. Walker, Inc.; MC 82841 (Sub-No. 199), Hunt Transportation, Inc.; MC 83539 (Sub-No. 439), C & H Transportation Co., Inc.; MC 100666 (Sub-No. 329), Melton Truck Lines, Inc.; MC 109397 (Sub-No. 345), Tri-State Motor Transit Co.; MC 124947 (Sub-No. 49), Machinery Transport, Inc.; and MC 140241 (Sub-No. 8), Dalke Transport, Inc., now being assigned for continued hearing on October 12, 1977 (8 days), at Denver, Colo., in a hearing room to be later designated.

MC 142623 (Sub 2), Robert L. Macon, now assigned July 28, 1977, at Washington, D.C., is cancelled.

MC 108811 (Sub-No. 7), Thomas Motor Tours, Inc., now assigned September 27, 1977, at Washington, D.C., is postponed to October 3, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-13164, Overnite Transportation Co.—Purchase—Bonifield Bros. Truck Lines, Inc., and MC 109533 (Sub-No. 85), Overnite Transportation Co., now assigned September 27, 1977, at Evansville, Ind., has been postponed indefinitely.

MC 138875 (Sub-No. 44), Shoemaker Trucking Co., now being assigned September 7, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 141071 (Sub-No. 9), Laraneta Trucking Co., Inc., now being assigned September 8, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 141431 (Sub-No. 2), Cal-Valley Transportation, Inc., now being assigned September 9, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 139618 (Sub-No. 2), Asbury Wright, d.b.a. Wright Trucking Co., application dismissed.

MC 138635 (Sub-No. 32), Carolina Western Express, Inc., now being assigned October 17, 1977 (1 week), at San Francisco, Calif., in a hearing room to be later designated.

MC 114457 (Sub 293), Dart Transit Co., now assigned hearing October 12, 1977 (1 day), St. Paul, Minn., in a hearing room to be later designated.

MC 720 (Sub 29), Bird Trucking Co., Inc., now being assigned October 13, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 134477 (Sub 137), Schanno Transportation, Inc., now being assigned October 14, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 123407 (Sub 343), Sawyer Transport, Inc., now being assigned October 18, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 133189 (Sub 9), Vant Transfer, Inc., now being assigned October 17, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 124813 (Sub 160), Umthun Trucking Co., and MC 127187 (Sub 21), Floyd Duenow, Inc., now being assigned October 20, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

AB 12 (Sub-No. 45), Southern Pacific Transportation Co., abandonment between Biola Junction and Biola, in Fresno County, Calif., now being assigned October 12, 1977 (3 days), at Fresno, Calif., in a hearing room to be later designated.

AB 43 (Sub-No. 30), Illinois Central Gulf Railroad Co., abandonment between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Ill., now being assigned October 12, 1977 (3 days) for hearing in Litchfield, Ill., in a hearing room to be later designated.

MC 123407 (Sub-No. 380), Sawyer Transport, Inc., now being assigned October 17, 1977 (1 day), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 133591 (Sub-No. 33), Wayne Daniel Truck, Inc., now being assigned October 18, 1977 (2 days), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 141779 (Sub-No. 1), Richard Allen Long, d.b.a. Richard's Towing Service, now being assigned October 20, 1977 (2 days), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 113678 (Sub-No. 654), Curtis, Inc., now assigned for October 13, 1977, at Dallas, Tex., is postponed indefinitely.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22053 Filed 7-29-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Docket 30393, Knight Airlines' application to use large aircraft in certain Florida markets (Not. No. 7133, BOR, BIA, OGC).

2. United Air Lines' Transaction Agreement UA-316, relating to joint use by United and its parent holding company, UAL, Inc., of services of Mr. Victor F. Carlino (Memo No. 7301, BOR, BAS, OGC).

3. Docket 23080-2, Priority and Nonpriority Domestic Service Mail Rates Investigation, petitions for the establishment of increased temporary service mail rates and advancement of decision target date (Not. No. 7283, OGC).

4. Docket 30635, Petition for reconsideration and motion to consolidate Arizona Service Investigation, (Memo No. 6907-B, BLJ, BOR, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1012-77 Filed 7-27-77;4:32 pm]

2

NOTICE OF ADDITION OF ITEM TO JULY 28, 1977, MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

SUPPLEMENTARY INFORMATION: It was clear that further discussion of Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales was necessary. However, no additional time for such discussion was available at the July 26, 1977, meeting. So that the Board could continue its discussion of this item at its next session, the following Members voted agency business requires the addition of overbooking to the agenda of the July 28, 1977, meeting and that no earlier announcement of the change was possible.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1011-77 Filed 7-27-77;4:32 pm]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Review of fiscal year 1979 operation plan.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (202-254-6314).

[S-1008-77 Filed 7-28-77;9:46 am]

4

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: August 1, 1977, 4:30 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Continuation and reorganization of Commission State Advisory Committee; (2) a draft letter to the President regarding Federal policy relating to abortion.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202-254-6697).

[S-1006-77 Filed 7-27-77;12:19 pm]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 3, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application for Permission to organize a Federal savings and loan association—Idelio Valdes, et al., Hialeah, Fla.

Application for change of branch office location—Civic Federal Savings and Loan Association, San Francisco, Calif.

Application for increase accounts of an insurable type (merger), cancellation of bank membership and insurance of accounts, transfer of bank stock and approval to maintain branch office—Cedarville Federal Savings and Loan Association, Cedarville, Ohio, into Home Federal Savings and Loan Association, Xenia, Ohio.

Branch office application—Home Federal Savings and Loan Association, Deming, N. Mex.

Branch office application—Westchester Federal Savings and Loan Association, New Rochelle, N.Y.

Branch office application—First Federal Savings and Loan Association of Eau Claire, Eau Claire, Wis.

Limited facility application—Homestead Federal Savings and Loan Association of Dayton, Dayton, Ohio.

Application for bank membership—Banco Regional de Ahorro de Bayamon, Bayamon, P.R.

Satellite office application—Florida Savings and Loan Association, St. Petersburg, Fla.

Consideration of modification of condition—First Federal Savings and Loan Association of Little Rock, Little Rock, Ark., and Arkansas Savings and Loan Association, North Little Rock, Ark.

Application for change of office location—Greater Pottsville Federal Savings and Loan Association, Pottsville, Pa.

No. 56, July 27, 1977.

[S-1009-77 Filed 7-27-77;3:59 pm]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m. on August 3, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, (202-376-3012).

MATTERS TO BE CONSIDERED: Consideration of recommendation to terminate financial assistance agreement at a cost equal to 20.5 percent of remaining assets.

No. 55, July 27, 1977.

[S-1010-77 Filed 7-27-77;4:32 pm]

7

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 2, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Briefing by Director Fitzwater on merger issue papers (discussion only).

2. Briefing on Trans Alaska Pipeline System case (discussion only). Judge Glennon will provide the briefing.

3. Ex Parte No. MC 85—Transportation of "waste" products for reuse and recycling (Schneider Transport, Inc.—Petition for declaratory order) (discussion and possible voting).

4. Motor carrier task force report (discussion and possible voting). Recommendation 19—Blanket grants of temporary authority. Recommendation 25—Emergency temporary authority applications. Recommendation 26—Temporary authority applications.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director (202-275-7252).

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

JULY 26, 1977.

[S-1013-77 Filed 7-27-77;4:32 pm]

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., July 28, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202-634-7970).

Dated: July 26, 1977.

[S-1007-77 Filed 7-27-77;12:19 pm]

federal register

MONDAY, AUGUST 1, 1977

PART II



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

STATUS OF MARINE MAMMALS

Report of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

STATUS OF MARINE MAMMALS

Report of the Secretary of Commerce

Section 103(f) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)) states that "Within six months after the effective date of this Act (December 21, 1972) and every twelve months thereafter, the Secretary shall report to the public through publication in the FEDERAL REGISTER and to the Congress on the current status of all marine mammal species and population stocks subject to the provisions of this Act. His report shall describe those actions taken and those measures believed necessary, including where appropriate, the issuance of permits pursuant to this title to assure the well-being of such marine mammals."

Section 3(12)(A) of the Act limits the responsibility of the Department of Commerce to those mammals which are members of the Order Cetacea (whales and porpoises) and members, other than walruses, of the Order Pinnipedia (seals and sea lions). Accordingly, there is published herewith the report of the Secretary of Commerce for the period April 1, 1976, to March 31, 1977, on the administration of the Act with regard to those mammals.

Issued at Washington, D.C., and dated June 20, 1977.

Dated: June 20, 1977.

JUANITA M. KREPS,
Secretary of Commerce.

ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972, APRIL 1, 1976, THROUGH MARCH 31, 1977.

REPORT OF THE SECRETARY OF COMMERCE

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Part I. Introduction.
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  - U.S.–U.S.S.R. Marine Mammal Project, Environmental Protection Agreement.
- Tuna-Porpoise Research and Development Program.
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Part III. Current Status of the Stocks or Marine Mammals.
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- Appendix C—Funding table.

PART I. INTRODUCTION

AUTHORITY FOR THE REPORT AND ADMINISTRATION OF THE ACT

This report to Congress is pursuant to requirements of Section 103(f) of the Marine Mammal Protection Act of 1972 (86 Stat. 1027, hereinafter called the "Act"). The Act, with certain exceptions, placed an immediate moratorium on the taking and importation of all marine mammals and marine mammal products. Under the Act, the responsibility of the Secretary of Commerce pertains to whales, porpoises, seals, and sea lions; the Secretary of the Interior is responsible for all other mammals, specifically sea otters, walruses, polar bears, dugongs, and manatees. On November 30, 1972, the Secretary of Commerce delegated authority for the functions prescribed by the Act to the Administrator of the National Oceanic and Atmospheric Administration (NOAA). On February 9, 1973, the Administrator delegated this authority to the Director of the National Marine Fisheries Service (NMFS). On October 13, 1976, the Administrator redelegated this authority to the Director, NMFS, with clarification of the authority retained by the Administrator to provide policy guidance and to consult with the Director on the execution of the functions delegated.

PROGRAM ACTIVITIES

The principal NMFS activities in administering the Act include: decisions and activities regarding waivers of the moratorium; issuance of permits for scientific research and public display; enforcement of the provisions of the Act; promulgation of regulations to control the taking of marine mammals; research and surveys to determine the status of marine mammal population stocks; cooperation with the States; and international activities and agreements to conserve and manage marine mammals. A close working relationship has been fostered with the Marine Mammal Commission (established under Title II of the Act) and its authorized Committee of Scientific Advisors to facilitate interchange and consultation on substantive program matters.

In addition, meetings were held periodically with interested national conservation groups, fishing industry representatives, zoo and aquarium operators, and individual researchers, to discuss the problems as well as proposed solutions involved in the implementation of the Act.

Porpoise mortality incidental to the U.S. tuna purse-seine fishery remains one of the most significant problems NMFS continues to face in the administration of the Marine Mammal Protection Act of 1972. The Act and the legislative history, taken together, direct that the mortality and serious injury of marine mammals be reduced to insignificant levels approaching a zero mortality and serious injury rate, without closing down or seriously curtailing the fishing industry.

Enactment of the Fishery Conservation and Management Act of 1976 (FCMA) (Public Law 94–265) has expanded the responsibilities of NMFS under the Marine Mammal Protection Act (MMPA). Section 404 of the FCMA amended the MMPA to extend its territorial jurisdiction to the 200-mile Fishery Conservation Zone (FCZ). The moratorium on taking and importing marine mammals, therefore, now applies throughout the FCZ.

SUMMARY OF MAJOR ACTIVITIES

Optimum Sustainable Population

NMFS developed an operational definition of "optimum sustainable population" (OSP) that is broadly applicable to marine mammal population dynamics. OSP is defined as a range within which maximum net productivity of a population is expected to occur. Maximum net productivity is the gross addition to the population less natural mortality.

Incidental Taking of Marine Mammals in the Course of Commercial Fishing Operations

Regulations promulgated on December 5, 1975, to govern the incidental take of marine mammals in the yellowfin tuna purse-seine fishery were voided by Judge Charles Richey, U.S. District Court, on May 11, 1976; however, the effective date was stayed until December 31, 1976.

On October 14, 1976, proposed regulations were published to replace those reg-

ulations voided by the U.S. District Court on May 11, 1976. Those proposed regulations were the subject of a public hearing which was held in Washington, D.C., and San Diego, Calif., from November 15, 1976, through December 22, 1976. Based on the Administrative Law Judge's recommendations and the hearing record, the decision was published on March 1, 1977, and, among other things, limited the 1977 porpoise mortality level by U.S. vessels to 59,050, comprised of 12 different individual quotas.

The 1976 estimated mortality by U.S. fishermen was 103,600 through November 11, 1976, when it was prohibited to encircle any more porpoises in 1976. The mortality exceeded the 78,000 quota that had been imposed in 1976 subsequent to the decision by Judge Richey. It was estimated that the quota was reached on October 19; however, court actions delayed imposition of a prohibition until November 11, 1976.

A workshop to assess the stocks of porpoise involved in the eastern Pacific Yellowfin Tuna Fishery was completed. Its report, published in September 1976, established for the first time estimates of the populations of marine mammals involved and estimates of their optimum sustainable population levels.

Waiver of the Moratorium

On February 19, 1976, the moratorium was waived to allow the importation of Cape fur sealskins from South Africa under certain specific conditions. Because of foreign policy considerations, the Director denied importation of skins taken in Namibia (Southwest Africa). Following a review of the South African harvest, it was determined that the conditions that warranted granting the waiver continued to exist. Therefore, the waiver was continued for the 1976 harvest from which 12,471 skins were imported.

In January 1973, the State of Alaska applied to the Department of Commerce and the Department of the Interior asking that the moratorium be waived and regulations promulgated in order to return management of nine species of marine mammals to the State. Having reviewed the State's request over several years, the Directors of NMFS and the U.S. Fish and Wildlife Service (FWS) jointly proposed such a waiver and regulations governing return of management. Formal hearings on the matter were convened on June 29, 1976, in Anchorage, Alaska; July 6, in Nome; July 12, in Bethel; and July 14, in Anchorage. On October 20, 1976, the hearing was concluded in Washington, D.C. A decision will be rendered during 1977.

Public Display and Scientific Research Permits

At the beginning of this report period (April 1, 1976), 16 permit applications were pending action. During the period of this report, 60 permit applications were submitted. Of these 76 applications, 48 have been approved, 1 denied, 1 inactivated because of insufficiency, 2 withdrawn, 1 returned to the applicant, and 23 remain under consideration.

Other Actions in Regulating the Taking and Importing of Marine Mammals

The Hawaiian monk seal (*Monachus schauinslandi*) was designated as a depleted species throughout its range, on the basis that numbers of this species may have declined to a significant degree over recent years, and furthermore, may have declined historically to the point that, if such decline continued, this species would become subject to the provisions of the Endangered Species Act of 1973.

Law Enforcement

The first criminal prosecutions under the Act resulted in convictions of two conspirators involved in the illegal capture, possession, and sale of bottlenosed dolphins.

An investigation into an illegal importation operation was concluded with the seizure of 450 sea lion skins from South America.

Contracts were renegotiated with Alaska, Washington, Oregon, California, and Florida that provide Federal funds to these States for enforcement of the provisions of the Act.

The first administrative hearing for an alleged violation of the Act resulted in a ruling that the native exception of the Act applies only to natives under the jurisdiction of the United States, rather than to all Arctic Eskimos, as the defendant contended.

International Programs

An Ad Hoc Interagency Committee was formed to develop an International Marine Mammal Program. In addition to government representatives, members of the public participated in the Committee meetings.

At the International Whaling Commission meeting in June 1976, the United States continued efforts to have the Commission adopt conservation measures that conform with the Marine Mammal Protection Act. The U.S. efforts were successful in having the Commission adopt several conservation measures.

The Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals was ratified by the four parties to the Convention. The Protocol extends the Convention for an additional 4 years, and modifies a number of the Convention's fur seal conservation measures.

The United States ratified the Convention on the Conservation of Antarctic Seals.

Under the U.S.-U.S.S.R. Marine Mammal Project, Environmental Protection Agreement, three joint research projects were conducted, involving the cooperative exchange of United States and Soviet Marine mammal scientists.

Tuna/Porpoise Research and Development Program

Twenty U.S. vessels voluntarily used experimental gear in a program cooperatively developed by the Porpoise Rescue Foundation and NMFS to facilitate porpoise release. Ten were equipped with Bold Contender Systems, and 10 had Modified Systems with 1¼-inch mesh in the safety panel. Each killed fewer porpoises than conventional gear; these tests led to changes in gear requirements. A chartered research cruise using different release methods demonstrated that porpoise kills may be reduced to very low levels. Further testing of the gear and procedures used on this cruise is planned for 1977.

Stock assessment research indicates that populations of spotted dolphins and whitebelly spinner dolphins are within the lower limits of OSP; the eastern spinner dolphin is depleted; and the northern, central and southern stocks of common dolphins and the northern and equatorial stocks of striped dolphins are at or above OSP levels.

Analysis of U.S. tuna fleet performances relative to porpoise kill indicates that, under standardized conditions of numbers of tuna and porpoise, and species of porpoise caught, the kill per porpoise set in 1976 declined 21 percent, compared with 1975.

PART II. NATIONAL MARINE FISHERIES SERVICE ACTIONS TAKEN PURSUANT TO THE PROVISIONS OF THE ACT

OPTIMUM SUSTAINABLE POPULATION

The Marine Mammal Protection Act states that "marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and its is the sense of Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the optimum carrying capacity of the habitat."

The interrelated concepts of optimum sustainable population (OSP) and optimum carrying capacity (OCC), as used in the Act, are basic elements of a management program to carry out the Act's overall objective to protect and conserve marine mammals. The Act defines OCC as the "ability of a given habitat to support the optimum sustainable population of a species or population stock in a healthy state without diminishing the ability of the habitat to continue that function." OSP is defined to mean, "the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element."

The desired goal of marine mammal management in the Act is to maintain each species and population stock at an OSP level, and to restore to an OSP level any population that has declined below

that level. In this regard, a species may be brought within the additional protective measures conferred by designating that species to be depleted, if the number of animals is determined to be below the optimum carrying capacity for the species within its environment. In addition, the Act requires that the effect of any significant management action upon the OSP of the involved species be evaluated prior to implementing the action.

To fully implement these management concepts, NMFS assembled experts in population analysis to hold a workshop on porpoise stock assessment. The workshop was held July 27–31, 1976, at the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, Calif., with the task of producing estimates of existing population levels, OSP levels, and the impact of incidential taking on those levels for each and every species or population stock of small cetaceans involved in the U.S. yellowfin tuna purse-seine fishery. On the basis of the resulting "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" and the Marine Mammal Commission's paper entitled "The Concept of Optimum Sustainable Population," NMFS developed and adopted the following operational definition of optimum sustainable population:

> Optimum sustainable population is a population size that falls within a range from the population level of a given species or stock that 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/or growth less losses due to natural mortality. (Appendix B–1. Regulations relating to the definition of optimum sustainable population.)

Public comments on the proposed definition from which the above definition was adopted clearly indicated the difficulties involved in defining optimum sustainable population as a single value to be used as a basis for all management decisions under the provision of the Act. The participants in the Workshop on Stock Assessment of Porpoises were unable to agree on a precise point value for the lower end of the range of OSP (some feel that 0.60 is a prudent estimate), but agreed that the value lies within the range of 0.50 to 0.70 of the initial size of the unexploited population. The definition of optimum sustainable population is expected to be modified as knowledge and understanding of the concept evolve.

DEPLETED SPECIES OF MARINE MAMMALS

The Marine Mammal Protection Act acknowledges that certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities. The Act states that "such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock that has already diminished below that population. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions."

One action provided by the Act to further this purpose is the designation of a species to be depleted. The Act defines a depleted species to be a species of marine mammal for which the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals, determines that the number of individuals within the species:

> a. Has declined to a significant degree over a period of years;
>
> b. Has otherwise declined and that if such decline continues, or is likely to resume, such species would be subject to the provisions of the Endangered Species Act of 1973; or
>
> c. Is below the optimum carrying capacity for the species within its environment.

Designation of a species to be depleted places the species within the provisions of Section 101(a)(3)(B) of the Act, which states that "Except for scientific research purposes as provided for in paragraph (1) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which is classified as an endangered species or threatened species pursuant to the Endangered Species Act of 1973, or has been designated by the Secretary as depleted, and no importation may be made of any such mammal." NMFS has determined that the Hawaiian monk seal (*Monachus schauinslandi*) and the eastern stock of spinner dolphin (*Stenella longirostris*) are depleted.

INCIDENTAL TAKING OF MARINE MAMMALS IN THE COURSE OF COMMERCIAL FISHING OPERATIONS

The Act provided, in Section 101(a)(2), that during the 24-month period initially following the date of enactment, the taking of marine mammals incidental to the course of commercial fishing operations was permitted. After October 20, 1974, no marine mammals may be taken in the course of commercial fishing operations unless the taking is done under a General Permit and Certificate of Inclusion as specified in regulations. Five categories of General Permit, designed to reduce marine mammal mortality and serious injury, were established by regulations promulgated on September 5, 1974. Five domestic General Permits were issued to allow marine mammals to be taken in the course of commercial fishing operations through December 31, 1976, and again through December 31, 1977: (1) towed or dragged gear; (2) encircling gear, yellowfin tuna purse seining; (3) encircling gear other than yellowfin tuna purse seining; (4) stationary gear; and (5) other gear.

In addition to the five domestic General Permits, six foreign associations, representing fishermen from Japan, Korea, and the U.S.S.R., have submitted eight applications for general permits to take marine mammals during 1977 in the course of fishing operations within the Fishery Conservation Zone established by the Fishery Conservation and Management Act of 1976 (P.L. 94–265). These foreign applications were pending action on March 31, 1977.

Public concern over porpoise deaths occurring incidental to yellowfin tuna purse-seining operations grew significantly during 1976 and resulted in a flurry of activity in the courts, Congress, government, and industry. These actions were in response to 1976 regulations and proposed regulations for the 1977 season.

In announcing 1976 regulations, NMFS indicated that a quota on the incidental kill of porpoise during yellowfin tuna purse seining would be imposed if the U.S. 1976 kill for the January to April 14 period was not lowered to 70 percent of the 1975 kill for the same period. Although the U.S. kill actually dropped to 67 percent for the comparable 1975 period, a suit was filed in the U.S. District Court for the District of Columbia, on behalf of organizations of the environmental community. The resulting court order halted tuna purse seining for tuna associated with porpoise effective May 31, 1976. The basis for the ruling was that NMFS failed to meet certain legal requirements of the Marine Mammal Protection Act in issuing a General Permit to the tuna industry. In appealing the court decision, NMFS announced its intention to impose an incidental kill quota of 78,000 porpoises, to expand its observer program to more effectively monitor the quota, and to expedite efforts to determine the existing and optimum porpoise populations for each species involved in the tuna fishery. A subsequent ruling by the U.S. Circuit Court of Appeals upheld the lower court ban, but ruled that porpoise fishing could continue through 1976. The stay was granted to avoid a disastrous impact on the industry, to allow sufficient time for NMFS to comply with the Act's requirements, and to enable ongoing cooperative gear development studies to be completed throughout the entire fishing season.

Further court action was initiated when the NMFS announced that the 78,000-porpoise quota would be reached on October 19, 1976. Data provided by scientific observers placed aboard 54 U.S. tuna vessels were used to monitor the incidental kill rate and make projections on the closure date. Industry challenges on administrative procedures used to set the quota were overturned, and the prohibition on fishing of tuna associated with porpoise went into effect on November 11, 1976. The preliminary estimated incidental porpoise kill for 1976 was 103,600.

Proposed regulations for 1977 were published on October 14, 1976. The proposed regulations placed emphasis on deficiencies identified in the U.S. District Court ruling and included the establishment of a quota for each of 17 stocks of porpoises involved in the fishery, pro-

hibited encircling pure or mixed schools of certain species or stocks, and required the installation of a 1¼-inch mesh porpoise safety panel in the backdown area of the net (the industry Fine Mesh System). In addition, the regulations proposed to deny entry into the United States all shipments of yellowfin tuna from nations whose vessels participate in the yellowfin tuna seine fishery in the eastern tropical Pacific Ocean unless the Director makes a finding that fishery operations are conducted in accordance wiith U.S. regulations and standards.

These proposed regulations were the subject of an extensive review process including public hearngs in Washington, D.C., and San Diego, Calif., before an Administrative Law Judge (ALJ). These hearings were concluded on December 22, 1976, and the ALJ made his recommended decision to the Director on January 17, 1977.

Based upon the ALJ's recommended decision and the hearing record, the Director made his final decision which was published on March 1, 1977.

Based on a determination of optimum sustainable population, for all but 5 of 17 species and stocks, a total U.S. take limitation of 59,050 was established for species for which encircling by purse seine net could be permitted. The Eastern spinner dolphin stock was determined to be depleted. The status of the stocks of coastal spotted dolphin, Costa Rican spinner dolphin, and melon-headed and pygmy killer whales are unknown. Therefore, no take was allowed of these five stocks. This take would allow the species and stocks to increase or remain within their optimum sustainable range. NMFS will place an observer aboard each U.S. tuna vessel (400-ton carrying capacity or greater) fishing on porpoise for at least one trip during 1977, contingent upon the availability of manpower and funds. (Appendix B–2. Notice and regulations relating to the incidental taking of marine mammals in the course of commercial fishing operations).

WAIVER OF THE MORATORIUM

South African Fur Seals

The Fouke Company of Greenville, S.C., is the sole processor of fur sealskins in the United States and the largest fur sealskin processor in the world. The Company has processed fur sealskins almost continuously under contract with the U.S. Government for over a half century, and has imported raw sealskins from South Africa for 50 years. Its primary sources of raw product have been northern fur sealskins from the Pribilof Islands, Alaska, and Cape fur sealskins from South Africa.

On February 19, 1976, the NMFS Director published a decision in the FEDERAL REGISTER (41 FR 7537) to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, to allow the importation of up to 19,180 skins of Cape fur seals harvested from each annual harvest commencing with the 1975 harvest within the Republic of South Africa, and promulgated regulations to govern the waiver. (Appendix B–3. Notices and regulations relating to the South Africa fur seal waiver of the moratorium).

The waiver provides for an annual review of the South African management program and a number of activities conducted thereunder. The annual review permits the Director to review relevant information and to determine whether the conditions upon which the waiver was granted continue to exist, and would warrant a continuation of the waiver.

In connection with the annual review for 1976, the Director received information from the Government of the Republic of South Africa that the South African inspection program pertaining to the humaneness of harvests has been expanded to include all rookeries; additional tagging and aerial survey programs have been developed; and, in general, additional means to continue to implement a sound scientific management program consistent with the Act have been provided.

The 1975 South African harvest level of 74,945 Cape fur seals exceeded the level of 70,000 animals established by the waiver. However, the excess harvest (4,945 animals) was not considered significantly adverse from a scientific point of view to constitute evidence of inadequate management practices. There is no evidence that the seal populations will be adversely affected by this one incident of an excess harvest; nor can the excess harvest be viewed as evidence of a disregard for appropriate harvest levels, because the Director's decision on the harvest level was made after the harvest was completed.

The Director determined that conditions upon which the waiver was granted continue to exist; thus, amending or revoking the waiver was unnecessary.

On May 11, 1976, the Fouke Company petitioned to amend the Regulations to raise the maximum annual harvest limitation from 70,000 Cape fur seals to 76,965, thereby raising the maximum number of skins that could be imported from 19,180 to 21,088. The Fouke Company contended that increasing the maximum harvest level was warranted because the pup population had increased.

The petition was denied because the evidence submitted by Fouke was not considered sufficient to support a conclusion that the pup population of the Cape fur seal had increased.

In September 1976, the Director received a petition for Amendment of Rule from the Fouke Company to adjust the total harvest percentage that could be imported from 27.4 to 33.1 percent. Fouke alleged that NMFS failed to consider four islands as part of South Africa, and thereby understated that portion of the total yearly harvests in South Africa. After consulting with the Department of State, the Director decided that an amendment of the waiver was appropriate, and accordingly increased the maximum number of skins that may be imported to 23,170 annually, beginning with the 1976 harvest.

On April 2, 1976, NMFS gave notice (41 FR 14204) of receipt of an application from the Fouke Company for a permit to import 13,883 Cape fur sealskins from the 1975 South African harvest. However, the Company subsequently withdrew its application for a permit when it learned that it could not comply with the requirements of the Regulations for permit issuance.

Following a review of the 1976 South African management program, the Director received an application from the Fouke Company for a permit to import 13,000 Cape fur sealskins from the 1976 harvest and process the skins in accordance with the usual business practice. The application is pursuant to the waiver of the moratorium and the regulations. After reviewing the permit application, the supporting materials from the South African Government concerning the 1976 harvest, and the public comments, the Director granted the permit request on December 10, 1976.

Alaska Marine Mammals

The State of Alaska applied to the Secretary of Commerce in 1973, as stated in previous reports, to waive the moratorium on northern sea lions, harbor and spotted seals, ringed seals, and beluga whales, and return management of these species to the State. A simultaneous request was made to the Secretary of the Interior with respect to walruses, sea otters, and polar bears. NMFS and the U.S. Fish and Wildlife Service (FWS) are jointly considering the request. A draft environmental impact statement (DEIS) and proposed regulations were published in February 1976, as discussed in the June 1976 Report. A hearing on the State's regulation was convened on June 29, 1976, before Hon. Malcolm P. Littlefield, Administrative Law Judge, in Anchorage, Alaska. To obtain the broadest possible testimony of all parties concerned, the hearing was continued on July 6 in Nome, and July 12 in Bethel. On July 14, the hearing was reconvened in Anchorage. On October 19 and 20, the hearing was concluded in Washington, D.C. Based on the recommendation of the ALJ and the hearing record, the Directors of NMFS and FWS are expected to make a decision on the matter later in 1977. (Appendix B–4. Notices and regulations relating to State management of marine mammals.)

PUBLIC DISPLAY AND SCIENTIFIC RESEARCH PERMITS

Section 101(a)(1) of the Act and Section 216.31 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) authorize the NMFS Director (by delegation) to issue permits to take and import marine mammals and marine mammal products for the purposes of scientific research and public display.

Although the Act declares a moratorium on the taking or importing of marine mammals and marine mammal products, the Act included exceptions that allow continuing research on marine mammals and taking of marine mam-

mals for public display, providing that the health and well-being of the marine mammal species and populations involved, as well as the marine ecosystems, are not adversely affected. Permits may, however, be granted only after the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals have reviewed the application.

One of the major considerations in issuing permits, which involve captive marine mammals for either scientific research or public display, is the quality of care provided. Following enactment of the Act, NMFS developed requirements for marine mammal care and maintenance that have since been used as criteria for all permits involving captive marine mammals. These requirements appeared as Appendix C to the July 1973, Report of the Secretary of Commerce on Administration of the Marine Mammal Protection Act of 1972.

Since enactment of the Act, NMFS has worked closely with the Marine Mammal Commission, the Fish and Wildlife Service (FWS) of the Department of Interior, and the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture, as well as representatives of the marine mammal display industry and concerned public groups, to develop more comprehensive standards for the care and maintenance of captive marine mammals. In October 1975, these efforts resulted in a set of standards and guidelines prepared by the Marine Mammal Commission. NMFS, FWS, and APHIS, under the authority of the Animal Welfare Act of 1970, have been developing the means by which these standards and guidelines will be implemented by the involved Federal agencies.

The criteria used by the Director to determine issuance of a scientific research permit include such considerations as whether the proposed taking or importing is consistent with the policies and purposes of the Act, and whether granting the permit is required to further bona fide, necessary, and/or desirable scientific purpose. Further considerations are the benefits anticipated to be derived from the scientific research contemplated and the effects of the proposed taking or importing on the population stocks and the marine ecosystem.

In determining whether to issue a public display permit, the Director considers, among other criteria, whether the proposed taking or importing will be consistent with the Act's policies and purposes; and whether (1) a substantial public benefit will be gained from the display contemplated, considering the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importing on the population stocks of the marine mammals in question and the marine ecosystem on the other; and (2) the applicant's qualifications for the proper care and maintenance of the marine mammal, and the adequacy of the holding facilities.

Appendix A provides an overview of the scientific research and public display permit program, both for the period of this report and for the cumulative period since enactment of the Act. Table 1 of appendix A provides a listing of the common and scientific names of the marine mammal species that may be involved in permit applications. Table 2 provides a summary of the applications received, the number of marine mammals requested, the various actions taken on applications, and the number of marine mammals authorized to be taken and/or imported. Tables 3 and 4 provide analysis of the number of each species of marine mammals requested in permit applications. Tables 5 and 6 provide a similar analysis of the marine mammals authorized to be taken and/or imported under scientific research and public display permits.

Scientific research permit applications have involved the following:

1. Activities requiring the removal of living marine mammals from the ecosystem:
   a. Killing wild animals for the collection of biological materials and measurement data; and
   b. Holding animals in captivity for laboratory-oriented research.
2. Activities requiring the removal of dead marine mammals from the ecosystem:
   a. Collecting biological materials and measurement data from dead marine mammals, not killed by permit holders (i.e., materials obtained from animals killed incidental to commercial fisheries, taken in native harvests, found beached, or floating at sea); and
   b. Importing biological materials taken from previously killed animals.
3. Activities not requiring the removal of marine mammals from the ecosystem, nor involving any significant probability of accidental injury or death:
   a. Capturing, tagging, and/or marking, followed by release of the animals;
   b. Marking and/or tagging by means of a remote technique, not involving capture and release;
   c. Taking skin samples from cetaceans to determine sex;
   d. Collecting measurement data and limited biological material from living, restrained animals (i.e., blood samples, toenails, teeth), followed by release of the animals; and
   e. Taking by actions technically considered as harassment, such as may occur in the course of aerial surveys, population counts, filming and sound recording activities, not involving direct contact with any marine mammals.

The research activities of greatest scope, in terms of the number of animals affected, involved animals that were not removed from the ecosystem.

During the period from April 1, 1976, through March 31, 1977, 60 permit applications have been received, in addition to 178 permit applications previously received (table 2). Of these 238 permit applications, 155 had been forwarded to the Marine Mammal Commission as of March 31, 1976, and 54 were forwarded to the Commission during the period of this report. As of March 31, 1977, the Commission had reviewed and submitted recommendations on 203 of the 209 applications referred to the Commission.

As of March 31, 1976, 162 permit applications had been resolved by means of permit issuance or denial, withdrawal of application, referral of applicants to the appropriate States involved in beached and stranded marine mammals, and through interagency agreements. During the period of this report, an additional 53 applications have been resolved in the following manner: 2 applications have been withdrawn; 1 application has been returned to the applicant because of inappropriate submittal; 1 application has been inactivated because of insufficient response from the applicant to requests for additional information necessary to certify an application complete; 1 application has been denied; and 48 applications have been approved. The 23 remaining applications of the 238 received to date are pending.

The Regulations provide that a permit may be modified, with sufficient prior notification to the permit holder, followed by publication of notice of the modification in the FEDERAL REGISTER. During the period of this report, 22 permit modifications have been proposed and 20 made effective by publication in the FEDERAL REGISTER, in addition to 39 modifications previously proposed and made effective.

All permit holders are required, under permit conditions, to provide a number of reports, which may be any of the following:

1. Reports on the taking of marine mammals;
2. Reports on the importing of marine mammals;
3. Reports on specific aspects of the husbandry of captive marine mammals, such as water quality;
4. Reports on marine mammal mortalities;
5. Monthly, quarterly, semiannual and/or annual reports on the health and condition of marine mammals held in captivity;
6. Reports on activities conducted under scientific research permits;
7. Preliminary reports on the progress of scientific research projects; and
8. Final reports concerning the results of scientific research projects.

During the period of this report, 280 reports were submitted; 25 on the taking of marine mammals; 212 on the health and condition of marine mammals held in captivity; 11 on mortality; 30 on research activities; and 2 on final research. Additionally, 72 permit holders have submitted special reports synopsizing their activities.

The Act and the Regulations provide for charging a reasonable fee to cover the administrative costs of issuing a permit. Public display permit holders fee is $200; scientific research permit holders fee is $25. Such fees are waived for Federal and State agencies. During the period of the report, a total of $4,725 has been collected from permit holders and deposited in miscellaneous receipts of the U.S. Treasury.

REQUESTS FOR CERTIFICATE OF REGISTRATION AS TANNERY OR AS AGENT WITH RESPECT TO MARINE MAMMALS TAKEN BY ALASKAN NATIVES

Section 216.23 of the Regulations provides that marine mammals taken by an Indian, Aleut, or Eskimo resident of the coast of the North Pacific or Arctic Ocean, for the purpose of creating and

selling authentic native articles of handicraft and clothing may be transferred to a registered tannery, either directly by the Indian, Aleu, or Eskimo or through a registered agent. Similarly, marine mammals taken by Alaskan Natives for subsistence may be sent to a registered tannery for processing and subsequent return to an Alaskan Native.

Any tannery or person who wishes to act as an agent within the jurisdiction of the United States may apply for registration as a tannery or an agent, and thus, be allowed to possess and process marine mammal products for Indians, Aleuts, or Eskimos. Prior to April 1, 1976, seven tanneries and nine agents had been granted Certificates of Registration as tannery or agent in accordance with Section 216.23 of the Regulations. Two of those registered tanneries have surrendered their certificates. During the period of this report, three additional certificates have been granted to tanneries, and seven to agents.

OTHER ACTIONS IN REGULATING THE TAKING AND IMPORTING OF MARINE MAMMALS

Killer Whales

In the early 1960's, oceanarium operators began to buy live killer whales from the waters of Washington and British Columbia. The killer whale population in the Puget Sound region has provided the people of that area with a unique, esthetic, and recreational pastime, and public sentiment has strongly opposed the capture of killer whales.

Prior to 1971, no State or Federal regulations concerned the capture of killer whales. In 1971, the Washington State Legislature passed a marine mammal protection act with responsibility for management vested in the State Game Department. Under provisions of the Marine Mammal Protection Act of 1972, management responsibility was transferred from the State to the Federal Government and delegated to NMFS. Under authority of the Act, NMFS can grant permits for scientific research and public display. Since the Act became effective, one economic hardship exemption and three permits have been issued, allowing the taking of killer whales in Washington/British Columbia waters and off eastern Vancouver Island.

Public protests over the much-publicized March 7, 1976, capture of six killer whales in Puget Sound by Sea World Inc., operating under a public display permit issued in 1974 by NMFS, prompted the introduction of a bill in the Senate, S. 3130, that would amend the Act to prohibit the issuance of permits to take killer whales, except for certain scientific research purposes. The bill passed the Senate on March 29, 1976.

An identical bill was introduced in the House of Representatives. Hearings on this bill, H.R. 12460, were held before the House Subcommittee on Fisheries and Wildlife Conservation on May 4, 1976.

The Department of Commerce opposed both S. 3130 and H.R. 12460 because available scientific data do not indicate that additional protection is warranted, and sufficient statutory authority now exists to provide whatever degree of protection is, or may become, necessary.

In response to a nomination that Puget Sound be designated a marine sanctuary for killer whales, pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, NOAA's Office of Coastal Zone Management, in consultation with NMFS, has prepared a discussion paper that assesses the potential environmental impacts of the proposed action. The sanctuary nomination is being considered under five possible single or multiple use classifications, i.e., habitat area, species area, research area, recreational and esthetic area, and unique area.

Hawaiian Monk Seals

An NMFS review of the status of the Hawaiian monk seal (*Monachus schauinslandi*) indicated that numbers of this species may have declined significantly over recent years, and may have, furthermore, declined historically to the point that, if such decline continues, this species would become subject to the provisions of the Endangered Species Act of 1973. After consultation with the Committee of Scientific Advisors on Marine Mammals, the Marine Mammal Commission concurred with this assessment, by letter dated December 24, 1975, and recommended that the Hawaiian monk seal be designated as a depleted species.

On June 16, 1976, proposed regulations were published in the FEDERAL REGISTER (41 FR 24393), setting forth the proposed designation of the Hawaiian monk seal as a depleted species throughout its range. The designation was finalized on July 27, 1976 (41 FR 30120) and became effective on September 1, 1976. (Appendix B–5. Regulations relating to the depleted status of Hawaiian monk seals).

PUBLIC HEARINGS

The Act and NMFS Regulations provide for public hearings for several types of actions including: scientific research and public display permit applications, permit modification, regulations, and waiver applications. In addition, meetings are held periodically with interested national conservation groups, fishing industry representatives, public display facility operators, State and Federal agencies, and individuals to discuss the problems as well as proposed solutions involved in the implementation of the Act.

In determining whether to hold a public hearing on an application for public display or scientific research, it is the policy of the Director to consider the following: (1) whether any interested person has requested a public hearing on such application during the time period set for public comment on the application; (2) the views of the Marine Mammal Commission on the desirability of holding a public hearing; (3) the nature of the application and the number of animals and species involved; (4) the extent to which a public hearing would facilitate the processing of the application; and (5) whether the application has aspects that require a major policy decision prior to making a determination on the permit application.

Two public hearings were held during the reporting period. Both hearings were formal hearings on the record, presided over by an Administrative Law Judge. One hearing dealt with the request of the State of Alaska for a waiver of the moratorium and return of management of nine species of marine mammals to the State. The other hearing dealt with proposed regulations governing the issuance of permits for the incidental take of marine mammals in the course of commercial fishing operations.

LAW ENFORCEMENT

The five NMFS regional law enforcement offices reported 20,591 man-hours expended in responding to requirements of the Marine Mammal Protection Act during the reporting period. Although the man-hour figure and the number of investigations are nearly the same as reported for the previous 12-month period, the number of violations detected has increased from 52 percent to 89 percent of the total investigations conducted. This increase indicated an improved efficiency in carrying out enforcement activities under the Act.

Tuna-porpoise responsibilities still form the bulk of the enforcement workload in the Southwest Region. Illegal taking of marine mammals and the illegal importation and sale of marine mammal products remain the focus of attention in the Northeast, Northwest, Southeast, and Alaska Regions.

During the reporting period, NMFS special agents initiated 260 investigations into alleged violations of the Act. From these investigations, 232 actual violations were documented. Seventy-two cases were closed through the assessment of civil penalties and/or the forfeiture of seized contraband. One case was closed through successful criminal prosecution. Twelve cases involving insufficient documentation accompanying the items at the time of importation were resolved through substantiation of their pre-Act status or subsequent compliance with necessary certification requirements. About 164 cases are pending. In 198 of the 232 documented violations, seizures involving 793 illegal items were made. The remaining 34 violations involved illegal takings, such as harassment, which generally do not concern a tangible, seizable object. NMFS special agents also monitored the capture of seven marine mammals carried out under permits issued by NMFS and made 167 inspections of marine mammal holding facilities.

Two U.S. citizens were the first persons to be convicted of criminal violations of the Act in the U.S. District Court in Miami, Fla. One was found guilty on June 17, 1976, of 24 counts of illegal capture, possession, and sale of 21 bottlenosed dolphins during the spring and summer of 1974 and of conspiracy to violate the Act. This individual was sentenced to 90 days' imprisonment and placed on 1-year probation. The violations for which these individuals were

prosecuted and convicted involved the capture of dolphins within the territorial waters of another nation, and the subsequent sale of dolphins in international trade.

The successful prosecution of these individuals reinforces NMFS's interpretation of the Act, to the effect that U.S. citizens are subject to the provisions of the Act, regardless of the geographic location of their marine mammal activities, and regardless of the legality of such activities under a foreign state's law.

In December 1976, NMFS special agents seized 420 South American sea lion hides that were illegally imported into the United States by a furrier. The furrier was assessed a civil penalty and forfeited the hides, valued at over $11,000, to the Government.

NMFS special agents seized 17 hair seal garments illegally imported into this country during August 1976. The garments were forfeited, and the importer paid a civil penalty in settlement of this case.

Contracts, which provide funds for enforcement of the Act, were renegotiated with the States of Alaska, Washington, Oregon, California, and Florida at a cost of about $443,000. NMFS has worked closely with the law enforcement agencies of these States toward the goal of achieving nationwide compliance with the Act. State agencies initiated 69 investigations into possible violations of the Act; 7 cases were referred to NMFS for further action, and 43 cases were closed. State officials also monitored 21 marine mammal capture operations performed under permits issued by NMFS and made 34 inspections of marine mammal holding facilities.

The first administrative hearing for an alleged violation of the Marine Mammal Protection Act was heard on May 5, 1976, before an Administrative Hearing Officer, in Terminal Island, Calif. This hearing was requested by a person who had imported a fur seal coat at the Los Angeles, Calif., customs facility. Respondent's principal defense was that the native exception applies to all Arctic Eskimo people, not to Alaskan Eskimos exclusively. On November 22, 1976, the Hearing Officer ruled that the intention of the Act is clear; the native exception applies only to Alaskan Natives. He recommended a civil penalty of $500 for the illegal importation and forfeiture of the sealskin coat. Before the action was removed to the U.S. District Court for forfeiture, the case was settled when the respondent voluntarily forfeited the illegally imported sealskin coat.

LEGAL ACTIONS BROUGHT AGAINST THE DEPARTMENT OF COMMERCE

Committee for Humane Legislation, et al., v. *Richardson et al.* 414 F. Supp 297 (D.D.C., May 1976); aff'd 540 F. 2d 1141 (D.C.C.'s August, 1976)—Civil Action Numbers 74-0227.

Plaintiffs brought action for declaratory judgment and injunctive relief concerning certain regulations adopted pursuant to the Marine Mammal Protection Act of 1972 and the general permit issued under those regulations to the American Tunaboat Association. The Court found that: (1) the regulations were not promulgated under the legal requirements of the Act and thus should be voided; and (2) the permit application failed to demonstrate that the taking under the permit would be consistent with the purpose of the Act. The permit was found to be in contravention of the Act, because it failed to specify the number and kind of marine mammals authorized to be taken. Therefore, the permit for 1976 was voided. The Court of Appeals affirmed the order, but stayed its effect until January 1, 1977. That Court also remanded to the District Court the question of whether an aggregate quota satisfied the requirement of specification of "number and kind." On December 21 and 28, 1976, in the District of Columbia District Court, NMFS requested an extension of the stay of the District Court order, with the intention of imposing an interim regime, until new regulations and a new permit could be issued. The District Court denied these motions and found that the issue remanded to it was moot. On December 30, 1976, the District of Columbia Court of Appeals denied NMFS's motions to grant emergency relief and/or to summarily reverse the District Court.

On January 28, 1977, in response to Judge William B. Enright's Order of January 21, 1977, in the Theresa Ann case, a Motion for a Preliminary Prohibitory Injunction to restrain the taking of porpoise incidental to yellowfin tuna purse seining was filed before the District of Columbia Circuit Court of Appeals. In response, the Court issued Orders on January 28 and February 3 which essentially required the tuna purse-seine fleet to stop fishing on porpoise. The February 3 Order also required the Secretary of Commerce to submit to the Court within 10 days a plan to enforce the Marine Mammal Protection Act. The plan that was submitted consisted, in part, of aerial surveillance and restrictions on the use of operational speedboats in connection with tuna purse seiners.

Soon after this plan was instituted, Attorney General Griffin Bell submitted a Motion for Emergency Relief and/or Immediate Hearing and Ruling on the Appeal before the D.C. Circuit Court of Appeals. On March 8, 1977, the D.C. Court of Appeals issued an Order Staying the Judgment of the District Court invalidating the regulations and general permit as of January 1, 1977, to allow the taking of porpoise incidental to yellowfin tuna purse seining from the date of the Order to April 30, 1977, or until a new permit is issued, whichever comes first. The takings are to be governed by regulations published on March 1, 1977, except as to the term of the permit and the porpoise quotas, both of which are governed by the 1976 amended permit.

On March 30, 1977, the Committee for Humane Legislation filed a Complaint and Motion for a Preliminary Injunction in the District of Columbia District Court seeking to prevent implementation of the regulations published on March 1, 1977, alleging that the regulations do not fully comply with the requirements of the Act.

The Motor Vessels Theresa Ann. et al., v. *Richardson et al.*, Civil Action Number 78-963-E (USDC SD Cal and 9th Cir).

In October 1976, the plaintiffs filed a complaint seeking damages and alleging that the Marine Mammal Protection Act was unconstitutional because it resulted in the taking of property without due process of law. The plaintiff also sought injunctive relief to prevent NMFS from enforcing the ban on setting on porpoise, imposed after the quota for 1976 had been reached. After some temporary relief, the Courts finally denied plaintiffs' requests for injunctive relief on November 10, 1976. On December 31, 1976, the courts also denied a later motion by the plaintiff for a temporary restraining order to prevent NMFS from enforcing the ban on setting on porpoise.

On January 21, 1977, a motion for a preliminary injunction requesting that NMFS be enjoined from enforcing the Act was heard. Plaintiffs argued that their inability to set on porpoise for several critical months of the tuna fishing season until valid 1977 permits could be issued constituted a denial of due process and an inequity demanding redress.

The Court granted the requested preliminary injunction subject to several conditions:

1. The injunction shall remain in effect only until an aggregate take of 10,000 porpoises has been reached, or until the 1977 permits are either granted or denied;

2. The observer program as implemented in 1976 shall be reinstated immediately, and 25 percent of the boats shall be required to carry observers; and

3. Marine mammal logs must be maintained.

On February 24, 1977, the Ninth Circuit Court of Appeals granted the Government's Motion to Stay Judge Enright's Order pending appeal of the case.

Animal Welfare Institute v. *Elliot Richardson, Robert W. Schoning*—Civil Action No. 76-0483 (D.C. D.C. 1976); and *Committee for Humane Legislation Inc., et al.*, v. *Elliot L. Richardson*—Civil Action No. 76-0484 (D.C. D.C. 1976).

These actions sought: (1) a declaratory judgment that the decision of the NMFS Director to waive the moratorium to allow the importation of Cape fur seals from the Republic of South Africa contravenes the Marine Mammal Protection Act and is invalvid, void, and of no effect; and (2) an injunction restraining defendants from taking any steps that give effect to the aforementioned decision.

In December 1976, both the requests for declaratory judgment and the request for an injunction were denied in the District Court by Judge Robinson.

Plaintiffs appealed to the U.S. Court of Appeals for the District of Columbia (Civil Action No. 76-0484). Although plaintiff's motion for an injunction pending appeal was denied, the appeal on the merits of the validity of the waiver and on appellant's standing is still pending and has been expedited.

INTERNATIONAL PROGRAMS

In carrying out the International Marine Mammal Program, NMFS is continuing to pursue the objectives of the Act through international cooperation. The following details the principal thrusts of the international program.

Ad Hoc Interagency Committee on an International Marine Mammal Program

Beginning in April 1976, NMFS and the Fish and Wildlife Service (FWS) convened a public meeting to solicit ideas to be included in an international marine mammal program. An NMFS/FWS task force met for a week to (1) analyze the international problems associated with all species of marine mammals; (2) evaluate ongoing activities as to compliance with the Act; and (3) evaluate all options to fully implement Section 108(a) of the Act. The recommendations of the task force were made available to the public for comment in July. A meeting of the Ad Hoc Interagency Committee on an International Marine Mammal Program was convened in December to make final conclusions on a government-wide program. Present were representatives from NMFS, FWS, the Department of State, the Marine Mammal Commission, the Council on Environmental Quality, the House of Representatives Merchant Marine and Fisheries Committee, and observers from the environmental community and the fishing industry. The report of the Ad Hoc Interagency Committee, with some modifications, was formally adopted by all concerned government agencies in late January 1977.

International Whaling Commission (IWC)

The U.S. Delegation to the 28th Session of the International Whaling Commission contributed to discussions on several conservation measures. The IWC agreed to convene a conference of Plenipotentiaries to renegotiate the International Whaling Convention. It was also agreed to circulate the revised text among a large number of nonmember countries, after IWC Contracting Governments have reviewed it. Revisions to the Convention will be discussed at the 29th Annual meeting.

At the 28th Session, resolutions were adopted that:

a. recommended that all member governments prohibit the sale or transfer of vessels, equipment or supplies likely to be used for whaling operations by nations not members of IWC;

b. encouraged whaling nations not members of IWC to abide by IWC quotas and to become members of the Commission;

c. recommended that the United States as early as possible take all feasible steps to limit the expansion of the effort to take bowhead whales and to reduce the loss rate of struck whales; and

d. recommended that contracting governments (U.S. and Mexico) establish regulations to reduce harrassment of gray whales in breeding areas as soon as possible.

Following the recommendations of its Scientific Committee in accordance with the New Management Procedure the IWC established:

1. A complete moratorium on the catching of: fin whales in the North Pacific (at the 27th Session); fin whales in the Southern Hemisphere; and sei whales in the North Pacific (at the 27th Session).

2. Selective moratoria through the establishment of closed areas and closed seasons on the catching of: sei whales in the Southern Hemisphere; sperm whales in the Southern Hemisphere; fin whales in the North Atlantic; and Bryde's whales in the Southern Hemisphere.

The complete protection from commercial fishing is continued for the blue, humpback, gray, right and bowhead whales.

Additionally, quotas were approved by the IWC for those whale stocks that were found to be sufficiently abundant to permite their harvest under the New Management Procedure. While the 1976 quota for minke whales was increased to 8900 from the 1975 quota of 6810, most other quotas were reduced, resulting in a substantial decline in the allotted catch for 1976 when compared to 1975. Three stocks of whales, previously fished without regulatory restrictions were placed under quotas, thus bringing all commercially harvested whales, except one stock, under IWC management for the first time since the creation of the Commission. Considering these new additions to the quota scheme, the actual net reduction in the permitted harvest of whales between 1975 and 1976 is about 6000 animals, comprised mostly of the large whales such as fin, sei, and sperm whales.

North Pacific Fur Seal Convention (NPFSC)

In accordance with the terms of the Interim Convention on Conservation of North Pacific Fur Seals, the United States shared the harvest of the fur sealskins from the Pribilof Islands with Canada and Japan. Also, the United States continued land research and the analysis of pelagic research data collected in previous years. The moratorium on commercial harvest of fur seals on St. George Island, for the purpose of facilitating intensive study of the factors that govern the survival of fur seals, remained in effect.

The 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals was ratified by the four parties to the Convention, (Canada, Japan, the Union of Soviet Socialist Republics, and the United States) on October 12, 1976. The Protocol extends the 1957 Convention as amended for an additional 4 years, and the Convention will now continue in force for 22 years (until 1979), and thereafter, until the entry into force of a new or revised fur seal convention between the parties, or until the expiration of 1 year after such period of 22 years (1980), whichever may occur earlier.

The Protocol modified the Convention as follows:

1. Revised the definitions of pelagic research responsibilities of the Parties and provisions for research on (a) the relationship among fur seals, other living resources, and commercial fishing, and (b) the effects of environmental changes on fur seals caused by man;

2. Removed the U.S.S.R.'s obligation to suspend sealing in the Commander Islands, if the number of seals falls below 50,000;

3. Provided for the Commission to recommend the suspension or reduction of the fur seal harvest when the population falls below levels of maximum sustainable productivity;

4. Provided for applying subsistence needs for native populations living on rookery islands; and

5. Included a pledge by all parties to seek to ensure humane methods of capturing, killing, or marking seals.

The United States was unable to obtain unanimous agreement on the inclusion of an optimum sustainable population management concept in a revised Convention. Because of the lack of agreement on this issue, the United States supported an extension of the agreement for only 4 years.

In consideration of the need for flexibility in view of possible changes in fisheries jurisdiction in the future, the United States supported the inclusion of language allowing a party to call for a meeting of representatives of the parties within 90 days of such request to consider modifications of the Convention. Following a meeting of the standing scientific committee on March 14–18, 1977, at which research plans and comercial harvest forecasts for 1977 were discussed, the Twentieth Annual meeting of NPFSC was held in Tokyo, Japan, March 22–25, 1977.

Inter-American Tropical Tuna Commission (IATTC)

At the 1976 Annual Meeting of IATTC, the United States continued its efforts to achieve international action to reduce the incidental take of marine mammals. The United States reviewed the general direction of its national policy on the tuna/porpoise problem noting the probability that, beginning in 1977, the American tuna fleet would be subject to quotas on the various porpoise stocks. In addition, the United States noted that standards similar to those applied to U.S. tuna fishermen would be applied to foreign fleet operations involved in the purse-seine tuna fishery. In this respect, the United States indicated that countries desiring to continue importing tuna products into the United States would be required to provide certain information regarding their efforts to reduce the incidental take of porpoise. Copies of the proposed U.S. regulations were distributed, and governments were invited to participate in the hearing on the proposals scheduled for November 15, 1976. Copies of two detailed reports titled "Progress of Research on Porpoise Mortality Incidental to Tuna Purse Seine Fishing for Fiscal Year 1976" and "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" were also distributed.

As instructed by the Commission at its December 1975 meeting, the Director of Investigations presented a paper on the tuna/porpoise problem and the options regarding Commission involvement.

From among the three discussed alternative objectives concerning the problem of porpoise mortality, the Commission agreed on a policy to maintain tuna production at near current levels, and, at the same time, maintain stocks of porpoise at or above levels that would ensure their survival in perpetuity. Such a course would require, at a minimum (a) an estimation of the size of each porpoise stock in the eastern Pacific as well as the level of kill; (b) assessment of the impact of the kill on each stock; and (c) gear research.

The Commission directed that a comprehensive technical review be undertaken of all existing information pertaining to the tuna/porpoise problem (known as Phase I) and that a detailed proposal for Commission porpoise research be prepared.

In connection with the tuna/porpoise program supported by the Commission, the United States offered the following proposals:

1. That the governments agree on a target date to reconvene to consider the proposal prepared by the Director of Investigations;
2. That consideration be given to preparing a resolution concerning the need to begin gathering information immediately on porpoise mortality; and
3. That an international guest scientist program for the purpose of collecting porpoise mortality data be considered for which the United States would contribute $88,000.

The member governments supported the first two proposals. Support, in principle, was voiced for the third proposal, although governments preferred to postpone action pending presentation of the Director of Investigation's report in order to determine how such a program might relate to future Commission efforts. Requesting only minor modifications, governments also supported a U.S. draft resolution incorporating the draft resolution incorporating the proposals.

The Commission agreed to reconvene no later than June 1977.

Convention on the Conservation of Antartic Seals

The Senate ratified the Convention on September 15, 1976, and President Ford signed and declared it ratified on December 28, 1976. The other Antarctic Treaty parties were informed of this action by the Department of State. Those Antarctic Treaty parties who have not ratified the Convention were encouraged to do so. In ratifying the Convention, the United States again pointed out that an inspection or enforcement component is still required to make the Convention provisions effective.

Food and Agriculture Organization (FAO) and the United Nations Environmental Program (UNEP)

The task of the Advisory Committee on Marine Resources Research (ACMRR) Working Party on Marine Mammals, to examine the status of all marine mammals, was completed with the convening of the Scientific Consultation on Marine Mammals in Bergen, Norway, August to September 1976. The reports of the 23 working groups were made available at the conclusion of the Consultation, and a summary report is expected by April 1977. Major assistance was provided by the United Nations Environmental Program (UNEP).

Endangered Species Convention

As a signatory of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the United States proposed listing all stocks of fin and sei whales on either Appendix I or Appendix II of that Convention. The proposal was unanimously supported by all nations present at the First Conference of the Parties to the Convention, Berne, Switzerland, November 2–6, 1976. All stocks of fin and sei whales that receive total protection under conservation measures of International Whaling Commission (IWC) were listed on Appendix I. All other stocks of these species are now on Appendix II. This new action is an aid to the efforts of IWC to encourage nonmember whaling nations to join IWC. As a result, export and import of parts and products from these whales will require Convention permits.

U.S.-U.S.S.R. Marine Mammal Project, Environmental Protection Agreement

The objective of the U.S.–U.S.S.R. Marine Mammal Project is to develop collaborative research on the biology, ecology, and population dynamics of marine mammals of mutual interest to both nations that will contribute toward sound management and conservation of these animals.

In spring 1976, a cooperative ice seal-walrus expedition visited the Bering Sea, March 15 to May 4th. Three U.S. scientists participated in the cruise, which was primarily a U.S.S.R. commercial sealing expedition. The scientific party recorded biological data on age, sex, physical, and reproductive condition of 158 walruses and 84 ice seals (23 ribbon, 59 largha, and 2 bearded). One of the most significant findings during the cruise was the discovery of several hundred breeding walrus females in a more southerly area of the Bering Sea than was previously known. The discovery of this breeding assemblage between Bristol Bay and the Pribilof Islands indicates an isolated breeding unit separate from the main northcentral group (St. Lawrence-St. Matthew Islands area). The ice seal data will be used by scientists in assessing reproductive capacity and other aspects of the population dynamics of these species, information necessary to determine the status of these species under the Act.

During July and August 1976, two Soviet scientists spent 5 weeks working on ice seals in northern villages of Alaska. They sampled over 50 specimens of bearded and ringed seals in the field. The data collected in Alaska will lead to a better understanding of the biology and systematics of these species of seals. They examined about 300 skulls of ringed seals at the Puget Sound Museum of Natural History and the U.S. National Museum on their return trip. Upon examining osteological material from the Canadian Arctic, they were able to draw definite conclusions about the taxonomy of ringed seals on a worldwide basis.

In September, a U.S. scientist visited museums and laboratories in Moscow and Leningrad to examine osteological specimens of dolphins. He was able to examine over 120 specimens of species involved in the worldwide taxonomic revision being done on the genus *Stenella*. This work contributed directly to a better understanding of the taxonomy of the *Stenella* species and their worldwide distribution. He was also able to discuss methods of aging dolphins through sectioning of teeth and received information that may enable development of a technique for marking specimens in the field to create known age marks on hard parts such as teeth.

In January 1977, the fourth meeting of the Marine Mammal Project was held in La Jolla, Calif. Among the meeting's highlights was the general agreement of the scientists on the need for a convention or agreement on the protection and management of marine mammal resources (principally walrus and ice seals) in the Chukchi and Bering Seas and adjacent regions of the North Pacific Ocean. The assembled scientists developed a set of principles that could form the basis of a bilateral agreement. These principles embodied the maintenance of optimum abundance of all species to ensure continuing existence of populations, determining acceptable limits of harvest for each population, developing necessary regulatory measures, establishing a system of marine sanctuaries, and providing a scientific basis for the protection and management of marine mammals through coordinated scientific research on populations, distributions, and the role of the species in the ecosystem.

Another highlight of the meeting was the agreement and preliminary plan for publication of a compendium of papers on the results of the cooperative research under the program since its inception. The first volume will cover pinnipeds and sea otters, and is targeted for draft form by the end of this year. The initial publication is to be printed in the United States, followed shortly by a Russian translation.

TUNA-PORPOISE RESEARCH AND DEVELOPMENT PROGRAM

The marine mammal program at the NMFS Southwest Fisheries Center (SWFC) is concerned with oceanic porpoise populations and their relation to the tuna fishery. The major objective of the program is to carry out NMFS responsibilities under the Marine Mammal Protection Act of 1972, especially in respect to Sections 101(a)(2), 103 (b) and (d), and 111.

The SWFC Porpoise/Tune Interaction Program has three basic objectives:

1. Develop methods and technology to reduce porpoise mortality incidental to yellowfin tuna purse seine fishing;
2. Determine the status of the porpoise stocks; and
3. Monitor the incidental mortality by the U.S. fleet throughout the year.

Present program priorities were developed in consultation with the Marine Mammal Commission, the tuna industry-sponsored Porpoise Rescue Foundation, Naval Undersea Center, environmental groups, Council on Environmental Quality, and other interested parties in a series of meetings in late 1975 and early 1976.

Mortality Reduction Technology

At the start of the reporting period, a major experiment was initiated in cooperation with the Porpoise Rescue Foundation. Twenty vessels were outfitted with experimental gear, and despite interruptions of the study by court actions, sufficient data were acquired to indicate that further reductions in porpoise mortality are possible.

Each of 20 vessels carried a small rubber raft and face mask and snorkel to aid in porpoise hand-release and to signal the captain of the presence of tuna in the release area, a porpoise grabber to reach entangled porpoise, and a 180- by 12-fathom, 1¼ inch stretched mesh porpoise safety panel to prevent entanglement during release operations. In addition, 10 vessels placed a two-step trapezoidal-shaped apron and chute assembly atop the safety panel to reduce canopy formation and form a shallow area to facilitate porpoise release and reduce fish loss. As a direct result of the study, 1¼-inch mesh safety panels will be required on all purse seiners that fish for yellowfin tuna associated with porpoise. Problems in using the apron/chute system, despite its apparent increased capability for porpoise release, have made additional studies necessary.

During a fall 1976 charter, followup gear research has shown that it is technically possible to reduce the kill to very low levels—at least under the conditions found on the charter. During this charter, in 45 net sets on porpoise, over 900 tons of tuna were captured and only 16 porpoises were killed (most were killed accidentally during scientific research). Under average conditions found in the fleet and using conventional gear, about 800 porpoises would have been expected to be killed. During 1977 there will be further testing of this gear, which uses extensive areas of small-mesh webbing (to prevent entanglement) and a large single-step trapezoidal-shaped apron (to shoal up the release area and to reduce canopy formation) in the porpoise release area.

A new study was begun in 1976 to reduce or eliminate the incidence of "roll-ups" (the purse cable turns and winds up webbing). The study involves development of a purse-block suspension system capable of minimizing the induction of turns into the purse line caused by the weight of the block not allowing the cable to run in the center of the block's pulley. A field test of a prototype unit is planned for spring 1977.

Work on the large-volume net, designed to provide less crowding of the animals in the net, was suspended because major repairs were needed to make the net useable. Although the results to date have been inconclusive, a vessel owner has agreed to make necessary repairs and modifications, and testing of the net will resume in 1977.

SWFC is involved in a large research project to document the behavior of porpoise and tuna before, during, and after the set is made. The study has involved photography from a helicopter, from underwater, and from the deck. The underwater acoustic environment was also recorded during the field portion of the study aboard a chartered seiner in the fall of 1976. Major sponsors of this study are the Marine Mammal Commission, National Science Foundation, Porpoise Rescue Foundation, and NMFS.

Additionally, SWFC has contracted a study at the University of Hawaii to determine the odor-detecting capabilities of yellowfin tuna and to develop artificial scents for use in breaking the porpoise/tuna bond and attracting the tuna.

During 1977, most of the gear research budget will be used to field SWFC gear technicians aboard seiners testing solutions to several identified problems.

Also, the use of rafts as porpoise-rescue platforms, conditions that lead to "disaster sets" (sets in which more than 50 porpoise are killed), the effectiveness of porpoise grabbers, and the role of malfunctions in causing porpoise mortality will be investigated more completely. Rollup-prevention research will also continue through evaluation of alternative purse-block designs and further analysis of antitorque purse-line cable.

Biological Stock Assessment Research

During the period, biological research concentrated on estimation of important life history parameters of the major porpoise species involved in the tuna fishery. Using specimens and data collected aboard commercial tuna seiners and standard techniques and analyses, the biological studies staff at SWFC completed estimates of growth and reproduction parameters of the eastern spinner dolphin, *Stenella longirostris* subsp., the second most important species in the tuna fishery, and produced a manuscript for publication. Also completed were preliminary analysis of growth and reproduction of the whitebelly spinner dolphin, *S. longirostris* subsp., an analysis of data for the offshore spotted dolphin, *S. attenuata graffmani*, for the period 1973–75; and a preliminary survey of data for the striped dolphin, *S. coeruleoalba*.

A contract was made to process and analyze the life history data and specimens of the common dolphin, *Delphinus delphis*, by scientists at the Naval Undersea Center, San Diego. Another contract was granted to a private firm for sectioning and reading of a backlog of some 8,000 teeth from spotted and spinner dolphins sampled during the period 1973–76.

A third contract was made with Scripps Institution of Oceanography to develop a technique for aging porpoise teeth that relies on chemical analysis rather than counting of growth rings. This is particularly important because it is still not certain how many growth rings are formed each year.

In stock assessment, the limits of the ranges of the stocks of *Stenella spp.* in the eastern Pacific were investigated in January and February, 1976 using the two NOAA research vessels, R/V *Townsend Cromwell*, based in Hawaii, and R/V *David Starr Jordan*, based in San Diego. These vessels skirted and transected the known limits of the historical ranges of the species to collect data on (1) limits of occurrence, for use in new population estimates; and (2) physical oceanographic and faunistic correlations of the occurrence of dolphins and the simultaneous occurrence of tuna. Results from these cruises may extend the known range of *Stenella* and also indicate the existence of possible new stocks of spotted and spinner dolphins in the area from 0° to 10°S and west to South America.

The assessment of the impact of incidental mortality on the porpoise stocks was undertaken in July 1976, by a workshop composed of a panel of experts in the areas of population dynamics and the biology of marine mammals. In the report of the workshop (SWFC, 1976), the concept of optimum sustainable population (OSP) as it relates to the tuna-porpoise problem in the eastern tropical Pacific was defined. Combined information collected by (1) a 1974 aerial survey, (2) NMFS observers in 1971–76, and (3) analysis of historical records of the Inter-American Tropical Tuna Commission was used to estimate present stock sizes, incidental mortalities, and to project backward in time to predict the stock sizes at the commencement of exploitation. Results of this work indicated that the spotted and whitebelly spinner dolphins were within the lower limits of OSP whereas the eastern spinner dolphin was close to the lower limit of OSP. Additionally, the northern, central, and southern stocks of the striped dolphin (*Stenella coeruleoalba*) were felt to be at or above OSP.

To obtain more reliable and precise estimates of population sizes, a major aerial survey was initiated in January 1977. This survey will involve 300 hours of flying time, 30,000 track miles, and will encompass the eastern tropical Pacific. The aerial survey will be coordinated with ship surveys aboard the *Townsend Cromwell* and the *David Starr Jordan*. The ships will cover areas that cannot be reached by air. The results of this effort should provide a significant improvement in the reliability of the population estimates, and consequently, in the estimates of the impact of incidental mortality on the porpoise stocks.

Fleet Performance

With the institution of a quota on the number of porpoises that could be killed in 1976 during tuna purse-seining operations by the U.S. fleet, it has become very important to monitor the cumulative mortality during the year and to continue analysis of the kill rate performance of the U.S. fleet.

During 1976, a procedure was designed, published, and followed to monitor the

kill on a monthly basis and predict the date for reaching the 78,000 quota. As a result of the analyses through September 30, 1976, it was calculated that the quota would be reached on October 19, 1976. Subsequent court actions delayed the effective closure date until November 11, 1976.

During the first half of the year (the only part of the year for which a time series of data is available), the U.S. fleet continued to improve its performance in releasing porpoise alive. Under standardized conditions of numbers of tuna and porpoise and species of porpoise caught, the kill per porpoise set fell 21 percent in 1976 from 1975. The overall decline in kill per set from 1973 to 1976 is 55 percent under standardized conditions. A statistical analysis confirmed the need to use standardized conditions in comparing indices of performance from year to year.

RESEARCH ON NORTHERN FUR SEALS, PINNIPEDS, AND CETACEANS

The Marine Mammal Division of NMFS, Northwest and Alaska Fisheries Center, conducted three principal research programs. The northern fur seal program consists of monitoring studies on the status of the fur seal herds, basic population dynamics studies, as well as behavioral and ecological research in accordance with the provisions of the Interim Convention on Conservation of North Pacific Fur Seals. St. George Island has not been established for an indefinite period as a no-harvest research control area for comparative studies with the harvested fur seal population on St. Paul Island.

The pinniped and cetacean programs are aimed primarily at assessing the status of the stocks and obtaining life history information about such species as the bowhead, killer, gray, and humpback whales; commercially harvested species of large whales; and California sea lions. Although the primary geographic area of concern is the North Pacific Ocean including the Bering and Chukchi Seas and the Arctic Ocean, the Marine Mammal Division maintains an interest in marine mammal research throughout the world.

Northern Fur Seal Program

Long-term objectives of the northern fur seal program are to determine what measures may be necessary to make possible maximum sustainable productivity and to determine the relationship between fur seals and other living marine resources.

Population assessment studies being carried out are designed to build a data base on population structure essential to management of the resource. Included are counts of living adult males and of dead pups on land, determination of the number of pups born, and the age composition of harvested seals.

Behavioral research on St. George and St. Paul Islands involves the identification and quantification of behavioral components that may act to control population size. Studies include experiments on the length and regularity of female feeding cycles and on the female estrus cycle. The program is also designed to reveal the optimum ratio of males to females. Radio telemetry is used to define the movement patterns of subadult males on hauling grounds, and the diving and feeding effort of female fur seals on normal feeding excursions is measured using depth-time recorders.

Population assessment and behavioral research are correlated to determine how survival relates to changes in abundance of the fur seal population in order to determine an optimum population level.

Pelagic data collected from 1958 through 1974 are being analyzed. Specific subjects include distribution and abundance, feeding habits, age, growth, intermixture of fur seals of different origins, and age-specific pregnancy rates. The results are essential for calculating the productivity of the fur seal resource and as input into an analysis of ecosystem dynamics.

A program of physiology and medicine involves a determination of causes of death among pups, development of new methods of marking fur seals, and research on the infectious diseases of fur seals.

Pinnipeds of the U.S. Pacific Coast

Biological and population studies are being carried out on the six species of pinnipeds that haul out on San Miguel Island, one of the Channel Islands off Southern California. Special attention is focused on determining the cause of premature births in California sea lions. The number of fur seal pups counted in Adams Cove, San Miguel Island, increased to 417, an increase of 88 over 1975. On Castle Rock, 521 pups were counted, an increase of 125 over the 1975 count.

A long-term study of the Hawaiian monk seal was begun in 1976. Included were studies of behavior and biology, and counts to determine population trends. Two surveys were carried out in 1976 during which 695 animals were counted. Populations at French Frigate Shoals, Laysan Island, and Lisianski Island appear stable; however, those at Pearl and Hermes Reef, Midway, and Kure have declined since the late 1950's.

Marine Mammals of the Arctic Ocean and Bering Sea

Arctic Ocean and Bering Sea studies emphasize assessment of the bowhead whale populations and the effect of the Eskimo harvest on the populations. Information on the distribution and abundance of marine mammals in the Gulf of Alaska, Bering Sea, Chukchi Sea, and Beaufort Sea is collected under the Outer Continental Shelf Environmental Assessment Program sponsored by the Bureau of Land Management.

Cetaceans

Population studies of protected and exploited whales such as sei, minke, and sperm whales, especially in the North Pacific Ocean, are made to develop the data base for management recommendations to the International Whaling Commission. Estimates of stock sizes of large whale species are developed through censuses, whale observation and marking cruises, and analysis of catch and effort statistics. Under this program are the annual gray whale census off Pt. Loma, Calif., the cooperative killer whale survey in Puget Sound, Wash., and humpback whale surveys in southeastern Alaska and Hawaii.

FUNDING

The FY 1977 Marine Mammal Conservation total budget is 97 positions and $5,934,000. The FY 1977 totals include: in MMPA appropriations, 77 positions and $4,445,000 for research, administration, enforcement, and an expanded Tuna-Porpoise Observer Program, in accordance with the provisions of the Act and recent Court Orders; in Fur Seal Act appropriations, 14 positions and $595,000 for research and management associated with the North Pacific Fur Seal herds; in Endangered Species Act appropriations, 6 positions and $294,000 for research and enforcement associated with large whales protected under the Endangered Species Act; and Saltonstall-Kennedy funds in the amount of $600,000 for tuna-porpoise surveillance. Because the MMPA appropriation exceeds the Authorization Limit as stipulated in the Act, NOAA is requesting relief legislation to increase the MMPA Authorization Limit.

The FY 1978 base funding for Marine Mammal Conservation as anticipated will be 97 positions and $5,334,000. Additional positions and funding are being requested for FY 1978 to expand tuna-porpoise research, in the amount of 1 position and $206,000. The anticipated FY 1978 total will include Marine Mammal Protection Act appropriations, 78 positions and $4,651,000; Endangered Species Act appropriations of 6 positions and $294,000; and Fur Seal Act appropriations of 14 positions and $595,000. The FY 1978 total will be 98 positions and $5,540,000 for Marine Mammal Conservation providing that the Increase Request receives favorable Congressional action (appendix C).

PART III. CURRENT STATUS OF STOCKS OF MARINE MAMMALS

INTRODUCTION

Of the approximately 108 species of pinnipeds and cetaceans throughout the world, status reports have been prepared for 69 species which are of primary concern to the United States and which are the responsibility of the Secretary of Commerce under the terms of the Marine Mammal Protection Act. The Act requires a report not only on the status of each marine mammal species, but also on the population stocks. The population stocks of only a few marine mammals have been delineated, and the effort needed to obtain information on most population stocks is beyond the scope of research being carried out at the present time.

Information about each species is summarized under six major headings.

They are distribution and migration, abundance and trends, general biology, ecological problems, allocation problems, and current research. Selected references are listed at the end of each species discussion. Summary information on existing protective regulations for marine mammals is also included.

References are not cited in the report except for the paragraph on abundance and trends. Because of the importance of data on abundance and trends, information in this section is cited and citations are given in the list of references. Data on the abundance of marine mammals are difficult and costly to obtain. Except for a few species which have been harvested commercially, such as large whales and fur seals in the North Pacific Ocean, abundance data are usually inadequate for management purposes.

A list of scientists who have assisted either by providing information or reviewing the status reports is included in this report.

Species List

The following species list indicates the scientific and common names of the 69 species of marine mammals for which status reports have been prepared. The common names used by Rice and Scheffer (1968) for pinipeds, mysticete cetaceans and the sperm whale have been adopted for this list. Odontocete cetacean common names (other than the sperm whale) have been adopted from Mitchell (1975).

The scientific names of several species have been changed since publication of the 1976 edition of this report. Three species of seals, formerly placed in separate genera, have been merged with the genus *Phoca* (Burns and Fay, 1970). The spelling of the specific names of four species is corrected to conform with their original spelling, as required under the International Code of Zoological Nomenclature. Accordingly the following changes have been adopted in this report:

Pusa hispida becomes *Phoca hispida*
Histriophoca fasciata becomes *Phoca fasciata*
Pagophilus groenlandicus becomes *Phoca groenlandica*
Arctocephalus philippi becomes *A. philippii*
Ommatophoca rossi becomes *O. rossii*
Phocoenoides dalli becomes *P. dallii*
Berardius bairdi becomes *B. bairdii*

Two scientific names are currently used for the sperm whale (*Physeter catodon* and *P. macroephalus*). While Husson and Holthuis (1974) indicate that *P. macrocephalus* is the valid name, considerable controversy remains. Therefore, for the purposes of this report, *P. catodon* will continue to be used.

Order Carnivora (incl. "Pinnipedia")

Family Otariidae

Zalophus californianus californianus (California sea lion)
Eumetopias jubatus (northern sea lion)
Callorhinus ursinus (northern fur seal)
Arctocephalus pusillus pusillus (South African (Cape) fur seal)
Arctocephalus australis (South American fur seal)
Arctocephalus philippii (Juan Fernandez fur seal)
Arctocephalus townsendi (Guadalupe fur seal)

Family Phocidae

Phoca hispida (ringed seal)
Phoca vitulina (harbor seal)
Phoca groenlandica (harp seal)
Phoca fasciata (ribbon seal)
Halichoerus grypus (gray seal)
Erignathus barbatus (bearded seal)
Cystophora cristata (hooded seal)
Monachus tropicalis (Caribbean monk seal)
Monachus schauinslandi (Hawaiian monk seal)
Lobodon carcinophagus (crabeater seal)
Ommatophoca rossii (Ross seal)
Hydurga leptonyx (leopard seal)
Leptonychotes weddelli (Weddell seal)
Mirounga leonina (southern elephant seal)
Mirounga angustirostris (northern elephant seal)

Order Cetacea, Suborder Mysticeti

Family Eschrichtiidae

Eschrichtius robustus (gray whale)

Family Balaenopteridae

Balaenoptera acutorostrata (minke whale)
Balaenoptera edeni (Bryde's whale)
Balaenoptera borealis (sei whale)
Balaenoptera physalus (fin whale)
Balaenoptera musculus (blue whale)
Megaptera novaeangliae (humpback whale)

Family Balaenidae

Balaena glacialis (black right whale)
Balaena mysticetus (bowhead whale)

Order Cetacea, Suborder Odontoceti

Family Platanistidae

Platanista gangetica (Ganges susu, Ganges river dolphin)
Platanista minor (Indus susu, Indus river dolphin)

Family Delphinidae

Steno bredanensis (rough-toothed dolphin)
Tursiops truncatus (bottlenosed dolphin)
Stenella longirostris (spinner dolphin)
Stenella attenuata [*frontalis, graffmani,* and *dubia* (spotted dolphin)]
Stenella plagiodon (Atlantic spotted dophin)
Stenella coeruleoalba (striped dolphin)
Delphinus delphis (common dolphin)
Lagenodelphis hosei (Fraser's (Sarawak) dolphin)
Lagenorhynchus albirostris (white-beaked dolphin)
Lagenorhynchus acutus (Atlantic white-sided dolphin)
Lagenorhynchus obliquidens (Pacific white-sided dolphin)
Lissodelphis borealis (northern right whale dolphin)
Grampus griseus (Risso's dolphin)
Peponocephala electra (melon-headed whale)
Feresa attenuata (pygmy killer whale)
Pseudorca crassidens (false killer whale)
Globicephala melaena (long-finned pilot whale, pothead, blackfish)
Globicephala macrorhynchus (short-finned pilot whale)
Orcinus orca (killer whale)
Phocoena phocoena (harbor porpoise)
Phocoenoides dallii (Dall's porpoise)

Family Monodontidae

Delphinapterus leucas (white whale, beluga, belukha)
Monodon monoceros (narwhal)

Family Physeteridae

Physeter catodon (sperm whale)
Kogia breviceps (pygmy sperm whale)
Kogia simus (dwarf sperm whale)

Family Ziphiidae

Berardius bairdii (Baird's beaked whale)
Ziphius cavirostris (Cuvier's beaked whale)
Hyperoodon ampullatus (Northern bottlenose whale)
Mesoplodon mirus (True's beaked whale)
Mesoplodon europaeus (Gervais' beaked whale)
Mesoplodon ginkgodens (ginkgo-toothed whale)
Mesoplodon carlhubbsi (Hubb's beaked whale)
Mesoplodon stejnegeri (Stejneger's beaked whale)
Mesoplodon bidens (Sowerby's beaked whale)
Mesoplodon densirostris (Blainville's beaked whale)

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Status Reports

CALIFORNIA SEA LION

(Zalophus californianus californianus)

Distribution and Migration: This subspecies of the California sea lion ranges along the west coast of Mexico from about lat. 19° N. to southern British Columbia, Canada. The California sea lion breeds on some Gulf of California islands northward to San Miguel Island, California, in lat. 34° N. Many adult and subadult males move northward along the California, Oregon, Washington, and British Columbia coasts after the breeding season. Feral animals which have escaped from captivity are being reported in the southeastern U.S. (including the Gulf of Mexico) but there is yet no evidence for breeding (Caldwell, D. K., pers. comm., 1974).

Another subspecies occurs on the Galapagos Islands, and still another, formerly found in Japanese waters, from 34° to 37° N. is now extinct.

Abundance and Trends: The California Department of Fish and Game censuses indicate that the California sea lion population reached a low level in the early 1930's in California waters, then made a steady recovery and apparently leveled off about 1961 with little variation in the counts since then (Ripley, Cox, and Baxter, 1962; Carlisle and Aplin, 1971). Rice, Kenyon, and Lluch (1965) counted 16,150 California sea lions on Guadalupe, San Benito, and Cedros Islands, Mexico, in January and February 1965. Orr, Schoenwald, and Kenyon (1970) counted this species in the Gulf of California between 1960 and 1968, and made counts on six islands of about 5,400 animals in April 1966. Brownell, et al. (1974) state they made

counts in 1968 of 15,467 on four islands off Baja California. Odell (1971) obtained minimum counts of 34,382 California sea lions on all Channel Islands in June 1964. Peterson and LeBoeuf (1969) estimated that 40,000 animals were ashore on San Nicholas and San Miguel Islands during the 1967 and 1968 breeding seasons. Carlisle and Aplin (1966) obtained a total count in California of 22,000 animals in 1965, using aerial photography. The preceding figures indicate a total population of about 60,000 with near 20,000 animals in Mexico and 40,000 in the United States.

During the nonbreeding season, 2,500 *Z. californianus* may be found in Oregon, 500 in Washington, and 1,000 in British Columbia (Mate, 1975).

On 25 February 1972, 430 California sea lions were counted in Barkley Sound off Vancouver Island, 35 on Race Rocks off Victoria, B.C., and 10 in Dodds Narrows (lat. 49°07' N.) near Nanaimo, B.C. (Bigg, 1973).

Before passage of the Marine Mammal Protection Act by the U.S. Congress, California sea lions were taken by State permit each year for sale to zoos, oceanaria, and circuses. Daugherty (1972) states that 400 of these animals were taken in 1969 and 580 in 1970.

General Biology: Species Statistics.—The adult male grows to 2.1 m and 273 kg; the adult female to 1.8 m and 91 kg. Newborn pups are about 0.8 m long and weigh 5.4 to 6.4 kg.

Reproductive Data.—On San Nicolas Islands, the pupping season begins about 15 May and lasts about 5 weeks, with the peak during the first week in June. The females usually breed 15 to 30 days after parturition, and the mother and pup may remain together the first year. The males establish and defend breeding territories on land; the females move about freely.

Age-Growth Data.—California sea lions have lived 18 to 20 years in captivity.

Feeding Habits.—The California sea lion's food is squid, octopus, and a variety of fish such as herring, sardines, rockfish, hake, and ratfish.

Parasites and Diseases.—During the past 2 or 3 years an apparent increase in premature births and in the mortality rate of subadults and young adults has occurred. Three potential causes have been isolated: (1) chemical residues (polychlorinated biphenyls, DDT, and metabolites); (2) a bacterium (*Leptospira*); and (3) a virus. The greatest single cause of death in wild and captive animals is lungworm. Animals in captivity have also died from pleuropneumonia, pneumonia, and enteric infections, diseases which may also occur in wild populations.

Ecological Problems: Killer whales and large sharks are known to prey upon sea lions. Possibly there is some competition with other otariids for food and hauling grounds. California sea lions associated with certain hauling grounds and rookeries have practically abandoned these areas because of harassment by man. Although most major populations of sea lions are now on sites not easily reached by the public, a few areas, such as the Monterey Bay breakwater in Monterey, California, are used extensively as hauling grounds by California sea lions and are visited frequently by tour boats. The latter sometimes pass within 10 m of the hauling grounds.

Allocation Problems: A history of conflict exists between people for and against complete protection of this species. Some conservation groups would like complete protection for the California sea lion while some fishermen want the number of California sea lions to be controlled. California sea lions are probably the most widely sought-after species of eared seals in the world for public display.

Current Research: The National Marine Fisheries Service conducts research on this species on San Miguel Island off California. The following organizations are conducting research on the California sea lion: University of California, Santa Cruz, California; University of California, Berkeley, California; California Academy of Science, San Francisco, California; Humboldt State College, Arcata, California; and Fisheries Research Board of Canada, Nanaimo, B.C.; Naval Undersea Center, San Diego, California; Navy Biomedical Research Laboratory, Oakland, California.

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NORTHERN (STELLER) SEA LION

(*Eumetopias jubatus*)

Distribution and Migration: The northern sea lion is found in continental shelf water from the Sea of Japan and northern Honshu, Japan, northward around the North Pacific Ocean rim to the Okhotsk and Bering Seas and southward to the California Channel Islands. Some seasonal movements occur in parts of its range. Examples of such movements are differences in the winter and summer distribution of these animals in the Bering Sea, and the postbreeding movements in central California.

Abundance and Trends: Mate (1976) estimated a world population of 250,000 to 325,000. Alaska has 202 known rookeries and hauling grounds. The Alaska population has increased considerably since the early 1900's and now exceeds 200,000 and may be near maximum levels in many areas (Alaska Department of Fish and Game, 1973). Since 1964, several thousand pups have been harvested annually in Alaska until 1973 when the Marine Mammal Protection Act became effective; 6,546 were taken in 1972.

The population of sea lions in British Columbia waters was estimated at 11,000 to 12,000 from an aerial census in 1956–57. The authorities undertook a heavy reduction program in 1959 and 1960, and the population was reduced to about 4,000 animals in 1969 (Banfield, 1974). The breeding population is estimated to be 5,000 by Fisher and Brenton (cited in Mate, 1976).

Kenyon and Scheffer (1962) made six aerial and one surface survey along the Washington coast between 1949 and 1959 and stated that the population did not exceed 500. Mate (1975) revised this estimate to be 600. Pearson and Verts (1970) estimated the Oregon population at 1,078. Mate (pers. comm., 1975) estimated the Oregon breeding population at about 2,000 animals. The California Department of Fish and Game makes periodic aerial censuses of sea lions in

California. Carlisle and Aplin (1971) have given the following figures for sea lions in California north of Pt. Conception: (1958) 7,053; (1961) 6,675; (1965) 4,998; (1969) 7,156, and (1970) 5,189. They consider these to be northern sea lions, although small numbers of California sea lions were known to occur north of Pt. Conception at the time the census was made.

The northern sea lion ranges to the Channel Islands group south of Pt. Conception. In the Channel Islands, the population peaked at about 2,000 in the late 1930's and has declined since (Bartholomew, 1967). In 1975, the San Miguel Island population was estimated by DeLong (pers. comm.) at 30 to 35 plus a few pups.

General Biology: Species Statistics.—The adult males grow to 3.0 m in length and over 900 kg in weight. The adult females reach 2.0 m and almost 300 kg. Newborn pups weigh 16 to 23 kg, are 89 to 102 cm long, and have a dark chocolate-colored pelage.

Reproductive Data.—Northern sea lions favor isolated locations with some shelter, free access to the sea, and freedom from human harassment. Colonies may become established on rock outcrops and boulder, cobblestone, and coarse sand beaches.

Males may mature sexually by age 5 years, but hold breeding territories first at age 7 or 8. Females can first produce young at age 5 or 6, and breed 10 to 14 days after parturition. The adult male maintains a territory 40 to 60 days and fasts throughout the period. The harems consist of 10 to 30 cows. The female is aggressive toward other females for several days after her pup is born.

Age-Growth Data.—The pup sheds its dark chocolate birthcoat for the tan pelage in the autumn of birth. Some pups remain with their mothers the first year. They have been known to live 17 years in the wild.

The northern sea lion has only a few predators besides man—the killer whale and one or two species of large sharks.

Feeding Habits.—The northern sea lion eats a variety of fish and cephalopods. A study of 382 stomachs indicated the following diet: squid, octopus, sand lance, rockfish, clams, crabs, flounder, halibut, greenling, and lumpfish.

Ecological Problems: Northern sea lions in some areas may compete with other pinnipeds for spaces on rookeries and hauling grounds. Some animals have abandoned their rookeries and hauling grounds because of excessive disturbance by humans.

Allocation Problems: Northern sea lions have damaged gear and destroyed fish in the halibut longline, salmon purse-seine, gillnet, and troll fisheries. In recent months, the Alaska Department of Fish and Game has received increasing numbers of gear damage complaints from fishermen with respect to the northern sea lion (J. Vania, pers. comm., 1974). The species has also destroyed herring in herring traps and has been accused of biting and sinking inflated plastic buoys used to mark crab pots. This species has considerable esthetic and recreational value.

Current Research: This species has its center of abundance in Alaska where the Alaska Department of Fish and Game's management and research investigations have been directed primarily at determining abundance and distribution, and the effects of harvesting operations on rookery populations. A marking program began in 1975, and an aerial survey program in 1976. The University of California, Santa Cruz, is also conducting research on the species off California.

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NORTHERN FUR SEAL

(Callorhinus ursinus)

Distribution and Migration: Most of the animals are on their breeding grounds from May through November to bear young and to breed. They otherwise are found at sea along the continental shelf from the Bering Sea south along both sides of the North Pacific Ocean to lat. 32° N. Some intermingling of eastern and western Pacific populations occurs at sea and on land, primarily among males younger than age 6 years.

Abundance and Trends: A program of reducing the population of Pribilof Islands fur seals was begun in 1956 with the expectation that the rate of survival would improve (Roppel, et al., 1963) and result in an increased yield of pelts. By 1968, it had become evident that the herd had been reduced to a level somewhat below that of maximum sustainable yield, and that an increase in the number of pups born was desirable. Thus, female fur seals have not been harvested commercially on the Probilof Islands since 1968 with the expectation that the population would increase. However, less than average survival of several year classes, the cause of which is not understood, has prevented the expected increase.[1] In 1975 the number of pups born was estimated to be 361,000, and in the past the maximum yield of furs was produced when about 400,000 pups were born.

Apparently the Commander Islands fur seals have not become reestablished on a considerable portion of their original rookery area. Consequently, this population should increase to a higher level. It is likely that the Robben Island population is near the maximum. Johnson (1972) estimated the abundance of northern fur seals by breeding islands, as follows:

Location of fur seal rookeries:

	In thousands
Pribilof Islands	1,300
San Miguel Islands	2
Commander Islands	265
Robben Island	165
Kuril Islands	33
Total	1,765

General Biology: Species Statistics.—The adult male weighs 227 to 318 kg, and the female 36 to 59 kg. Newborn pups average 4.5 (female) and 5.4 kg (male). The male is polygynous and establishes his territory in late May and early June.

Age-Growth Data: Pups shed their birthcoat in late summer for the adult pelage. The females reach 23 kg. in weight by age 4 years, or 46 percent of their average adult size of 50 kg. They become sexually mature by age 3–5 years.

[1] An average of 48,000 males were harvested annually in 1956–72, while the average was 65,000 annually from 1939 to 1955.

The males weigh 25–35 kg. by age 4 years, then experience major growth adding approximately 200 kg. of weight by age 10. Males are sexually mature as young as age 4–5 years but do not become members of the organized breeding structure until age 10. Females have been observed to reach 22 years, whereas few males live longer than 15 years.

Reproductive Data.—Most of the pregnant females arrive on the rookeries in late June and early July, when they form harems of 1 to 100 females to 1 adult male. Within 3 days of her arrival, the female bears a single pup (twins are rare), breeds 2 to 5 days later, then begins nursing-feeding cycles of 2 days on land and about 8 days at sea within a 200-mile radius. Implantation of the blastocyst is delayed until November. Most of the males first breed a age 10, and few live longer than 15 years.

General Behavior.—Immature fur seals arrive on the breeding grounds in descending order of age, the males beginning in mid-June and the females in late July. Some 1-year-olds haul out in September and October, but most fur seals return first at age 2. Most of the animals have left the rookeries by December. The adult males winter in northern waters, pregnant females usually migrate as far south as southern California, and young animals of both sexes are found throughout that range.

Diseases and Parasites.—The main causes of death among pups on the rookeries are, in order of importance: emaciation-malnutrition syndrome, hookworm disease, bacterial infections, leptospirosis (perinatal hemorrhagic syndrome), and injuries. Pathogenic bacteria thus far isolated include: *Clostridium perfringens, Proteus mirabilis, Salmonella enteriditis,* and *Leptospira* sp. A psittacosis group chlamydia has been reported, but the clinical syndrome caused by the agent has not been described. A calcivirus, indistinguishable from vesicula exanthema of swine virus, has been found associated with vesicles on the flippers and may be related to emaciation syndrome.

The fur seal has filariid worms, stommach ascarids, intestinal flukes, cestodes, hookworms, and acanthocephalans, and nasal mites, but no heart or lungworms. Hookworms and sucking lice parasitize the newborn.

Feeding Habits: The fur seal is an opportunistic feeder taking squid and a variety of fishes including herring, anchovy, salmon, capelin, saury, walleye pollock, and mackerel.

Ecological Problems: Northern fur seals concentrate within their body tissues contaminants such as pesticides and heavy metals. For example, mercury compounds have been found in fur seal liver. The effect of contaminants on the health of fur seals is unknown. Predators include sea lions, sharks, and killer whales. Some competition may exist between fur seals, other pinnipeds and sea birds (Lander and Kajimura, 1976).

Allocation Problems: In the North Pacific Ocean and Bering Sea, fur seals and commercial fisheries may compete for the same species of fish. Harvesting of fur seals on the Pribilof Islands has been criticized in recent years by animal protection organizations that would prefer esthetic and educational rather than economic use of the resource.

Current Research: Long-term research is financed and carried out by the Governments of Japan, Canada, the U.S.S.R., and the United States. Short-term projects are frequently carried out on the Pribilof Islands by university professors or graduate students.

In 1973 St. George Island was designated by the North Pacific Fur Seal Commission as an area of intensive research where no commercial harvest would take place for some years. An expanded research program on St. George Island began in 1973.

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SOUTH AFRICAN (CAPE) FUR SEAL

(Arctocephalus pusillus pusillus)

Distribution and Migration: The South African fur seal breeds on the mainland and coastal islands of southern Africa from Cape Cross (South West Africa) to Algoa Bay (South Africa). This species shows no definite seasonal migration, but disperses widely while feeding. A marked adult was seen in deep-sea trawling grounds 450 miles from its birthplace. Young seals in their first year (November to October) frequent protected bays and areas near their places of birth. (Another race, *A. pusillus doriferus,* occurs in southeastern Australia and Tasmania.)

Abundance and Trends: Rand (1972b) estimates about 19,500 mature territorial males and about 273,000 mature females on mainland and island rookeries of the Republic of South Africa. Best (1973) estimates that from 250,000 to 300,000 South African fur seal pups are born each year in the Republic of South Africa and South West Africa. Shaughnessy (1975) has reviewed the estimates of Best (1973) and revised them downward to between 211,000 and 213,000 pups. Assuming the number of pups to be ¼ the population, Shaughnessy estimates the total population to be 850,000 animals. First-year pups (about 9 months) and a small (unknown) number of second-year animals of either sex are harvested in the winter (June-September), although all cow seals are protected (Rand, 1972b). In 1950 the winter harvest totaled 27,289 pups and has increased to 76,694 in 1971 (Laws, 1973). The summer kill of surplus adult males (October–December) has declined from 3,000 in the early 1950's to 812 in 1969 (Rand, 1972b).

General Biology: Species Statistics.—The adult males weigh 204.2 to 363 kg and grow to 2.3 m long; females weigh 90.7 to 122.0 kg and are 1.5 to 1.8 m long. At birth the pup is about 0.76 m long and averages 6.4 kg.

Reproductive Data.—In late October, when most of the older pups are weaned, the first adult males come ashore to establish territories and harems; pregnant females arrive about a week later. In November and early December, the female bears a single pup (twins are rare), mates 5 to 6 days later, then leaves its pup for the first time and feeds for 1 to 2 days at sea. Subsequent nursing-feeding cycles extend to 4 to 5 days on land and 7 to 10 days at sea. Implantation of the blastocyst in the uterus is delayed until April or May. Thus, gestation is 7 to 8 months, but may be longer for some females that mate for the first time in their second year.

Age-Growth Data.—Adults of both sexes molt on land (14 days duration) a few weeks after the breeding season, usually during March. The pups also shed their natal hair and milk teeth at this time and acquire the olive-gray coat of the yearling. The copper-colored underfur also becomes obvious.

Weaning is well advanced by September and October, although undisturbed mother-pup relationships may prolong weaning.

Feeding Habits.—Food consists of fish, cephalopods, and various small crustaceans.

Ecological Problems: Sharks and killer whales are natural predators. On the desert coast, the black-backed jackal is a predator on pups.

Allocation Problems: Local fishermen engage in scattered and illegal killing of seals, contending that the animals interfere with their expanding purse-seine fishery. Seals occasionally feed on fish protruding through the meshes of otter trawl nets or taken by line fisheries.

Current Research: A recently expanded research program is carried out by the South African government to measure herd size, production, annual recruitment, natural and harvest mortality, and movements.

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SOUTH AMERICAN FUR SEAL

(*Arctocephalus australis*)

Distribution and Migration: Two major populations of the South American fur seal, identifiable only by size, are found, one on the Falkland Islands (Islas Malvinas) and the other on coastal Uruguyan Islands. Minor populations of this species occur in Argentina, Chile, and Peru. The adults are on the Uruguayan breeding grounds in November and December, and offshore up to 200 miles east on the edge of the continental platform during the austral winter. An extreme northern record for the South American fur seal was of one identified at Rio de Janeiro, Brazil.

Abundance and Trends: In 1972, the Uruguayan population was estimated at 252,000. This population grew from an estimated 129,000 in 1960 to an estimated 174,000 in 1965. According to Strange (1973) the 1965–66 population on the Falkland Islands was 15–Z16,000. From a census taken in 1976, Chile reports a population of 40,000. The data on the Argentine population were collected in 1954 and are given as 2,700. (Advisory Committee on Marine Resource Research, 1976)

General Biology: Species Statistics.—Adult males on the Falkland Islands grow to 159 kg, whereas those in Uruguay reach only 136 kg; the females weigh 33 to 48 kg. The males are blackish-gray; the females and immature animals vary but usually have a silvery-gray neck and back and a yellow tint to the belly.

Reproduction Data.—Males are polygynous and establish territories in early November. Most of the pregnant females arrive on the rookeries in mid-November, and form small harems of about six animals. Within 6 to 7 days, each female bears a single pup and breeds 2 to 3 days later. Most males breed at age 7 years and the females at age 3 years. Uterine implantation of the blastocyst probably occurs in March. Gestation, including the period of delayed implantation, lasts nearly 1 year.

Age-Growth Data.—Most of the animals leave the rookeries during the austral winter. On the rookeries, the fur seals are in close contact with South American sea lions, *Otaria flavescens*. Main causes of death in order of importance are from sporadic storms, which wash large numbers of pups out to sea; the seven-gilled shark; and probably the killer whale, which is common around the larger rookeries.

Feeding Habits.—Brownell cited in Vas-Ferreira (1976) examined 13 stomachs and found remains of anchovies, mackerel, and sea bass.

Parasites and Diseases.—The South American fur seal has nasal mites and 10 species of endoparasites, but no heart or lung worms.

Ecological Problems: Offshore oil wells are planned in the near future and may result in an ecological hazard.

Allocation Problems: The species has esthetic, educational, and economic values. The Government of Uruguay annually harvests about 12,000 male fur seals on the islands.

Current Research: Long-term research on this species is carried out by the Governments of Uruguay and Argentina. In addition, short-term projects are carried out by the Natural History Museum of Montevideo and the Smithsonian Institution.

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JUAN FERNANDEZ FUR SEAL

(*Arctocephalus philippii*)

Distribution and Migration: This seal is known to occur only on the Islas Juan Fernandez (360 and 440 miles west of Valparaiso, Chile) and Islas San Felix (500 miles west of Caldera, Chile). The two groups are 500 miles apart. It is not known elsewhere, and migratory movements are unknown.

Abundance and Trends: In the late 18th and early 19th centuries the population on the Islas Juan Fernandez may have numbered 3 to 3½ million, but was reduced to the point of commercial extinction. Although there were occasional reports of its existence, the species had been regarded as probably extinct since the early 20th century. In 1965 its survival was confirmed (Aguayo, 1971). Aguayo (1973) estimates 700 to 800 seals now occur in the Islas Juan Fernandez. The trend in numbers is increasing. Seals were formerly common on the Islas San Felix; despite several searches, only two seals have been seen there in recent years (Hubbs and Norris, 1971).

General Biology: The biology of this species is little known. Few specimens have been taken, and no studies made. It is now known to breed only on the Islas Juan Fernandez. Pupping occurs in December. The habitat of the Juan Fernandez seal is similar to that utilized by the Guadalupe seal.

Species Statistics: In the genus *Arctocephalus*, this species is second in size to *A. pusillus*. One male taken in November 1968 was 201 cm long and weighed an estimated 159 kg.

Reproductive Data: No study has been made.

Age-Growth Data: No study has been made.

Ecological Problems: None known.

Allocation Problems: Although the species has been given complete protection by Chilean law since 1965, local fish-

ermen may still kill some seals for lobster bait.

Current Research: None known.

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GUADALUPE FUR SEAL

(Arctocephalus townsendi)

Distribution and Migration: The distribution of *A. townsendi* in the 18th and 19th centuries is unknown. The Guadalupe fur seal was believed extinct during two periods (1895–1926; 1928–49). One adult male was observed on San Nicolas Island in 1949, and breeding animals were rediscovered at Guadalupe Island in 1954. Subsequently, individual animals have been reported at Cedros Island, Baja California, and adult and immature males have been sighted on San Miguel Island each year since 1968.

Abundance and Trends: The last Guadalupe fur seal was commercially harvested from the islands of southern California and Baja California in 1894. The populations of Guadalupe fur seals on the Guadalupe and San Benito Islands apparently once numbered in the thousands. Rice, et al. (1965) counted 285 of these mammals on Guadalupe Island and suggested that the population was growing rapidly and may contain as many as 600 animals, including those in the water. Peterson, et al. (1968) counted 372 animals in April 1966. In June 1968, 314 individuals including pups were observed on Isla de Guadalupe (Brownell, et al., 1974). 355 individuals were counted in June and July 1976 by Fleischer (pers. comm.).

General Biology: Biological information on this species is scarce. Specimens have not been collected since their recent rediscovery.

Species Statistics.—The males are almost 1.8 m long and weigh about 136 kg. Males appear somewhat smaller and females considerably larger than *Callorhinus ursinus*. *A. townsendi* can be separated from *C. ursinus* by its narrow, pointed muzzle and the extension of pelage beyond the wrist onto the dorsum of the foreflipper. It is separated from *Zalophus californianus* by its distinctive underfur.

Reproductive Data.—The pups are born in June and July. Although breeding has not been observed, a postpartum estrus probably occurs, which would extend the breeding period into August. The adult males establish territories in isolated caves or recesses that have access to the sea or among large boulders close to the splash zone. Single or small groups of breeding territories are distributed along 20 km of the eastern shoreline of Guadalupe Island. The harems contain 1 to 10 females.

Age-Growth Data.—The adult males apparently spend considerable time at sea; most sightings of males on other islands have occurred during the nonbreeding season, but since 1973 males have been observed at San Miguel Island during the breeding season. The females may not migrate long distances from Guadalupe Island.

Ecological Problems: Increasing numbers of human vistors to Guadlupe Island are subjecting the animals to more disturbance. Because they breed only on Guadalupe Island, the seals need complete protection from undue disturbance and habitat modification.

Allocation Problems: None known.

Current Research: The University of California makes periodic censuses of this species. In 1976, the University of Washington and NMFS, Marine Mammal Division, will begin a study of the species.

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HARBOR SEAL

(Phoca vitulina)

Distribution and Migration: The harbor seal is found in the North Atlantic Ocean from the ice pack south to France and Georgia and in North Pacific Ocean waters from the Arctic Ocean south to Baja California and southern Japan and Korea. Populations that breed on the ice in the Bering and Okhotsk seas are distinct from those that breed on land. *Phoca vitulina largha*, the ice inhabiting form, lives in the seasonal pack ice in winter and spring, bearing and nurturing its pup there, and moves toward the coasts when the ice retreats. *P. v. largha* is often regarded as an independent species. The coastal forms (*P. v. richardii* and *P. v. kurilensis* in the North Pacific; *P. v. vitulina* and *P. v. concolor* in the North Atlantic) are more sedentary. The harbor seal is the predominant nearshore seal in ice-free waters north of lat. 35°N.

Abundance and Trends: Overall, the world population of harbor seals appears to be high and stable. About 750,000 are present in the North Pacific area (Alaska Department of Fish and Game, 1973; Bigg, 1969; Chapskii, 1966) and about 150,000 in the European North Atlantic region (Chapskii, 1966). Popov (1976) estimates the Bering Sea supports 135,000 largha seals.

General Biology: Species Statistics.—Harbor seals of all subspecies are of medium size; large adults of both sexes are from 160 to 180 cm long and weigh about 130 to 150 kg. Pups weigh from 9 to 12 kg, and are about 80 to 90 cm long at birth. Pups of ice-inhabiting harbor seals are born with white coats, whereas those of the coastal form possess dark coats. Coloration in the adults varies considerably; the background varies from creamy white to dark brown with irregular dark brown blotches.

Reproductive Data.—Adults of the ice-inhabiting form pair in March for the duration of the breeding season, and a single pup is born to each pair on the ice, usually in March or April. Adults of the coastal form congregate on islets and also bear a single pup, usually in April to July. The pups of each form nurse 4 to 6 weeks, in which time the weight is more than doubled. Males of both forms become sexually mature at 4 to 5 years of age; females at 3 or 4 years. Breeding is annual, and the period of pregnancy (including delayed implantation) is about 10.5 months.

Age-Growth Data.—Adults of both forms are gregarious outside the breeding season. The annual molt occurs between August and early November; it proceeds from the posterior to the anterior parts. Predators include the polar bears, walrus, killer whale, and sharks. Golden eagles have been known to prey upon newborn pups resting on sandbars.

Feeding Habits.—The diet of the harbor seal, which varies according to season and location of specific populations, includes primarily pelagic, demersal, and anadromous fishes, cephalopods, and crustaceans. In captivity a single animal eats about 4 kg of fish per day.

This species has been known to dive as deep as 91.5 m for short periods and can remain under water for as long as 23 minutes.

Parasites and Diseases.—Almost all adult seals have anisakid roundworms and corynosomid acanthocephalans, and occasionally, high infestations of anopluran lice. The latter seem associated with filarial heart worms and may be vectors. Toxoplasma has been reported in captive animals, but its presence in wild seals is not verified.

Ecological Problems: In some parts of its range, the harbor seal contributes to high worm infections in fish, notably codfish. This animal is extremely sensi-

tive to disturbance, and may leave an area temporarily or even permanently after continual harassment by people, equipment, or aircraft. Contamination of the environment with pesticides, heavy metals, and other contaminants may be a problem for the land-breeding harbor seal, because it frequently inhabits the relatively closed waters of bays and estuaries where these contaminants are likely to concentrate.

Allocation Problems: These seals damage commercial fishing gear and compete with man for such fish as herring, smelt, whitefish, and salmon.

According to the Alaska Department of Fash and Game, hunting and the harvest of the harbor seal have declined markedly during the past year because of a reduced market for salable products from these species, mainly skins. In southeastern Alaska, the decreased harvest has resulted in additional conflicts between the harbor seal and the fishermen.

Current Research: Ongoing research in California, Washington, British Columbia, Alaska, the U.S.S.R., and Japan is aimed toward the identification of North Pacific populations and describing their distribution and movements, reproductive biology, feeding habits, growth, physiology, and ecology.

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RINGED SEAL

(Phoca hispida)

Distribution and Migration: The ringed seal is circumarctic is distribution in the ice pack. In the North Pacific Ocean it is found in the Bering, Chukchi, and Okhotsk Seas and in the permanent ice pack of the Polar Basin. In winter, most ringed seals occupy areas of landfast ice, but nonbreeding adults and juveniles may be found wherever ice occurs. Apparently, animals wintering in the Bering and Chukchi Seas move northward in spring as the ice recedes and southward in autumn as it advances again, whereas those in the Canadian Arctic may reside year-round in the same locality. In western Alaska, the ringed seal is the dominant near-shore seal during months when sea ice is present and is replaced by the harbor seal during ice-free months. A small proportion of the population, mainly juveniles, remains in ice-free areas of the Bering Sea during summer.

Abundance and Trends: Counts of ringed seals on land-fast ice along the northern coast of Alaska made in 1970 (Burns and Harbo, 1972) indicated that the density of resident animals varies from 5.36 per square mile in the Chukchi Sea between Point Lay and Wainwright, to 1.06 per square mile in the Beaufort Sea between Oliktok and Flaxman Island. Overall, the population in the Bering and Chukchi Seas appears high and is probably stable. Estimates of population size made by the Soviets are difficult to evaluate because they recognize three subspecies with overlapping ranges. The Soviets estimate the total population of *P. hispida* at 5 to 6 million (Chapskii, 1966); *p. h. hispida* (North Atlantic and Arctic Oceans) at 2,500,000; *P. h. krascheninikovi* (western Bering Sea) at 12,000; and *P. h. ochotensis* (Okhotsk Sea) at 800,000 to 1,000,000 animals (Fedoseev, 1969, from Bychkov, 1971). The Alaska Department of Fish and Game (1973) estimates the Bering-Chukchi Seas population at about 250,000 ringed seals. The U.S. harvest is now limited to an aboriginal harvest of 9,000 to 13,000 animals. Soviet pelagic sealing is now prohibited in the Bering Sea and limited to a quota of 18,000 pelagic and 7,000 shore animals in the Okhotsk Sea; harvest in the Bering and Chukchi areas is 2,000 to 3,000 animals annually.

General Biology: Species Statistics.—The ringed seal is the smallest of the northern seals. The adults of both sexes grow to about 125 cm in length and 66 kg in weight. A few individuals, usually females, become much larger. The animals undergo marked seasonal changes in weight, being heaviest in mid- to late winter. Newborn pups are 55 to 65 cm long, weigh about 4.0 kg, and bear white coats. Coloration of the adults is variable. Dorsally they may be brown to blueish-black in background with irregular creamy rings with dark centers. The ventral surface may be silvery white to creamy yellow with scattered black spots.

Reproductive Data.—Males become sexually mature at 6 to 8 years of age, females at 5 to 7 years. The ringed seal breeds annually, has a 10.5-month period of pregnancy (including delayed implantation) and is probably monogamous. The males are sexually active between mid-March and mid-May, but they do not collect harems. The females are monestrous, and the oestrous period is postpartum while the females are still lactating. The pups are born from March to about mid-May in a birth lair within an ice pressure ridge or under drifted snow. The females nurse their pups for a full 4 to 6 weeks. A longer nursing period in sheltered northern bays, where snow and ice remain longer, produces larger pups.

Age-Growth Data.—The weight of the pup triples during the nursing period. The annual molt occurs between mid-May and mid-July, but a few molting individuals have been noted as late as 1 September. Maximum longevity exceeds 35 years, but one individual (a male) was 43 years old according to annuli on the dentine layers of its teeth.

Predators of adults include sharks, killer whales, and polar bears. Polar bears and arctic foxes prey upon newborn "whitecoats" in their natural dens, and even the larger and more powerful gulls attack exposed young pups.

Feeding Habits.—Ringed seals tend to be solitary, but congregate in areas favorable for feeding, along extensive tide cracks in land-fast ice, and during seasonal migrations. The diet of these seals varies considerably, depending on their location and water depth. Their diving potential appears to be a depth of 91.5 m and for as long as 20 minutes. In western Alaska, this seal feeds mainly on mysids, amphipods, euphasiids, shrimps, saffron cod, polar cod, and sculpin. These seals fast from April to late June or July during their reproductive and molting seasons.

Parasites and Diseases.—The mammals commonly have internal parasites, including roundworms, acanthocephalans, and anopluran lice.

Ecological Problems: None known.

Allocation Problems: According to the Alaska Department of Fish and Game, hunting and the harvest of the ringed seal have declined markedly during the past year because of a reduced market for salable products from these species, mainly skins.

Current Research: The State of Alaska monitors the Eskimo harvest and conducts some biological research and conjunction with other programs. Canada conducts research on the ringed seal.

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HARP SEAL

(Phoca groenlandica)

Distribution and Migration: The harp seal occurs in pack ice in the North Atlantic and Arctic Oceans from Europe to eastern Canada. In the spring, it migrates south for breeding to the White Sea, to the Greenland Sea north of 73° N, and to southern Labrador, northeastern Newfoundland, and the Gulf of St. Lawrence.

Abundance and Trends: Three breeding stocks of harp seals are known, the eastern (White Sea), central (Norwegian Sea around Jan Mayen Island), and western (Newfoundland). The last is divided into two substocks, one east of Belle Isle on winter pack ice drifting southward—the "Front," and the other in the southern Gulf of St. Lawrence on winter ice formed in situ—the "Gulf." Sergeant (1973 estimates the total eastern Canadian population at 1.3 million. The number of pups born decreased from about 400,000 in 1960 to 300,000 in 1970. The population size in 1970 was less than that giving maximum production, and estimates indicated the 1970 catch was well in excess of the sustainable yield (International Commission for the Northwest Atlantic Fisheries. 1971. Redbook, Part I, Standing Committee on Research and Statistics Proceedings, annual meeting). From an aerial survey, the west Atlantic stocks were determined to be 630–790,000 animals (Lavigne et al, 1975). Ronald et al. 1976, give the following estimates: White Sea, 600,000; Greenland Sea, 100,000; N.W. Atlantic, <1,000,000.

In 1971 the International Commission for the Northwest Atlantic Fisheries banned seal hunting in the Gulf of St. Lawrence from large vessels and from aircraft and set a quota of 150,000 harp seals for the hunt off Newfoundland and Labrador by Canadian and Norwegian nationals.

General Biology: Species Statistics.—The adults grow to about 1.8 m and 135 kg; newborn pups are about 1.0 m long and weigh 11.8 kg.

Reproductive Data.—The females mature at age 4 to 6 year sand bear a single pup annually after a gestation period of about 7.5 months. The pups are born from late January to early April, and are nursed for 10 to 12 days, by which time they have attained a weigh of 38 to 40 kg. Apparently the female can delay birth until there is suitable ice.

Age-Growth Data.—Molting by the pups is completed at 4 weeks. The maximum life span is about 30 years.

Feeding Habits.—Pups feed in surface waters on small pelagic crustaceans and small fish. The food of adults includes capelin, herring, cod, polar cod, flatfish, redfish, skate, barracudina, and various crustaceans.

Ecological Problems: One species of helminth affecting the harp seal is also found in the muscles of groundfish, particularly cod, necessitating expensive removal by hand.

Allocation Problems: The harp seal may eventually conflict with man over capelin stocks as this fishery expands. Several animal protection societies object to the harvest of harp seals.

Current Research: Canadian, Danish, Norweigian, and Soviet Government scientists are studying the population of harp seals. At the University of Guelph, scientists are studying the biology of this mammal.

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RIBBON SEAL

(Phoca fasciata)

Distribution and Migration: Geographically, the ribbon seal is separable into the Okhotsk and Bering-Chukchi Seas populations, and interchanges between these two groups are not known to occur. In the latter group, the center of abundance is in the central Bering Sea. The ribbon seal bears and nurtures its pup on the sea ice. During winter and spring, the entire population is concentrated along the southern edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge as it retreats northward through Bering Strait. In summer and autumn, ribbon seals are believed to be pelagic, mainly in the ice-free Bering Sea.

Abundance and Trends: The population of ribbon seals is relatively low, having been markedly reduced by commercial sealers of the Soviet Union during the 1960s. In recent years the species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. U.S. citizens harvest very few ribbon seals. The Alaska Department of Fish and Game (1973) estimates that the population probably does not exceed 100,000 animals. Soviet estimates indicate a population of 133,000 in the Okhotsk in 1969 (Popov, 1976). Soviet sealers took less than 3,000 ribbon seals in 1973 from Bering and Okhotsk Seas. In Alaska, the native harvest is usually less than 250 per year.

General Biology: Species Statistics.—Adults of both sexes average 155 cm in length and 80 kg in weight. A very large female was 179.7 cm long with a girth of 114.3 cm, had a blubber thickness of 6.1 cm, and weighed 148.2 kgs. The pups are born with white coats.

Reproductive Data.—Pups are born from late March to mid-April and average about 10 kg and 80 cm. Males become sexually mature between 3 and 5 years of age; females between 2 and 4 years of age. The species breeds annually and pregnancy (including delayed implantation) probably lasts 10.5 months. A very large 23-year-old female (see measurements given above) obtained in March was carrying a near-term fetus.

Age-Growth Data.—The pup nurses for about 4 weeks, during which time its weight triples. Maximum longevity is estimated at 26 years.

Feeding Habits.—The diet of these seals during late winter and early spring (in the ice edge zone) includes mainly pelagic and demersal fishes, cephalopods, and small crustaceans.

Parasites and Diseases.—Ribbon seals host anisakid roundworms in the stom-

ach and corynosomid acanthocephalans in the intestine.

Ecological Problems: None known.

Allocation Problems: None known.

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GRAY SEAL

(Halichoerus grypus)

Distribution and Migration: The gray seal inhabits the North Atlantic Ocean, with major populations in eastern Canada, Iceland, and northwestern Europe. Disperson, particularly by pups, from the Canadian breeding colonies in late spring and summer presumably accounts for most of the gray seals seen scattered along the coast of Maine. The tendency for adults to disperse is far less, although they at times make pronounced local movements. One animal tagged in eastern Canada was recently taken off western Norway.

Abundance and Trends: The world population is estimated at 50,000 to 60,000 animals, with about two-thirds of these animals in the British Isles (Bonner, 1972). Because the population estimates for 1956–71 fit a straight-line projection reasonably well, it can be presumed that the population will continue to expand in this manner (Bonner and Hickling, 1974). Platt, Prime, and Witthames (1974) state that the annual increase in the number of births indicates a similar trend in the total population in the Farne Islands. An estimated 5,000 gray seals inhabit Canadian waters. A small colony of 10 to 15 animals was noted in the 1960's on Muskeget Island, Massachusetts.

General Biology: Species Statistics.—Adult males may reach a total length of 300 cm and weigh 290 kg; females are smaller, up to 230 cm and have a weight of 249 kg. The average weight and length of the newborn pups are 13.6 and 0.9 m, respectively. The adult coat is gray with obscure black blotches on the flanks and back, with lighter underparts. The pups are born in a long white coat which they molt when 3 to 4 weeks old to assume a dark gray, spotted juvenile coat.

Reproductive Data.—Sexual maturity is reported to be reached between 6 and 7 years of age for members of Canadian populations. In the Farne Islands, bulls do not breed until their 8th year, and most do so between 12 and 18 years of age. Cows do not enter the breeding population until their 10th year. The apparent gestation period is 11.5 months, and single births are the rule. Pups of the Canadian and Baltic populations are born mostly in February, whereas most of those in Britain are born in September and October. The pups are weaned in about 3 weeks, at which time mating occurs.

Age-Growth Data.—Following birth, the pup gains about 1.4 kg per day and weighs about 41 to 45 kg when weaned at about 3 weeks. It begins to molt after the third week. When the molt is completed, it makes its way to the sea and disperses. When they are yearlings they have changed little in weight (40 kg), but are 115 to 127 cm long. The cows molt annually between late January and April, and males between late February and May. Estimated by dental rings, captive gray seals have reached an age of 41 to 42 years, and wild seals have reached an age of up to 35 years.

Feeding Habits.—The adult seals feed chiefly on skates, mackerel, flounders, cod, hake, and herring; and occasionally salmon, haddock, sea bass, dogfish, squid, and crustaceans.

Parasites and Diseases—In the Baltic Sea, the seals harbor an anisakine namatode, *Terranova (Porracaecum)* decipines.

Ecological Problems: People occasionally harass the animals and use them for target practice. An oil spill in the Georges Banks area could do irrevocable harm to the only U.S. colony located on Muskeget Island, Massachusetts.

Allocation Problems: A significant indirect cause of damage by gray seals to fisheries in the waters around the British Isles and off Canada is the harboring by the seals of an anisakine nematode, *Terranova (Porracaecum) decipines*, the larvae of which infest cod and other gadids, reducing their commercial value.

Current Research: Research on biology, ecology, and populations continues by Canadian and British Governments and private groups. Some work is also being carried out by the University of Massachusetts on Muskeget Island and by the State of Maine.

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BEARDED SEAL

(Erignathus barbatus)

Distribution and Migration: The bearded seal is found in the North Pacific region in the Bering, Okhotsk, and northern Japan Seas and is circumpolar in the Arctic Ocean. In winter and spring it is found from the southern edge of the seasonal ice pack, north to permanent ice, wherever areas of broken, moving ice exist. During summer and autumn, it occurs along the edge of the permanent polar ice of the Arctic Ocean. Marked seasonal migrations are associated with the advance and retreat of the seasonal ice. The bearded seal is usually solitary, though very loose aggregations are sometimes observed during the breeding season. It does not normally come ashore.

Abundance and Trends: All populalations seem to be at high levels and relatively stable. A Soviet estimate places the population of 450,000 animals in the East-Siberian, Chukchi, Bering, Okhotsk, and Japan Seas (Bychkov, 1971). The Alaska Department of Fish and Game (1973) estimates a population of 300,000 animals in the Bering, Chukchi, East-Siberian, and Beaufort Seas. The combined U.S. native and Soviet harvest in the Bering, Okhotsk, and Chukschi Seas is 8,000 to 10,000 seals per year, well within the biological productivity of this species. Hunting loss, however, is high (op. cit.). Soviet pelagic sealing has been prohibited since 1970. Land quotas are 5,000 for Okhotsk Sea and 3,000 for Bering Sea. U.S. subsistence catch has been less than 3,000 animals.

General Biology: Species Statistics.—The bearded seal is the largest phocid of the western arctic and subarctic. Large adults attain a winter weight in excess of 340 kg. From June through September the adults weight from 215 to 240 kg and average 236 cm in length. Some adult females are slightly larger than adult males. The pelage is a smoky-gray with a darker brown cap and dorsum. Newborn pups weigh about 31 kg, are 132 cm long, and have a gray-brown natal coat.

Reproductive Data.—The males become sexually mature at 6 or 7 years. Some females ovulate at age 3 years, but

reproductive maturity is not attained until age 5 or 6 years. Female bearded seals are unique among northern seals in that they possess four mammary teats instead of the usual two, and produce one pup every other year instead of annually. A single pup is born, usually during late April or early May. The female does not ovulate until early June when the males are out of breeding condition; therefore, they must wait a year to be mated again. The period of pregnancy is 10.5 months, including 2.5 months of delayed implantation.

Age-Growth Data.—The weight of the pups triples by the end of the 12- to 18-day nursing period. They then molt their natal coat for one similar to the adult's, although it is sometimes spotted. The adults probably molt shortly after mating. Yearlings are about 160 cm long. Bearded seals attain full growth at about 10 years of age and average 235 cm long in the eastern Canadian arctic and 225 cm at Svalbard. At Svalbard, age groups are fully recruited at age 9 years and live to about 31 years.

Polar bears are a natural enemy of the bearded seal.

Feeding Habits.—The bearded seal consumes several species of invertebrates, principally crabs, shrimps, clams, and amphipods, and some demersal fishes, all from less than 200 meters.

Parasites and Diseases.—Most bearded seals, other than nursing pups, are heavily parasitized by anisakid roundworms in the stomach, acanthocephalans and diphyllobothriid cestodes in the intestine, and lice on the skin.

Ecological Problems: The bearded seal is the final host for anisakid worms that infect fishes, but this problem is unimportant in Alaska at present. About 1% of these animals harbor *Trichinella spiralis*, the cause of trichinosis in man.

Allocation Problems: None known. Bearded seals consume commercially important pandalid and changonid shrimps and lithode crabs; however, they do not compete directly for commercial fishes, nor do they damage fishing gear.

Current Research: None known.

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HOODED SEAL

(*Cystophora cristata*)

Distribution and Migration: The hooded seal occurs mainly in the east Greenland pack ice from Bear Island and Spitzbergen to Jan Mayen, Iceland, and Denmark Strait. It also occurs off southern Greenland, southeastern Labrador, and the Gulf of St. Lawrence. Stragglers appear on the American coast as far south as Cape Kennedy, Florida, along the Canadian Arctic coast as far west as Herschel Island, and on the European coast as far south as the Bay of Biscay, France. Hooded seals prefer deep water and thick, drifting ice floes.

In March 1974, an aerial survey by the Fisheries and Marine Service of Canada rediscovered a whelping population that had been reported by two different sources, one in 1840 and the second in 1873. The seals were located between 63° 20′ and 64°20′N, 56°00′ and 56°30′W. There were adults, pups, and blood patches,, indicating that births had taken place recently. Total numbers were estimated to be 50,000 animals. This population is believed to be the source of recruitment that maintains the herd of hooded seals at icefields east of Newfoundland where the species is heavily hunted.

Abundance and Trends: Hooded seals of all ages are harvested commercially when the animals are congregated for molting. According to Scheffer (1958), the herds in the middle of the 20th century were estimated 300,000 to 500,000. Sergeant (1965) states that the catch rate of hooded seals has been high. The average annual kill from the Jan Mayen Island heard declined from about 53,000 (1949–53) to about 40,000 (1959–63) (Popov, 1967). Since 1972, quotas of 15,000–30,000 animals have been imposed. Popov, 1976, estimates the population to be between 500,000 and 600,000.

General Biology: Species Statistics—Adult males grow to 2.7 to 3.0 m and 408 kg; females are slightly smaller. The adult coat is gray, covered with black patches of irregular size. The pups shed their light gray embryonal hair before birth and when born have an exceptionally beautiful silver gray coat dorsally with a creamy white ventral surface.

Reproductive Data.—The pups are born from late March to early April, are 1.1 m long and weigh 23 kg. Seals of both sexes mature at age 4 to 6 years. The adults mate when the lactation period ends (about 2 weeks).

Age-Growth Data.—The pups are nursed about 2 weeks. The adults return to sea after mating, leaving the pups on the ice where they remain an additional 2 weeks before following the adults. Hooded seals of all ages are preyed upon by polar bears.

Feeding Habits.—Hooded seals feed on octopus, squid, rosefish, herring, capelin, cod, shrimp, mussels, and starfish. Capable of deep diving.

Ecological Problems: Oil exploration shows signs of increase on the Labrador shelf and with it the stress on marine mammals may increase. There may also be competition for food with the human fishing industry.

Allocation Problems: None known.

Current Research: Research on the hooded seal is carried out by the Fisheries Research Board of Canada, Denmark (Grönlands Fiskeriundersögelser), Norway (Fiskeridirektoratets Havforsknings Institutt), and the Soviet Union (VNIRO).

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CARIBBEAN MONK SEAL

(*Monachus tropicalis*)

The Caribbean monk seal is classified as endangered in the Red Book of the International Union for the Conservation of Nature. From 17 to 29 March 1973, the Bureau of Sport Fisheries and Wildlife, Department of the Interior, conducted an aerial survey of this species' former habitat in the Gulf of Mexico and Caribbean Sea. The conclusion is that the Caribbean monk seal is now extinct (Kenyon, in press).

From the 1973 survey and from other field observations, it formerly inhabited shores and islands of the Greater Antilles, Bahamas, Yucatan Peninsula, and Florida Keys. It was reported at Serannilla Bank as late as 1952. A single pup was born, probably in alternate years. The adults grew to 2.4 m in length. The color was a uniform brownish gray above; the underparts were pale yellow or yellowish white. Monk seals were

vulnerable to hunters because they were sluggish, unwary, and not easily alarmed.

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HAWAIIAN MONK SEAL

(*Monachus schauinslandi*)

Distribution and Migration: The Hawaiian monk seal breeds only on French Frigate Shoals, Laysan Island, Lisianski Island, Pearl and Hermes Reef, and Midway and Kure Atolls of the Leeward Hawaiian Islands. The first four of these islands are within the Hawaiian Islands National Wildlife Refuge (HINWR). Rarely do individuals wander southeastward to the main Hawaiian Islands. The species is not known to have a migratory pattern.

Abundance and Trends: The total population was estimated at 1,350 in 1958 (Rice, 1960). It was classified as endangered under the Endangered Species Act of 1973, on November 13, 1976. All monk seals are considered endangered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed 3 March 1973. Counts in the 1960's and 1970's suggest that the population is declining (Kenyon, 1973), owing to human disturbance on pupping and nursing areas. During the 1976 pupping season on two surveys had counts of 695 individuals (R.L. DeLong, pers. comm.).

General Biology: Species Statistics.—An adult female measures 2.3 m, and her estimated weight is 273 kg. On the average, females outweight adult males. A typical male is about 2.1 m long and weighs about 173 kg. The new born pups weight 16 to 17 kg and are about 100 cm long.

Reproductive Data.—Observations of 47 tagged individuals on Kure Atoll indicate an annual reproductive rate of 15 living pups per 100 adults. About 19% of the adult females breed in successive years, and only 56% of the adult females had pups in either of two seasons.

The age at which Hawaiian monk seals of either sex first breed is not known, but they may do so at age 3 years. Pups are born from late December to July, with the peak in April and May. They nurse about 6 weeks.

Age-Growth Data.—The pup grows from 100 to about 130 cm during its first year. The weights of 6 yearlings averaged 45 kg. Two seals tagged as yearlings doubled their weight in their second year, and one increased in length by 36% and the other by 15%. They probably do not attain full growth until at least 4 years of age. A technique developed for determining the ages of these seals by examination of the upper canine teeth indicated an age for one female of about 11 years and about 20 years for a male.

Sharks are serious predators.

Feeding Habits.—Spewings found on haul-out areas included the remains of reef and bottom fishes, eels, and cephalopods.

Ecological Problems: Harassment of the monk seal by humans and dogs on Midway and Kure Atolls may be causing a problem by preventing these animals from using sheltered dry pupping areas.

Allocation Problems: None known.

Current Research: A joint study has been undertaken by NMFS and U.S. Fish and Wildlife Service scientists. During 1976, the first year of the study, all breeding islands were surveyed in March and April. Recommendations were made to conserve and protect the monk seal. In 1977, research teams will intensively study the species on these islands.

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CRABEATER SEAL

(*Lobodon carcinophagus*)

Distribution and migration: The species is circumpolar and abundant in pack ice of the southern oceans. It is found as a straggler in Uruguay, New Zealand, Australia, Tasmania, and South America. Part of the population moves toward the coasts in summer and away from land in the winter.

Abundance and Trends: The crabeater seal is the most abundant species of seal in the Antarctic, with population estimates ranging from 2 to 5 million (Scheffer, 1958) to 30 million (Erickson, et al., 1971). Laws (1973) believes that the later estimate is unreliable, but that earlier estimates were too conservative. Gilbert (1974) is in general agreement with Laws and provides an estimate of 15,000,000.

Laws (1972) reports that a total of 1,251 crabeater seals were killed or captured in the Antarctic Treaty area during the period 1964–69, which does not pose a direct threat to these seals.

General Biology: Species Statistics.—Adult males grow to a maximum length of about 2.6 m and 270 kg in weight. At birth the pups are about 1.4 m long and the natal color is gray-brown. Color ranges from black to silvery white, depending on the individual, its age, time of year in relation to the molt, and dampness of pelage.

Reproductive Data.—Little information available on the breeding habits; mating has not been observed, but sperm are present in the testes of males in October and November. Single pups are born during the Antarctic spring (mid-September to early November). Available data indicate that the adults attain sexual maturity between the 3d and 6th years.

Age-Growth Data.—By January or February the pups have grown so large that they are difficult to distinguish from adults. The adults molt in January and February while partly fasting. The life span as determined from tooth sections is 29 years or more.

Killer whales and leopard seals are known to prey upon crabeater seals, and may be responsible for the numerous scars on a high proportion of these animals.

Feeding Habits.—The principal food of the crabeater seal is krill.

Parasites and Diseases.—The species has lice on the skin, roundworms in the stomach, and, rarely, tapeworms in the intestine.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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ROSS SEAL

(Ommatophoca rossii)

Distribution and Migration: The species is circumpolar in heavy pack ice of the Antarctic Ocean.

Abundance and Trends: The Ross seal is usually solitary. Scheffer (1958) lists the population at 20,000 to 50,000, but more recent estimates of population size are greater than 100,000 (Hofman et al., 1973) and 220,000 (Gilbert, 1974).

Laws (1972) states that only 23 Ross seals have been killed or captured in the Antarctic Treaty area from 1964 to 1969, and that clearly there is at present no serious direct threat to these animals.

The Ross seals account for 1.0 to 2.0% of the total Antarctic pinniped population (Hofman, et al., 1973).

General Biology: Species Statistics.—The adults reach a length of about 2.4 m. The animal is plump, with a short, wide head, a small mouth, and small teeth. The vocalizations of this mammal are striking and account for the common name "singing seal."

Reproductive Data.—Little is known of its reproduction, and newborn pups have never been seen. The males matures at 3 to 4 years, and the female at 2 to 7 years. Breeding probably takes place in November, and available evidence indicates that the pups are born about 11 months after implantation.

Age-Growth Data.—Molting probably occurs in January and February. These animals may live up to 12 years.

Feeding Habits.—Food consists primarily of fish, cephalopods, and krill.

Parasites and Diseases.—Roundworms are found in the stomach, tapeworms in the intestine, and lice on the skin.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying the population dynamics of Antarctic seals.

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LEOPARD SEAL

(Hydrurga leptonyx)

Distribution and Migration: Leopard seals are circumpolar in Antarctic pack ice and in southern temperature regions and subarctic islands in the winter. They are occasionally seen off the southern tips of New Zealand, Australia, South America, and South Africa.

Abundance and Trends: The leopard seal is a solitary animal. Scheffer (1958) estimated the population at 100,000 to 300,000. More recently, in 1972, Laws (1973) estimated the population at 250,000 to 500,000.

Laws (1972) reports that 140 leopard seals were killed or captured in the Antarctic Treaty area, which does not indicate any threat to the population.

General Biology: Species Statistics.—The adult males grow to 3.0 m in length and 450 kg in weight; adult females reach 3.3 m in length and 500 kg in weight. Leopard seals have a long slim body, large head, and wide gape. Newborn pups are 1.6 m long and weight 29.5 kg. The color of adults is dark gray dorsally and light gray ventrally, and a variable amount of spotting is present.

Reproductive Data.—Males are sexually mature at 3 to 7 years, and females at 2 to 6 years. Analysis of random specimens indicates that parturition occurs between October and December, but, unlike crabeater and Weddell seals, breeding may not occur until January or March. The gestation period is 240 days. Lactation lasts about 2 months.

Age-Growth Data.—The life span for both sexes is judged to be more than 25 years, based on studies of tooth sections.

Feeding Habits.—The leopard seal, largest of the Antarctic seals, is the only seal that regularly feeds on warm-blooded animals. Their food consists of other seals, euphausiids, penguins, whale carcasses, fish, and squid.

Parasites and Diseases.—Leopard seals suffer from diseased teeth, tumors, bony nodules in nasal passages, and stomach carcinomas.

Ecological Problems: Krill harvest could have deleterious effect upon population size.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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WEDDELL SEAL

(Leptonychotes weddelli)

Distribution and Migration: This species is circumpolar in fast ice around Antarctica, occasionally reaching as far north as Uruguay (lat. 35°S). It is littoral in distribution and nonmigratory. Because of its occurrence near scientific stations it is the best known of the Antarctic seals.

Abundance and Trends: The population was estimated to be 200,000 to 500,000 by Scheffer (1958) and 250,000 to 500,000 by Laws (1973). Recent investigations (Erickson and Hofman, 1974) suggest a total population in excess of 756,000. Gilbert (1974) estimated 730,000 in pack ice alone (excluding animals in shore-fast ice).

Laws (1972) reports that a total of 893 Weddell seals were killed or captured in

the Antarctic Treaty area during the period 1964–69, which poses no threat to the population.

General Biology: Species Statistics.—Adult males grow to 3.2 m in length and may reach 450 kg in weight. Females are slightly larger than males. Newborn pups are 1.5 m long, weigh 29 kg, and have permanent dentition. Coloration of adults is dark brown to black, conspicuously mottled with white spots.

Reproductive Data.—Males reach sexual maturity at 6 to 8 years; females at 3 years of age. The average age of breeding females is 9 years. Pregnancy lasts 9 to 10 months. The pups are born from September to early November on fast ice, usually close to the Antarctic continent. The mating period has not been defined, but males with sperm and females that had ovulated have been collected between late November and mid-December. Lactation lasts 6 to 7 weeks, and pups are weaned at 6 weeks. The females protect their pups and are aggressive toward intruders.

Age-Growth Data.—The pups molt their natal fur and replace it with the adult pelage by the 44th day. Initial weight gains are dramatic: the pups gain an average of 12 kg or more per week for the first 6 weeks and weigh as much as 135 kg by the time the molt is completed. The life span, as determined by the teeth, is not over 20 years.

Tooth wear asociated with maintaining breathing holes may be a mortality factor.

Feeding habits.—Weddell seals feed on mysids, decapod crustaceans, amphipods, cephalopods, euphausiids, and various species of fish.

Parasites and Diseases.—Wounds inflicted on this mammal heal slowly, and festering sores are common. Kidney stones and uterine fibroids have been found. Weddell seals are heavily infested with tapeworms, trematodes, and roundworms.

Ecological Problems: Local populations are discrete breeding units which could be eliminated by oil slicks.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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SOUTHERN ELEPHANT SEAL

(*Mirounga leonina*)

Distribution and Migration: The southern elephant seal is circumpolar on subantarctic islands, south to the ice edge of lat. 78° S. It breeds on the continental coast of Argentina and on subantarctic islands.

Abundance and Trends: The population of the southern elephant seal has been estimated at 600,000±100,000 (Laws, 1960). This species was once sought for its oil. It was nearly extinct by 1900, but since that time regulations have allowed the herds to increase. At South Georgia the average annual kill between 1952 and 1964 was 6,000 animals. There has been no commercial sealing there since 1964, although licenses to harvest these animals have been offered (Laws, 1973).

Laws (1972) reported a total of 25 southern elephant seals killed or captured in the Antarctic Treaty area during the period 1964–69, and states that clearly there is at present no serious direct threat to these seals, although one cannot rule out the possibility of restricted overexploitation of some local populations.

General Biology: Species Statistics.—The southern elephant seal is the largest pinniped. Males grow to 5.5 to 6.1 m in length and 3,628 kg in weight; females reach 3.1 to 3.7 m and 907 kg. The newborn pups are 1.2 m long and weigh from 37.6 to 49 kg.

Reproductive Data.—Males are sexually mature at 4 years, and hold harems at 5 to 7 years in commercially utilized populations. The females mature at age 2 years and bear single pups at age 3. In unutilized populations, the females mature at age 3 to 6 years, but the males do not reach harem status until 12 years old. The breeding season varies with locale and occurs from August through November. Most harems contain 20 to 40 females, but up to 100 have been counted. The pups are born in October, about 1 week after the females haul-out, and nurse about 23 days. The females mate about 18 days after their pups are born

Age-Growth Data.—The pups weigh 113 to 181 kg at weaning. The molt usually starts in early November, when the pups, then 2 to 3 weeks old, shed their natal fur and older immature seals begin to haul-out to molt. Mature females begin their molt in late December or January and mature males in late January or February. The molt requires about 18 days to complete. After the molt, they return to the sea and probably spend the winter feeding near pack ice.

The females live about 12 years and the males up to 20 years.

The leopard seal and killer whale are natural enemies of the southern elephant seal.

Feeding Habits.—Shortly after weaning the pups feed on amphipods for a time, after which they feed primarily on cephalopods and fish.

Ecological Problems: None known.

Allocation Problems: According to Laws (1973), the southern elephant seal may become threatened because they compete with Soviet fishermen for commercial species of fish in the vicinity of Kerguelen Islands.

Current Research: The University of Minnesota makes incidental observations of this mammal while studying the Antarctic seal species.

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NORTHERN ELEPHANT SEAL

(Mirounga angustirostris)

Distribution and Migration: This species originally occupied rookeries and hauling grounds on the mainland and islands from Cabo San Lazaro, Baja California, northward to Pt. Reyes, just north of San Francisco. Nonbreeding animals range at least as far north as southeastern Alaska.

This species is now known to breed on Isla San Benito, Islas Los Coronados, Isla Cedros, San Miguel Island, Santa Barbara Island, San Nicolas Island, and Ano Nuevo Island. Also, a northern elephant seal was born on southeast Farallon Island January 20, 1972, indicating that this species is continuing to expand its breeding range northward since its near-extermination during the last century (LeBoeuf, et al., 1974).

Abundance and Trends: By 1890 the population had been reduced to 100 or fewer animals found only on Guadalupe Island, but this number increased to an estimated 15,000 animals by 1960 (Bartholomew and Hubbs, 1960). A total of 10,581 were counted in April 1968 on the six Mexican islands off Baja California (Brownell, et al., 1974). Peterson and LeBoeuf (1969) estimated a population of about 30,000 in 1969. This species has reoccupied most or all of its historic rookeries and hauling grounds.

The California Department of Fish and Game has counted elephant seals during sea lion censuses in early June since 1965 (Carlisle and Aplin, 1971). Carlisle (1973) has counted *Mirounga* on San Miguel Island each year from 1965 through 1973 except 1968. Carlisle counted 3,600 *Mirounga* on San Miguel in 1973.

Odell (1974) believes that the San Nicolas Island population is increasing. The largest California population of *Mirounga* is found on San Miguel Island where DeLong and Johnson (in press) estimate the total island population to be 16,000.

General Biology: Species Statistics.—Maximum body lengths are about 5 m for adult males and 3.3 m for adult females. Newborn pups are about 1.2 m long and have black natal pelage.

Reproductive Data.—The adult males usually arrive first on the rookeries in November, followed by the pregnant females in December. Dominant adult males occupy choice locations within the breeding colonies and do most of the mating. The female usually bears a single pup about 7 days after her arrival and weans it about a month later. The female is bred during her last few days ashore. Most pups are born January 1 to February 10.

Age-Growth Data.—On San Nicolas Island most pups have molted their black natal pelage for the gray pelage of older animals by 1 March. The age at which the pups go to sea is not firmly established, but they spend at least 2 to 3 months ashore. Older animals return to shore to molt beginning with the females about 1 April, followed by immatures of both sexes, and the males are the last to return.

Feeding Habits.—Little information on the feeding habits of *Mirounga* is available. The stomach of one elephant seal contained seven ratfish, one 66.0 cm California dogfish shark, one swell or puffer shark, three skates, and four squids. The species apparently can feed at considerable depths, as indicated by prey species and the fact that three young *Mirounga* were taken on hooks set at about 100 fathoms. The stomach of a subadult male found dead in California contained the remains of cusk eels, toadfishes, scorpionfishes, flounder, cat sharks, and segments of undetermined teleosts and elasmobranchs.

Ecological Problems: Oil from the Santa Barbara spill of 28 January 1969 coated about 100 elephant seal pups ashore on one area of San Miguel Island. The pups had been weaned and apparently suffered no ill effects.

Allocation Problems: None known.

Current Research: Scientists from the University of California at Santa Cruz, California, are studying this species.

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GRAY WHALE

(Eschrichtius robustus)

Distribution and Migration: The gray whale is now restricted to the North Pacific Ocean, although it once occurred in the North Atlantic Ocean.

Two geographically isolated populations are recognized: (1) the eastern Pacific ("California") stock, which spends the summer in the Chukchi, western Beaufort, and northern Bering Seas (and rarely along the coast as far south as central California), and migrates to the west coast of Baja California and the southern Gulf of California for the winter; and (2) the western Pacific Ocean ("Korean") stock, which spends the summer in the northern Sea of Okhotsk and migrates to the southern coast of Korea for the winter.

Abundance and Trends: Eastern North Pacific Ocean—contrary to earlier published estimates, the original population was almost certainly less than 15,000 (Henderson, 1972). During the late 18th and earlier 19th centuries the population was greatly reduced. Since complete protection was given the stock in 1947, the population has increased to about 11,000 and has remained stable since 1967 (Rice and Wolman, 1971). An average of about 160 gray whales are killed each year in a subsistence fishery on the Chukotski Peninsula of Siberia. In Alaska, no more than five per year have been taken by Eskimos in recent years.

Western North Pacific Ocean—in 1910, the population probably numbered between 1,000 and 1,500. The status of this population is uncertain at the present time, but it appears to be nearly extinct.

General Biology: The gray whale is identified by its mottled gray color and low hump in place of a dorsal fin. It feeds on benthic amphipods and other benthic invertegrates on the summering grounds, and fasts during migrations and on wintering grounds. Sexual maturity is attained at an age of 5 to 11 years, at a mean body length of 11.0 m for males and 11.6 m for females. The mating sea-

son is in late November and early December while the animals are on their southward migration. The calf is born following a 13-month gestation period after the pregnant females have arrived in certain shallow lagoons on the west coast of Baja California. The female bears a calf only once every 2 or more years. The calves average about 5.0 m long at birth and are weaned 7 months later when they are about 8.0 m long.

Ecological Problems: The gray whale is now valuable as a tourist attraction, and it supports a rapidly increasing cruise-boat industry, including ½-day cruises off San Diego and Los Angeles, and week-long cruises from these ports to Scammons Lagoon.

These activities have generated a problem of increasing harassment of the whales. In 1972, the Mexican Government declared Scammons Lagoon a whale refuge, so the cruise boats are now partly regulated.

Allocation Problems: None known.

Current Research: Studies on gray whales are being made by the National Marine Fisheries Service and the Soviet Union's Far Eastern Institute of Marine Fisheries and Oceanography.

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MINKE WHALE

(*Balaenoptera acutorostrata*)

Distribution and Migration: The minke whale inhabits all oceans of the world, except equatorial regions, and ranges into the polar pack ice zones in the Northern and Southern Hemispheres. It makes extensive seasonal migrations between high-latitude summering grounds and low-latitude wintering grounds.

At least three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. The affinities of the minke whale stocks in the northern Indian Ocean are unknown.

In the eastern North Pacific Ocean, the minke whale ranges from the Chukchi Sea south to northern Baja California during the summer, and from central California south to within 2 degrees of the Equator during the winter.

In the western North Atlantic Ocean, it ranges from Baffin Bay south to Chesapeake Bay during the summer, and from the eastern Gulf of Mexico and northeastern Florida south to Puerto Rico and the Virgin Islands during the winter.

Abundance and Trends: The exploitable population in the Southern Hemisphere originally numbered about 183,000 and currently numbers about 157,000. For the North Atlantic there is no estimate of the original population, but the present population is about 80,000. No estimates are available for the North Pacific.

The minke whale has long been an important species in the "small whale" fisheries of the world. In 1975 (including the 1975/76 Antarctic season), catches were over 9,522, distributed as follows:

North Atlantic	1,969
Japan	370
Korea	(1)
Brazil	1,039
South Africa	110
Antarctic	6,034

[1] No data (566 in 1974).

General Biology: The minke whale is the smallest member of the genus *Balaenoptera*, not exceeding 10 m in length in the Northern Hemisphere. The northern animals are distinguished by a white band on the flipper; individuals from the Southern Hemisphere average about a meter longer, and usually lack the white flipper band. The minke whale feeds mainly on euphausiids, but also takes some small fishes. In the Northern Hemisphere, it attains sexual maturity at an age of 7 to 8 years and an average body length of 7.0 m in males and 7.9 m in females. The female bears a calf only once every 2 years (rather than annually, as once believed). During the summer, pregnant females migrate to much higher latitudes than do the lactating and immature females.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on minke whales is being conducted by the Japanese Far Seas Fisheries Research Laboratory, the South African Division of Sea Fisheries, and the Norwegian State Institute for Whale Research.

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BRYDE'S WHALE

(*Balaenoptera edeni*)

Distribution and Migration: Bryde's whale is found in tropical and warm temperate waters around the world. In the western Atlantic Ocean, it ranges from Maryland south to Cabo Frio, Brazil, and in the eastern Atlantic Ocean from Morocco south to the Cape of Good Hope. In the Indian Ocean, it ranges from the Cape of Good Hope north to the Persian Gulf, east to the Gulf of Martaban, Burma, and thence south to Shark Bay, Western Australia. In the western Pacific Ocean, it is distributed from northern Hokkaido, Japan, south to Victoria, Australia, and North Island, New Zealand; in the eastern Pacific Ocean, it ranges from central Baja California, Mexico, south to Iquique, Chile.

At least some of the temperate zone populations (Japan, South Africa) make limited seasonal migrations. The tropical populations may be sedentary.

Abundance and Trends: The population in the western North Pacific, north of lat. 20°, originally numbered about 20,000, and has now been reduced to about 16,000. No estimates are available of population sizes elsewhere in the world.

Until recently, Bryde's whales have been of minor importance in the modern whaling industry, and only a few were taken by shore stations in Japan, South Africa, and rarely elsewhere. Since 1970, however, increasing numbers have been harvested by pelagic expeditions in the western North Pacific Ocean, as these expeditions have shifted operations more to the south. In 1975, 1,433 were killed there—1,317 by Japanese and Soviet pelagic expeditions, and 116 by Japanese shore stations. The only ones reported taken in the Southern Hemisphere were three taken by the shore station at Durban, South Africa. However, it is belived that most of the 151 "sei" whales taken by the combination catcher-boat/factory-ship *Sierra* (registered in Somalia) off Angola were actually Bryde's whales.

General Biology: Bryde's whales is similar in appearance to the sei whale, and the two species were formerly confused. The Bryde's whale is slightly smaller—usually less than 13.5 m long; its throat grooves extend posteriorly beyond the umbilicus, and it has a pair of lateral ridges on top of its snout, one on each side of the median ridge. The fringe on its baleen plates is much coarser than that of the sei whale. It feeds mainly on small schooling fishes, and also takes some euphasiids and other crustaceans. Males attain sexual maturity at an average length of 12.2 m and females at 12.5 m. The mating and calving season is usually during the winter, but in some areas—South Africa, for example, they breed year-round. The gestation period is about 1 year. The female does not bear a calf 2 years in succession.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on whale is being conducted by the South African Division of Sea Fisheries and the Japanese Far Seas Fisheries Research Laboratory.

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SEI WHALE

(Balaenoptera borealis)

Distribution and Migration: The Sei whale is nearly worldwide in distribution. In the eastern North Pacific, it summers from California to the Gulf of Alaska and Aleutian Islands; in the North Atlantic, from New England and British Isles to the Arctic Ocean. It winters at low latitudes. In Southern Hemisphere this species summers in all oceans from lat. 30°S southward, and in winter it is generally found north of lat. 40°S.

Abundance and Trends: Information in this section is from the annual reports of the International Whaling Commission and from recent reports of the Bureau of International Whaling Statistics. The number of sexually mature animals originally numbered about 217,000 (excluding the North Atlantic, for which no estimates are availble), and has now been reduced to about 110,000, distributed by major ocean areas as follows:

Ocean	Original population	Current population
North Atlantic	(1)	(1)
North Pacific	42,000	9,000
Southern Ocean	175,000	101,000

[1] No data.

Inclusion of sexually immature whales would increase these estimates by roughly 50 percent. The sei whale is the second most valuable baleen whale, and populations appear to be near the level of maximum sustainable yield. Catches of sei whales in recent seasons have been:

Season	North Pacific	North Atlantic	Southern oceans (south of 40° south) [1]	Southern land stations
1969	5,158	2222	5,857	917
1970	4,504	139	6,153	465
1971	2,993	476	5,452	446
1972	2,327	315	3,846	[2] 346
1973	1,856	139	4,392	[2] 30
1974	1,280	9	3,859	[2] 354
1975	504	138	1,820	[2] 49

[1] Southern oceans catches are for the seasons 1969–70 through 1976–76.
[2] No data from Chile.

General Biology: The species resembles the fin whale but is slightly smaller, with less white underneath, and a large dorsal fin. In the far north of the Northern Hemisphere it feeds mostly on copepods. The diet is much more varied in lower latitudes—including euphausiids, copepods, sauries, anchovies, herring, sardines, and jack mackerel. Sei whales usually travel in small pods of 2 to 5. They attain sexual maturity at 6 to 12 years of age, at a body length of about 13.1 m (males) and 13.7 m (females). Females bear calves every 2 or 3 years. The mating and calving season occurs in winter in the respective hemispheres. Gestation lasts 1 year, and the calf is weaned when about 7 months old.

Seven percent of the sei whales taken off California have been infected with a unique disease that causes progressive shedding of the baleen plates and their replacement by an abnormal papilloma-like growth.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is conducting population and biological studies of this species. Other organizations carrying out research on this species are the Japanese Whale Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), Norwegian State Institute for Whale Research (Antarctic), South African Division of Sea Fisheries (South Africa), and Soviet All-Union Research Institute of Marine Fisheries and Oceanography.

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FIN WHALE

(Balaenoptera physalus)

Distribution and Migration: The fin whale is worldwide in distribution. In the eastern North Pacific it summers from California into the Chukchi Sea, and in the North Atlantic from Cape Cod and Spain into the Arctic Ocean. The fin whale migrates to more southern latitudes in winter. In the Southern Hemisphere it is generally found at lat. 47° to 60° south in summer and from 20° to 40° south in winter.

Abundance and Trends: Information in this section is from the annual reports of the International Whaling Commission and from the report of the Bureau of International Whaling Statistics, Sandefjord. The stocks available for commercial harvest originally numbered about 470,000, but have now been reduced to about 107,000. These are distributed by major ocean areas as follows:

Ocean	Original population	Current population
North Atlantic	25,000	10,000
North Pacific	44,000	17,000
Southern Ocean	400,000	80,000

Inclusion of immature whales shorter than the legal length limit would increase these estimates by roughly 50 percent. Recent catches from the stocks have been:

Season	North Pacific	North Atlantic	Southern oceans [1]	Southern land stations
1969	1,276	[2] 800	3,002	224
1970	1,012	1,063	2,890	135
1971	802	751	2,683	104
1972	758	689	1,761	[4] 61
1973	460	342	1,288	[4] 52
1974	413	346	979	[4] 26
1975	508	[3] 245	206	[4] 26

[1] Southern ocean catches are for the seasons 1969–70 through 1975–76.
[2] An additional 122 "baleen whales" taken off Spain were probably fin whales.
[3] No data from Spain.
[4] No information from Chile.

The fin whale is commercially the most valuable baleen whale. Stocks in the North Pacific and southern oceans are below maximum sustainable yield levels.

General Biology: This species is second in size only to the blue whale; in the Northern Hemisphere it grows to at least 23.2 m and is distinguished by a gray back, white belly, and well-developed dorsal fin. Fin whales feed mostly on euphausiids, but often eat fish—especially anchovies in the North Pacific and capelin in the North Atlantic.

They usually travel in small pods of 2 to 5 animals. Fin whales are sexually mature at 6 to 12 years, and at a body length of about 17.7 m (males and 18.3 m (females). Females bear calves every 2 to 3 years. The mating and calving season occurs in winter in respective hemispheres. Gestation lasts 1 year, and the calf is weaned at about age 7 months.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is conducting population and biological studies of this species. Other organizations carrying out research on this species are the Japanese Whales Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), British National Institute of Oceanography (South Africa and Antarctic), South African Division of Sea Fisheries (South Africa), and Soviet All-Union Research Institute of Marine Fisheries and Oceanography (North Pacific and Antarctic).

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BLUE WHALE

(*Balaenoptera musculus*)

Distribution and Migration: The blue whale is found throughout all oceans from the Equator to the polar pack ice zones in the Northern and Southern Hemispheres. It makes seasonal migrations between rather restricted high-latitude summering grounds and low-latitude wintering grounds.

At least three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. Each population is probably comprised of several more or less discrete stocks. The "pygmy blue whale" of the southern Indian Ocean is morphologically distinct from the stocks which spend the summer in Antarctic waters. The affinities of the blue whale populations in the Arabian Sea and Bay of Bengal are unknown.

In the eastern North Pacific Ocean, blue whales range from the Aleutian Islands and Gulf of Alaska south to central California during the summer, and from central Baja California south to within 8 degrees of the Equator during the winter.

In the western North Atlantic Ocean, they range from Davis Strait south to the Gulf of St. Lawrence during the summer and spend the winter in the waters east of the West Indies.

Abundance and Trends: During the first half of the 20th century, the blue whale was one of the most important cetaceans to the whaling industry, but it is now so rare that it will require probably half a century of complete protection to restore the stocks to a significant level. In the North Pacific Ocean, the population, which once numbered about 5,000, now contains about 1,700 individuals (Wada, 1975). This species apparently has been slowly increasing since 1966, the year it was first given complete protection.

The population in the western North Atlantic (off eastern Canada), which originally numbered about 1,100 (Allen, 1970), now numbers only a few hundred. Estimates of the eastern North Atlantic population have not been made.

The Southern Hemisphere population originally numbered about 200,000 (Chapman, Allen, and Holt, 1964), but was severely depleted before complete protection was given the stock in 1965. The present population is estimated at about 9,000, half of which are pgymy blue whales (Masaki, 1975).

General Biology: The blue whale is the largest mammal that ever lived on Earth, reaching a known length of 29 m and a weight of 136 tons. It is distinguish from the fin whale by its mottled blue-gray color dorsally and ventrally, its smaller dorsal fin, its broad flat snout, and its black baleen plates. Blue whales feed exclusively on euphausiids during the summer and fast during the winter. They become sexually mature at an average age of about 10 years, when males of the Antarctic stocks average 22.5 m and females 24.0 m; whereas the "pygmy blue whales" of the southern Indian Ocean average about 2 m less in length. Every 2 or 3 years during the winter the female gives birth to a calf after a 12-month gestation period. At birth the calf is about 7 m long; when weaned 8 months later it is about 15 m long.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Observers aboard whaling and research vessels record sightings of blue whales and routinely report them to the International Whaling Commission.

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HUMPBACK WHALE

(*Megaptera novaeangliae*)

Distribution and Migration: The humpback whale is found in almost all oceans from tropical waters to the edge of, but not into, the polar pack ice zones in the Northern and Southern Hemispheres. It makes extensive seasonal migrations between high-latitude summering ground and low-latitude wintering grounds—the latter along continental coasts or around islands.

Three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. Each population is comprised of several almost entirely discrete stocks.

In the eastern North Pacific Ocean, the humpback whale ranges from the Chukchi Sea south to southern California during the summer, and from southern California south to the Islas Revillagigedo and Jalisco, Mexico, and also around the Hawaiian Islands, during the winter.

In the western North Atlantic Ocean it ranges from Disco Bay in western Greenland south to Massachusetts during the summer, and from Hispaniola and Puerto Rico south to Trinidad during the winter.

Abundance and Trends: The humpback whale was important, especially to shore stations, during the first half of the 20th century. Now, however, this mammal is so scarce that it will require a half century of complete protection for it to increase to a significant level. A few are killed in subsistence fisheries in Greenland, the Lesser Antilles, and the Tonga Islands. It has a minor value as a tourist attraction in Hawaii and southeastern Alaska. The original population size of the North Pacific Ocean is unknown, but is now severely depleted to about 2,500 individuals (Wada, 1975). A summer resident population of about 60 animals occupies the inside waters of southeastern Alaska. The population has apparently not increased since complete protection was given the species in 1966.

The original population size of the North Atlantic Ocean is unknown, and the western North Atlantic Ocean stock is now reduced to about 1,000 animals (Winn, Edel, and Taruski, 1975). A small increase may have occurred in recent years. Estimates of the eastern North Atlantic Ocean population have not been made.

The original population of the Southern Hemisphere, which probably numbered about 100,000, now contains about 2,500 individuals (Masaki, 1975). The stock has apparently not increased since complete protection was given the species in 1964.

General Biology. The humpback whale is much more heavy bodied than members of the genus *Balaenoptera*, and is characterized by its extremely long flippers. It feeds mainly on euphausiids, but also eats anchovies and sardines when available. The species attains sexual maturity at an age of 6 to 12 years, when males average 11.6 m long and females 11.9 m. The mating and calving season is from October to March in the Northern Hemisphere, and April to September in the Southern Hemisphere. The gestation period is 12 to 13 months, and the calf nurses for about 11 months. The female rarely bears a calf 2 years in succession.

The humpback whale is heavily infested with three species of ectocommensal barnacles and with whale lice.

Ecological Problems: None known.

Allocation Problems: None at present.

Current Research: Observers aboard research vessels and foreign whaling ships record sightings of humpback

whales and routinely report them to the International Whaling Commission. The National Marine Fisheries Service is conducting research on the summer grounds in southeastern Alaska and the winter grounds around the Hawaiian Islands.

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BLACK RIGHT WHALE

(*Baaena glacialis*)

Distribution and Migration: This right whale inhabits all temperate waters of the world. It migrates between summering grounds in cool temperate waters and wintering grounds in warm temperate waters; the wintering grounds are mostly along continental coasts or around islands.

Three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere.

In the eastern North Pacific Ocean, the right whale ranges from Bristol Bay and the Gulf of Alaska south to lat. 50°N during the summer, and from Oregon south to central Baja California during the winter.

In the western North Atlantic Ocean, it ranges from Labrador south to the Bay of Fundy during the summer, and Massachusetts south to Florida and Bermuda during the winter.

Abundance and Trends: The right whale was originally very abundant, but heavy exploitation, mostly during the 19th century, reduced all populations nearly to extinction by the turn of the century. At least some local stocks have increased in recent years. Present numbers are: North Pacific Ocean—about 220 (Wada, 1975). North Atlantic Ocean—no estimate; Southern Hemisphere—about 3,200 (Masaki, 1975).

General Biology: The black right whale is a heavy-bodied animal up to 18.0 m long and is characterized by lack of a dorsal fin and by a large head with a narrow arched rostrum. It feeds mainly on copepods. The reproductive biology is poorly known. Body length at sexual maturity is about 15.2 m in males and 15.8 m in females. Mating and calving occur in the winter so the gestation period is probably about 1 year. The female probably bears a calf only once every 2 (or more) years.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on the black right whale is being carried out by the South African Division of Sea Fisheries and off Argentina by a joint project of the National Geographic Society and the New York Zoological Society. Observers aboard whaling and research vessels record sightings of right whales and routinely report them to the International Whaling Commission.

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BOWHEAD WHALE

(*Balaena mysticetus*)

Distribution and Migration: The bowhead whale inhabits arcitic and subarctic waters in four principal areas: (1) from Spitzbergen west to east Greenland; (2) in Davis Strait, Baffin Bay, James Bay, and adjacent waters; (3) in the Bering, Chukchi, Beaufort, and East Siberian Seas; and (4) in the Okhotsk Sea. They migrate with ice movements.

Abundance and Trends: All bowhead whale populations were decimated by the end of the 19th century because of the great value of this species for oil and baleen (Tomilin, 1957). No commercial whaling for bowheads has taken place since about 1915. Bowhead whales have been completely protected from commercial whaling by the International Convention for the Regulation of Whaling since 1947, and, subsequently, by the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. These acts allow for a subsistence harvest of these whales by the Indians, Aleuts, and Eskimos. In the last two decades the take of bowhead whales by Eskimos in Alaska has varied between 1 (1959) and 48 (1976) (Maher and Wilmovsky, 1963; Marquette, unpublished records). Much of this variation in take is because of variation in hunting conditions, although in recent years an increase in hunting intensity may have taken place. Bowhead whales are taken only occasionally by USSR nationals (Zemsky, 1973, pers. comm.). The bowhead whale population of Canada and the Bering, Chukchi, and East Siberian Seas appears to be increasing (Mansfield, 1971; Burns, pers. comm.). The stocks in the Spitzbergen area and the Okhotsk Sea are nearly extinct, but there have been a few sightings in these areas in recent years.

General Biology: Species Statistics.—The bowhead whale grows to 18 m in lenght. The color is generally black or dark graw, marked by some white, generally on the chin but sometimes also on the belly.

Reproductive Data.—Sexual maturity is reached at 11.6 m and 12.2 m in males and females, respectively. Mating probably occurs in early April or earlier. Gestation lasts 12 to 13 months, with a single calf (3–4.5 m long) born in April–May. The reproductive cycle is apparently 2 years long.

Age-Growth Data.—The calf is weaned at 6 months. Yearlings are from 6.7 to 7.9 m long. These whales travel singly, in pairs or threes during the spring. In autumn they are generally scattered, but may occur in groups of up to 50.

Feeding Habits.—The species feeds mainly on euphausiids and other krill, but occasionally on bottom-dwelling invertebrates.

Parasites and Diseases.—Bowhead whales appear to be remarkably free of external and internal parasites.

Ecological Problems: The north-slope oil project might alter the inshore southward migration should fall steamer and barge traffic increase to force the whales farther offshore.

Allocation Problems: Some conflict of interest may exist between the people who would like complete protection for bowhead whales and Eskimos who hunt these whales.

Current Research: The National Marine Fisheries Service contracted with the University of Southern California to gather biological data on bowhead whales in 1973. In the spring of 1973 a group of scientists from United States and Canadian universities attempted to record underwater sounds of the bowhead whale. The Fisheries Research Board of Canada makes annual surveys from planes of bowhead whales in Canadian waters. In the spring of 1974 the National Marine Fisheries Service reinstituted a research program on bowhead whale.

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GANGES SUSU

(GANGES RIVER DOLPHIN)

(Platanista gangetica)

Distribution and Migration: This species (with which the Indus dolphin, *P. minor*, was formerly thought to be identical) is confined to the Ganges-Brahmaputra river system of India and Bangladesh, from tidal limits to the foothills, and the Karnaphuli River, a small river that empties into the Bay of Bengal east of the mouth of the Ganges. During the summer monsoon season, these dolphins extend their distribution up stream into the smaller tributaries; during the winter dry season they retreat into the larger main streams.

Abundance and Trends: No data are available on population size, but the species is still fairly numerous, and there is no indication that it is currently endangered. A few are captured incidentally in seines by fishermen, who attempt to release the dolphins alive.

General Biology: Sexual maturity is attained at an average age (estimated from growth layers in the teeth) of 10 years, when females have attained a body length of 170 to 200 cm, and males a length of 170 cm. Physical maturity is attained at an age of about 20 years, and a body length of 250 cm for females and 200 to 210 for males. Mating is said to occur from July to September; and the single calf, 70 to 75 cm long, is born between April and July after an apparent gestation period of 8 to 9 months. Such a short gestation period is highly questionable, and Pilleri (1971) suggests evidence for mating in April. The calves are weaned by the beginning of the next winter. The mean interval between successive calves is at least 2 years. These dolphins, which are blind, feed on shrimps and mud-frequenting fishes which they apparently catch by probing about in the bottom of the rivers.

Ecological Problems: None known.

Allocation Problems: None at present.

Current Research: Several field studies have recently been made by biologists from the University of Tokyo, the Bangladesh Agricultural University, and the University of Berne.

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INDUS SUSU

(INDUS RIVER DOLPHIN)

(Platanista minor)

Distribution and Migration: This species (which until recently was thought to be the same as the Ganges dolphin, *P. gangetica*) is confined to the Indus River system of Pakistan and India. It originally occurred throughout the system from tidal limits to the foothills, but is now absent from many sectors. Its movements have been restricted by the construction of many dams ("barrages"), which have split it into several separate populations.

Abundance and Trends: In 1974 the total population was estimated to be between 450 and 500 animals; most (350–400) inhabited the 100 mile (160-km) sector of the lower Indus between the Sukkur Barrage and Baddu Barrage. The population appears to be decreasing at a rate of about 10 percent per year (Kasuya and Nishiwaki, 1975). These dolphins are captured with hoop nets by the local people who eat the meat and use the oil for its alleged medicinal properties.

General Biology: Almost nothing is known of the life history and ecology of this species, but it is presumably similar to the Ganges dolphin. The gestation period is said to be 1 year, with mating and calving in March and April. The annual reproductive rate has been roughly estimated at 0.05, and the annual mortality rate at 0.16.

Ecological Problems: The habitat has been greatly altered by the construction of barrages as part of the extensive irrigation systems in Pakistan.

Allocation Problems: The marked lowering of the water during the dry season greatly limits the area available to the dolphins. The dolphins would be benefited by more economical use of the water for irrigation, so as to maintain water levels above a certain minimum in the reservoirs and main river channels.

Current Research: Several field studies have recently been made by biologists from the University of Tokyo, the University of Berne, the California Academy of Sciences, and the International Union for the Conservation of Nature and Natural Resources.

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ROUGH-TOOTHED DOLPHIN

(Steno bredanensis)

Distribution and Migration: The rough-toothed dolphin inhabits tropical and warm temperate seas. It ranges in the western Atlantic Ocean from Virginia south. In the North Pacific Ocean it ranges north to southern Japan (35° N) where it is rare, and to the Hawaiian Island where it is fairly common. It is known in the eastern Pacific from strandings near San Francisco and in the Galapagos Islands, and from several records in the tropical tuna fishery where it occasionally is captured together with bottlenosed, spotted, and spinner dolphins.

Abundance and Trends: The rough-toothed dolphin is uncommon, but not rare throughout most of its range. It is caught infrequently in the Japanese dolphin fishery (Ohsumi, 1972).

General Biology: Age-Growth Data.—This dolphin grows to about 2.4 m.

Feeding Habits.—Very little is known about feeding habits of this species. The stomachs of specimens captured in the tuna fishery contained remains of fish and squid.

Ecological Problems: None known.

Allocation Problems: Rough-toothed dolphins are occasionally trapped accidentally in commercial fishing gear. In this way, a small number are lost in the eastern Pacific international tuna seine fishery.

Current Research: The Oceanic Institute in Hawaii is studying this species in the wild and had a *Steno-Tursiops* hybrid in captivity. Specimens retrieved from the incidental kill in the eastern Pacific international tuna fishery are examined at the Southwest Fisheries Center, La Jolla, California.

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BOTTLENOSED DOLPHIN

(*Tursiops truncatus*)

Distribution and Migration: The bottlenosed dolphin is widely distributed in temperate and tropical waters, but strays into much colder latitudes. In the western North Atlantic, it ranges at least as far north as Nova Scotia and southern Greenland, but is best known from New England southward to Florida, westward throughout the Gulf of Mexico, and thence throughout the West Indies and Caribbean to Venezuela. From about North Carolina northward this species begins to distribute offshore, and southward its members are nearshore, riverine, and estuarine with far fewer distributed to the edge of the continental shelf. In the eastern Atlantic, it is found from the northeast Scandinavian coast to South Africa. In the eastern north Pacific it infrequently occurs in offshore currents, perhaps as far north as southern Oregon, but is far more common south of Point Conception, where individuals may be encountered primarily within the coastal zone but also less frequently on the continental slope and beyond. The species is probably continuous to central Chile. In the western Pacific, it is found north to Japan and south to Australia and New Zealand. Its Pacific range includes the Hawaiian Islands, where it is said to be common. Nominal species have been named from the tropical IndoPacific (*T. aduncus*), and the northern Gulf of California and waters along the west coast of Baja California and southern California (*T. gilli*). The geographical ranges characters delimiting these named forms are still poorly defined. The Small Cetaceans Subcommittee of the International Whaling Commission commented on the taxonomy of *Tursiops*, as follows: "The necessary taxonomic work has not yet been done, it seems likely that there is only one species of *Tursiops*, with sharply-defined geographical races varying in body size and tooth size and distributed differentially relative to sea temperature and depth. There is great need to gather materials that will allow definitive examination of the nominal species *T. aduncus*, *T. gilli*, and *T. nunanu*, and materials from as many other populations as possible. These names are currently used by some workers." Subjective impressions and limited data from regional surveys and radio and static tagging programs suggest that populations are localized within about a 100-mile radius and that this species does not make long migrations. Bottlenosed dolphins are often seen in large loose schools of several hundred animals, which appear to consist of aggregations of small groups of no more than a dozen individuals. Humpback and right whales traveling along the Atlantic coast of Florida and pilot whales off the southern California coast are almost always accompanied by bottlenosed dolphins. Gray whales along southern and Baja, California are also frequently accompanied by one or more *Tursiops*.

Abundance and Trends: In 1974–75, populations from Mobile Bay to western Louisiana alone were estimated from aerial surveys to number 3,500 to 10,000 animals (Leatherwood and Evans, 1976). Population estimates currently are not available for other areas.

In North Carolina, from 500 to 1,500 animals were killed annually during the early 20th century (Townsend, 1914). A few bottlenosed dolphins are now taken for food in small open-boat pilot whale fisheries in the Lesser Antilles (St. Vincent, St. Lucia, Dominica), and some are harvested by Venezuelan fishermen.' In the past, several hundred bottlenosed dolphins have been taken each year off Florida, Mississippi, and Texas for display in marine aquariums and for research. Based on subjective data it is believed that local populations of the southwestern United States are not now being significantly affected by these activities (D. K. Caldwell, pers. comm.).

Small numbers are taken for food off Baja California and mainland Mexico, in the nets of tuna fishermen in the eastern tropical Pacific, and for aquarium display in southern California and Hawaii.

General Biology: Reproductive Data.—Gestation lasts about 1 year, and calves may nurse for 1.5 to 2 years, although they begin to take solid food at age 6 months. Breeding apparently occurs throughout the year, but the fact that most of the young are born during a certain time of year suggests that breeding, as well as calving, takes place in the spring and summer.

Age-Growth Data.—Bottlenosed dolphins are 1.0 m long at birth and grow to 3.6 m in length and 650 kg. in weight. Captive animals have become sexually mature at 6 years, but recent evidence suggests that this species normally breeds at about 12 years. The estimated life span for this species is about 25 years, but it may be longer indicating that natural mortality is low.

Feeding Habits.—Bottlenosed dolphins feed on several species of fish, squid, and a few crustaceans. In many areas they are catholic in their food selection, seasonally capitalizing on the most abundant or accessible food species.

Ecological Problems: None known.

Allocation Problems: Some fishermen state that bottlenosed dolphins harass fishing efforts by biting fish and shrimp nets, and some attempt to drive them away. Bottlenosed dolphins are occasionally traped accidentally in commercial fishing gear. In this way, a small number are lost in the eastern Pacific international tuna seine fishery. As indicated in the *Tursiops truncatus* Assessment Workshop (Odell, et al., 1975), the effect on the population of taking these animals for display and research off the southeast United States requires further study.

Current Research: Several agencies and institutions conduct or support research on the bottlenosed dolphin. Included are the Office of Naval Research, National Institutes of Health, and the National Science Foundation. The University of Florida concentrates its research on general life history, intraspecies communication, and ecological studies. The U.S. Fish and Wildlife Service is conducting similar detailed studies of the life history of the animals near Tampa Bay, Florida. The Florida State Museum is studying systematics. Research on physiology, echolocation, anatomy, life history, and the behavior of captive and wild individuals has been done at the Naval Undersea Centers in San Diego and Hawaii. These laboratories are also assessing numbers and viability of regional stocks. Texas A&M University is conducting a detailed population study of Aransas Bay, Texas. Studies on vision are being carried out by scientists from the University of Miami. The Dolfinarium at Hardewijk, Netherlands, has recently conducted studies of the physiology and handling of these animals. Specimens retrieved from the incidental kill in the eastern Pacific international tuna fishery are examined at the Southwest Fisheries Center, where studies are underway on their systematics, distribution, life history, and feeding habits.

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SPINNER DOLPHIN

(Stenella longirostris)

Distribution and Migration: The spinner dolphin inhabits tropical inshore and offshore waters around the world. In the United States, it has been recorded on the Gulf of Mexico but not on the U.S. Pacific Coast. In the eastern tropical Pacific, this species commonly associates with the spotted dolphin in mixed aggregations of up to several thousand animals. It is involved in the international tuna fishery in the eastern tropical Pacific, from Cabo San Lucas to Peru and west to about long. 145°W. Little is known of its migrations.

There are at least three races of spinner dolphin in the eastern Pacific and one in Hawaiian waters differing modally in several characters. One form that occurs very near the coast of Central America, referred to below as the "Costa Rican" form, is relatively long, slender, and gray.

A second race, called "eastern spinner" occurs along the coast of Mexico and seaward about 800 km and is relatively short, slender, and gray. A third, called "whitebelly spinner," occurs in far offshore waters west to about long. 145°W and is relatively short, robust, and white below. A fourth form, relatively long, robust, and white below, occurs in Hawaiian waters and possibly to the south and west. The ranges of the eastern and whitebelly forms overlap. In the area of overlap, the two forms are occasionally captured together. A few apparent intergrades have also been collected. The eastern and whitebelly forms are involved in the international tuna fishery.

The maximum recorded straight-line movement of a single animal is 280 miles (448 km) in 396 days.

Abundance and Trends: The size of the population of eastern spinner dolphin was estimated to be 1.2 million as of January 1, 1974. Projecting ahead to the beginning of 1976 on the basis of net reproductive rate and annual kills of 22,000 and 26,000 in 1974 and 1975, the population size was 1.248 million, indicating a recent annual increase of 2%. This population size was determined to be 54% of the pre-exploitation size in 1976 and, therefore, very near the lower limit of optimum sustainable population (SWFC, 1976).

The population size of whitebelly spinner dolphin was estimated to be 566,400 (78% of initial) as of January 1, 1976. This estimate was determined using the ratio of sightings of whitebelly spinner dolphin and offshore spotted dolphin in 1976 and the estimate of spotted dolphin population size in 1976. The annual kills in 1974 and 1975 were 18,000 and 39,000, respectively. Thus, it was determined that the population size of whitebelly spinners is decreasing at a rate of about 3% per year. Exploitation of whitebelly spinners have not been subjected to incidental mortality as long as the other forms of *Stenella;* therefore, the expected increase in reproduction due to a decreasing population size probably has not fully occurred yet.

Data to be obtained from the aerial survey should improve the above estimates, especially for whitebelly spinners. The survey data will provide considerable information from the geographical areas where no information was previously available.

General Biology: Average length at birth is 77.0 cm. Gestation is 10.6 months. Average length of males at attainment of sexual maturity is 170 cm. Average length of adult males is 175.5 cm (range 160 to 192 cm). Average length of females at attainment of sexual maturity is 165 cm. Average length of adult females is 171 cm (range 152 to 187 cm). Approximately 1% of adult females are postreproductive. Estimates of annual pregnancy rate range from 0.450 (based on 1973 data) to 0.474 (based on 1974 data). The pooled estimates for all years' data si 0.461. The corresponding estimates of calving interval (reciprocal of pregnancy rate) are 2.22 years, 2.11 years, and 2.17 years. Estimates of gross annual reproductive rate based on the 1973, 1974, and 1975 data are 0.099, 0.103, and 0.105, respectively. The estimate based on pooled data for the 3 years is 0.102.

Feeding Habits.—The spinner dolphin feeds on small pelagic fishes and squids.

Ecological Problems: None known.

Allocation Problems: Because of its association with yellowfin tuna, this species is taken incidentally by fishermen from the United States, Canada, France, Japan, Mexico, Panama, and other countries in coastal and international waters of the eastern tropical Pacific.

The foreign share of the tuna catch has been increasing in recent years resulting in an increasing proportion of the total incidental kill being caused by foreign fishermen. The increase is expected to continue.

Current Research: The National Marine Fisheries Service and the tuna fishing industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. No other nation involved in the Pacific tuna fishery is conducting research aimed at improving rescue methods and gear to eliminate porpoise losses associated with the tuna harvest.

Other research includes systematics and ecological studies by P. J. H. van Bree at the Zoological Museum in Amsterdam, W. Dawbin at Sydney University, and E. D. Mitchell at the Arctic Biological Station of the Fisheries Board of Canada in Ste. Anne de Bellevue, Quebec; and ethological studies by K. S. Norris at the University of California at Santa Cruz.

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SPOTTED DOLPHIN

(Stenella attenuata, S. frontalis, S. graffmani, S. dubia)

Distribution and Migration: Knowledge of the spotted dolphins is scanty, and their taxonomy is confused, but two species probably exist. The taxonomy used here is provisional. One form is confined to warm waters of the Atlantic and probably is *Stenella plagiodon*, which is discussed in a separate status report. The other apparent species occurs in all tropical waters of the world, including the Atlantic Ocean, and has been identified as belonging to the four above-listed nominal species. Taxonomists do not agree on the taxonomy. The two apparent species are different in basic color pattern, but both have spots.

The spotted dolphin occurs in the Gulf Stream adjacent to the U.S. east coast. Nothing is known of its migrations. It has not been recorded from the U.S. Pacific coast, but it is the primary cetacean species involved offshore in the international yellowfin tuna fishery in the eastern tropical Pacific, from Cabo San Lucas to Peru and west to approximately long. 145° W. In the eastern tropical Pacific, this species commonly associates with the spinner dolphin in mixed aggregations of up to several thousand animals.

Skull measurements and other features indicate that there are at least two races of spotted dolphin in the eastern Pacific and another in Hawaiian waters. They differ in several features. A coastal form is relatively large and robust, has heavy jaws and teeth, and is restricted to onshore waters from Guaymas, Sonora, Mexico, to northern Peru. An offshore race is relatively small and slender, has lightly built jaws and teeth, is spotted to varying degrees, and occurs in offshore waters west to about long. 145° W. The races of the two forms may overlap, or the boundary between them may move seasonally or from year to year. They have not been observed or captured together, but in the central latitudes of the range the coastal form has been collected as far offshore as 50 km and the offshore form as far inshore as 20 km from the coast. The offshore form predominates in the eastern tropical Pacific yellowfin tuna fishery. Another race inhabits the waters around Hawaii and may extend into the South Pacific and to the west. This form is also small and slender, but relatively lightly spotted.

Abundance and Trends: The size of the offshore spotted dolphin was estimated by a stock assessment workshop (SWFC, 1976) to be 3.5 million animals at the start of 1974. Projecting forward on the basis of net reproductive rate and annual mortalities of 25,000 and 106,000 in 1974 and 1975, respectively, the population size as of January 1, 1976, was estimated to be 3.598 million (64% of initial size) with a range of 2.417 to 4.865 based upon two standard errors of the parameters. Using the above midpoint estimates, a recent annual increase in population size of 1.4% is indicated. Additionally, the population was determined to be within the lower end of the range of optimum sustainable population (SWFC, 1976).

The above statistics are based upon assumptions of (1) geographical range of the spotted dolphin, (2) average school size estimates being unbiased, (3) the composition of the kill in relation to age, sex, and species to be representative of the populations, (4) foreign kill rates being equal to the average 1972–1973 U.S. kill rate, and (5) nonregulated trips having the same kill rates as regulated trips. The planned aerial survey in January-March 1977 should provide data for testing the first two assumptions, while data from nonregulated trips in 1976 should test the last asumption.

General Biology: Average length at birth is 82.5 cm. Gestation is 11.5 months. Average length at 1 year is 138 cm. Age is estimated from dentinal layers in thin sections of teeth. A two-phase Laird-Gompertz growth model has been fitted to layer-length data. Direct calibration of the dentinal layers beyond the first year (two layers) is not possible, and three alternative hypotheses are considered: (1) Two layers per year, until pulp cavity occluded, (2) two layers per year in first year, and then one per year thereafter, and (3) two layers per year until puberty, and one per year thereafter. The second alternative is most probably the correct one, but reproductive parameters below are estimated in terms of layers. Breeding is diffusely seasonal, with prolonged calving seasons in spring and fall and a pronounced low in winter. A third calving season may exist in the summer. Average age at attainment of sexual maturity of males is approximately 12 layers (average length about 195 cm and average weight about 75 kg). Females attain sexual maturity on the average at about 9 layers and 181 cm. Apparently post-reproductive females are encountered in the samples. Corpora albicantia of ovulation and pregnancy persist indefinitely in the ovaries. It is not possible to distinguish between the two types of corpora. Ovulation rate changes with age, from about four per layer in very young adult females to about one per layer in older females. The average reproductive cycles lasts 26 months and consists of 11.5 months of pregnancy, 11.2 months of lactation and 3.3 months of "resting" (not pregnant or lactating). About 4% of lactating females are pregnant. Pregnancy rate decreases with age, from about 0.6 per year at 8 to 10 layers, to about 0.3 at 16 layers. The sex ratio in the population overall is 44.9% males and 55.1% females. Sex ratio changes with age, from near parity at birth, indicating higher mortality rates for males. Average gross annual production of calves, 1973–1975, based on age and sex structures of the sample and the estimated pregnancy rate, is 13.1% of the population per year. No evidence has been found of age or sex segregation in schooling. The estimated parameters differ in a consistent way from those estimated for a population of *Stenella attenuata* in the western Pacific, possibly reflecting the exploitation in the eastern Pacific.

Feeding Habits.—Spotted dolphins feed on small mesopelagic and epipelagic fishes and squids.

Ecological Problems: None known.

Allocation Problems: Because of their association with yellowfin tuna, many of these mammals are taken incidentally during tuna harvesting operations by fishermen from the United States, Canada, France, Japan, Mexico, Panama, and other countries in coastal and international waters in the eastern tropical Pacific.

The foreign share of the tuna catch has been increasing in recent years resulting in an increasing proportion of the total incidental kill being caused by foreign fishermen.

Current Research: The National Marine Fisheries Service and the tuna industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. No other nation involved in the Pacific tuna fishery is conducting research aimed at improving rescue methods and gear to eliminate porpoise losses associated with the tuna harvest.

Other research includes systematic and ecological studies by P. J. H. van Bree at the Zoological Museum in Amsterdam, W. Dawbin at Sydney University, and E. D. Mitchell at the Arctic Biological Station of the Fisheries Research Board of Canada in Ste. Anne de Bellevue, Quebec.

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ATLANTIC SPOTTED DOLPHIN

(*Stenella plagiodon*)

Distribution and Migration: The Atlantic spotted dolphin (exact taxonomic position not yet known) is probably confined to tropical and subtropical waters of the Atlantic Ocean. It occurs on the U.S. Gulf coast and off the east coast in Gulf Stream waters, and may be restricted to continental waters, being replaced in the West Indies by some other species in this genus (probably *Stenella frontalis*). Seasonal inshore-offshore migrations occur in Florida waters, perhaps elsewhere in the Gulf of Mexico, with animals moving close to shore in late spring.

Abundance and Trends: Population estimates have not been made for this species. The only known fishery for the species has taken 12 or fewer animals per year for display; however, these animals do not easily withstand handling and captivity. Thus, an increased fishery for display animals is not likely.

General Biology: The newborn are about 0.8 m long, and the adults reach 2.0 to 2.2 m in length. Little is known of the life history of this species. Except for the annual spring migrations to near shore, this species is considered a mammal of the outer continental shelf or adjacent high seas. Spotted dolphins appear to feed primarily on squid in the wild, but they readily adopt to a fish diet in captivity. Newborn and young animals are not spotted, but progress through a series of color changes until the adults become spotted all over except for the ventral surface near the belly. This species is subject to infestations externally by barnacles and whale lice, internally by trematodes in the stomach, liver, and pancreas, and nematodes in the lungs and stomach. In captivity and in cold weather, these animals easily contract pneumonia.

Ecological Problems: Little is known about the ecology of this dolphin, but because it normally lives well offshore, it seems likely that it is little affected by man.

Allocation Problems: None known.

Current Research: Some information on this species has been gathered incidental to studies by the Office of Naval Research on the bottlenosed dolphin. Most of the recent research has been on various aspects of sound production by this species. However, David K. and Melba C. Caldwell have long been gathering general biological information at the Marine Mammal Center of the Communication Sciences Laboratory of the University of Florida located at Marineland, Florida (near St. Augustine).

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STRIPED DOLPHIN

(*Stenella coeruleoalba*)

Distribution and Migration: The striped dolphin inhabits temperate and tropical waters around the world, and has been recorded from both U.S. Coasts. Nothing is known about the movements of striped dolphins in waters contiguous to the United States.

Abundance and Trends: Population estimates were made for the striped dolphin involved in the eastern tropical Pacific yellowfin tuna fishery (SWFC, 1976). The estimate was 248,000. The anual kill averages about 700 in this area, indicating no major impact.

General Biology: (Biological data are based on studies carried out on the population off Japan.

Reproductive Data.—The gestation period is 12 months long. Lactation lasts about 18 months, and the mean length of the reproductive cycle is about 3 years. Schools of striped dolphins segregate somewhat by age and sex.

Age-Growth Data.—The mean length of the newborn is 1 m. The mean age at sexual maturity in males and females is 9 years at 2.2 and 2.1 m, respectively.

Feeding Habits.—The stomachs of 27 speciments taken off Japan contained remains of mesopelagic fishes, squids, and crustaceans; myctophid fishes dominated.

Ecological Problems: None known.

Allocation Problems: The striped dolphin is involved in the eastern Pacific international tuna fishery to a minor extent.

Current Research: A Federal program of research recently begun by Japan is expected to yield an estimate of population size in the northwestern Pacific Ocean. Studies of striped dolphins incidentally killed in the international tropical tuna fishery are underway at the Southwest Fisheries Center.

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COMMON DOLPHIN (WHITEBELLY PORPOISE)

(*Delphinus delphis*)

Distribution and Migration: This species is worldwide in distribution in temperate to tropical waters of from 12°-28°C. There may be more than one species; pronounced variation in size, shape, and coloration hag been demonstrated for three distinct populations in the eastern Pacific (W.E. Evans, pers. comm.). In the northwestern Atlantic Ocean, where this animal is also known as the saddleback dolphin, this mammal ranges from Newfoundland to the Caribbean Sea. In the northeastern Pacific Ocean, the primary distribution of this species is from the California-Oregon border to Costa Rica, but one stranded animal was found in British Columbia. Large populations occur off southern California (Santa Barbara to San Diego), the west coast of Baja California, Mexico (Cedros Island to Cape San Lucas), and Costa Rica. A relatively large population also occurs in, and may be a resident of, the Gulf of California. In southern California waters *Delphinus* is present throughout the year, but is most abundant from August to January. An observed decrease in herd size during the spring and summer may be due primarily to the animals breaking up into small subgroups of 50 to 200 animals, and a general movement offshore and northward.

Abundance and Trends: Population estimates were made for the common dolphin involved in the eastern tropical Pacific yellowfin tuna fishery (SWFC, 1976). The estimate was 1.4 million. The average annual kill of common dolphin in this area is about 9,600 animals. This indicates that there is probably no major impact.

General Biology: Reproductive Data.—Males and females may segregate between mating seasons, especially when the latter are nursing calves or are about to bear their young. The gestation period lasts 10–11 months with a postparturition estrus. The young dolphin is weaned at about age 5–6 months (110–120 cm overall length), but may stay with the female up to 1 year. In the northeastern Pacific Ocean, this species appears to have two mating seasons (January–April and August–November), and two calving seasons (March–May and August–October).

Age-Growth Data.—The young are 75–85 cm at birth. The males grow to 2.6 m and are an average of 14 cm longer than females. The average individual of the northeastern Pacific Ocean is larger than that of the Black and Mediterranean Seas. The largest known specimen from the Black Sea was 212 cm; however, in the northeastern Pacific Ocean a male 259 cm long was taken.

Parasites and Disease.—Parasitism has been implicated in natural mortality. The brains of 12 stranded specimens contained flukes and their eggs, which in most cases had caused abscesses and lesions.

Feeding Habits.—This species is seldom found inside the 100-fathom line, but it frequents seamounts, escarpments, and other prominent offshore features. The animal makes most of its dives in excess of 10 fathoms after sunset. The deepest dive recorded is 140 fathoms, but the average dive is to 30 fathoms. During feeding the animals stays under water for 2 to 3 minutes, but dives of 5 minutes have been recorded. It feeds mainly on anchovy, sprat, pelagic pipefish, and cephalopods in the Black Sea; whiting, horse mackerel, sardine, and hake in the Atlantic Ocean; and anchovy, cephalopods, myctophids, and hake in the northeastern Pacific Ocean.

Ecological Problems: None known.

Allocation Problems: Because the northern anchovy and squid constitute the bulk of this mammal's diet in the northeastern Pacific Ocean, a substantial increase in the fishery for these resources might have a noticeable effect on the porpoise populations. *Delphinus* is the third most important species of porpoise taken incidentally in the eastern tropical Pacific international tuna purse-seine fishery.

The final estimated incidental kill in the international tuna fishery during 1974 was 4,000 animals. Estimates of incidental kills in previous years are 4,000 animals in 1971, 9,000 animals in 1972, and 22,000 animals in 1973.

Current Research: The National Marine Fisheries Service and the tuna fishing industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. Studies of behavior, distribution, and abundance have been conducted by the Naval Undersea Center, San Diego, California, since 1968. This research terminated at the end of FY '73 at NUC, but will continue at the Southwest Fisheries Center.

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FRASER'S (SARAWAK) DOLPHIN

(*Lagenodelphis hosei*)

Distribution and Migration: Only a single specimen of Fraser's dolphin, from Borneo, was known to science until 25 of the mammals were taken in a tuna purse seine in the eastern tropical Pacific. Since then, it has been recorded from several widely separated localities in the Pacific and Indian Oceans: Durban, South Africa; near Sydney, Australia; Tokyo, Japan; and the Central Pacific south of Hawaii.

Abundance and Trends: The animal is rare in collections and presumably not common in its habitat (Perrin, et al., 1973.)

General Biology: Age-Growth Data.—Length at birth is about 1 m, and the adults are about 2.5 m long.

Feeding Habits.—This dolphin feeds on deep-living fishes and squids.

Ecological Problems: None known.

Allocation Problems: Loss of Fraser's dolphins in the eastern Pacific international tuna fishery is minor in terms of absolute numbers, but may be significant considering the apparent extreme rarity of the animal. Of 34 indentified specimens worldwide, 29 have been taken incidentally by tuna seiners.

Current Research: None.

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WHITE-BEAKED DOLPHIN

(*Lagenorhynchus albirostris*)

Distribution and Migration: The white-beaked dolphin inhabits the coastal waters of the North Atlantic Ocean from the Barents Sea and Davis Strait to France and Massachusetts. It is most common in the North Sea from the east coast of the United Kingdom to the Faroe Islands, and may winter in the southerly parts of the North Atlantic Ocean. It appears in Davis Strait in the spring and summer after the beluga and narwhal migrate north and leaves in autumn sometimes as late as November. It apparently ranges farther north into Arctic waters than its relative, the white-sided dolphin.

Abundance and Trends: This species is one of the more abundant of North Atlantic toothed whales. Schools of as many as 1,500 have been reported from the coast of Norway where it is attracted by herring (Fraser, 1949).

Tomilin (1957) reports schools of several hundred and states that this species is taken commercially in Norway, but gives no statistics on the catch. He also mentions that it was once taken commercially in Davis Strait. Mitchell (1975) summarized a small-scale harvesting in Newfoundland.

General Biology: This gregarious species grows to 3.0 m and matures at 2.0 m or larger; the calves are as long as 1.2 m when born. The mating period is long, but limited to the warmer half of the year. Most of the calves are born during midsummer. Food is mainly fish such as herring, cod, whiting, and capelin, but also crustaceans and mollusks such as hermit crabs, whelks, and squids.

Ecological Problems: Strandings of schools of up to 30 animals have been reported.

Allocation Problems: None known.

Current Research: None.

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ATLANTIC WHITE-SIDED DOLPHIN

(*Lagenorhynchus acutus*)

Distribution and Migration: The Atlantic white-sided dolphin ranges the

coastal waters of the North Atlantic Ocean from the Barents Sea and Davis Strait south to France and Cape Cod.

Abundance and Trends: The status of this species is unknown. According to Tomilin (1957), "this dolphin is taken only in summer in the waters of Norway: the animals are trapped in the fjords, which they enter in vast schools pursuing herring. The take may reach 1,500 individuals at a time." It is sometimes taken in association with pilot whales in Newfoundland drive fisheries (Sergeant and Fisher, 1957).

General Biology: This species grows to 3.0 m. Gestation is 10 months. The young are born mostly in midsummer and are about 1.0 m long. The age of a 1.5-m animal was estimated at 3 years (Sergeant and Fisher, 1957). It feeds mostly on squid, pelagic and benthopelagic fish such as mackerel, salmonids, and herring, and some crustaceans and mollusks such as *Pagurus* and *Buccinum*. Schools in excess of 1,000 animals have been reported while they were feeding; groups of 10 to 50 are normally seen.

Ecological Problems: Stranded schools of up to 30 have been reported.

Allocation Problems: None known.

Current Research: None.

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PACIFIC WHITE-SIDED DOLPHIN

(Lagenorhynchus obliquidens)

Distribution and Migration: The Pacific white-sided dolphin ranges the northern North Pacific from the coast of Japan and Baja California northwood. It is found year-round off California and Washington and in Alaska and Kurile Islands waters during the summer, but has not been reported from the Bering Sea. It frequents the waters of the continental shelf and slope, but on occasion has been sighted in large schools in offshoe waters. Small numbers, which are "resident" from Point Conception south to Cedros Island, appear to be morphologically different from northern forms (being larger and more robust). These resident stocks are supplemented in southern California and Baja California by migrants coming south and inshore. Inshore migrations into Monterey Bay and the central California continental shelf also apparently occur during midwinter.

Abundance and Trends: Norris and Prescott (1961) report the species as common off southern California in inshore waters in winter and spring and offshore in summer and fall. According to sighting reports in the files of the National Marine Fisheries Service, Seattle, the University of California, Santa Cruz, and the Naval Undersea Center, San Diego, as reported by Pike and MacAskie (1969), this species may be the most abundant dolphin north of southern California. No estimate of the size of the population along the west coast of North America has been made.

Nishiwaki (1972) estimates the population in Japanese waters to be between 30,000 and 50,000. Klumov (1959) reports that the Pacific white-sided dolphin is one of the two most numerous dolphins found in the late summer and fall in the Kurile Islands area, and forms schools of up to several thousand animals.

A few of these animals are taken for display in ocean aquaria.

General Biology: This species grows to 2.3 m, and weighs up to 181 kg. A male 1.2 m long with milk in its stomach was taken off Washington. It probably breeds in late spring to autumn, with a gestation period of 10 to 12 months. Schools of thousands are seen, often together with common and right-whale dolphins and less frequently with Grampus. It is active day and night, frolics, follows ships, dashes across ships' bows, and occasionally jumps clear of the surface. It adapts well to captivity. This dolphin feeds primarily on cephalopods and small fish such as herring, sardine, anchovy, and saury.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: A study of the natural history and behavior has been funded by the Marine Mammal Commission.

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NORTHERN RIGHT WHALE DOLPHIN

(Lissodelphis borealis)

Distribution and Migration: Little is known about the distribution of the northern right whale dolphin other than that it inhabits temperate waters of the North Pacific Ocean.

In the western North Pacific Ocean, the northern right whale dolphin is found from Cape Inubo, Japan, north as far as Etorofu and Paramushir Islands, from which it apparently migrates southward in autumn or winter to near the southern Kurils and is common, at least seasonally, in the northern Sea of Japan.

In the eastern North Pacific, this species has been reported from lat. 29° to 50°N, though mostly from California. It occurs in the southern California continental borderland only from October or November to about April.

Though it is also oceanic, the right whale dolphin has been observed most frequently along the continental slope and near such features as seamounts and banks. It has been seen close to the California Channel Islands and the mainland coast near San Diego and Palos Verdes. Two sightings and one specimen from the central Pacific suggest that the species may be continually distributed across the temperate North Pacific.

Abundance and Trends: Groups of 200 are most common, but herds of an estimated size of from 300 to 1,000 off Japan and up to 2,000 off southern California have been seen. Although the species was once thought to be uncommon, aerial surveys have revealed that it is abundant off the Pacific Coast of North America (Leatherwood, pers. comm.). This species is reportedly common in the northern Sea of Japan (Okada and Hanaoka, 1940), where it is harvested.

General Biology: Newborn animals are about 0.6 m long and generally lighter in color than adults. They grow to 3.1 m. The species is gregarious and is frequently reported in close association with the whitesided dolphin, with which it shares an extensive common range.

Right whale dolphins may reach speeds in excess of 25 knots in bursts. One entire herd averaged over 15 knots for 30 minutes while attempting escape from a helicopter. When approached, the animals may move away quietly or in a series of low angle leaps, each covering as much as 7 m. Individuals that are widely scattered when approached bunch together tightly while fleeing, from the cause of their disturbance.

Food is primarily squid, but also miscellaneous fishes, including myctophids and engraulids. Parasites include trematodes and cestodes.

Ecological Problems: If migrations are food dependent, as they appear to be, decimation or contamination of food supplies in the southern end of its range could adversely affect the species.

Allocation Problems: None known.

Current Research: The only research known is an unfunded examination of all museum materials, collection of beached specimens, and survey of literature being conducted by J. S. Leatherwood, NUC, San Diego, R. F. Green, Ventura College, California, and W. A. Walker, Palos Verdes, California.

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RISSO'S DOLPHIN

(Grampus griseus)

Distribution and Migration: Risso's dolphin ranges through all temperate and tropical seas. In western North America its northern limit is British Columbia, and it is sighted during the winter in central California. In the eastern United States it ranges from Massachusetts south. Strandings in Britain are most common during the summer. The species probably migrates to higher latitudes in the warmer months.

Abundance and Trends: Risso's dolphin was described in 1894 as "abundant" near Monterey Bay, California (Daugherty, 1972). The species is uncommon but not rare throughout most of its range. Over 200 of these animals were sighted in one group during 1972 off the Washington Coast (Fiscus, Unpublished field notes, 1972)

General Biology: Risso's dolphin grows to 3.6 to 4.0 m. Its skin commonly has long, narrow, white marks believed to be scars caused by others of the same species. Solitary animals or schools of 12 or less are generally observed. This species is frolicsome, and sometimes leaps clear of the water. Known foods are almost exclusively cephalopods.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Studies of distribution and abundance in the eastern Pacific are currently underway by K. S. Norris and a group of co-workers at University of California, Santa Cruz, and by J. S. Leatherwood of the Naval Undersea Center, C. S. Hubbs of Scripps Institution of Oceanography, and the Southwest Fisheries Center.

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MELON-HEADED WHALE

(Peponocephala electra)

Distribution and Migration: Peponocephala inhabits the tropical Atlantic, Indian, and Pacific Oceans.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Nishiwaki and Norris, 1966).

General Biology: Unknown.

Ecological Problems: None known.

Allocation Problems: A few are taken annually in the eastern Pacific international purse-seine fishery for tuna. This small take is probably insignificant.

Current Research: None.

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PYGMY KILLER WHALE

(Feresa attenuata)

Distribution and Migration: The pygmy killer whale probably inhabits most tropical waters.

Abundance and Trends: The status of this species is unknown except that it is apparently rare (Caldwell and Caldwell, 1971). The species has been captured for exhibit in the oceanaria of Hawaii and Japan. In the continental U.S. it has been recorded only three times, twice in Florida, once in Texas.

General Biology: The adults reach about 2.4 m. In appearance they resemble a small false killer whale. They are aggressive in captivity, with captives of other species showing fright reactions to them.

Ecological Problems: None known.

Allocation Problems: This species has been reported as captured to a very minor extent in the yellowfin tuna fishery in the eastern tropical Pacific.

Current Research: None.

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FALSE KILLER WHALE

(Pseudorca crassidens)

Distribution and Migration: The false killer whale ranges through all temperate and tropical seas. It is an oceanic form, found on the Atlantic side of the United States from North Carolina south, and on the Pacific side from the Aleutian Islands south.

Abundance and Trends: This species is uncommon throughout most of its range. It is seldom caught in the Japanese small-whale fishery, but is common on the Pacific side of Honshu (Ohsumi, 1972).

General Biology: The males grow to 6.1 m and the females to 4.9 m; adult animals weigh up to 1,360 kg. Mating appears to be over a protracted period, with young born at about 1.8 m. False killer whales are found in schools of both sexes and all ages. They have been seen eating dolphinfish (mahimahi) off Hawaii.

Ecological Problems: Schools of up to 835 of these animals have stranded.

Allocation Problems: The Japanese state that a toothed whale (shachi), which may or may not be the false killer whale, does much damage to their long-line tuna industry by feeding on hooked fish.

Current Research: None.

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LONG-FINNED PILOT WHALE

(Globicephala melaena)

Distribution and Migration: This pilot whale ranges from Greenland, Iceland, and the Barents Sea south to Virginia and the Mediterranean. It is a schooling mammal and appears regularly off the Canadian and United States coasts. It also inhabits temperate waters of the Southern Ocean. It generally favors pelagic regions, but often moves close to shore in search of food.

Abundance and Trends: Mercer (1975) estimates the original Newfoundland stock prior to 1947 at less than 60,000. There are no estimates for other parts of its range. About 40,000 were killed from 1951 to 1959 in local Newfoundland fisheries (Sergeant, 1962), but only 6,902 have been taken between 1962 and 1973. About 177,000 were taken in the Faeroe Islands from 1584 to 1883 (Tomilin, 1957), and 16,564 were taken by Norway and Denmark between 1962 and 1973 (Christensen, 1975). A total of 468 were driven ashore in Ireland in 1840, 1844, 1851, 1853, and 1957; one school of undetermined number was taken in 1965 (O'Riordan, 1975).

General Biology: The adults grow to about 6.5 m; females are usually mature at age 6 to 7 years and males at about

age 12. Calves are about 1.8 m long at birth, in July to August, although full-term fetuses have been found year-round. Cows probably bear calves every 3 years, gestation period is about 16 months, and lactation lasts about 2 years. Pilot whales are gregarious, and occur in schools of hundreds and thousands. They have a distinct social organization; however, the sex ratio is not always equal in stranded groups. They are believed polygynous, with bachelor males sometimes forming separate schools. They travel in tight schools when not feeding, and disperse into scattered groups when on feeding grounds. Captive pilot whales feed at night and sleep days. They have a top swimming speed of over 25 mph, and a longevity of about 50 years. They feed almost exclusively on squids, but also eat small fish such as clupeids and gadids. Sergeant (1962) estimates food intake per year at about 11.5 times the weight of the animal.

Ecological Problems: Whole schools sometimes strand.

Allocation Problems: None known.

Current Research: None.

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SHORT-FINNED PILOT WHALE

(Globicephala macrorhynchus)

Distribution and Migration: In the North Atlantic Ocean, this pilot whale has been reported from New Jersey (though it is far more common south of about Cape Hatteras) and Madiera and ranges south to at least northern Brazil and Dakar, Senegal. In the North Pacific Ocean it is found from Japan and the Aleutian Islands to probably Peru. It is an oceanic species with a very wide range. Schools of pilot whales appear regularly off U.S. coasts. It generally favors offshore waters, but often moves closer to land in search of food. Greatest numbers are seen in the eastern North Pacific in winter, fewer in summer.

Abundance and Trends: The status of this species is unknown except that it is fairly abundant around the California Channel Islands (Norris and Prescott, 1961). The population of pilot whales around the Channel Islands has been fished for live specimens to supply U.S. oceanaria since about 1955. Many pilot whales are taken in the Japanese small-whale fishery. This species is also taken in the lesser Antilles.

General Biology: The adults grow 4.6 to 6.7 m. Little work has been done on this species, but indications are that the general biology is similar to *G. melaena*.

Ecological Problems: Schools of this species often strand.

Allocation Problems: None known.

Current Research: The taxonomy of Pacific *Globicephala* is being studied by R. L. Brownell and D. K. Caldwell in the United States, and T. Kasuya and M. Nishiwaki in Japan. The U.S. Naval Undersea Center is studying the behavior and distribution of the pilot whale in southern and Baja California.

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KILLER WHALE

(Orcinus orca)

Distribution and Migration: The killer whale is worldwide and ranges north and south to polar ice. It is more common in cooler waters, and in more productive coastal areas. The Strait of Georgia in British Columbia, Prince William Sound in Alaska, and Puget Sound in Washington State are areas of concentration. Migratory habits probably depend on food supply, and killer whales are most numerous in Puget Sound in November and late summer. In Japan, most of these mammals are taken from April to November, with the greatest number from August to November. In the Norway fishery, killer whales seem dependent on distribution and migration of herring, capelin, and cod.

Abundance and Trends: Authoritative estimates of the world population are not available. A limited cooperative effort of the Fisheries Research Board of Canada and the Washington State Department of Game primarily in the inside waters of Washington and British Columbia gave counts of 459 killer whales in 1971, 255 in 1972, and 249 in 1973. About 65 individuals have been removed from inside waters of British Columbia and northern Washington State since 1962 for display by marine aquariums in 25 captive operations. Eleven of these whales were killed during U.S. capture operations, mostly during the early years. Two killer whales were killed in Canadian capture operations. The Japanese fishery took 1,439 killer whales from the Okhotsk Sea to south of Japan from 1948 to 1974. Norwegians harvested 2,096 in the northeastern North Atlantic between 1938 and 1974. The USSR took 444 animals in the Antarctic and North Pacific between 1958 and 1974. South Africa took 27 whales from 1972 to 1974.

General Biology: Species Statistics.—Females grow to 7.0 m and males to 8.2 m. Males weigh up to about 8,000 kg, with about 4,000 kg the apparent limit for females. An adult male dorsal fin may be 1.8 m high, considerably higher than that of the female. The body has conspicuous white markings on a black background.

Reproductive Data.—Breeding appears to occur year-round although it may peak in May to July; gestation lasts 13 to 16 months. In the Northern Hemisphere births occur mostly in autumn.

Age-Growth Data.—Newborn calves are about 2.4 m long and weigh about 180 kg.

Feeding Habits.—Killer whales usually are found in groups of 10 to 100 or even more. The males are probably polygynous. Killer whales hunt successfully in packs, but there are no records of attacks on people.

The stomach contents of 364 killer whales taken off Japan from 1948 to 1957 included (in order of occurrence): fish (mostly cod, flatfish, and sardines), squid, octopus, dolphins, whales, and seals. Salmon constituted 1.6% of all stomach contents. Soviets in the Kurils recorded "fish and squid" but no marine mammal remains in 10 animals. Of eight killer whales examined by the National Marine Fisheries Service, Seattle, six adult males had only marine mammal remains except for one squid; one adult female and one immature male had only fish remains. Food consumption has been estimated at 4% of the body weight per day.

Parasites and Diseases.—The most common diseases are those caused by wearing of tooth crowns and denudation of the pulp cavity, which results in abcesses. Other diseases include bony outgrowths and bone tumors. Parasites include nematodes, cestodes, and trematodes. One Puget Sound killer whale stomach contained 5,000 nematodes.

Ecological Problems: This species has no natural enemies except man. Stranding probably is the greatest nonhuman hazard.

Allocation Problems: Public interest in killer whales was stimulated by the first live capture in 1964 in British Columbia. Growing public interest is increasing in killer whales as a recreational resource, especially in Puget Sound (Haley, 1970). The animals are commercially valuable in the United States for display in oceanariums. United States, Japanese, and Canadian fishermen contend that the the whales cause gear damage and interfere with salmon and tuna longline fisheries. Many consider killer whales an important predator of salmon and herring; others defend them as the natural enemy of other fish eaters, includ-

ing harbor seals and sea lions. Some sports salmon fishermen claim their presence spoils fishing.

Current Research: The National Marine Fisheries Service and the Fisheries Research Board of Canada are studying killer whale distribution in western United States and Canadian waters.

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HARBOR PORPOISE

(Phocoena phocoena)

Distribution and Migration: The harbor porpoise is cirmumpolar in distribution in ice-free seas, ranging south in the Atlantic Ocean to the Delaware River and the Mediterranean Sea. In the Pacific Ocean it is found south to Japan and southern California, although it is not abundant south of San Francisco.

The harbor porpoise is an inshore species, frequenting coastal waters, the mouths of large rivers, harbors, and bays, and sometimes ascending freshwater streams.

Abundance and Trends: The harbor porpoise is especially abundant in the waters of Washington (Scheffer and Slipp, 1948) and western Canada (Pike and MacAskie, 1969). It is common at certain sites off the coast of Maine during the summer (Gaskin, Arnold, and Blair, 1974). Tomilin (1957) reports single catches of 2,000 to 2,500 harbor porpoises at the time they migrate between the Sea of Azov and the Black Sea.

Mohl-Hansen (1954) reporting on biological investigations of the harbor porpoise in Danish waters examined 188 harbor porpoises in 1941–42, 230 in 1942–43, and 212 in 1943–44, so at least those numbers were commercially harvested in Denmark during those years. He also states that these harbor porpoises were from the Baltic Sea populations.

Catches of *P. phocoena* in west Greenland recently have averaged over 2,500 annually. During 1972, an estimated 1,500 animals were taken in the non-Greenlandic salmon driftnet fishery. No estimates are available for Greenlandic driftnetters. In addition, about 1,000 are taken annually in direct catches (Kapel, 1975). In the Black Sea, where a moratorium has existed since 1967, an estimate of the present population is 25,000 to 30,000. Incidental catches of *P. sinus* have ranged from tens to the low hundreds annually.

General Biology: This species grow to 1.8 m, and weights up to 72 kg. The females are sexually mature at about age 3 to 4 years. Newborn calves are half the length of the mother. They breed annually during late spring and summer. The gestation period is 10 to 11 months, and the calves nurse up to 8 months. Harbor porpoises travel in pairs and schools of up to 200 or more, especially on the feeding grounds. This species is less playful than most dolphins or porpoises; they seldom jump out of the water, and usually ignore passing boats. Schools containing all "bachelors" are common; the females stay in groups of mixed sex. Usually they swim just below the surface, rising about four times per minute to breathe when not feeding. They feed mainly on bottomfishes such as cod, herring fry, flounder, and occasionally on invertebrates such as squids, clams, and crustaceans. Parasites of the alimentary canal and respiratory system are common (Gaskin, Arnold, and Blaire, 1974).

Ecological Problems: These animals occasionally strand for unknown reasons, and because of their feeding habits, a few tend to get trapped in fishermen's nets. (See Abundance and Trends.) They are preyed upon to an unknown degree by Greenland sharks, great white sharks, and killer whales. Significant residues of chlorinated hydrocarbon insecticides and PCB's have been recorded from the Baltic, United Kingdom, and Bay of Fundy.

Allocation Problems: None known.

Current Research: None.

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DALL'S PORPOISE

(Phocoenoides dalli)

Distribution and Migration: The Dall porpoise inhabits the North Pacific Ocean from Japan and central Baja California north into the Bering and Okhotsk Seas. In both areas the southern limits of distribution appear to expand with the cooling of waters to at least 56°F, and individuals are seen in areas having surface temperatures of up to 62°F. It has been observed in the Bering Sea in locations and at periods when surface waters were 36°F. In the northeastern Pacific, Dall porpoises are year-round residents as far south as the northern Channel Islands, but are found further south and further inshore, as far as Cedros and Guadalupe Islands, from about October to late May. They are observed off Monterey Bay throughout the year, though there appears to be a separation of smaller juveniles inshore from more heterogenous groups offshore, and apparent inshore migrations tend to increase numbers of all animals there during winter and early spring. Dall porpoises are reported off San Francisco Bay from at least March through November. The southern and inshore movements appear closely related to movements of squid, a primary food item. The species is found offshore of the eastern Pacific coast to at least 1,047 km. The Marine Mammal Division has many records of Dall porpoise ranging from the Bering Sea and the eastern Aleutian Islands south to lat. 34° in California waters (MMD files, Marine Mammal Observations, 1958–72). The NMFS Southwest Fisheries Center and the Naval Undersea Center, San Diego, have similar detailed records of occurrences south to Cedros and Guadalupe Islands.

Abundance and Trends: The Dall porpoise is one of the most abundant small cetaceans found in Alaska inside waters (U.S. Forest Service) and in British Columbia waters (Pike and MacAskie, 1969). It is commonly seen off northern California (W. J. Houck, pers. comm.). The species appears to be abundant throughout its range. Kasuya (1974) also stated that between 4,500 and 7,500 are caught annually in coastal eastern Japan waters, but there has been a decrease in catch per unit effort in recent years.

General Biology: There may be two forms of Dall porpoise (*P. dalli* and *P. truei*). They grow to lengths of about 2.2 m and weights of about 218 kg. They and the killer whale have the most conspicuous color patterns among cetaceans. Calves are born in the spring and summer, and young are observed in August. These animals are usually found in groups of 2 to 20, but occasionally 200 or more are seen on favorable feeding grounds. It plays in the bow waves of ships, and is among the swiftest of all marine mammals. This mammal consumes squid and such fish as saury, hake, herring, jack mackerel, and bathypelagic and deepwater benthic fish.

Ecological Problems: None known.

Allocation Problems: Kasuya (1974) reports on annual accidental catch of more than 20,000 Dall porpoises in the Japanese high-seas salmon gillnet fishery in the northern North Pacific and Bering Sea west of long. 175°W.

Mizue and Yoshida (1965) state the Dall porpoise is abundant east of long. 175°W but that the Japanese fishing fleet does not operate east of the boundary.

Current Research: W. J. Houck is studying *P. dallii and P. truei* at Humboldt State College in California, and M. Nishiwaki is studying these species in Japan. G. V. Morejohn is studying feeding habits, migration, behavior, and morphology of the species at the Moss Landing Marine Station, California. S. Leatherwood is monitoring seasonal movements of the species into waters of southern and Baja California.

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WHITE WHALE

(BELUGA, BELUKHA)

(Delphinapterus leucas)

Distribution and Migration: The beluga inhabits the Arctic Ocean and adjacent seas, including the Okhotsk and Bering Seas, Cook Inlet, Hudson Bay, and Gulf of St. Lawrence. Belugas ascend several hundred miles up the large rivers of Siberia and Alaska. Populations of white whales from different areas show marked size differences through the Arctic. Three races are recognized by some authorities: *dorofeevi* from the Okhotsk Sea, *marisalbi* in the Barents and White Seas, and *leucas* in the rest of the range. In the Pacific, belugas are common along Alaska as far south as Bristol Bay; the population found in Cook Inlet is apparently separate.

Abundance and Trends: The population in the Soviet Arctic and Far East is estimated at between 32,000 and 58,000 (Yablokov, 1974). The population in the Canadian Arctic numbers at least 30,000 animals (Sergeant and Brodie, 1975). The Cook Inlet, Alaska, population is estimated at 300 to 500; in Bristol Bay the population is estimated at 1,000 to 1,500 and is considered stable; the size of the beluga population in Alaska north of Bristol Bay is unknown, but is much greater than that residing in Bristol Bay (Alaska Department of Fish and Game, 1973). In Alaska belugas have been used as a source of muktuk, meat, and oil for both people and dogs by residents of villages on the Bering Sea and Arctic Ocean coasts and along rivers that belugas periodically ascend. Belugas also provide a significant amount of fresh and preserved food for native peoples in the Mackenzie River delta region and Baffin Island, where beluga hunting is culturally and economically important (Brodie, pers. comm.). In recent years the demand for beluga products has been reduced in the Arctic. In Bristol Bay only a few belugas are now taken, and the estimated annual harvest of the Bering Sea and Arctic Ocean coasts of Alaska is 150 to 300 (Alaska Department of Fish and Game, 1973). Sergeant (1962) states that from 1948 to 1960 the catch of belugas in the Canadian Arctic averaged 1,200 annually. The present catch in Arctic Canada averages 500 animals per year (Sergeant and Brodie, 1975). A few animals are occasionally taken from the St. Lawrence River estuary population, which number 500–1,000 animals. In the late 1950's the annual catch of belugas averaged 3,000 to 4,000 in the U.S.S.R., 500 to 800 in Greenland, and 100 to 200 from Spitsbergen (Kleinenberg, et al., 1964). Present catches in the Asian Arctic range from 530 to 825 annually.

General Biology: Males grow to 4.6 m and the females to 4.0 m in the Beaufort Sea, and to 5.2 m and 4.6 m, respectively, in the Soviet Arctic. The beluga is polygamous, breeds in the spring, and has a gestation period of 15 months; newborn are about 1.5 m long. Lactation lasts about 20 months, with a 3-year reproductive cycle. They are gregarious and travel in groups of two or three to hundreds. Belugas feed from midwater to the bottom, with a diet including fish such as salmon, capelin, cisco, pike, char, cod, squid, crustaceans, and nereid worms.

They frequently occur in shallow areas with a bottom of mud, sand, and stones. The beluga produces high-pitched whistles and squeals, ticking and clucking sounds, and have been given the name "sea-canary." Animals break the ice with their backs to reach air for breathing.

Parasites include nematodes in the respiratory organs, ears, circulatory system, intestine, and urogenital system; trematodes are found in the intestine, as well as cestodes and acanthocephalans. Helminths are apparently one cause of mortality.

Ecological Problems: Known natural enemies include the killer whale and polar bear.

Allocation Problems: These mammals take salmon at the mouths of large Alaska rivers, and are important predators of salmon smolt in Bristol Bay, Alaska. Recorded killer whale sounds have been used experimentally to prevent beluga predation in the Kvichak River.

Current Research: Research on the beluga is being conducted by the Fisheries Research Board of Canada.

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NARWHAL

(Monodon monoceros)

Distribution and Migration: The narwhal is the most northern cetacean and occurs in north polar seas, mainly in the North Atlantic sector. It is most common in northwestern Greenland and the eastern Canadian Arctic, particularly Jones and Lancaster Sounds, the north and east coasts of Baffin Island, Repulse Bay, and occasionally in northern Foxe Basin and Hudson Strait. Narwhals also occur near Franz Josef Land and Novaya Zemlya. They are rare in the Laptev, East Siberian, Chukchi, and Beaufort Seas.

Abundance and Trends: The Canadian and northwest Greenland population is at least 10,000 (Mansfield, 1975). Numbers elsewhere are unknown. Rare occurrences in Great Britain (4) and Holland (1) are documented. Narwhals are hunted in Greenland and the eastern Canadian Arctic for dog food, muktuk, sinew, and ivory.

General Biology: Females attain a length of 400 cm and a weight of 900 kg. Each female bears a single calf about once every 3 years. Mating takes place in April, and the 1.5-m-long young are born in July after a 14.5-month gestation period. Lactation probably lasts about 20 months. Narwhals are gregarious, forming schools of up to 1,000 to 2,000, and made up of small groups of up to about 20 (Mansfield, pers. comm.). Food of the narwhal consists mainly of cephalopods, Arctic cod, Greeland halibut, and shrimps.

Ectoparasitic whale lice occur in cuts, skinfolds, and around the base of the tusk. Endoparasitic nematodes occur occasionally in the stomach, and frequently in basicranial sinuses..

Ecological Problems: Narwhals are occasionally trapped in large numbers by rapid freeze-up. In such situations, Greenlanders may kill entire groups of these mammals. Although it is not adapted to drift ice areas, the killer whale probably occurs there and may be a natural enemy of the narwhal.

Allocation Problems: None known.

Current Research: The narwhal is being studied by the Fisheries Research Board of Canada.

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SPERM WHALE

(*Physeter macrocephalus*)

Distribution and Migration: The sperm whale is nearly worldwide in distribution except for the pack ice of the polar regions. Females and immature animals are generally found between lat. 40° S and 50° N. Sperm whales appear to migrate north during the northern summer and south during the northern winter. In the North Pacific, male sperm whales are found as far north as the Bering and Okhotsk Seas; in the North Atlantic they move into Davis Strait and near Spitsbergen.

Abundance and Trends: In 1946, the world stock of exploitable males (i.e., males over the legal length limit of 9.2 m) and sexually mature females was over one million, of which almost half were males. The present stock is about 700,000, of which only about one third are males. These are distibuted by major ocean areas as follows (Mitchell, 1974; Chapman, 1976; International Whaling Commission, 1977):

Ocean	1946 population (In thousands)	Current population (In thousands)
North Atlantic	[1] (227)	[1] 22
North Pacific	400	300
South Atlantic	120	90
Indian	220	140
South Pacific	360	180

[1] Estimate of total population, including immature animals.

The total populations of each sex, including undersized males and immature females, are approximately 2.5 times the number of exploitable males and 1.67 times the number of mature females (Gambell, 1976).

The sperm whale is currently the most important species of the world whaling industry. Stocks in most areas are at or above maximum sustainable yield levels. Catches of sperm whales in recent seasons have been:

Season	North Pacific	North Atlantic	Southern oceans, pelagic [1]	Southern land stations
1970	14,815	619	5,891	4,135
1971	10,890	831	7,335	4,498
1972	6,323	691	8,172	2,695
1973	8,567	613	9,394	2,652
1974	8,127	[2] 238	8,930	[3] 2,891
1975	7,839	[4] 37	7,046	[3] 3,701

[1] Southern ocean catches are for the seasons 1970-71 through 1975-76.
[2] No data from Azores or Maderia.
[3] No data from Chile.
[4] No data from Azores, Madeira, or Spain.

In most areas, males dominate the catches, and in the Antarctic (south of lat. 40°S) the catch is almost exclusively males.

General Biology: Species Statistics.—The sperm whale's large squarish head is distinctive because it bears a tanklike "case" containing spermaceti. The lower jaw is long and narrow, and has about 25 pairs of teeth. Females reach 11.6 m in body length, males 16.8 m.

Reproductive Data.—The females mature sexually about age 8 to 11 years when body length is about 8.5 to 9.1 m, physically at 25 to 30 years and body length of 11.0 m. Males are not sexually mature until about 10 years and 11.9 m, and are not "socially" mature until about age 25 years. Females and juveniles of both sexes form schools of 10 to 50 animals, averaging about 25. Younger, sexually mature males (ca. 11.0–13.4 m, age 15–25 years) form "bachelor" schools usually containing not more than 10 animals. Older males (13.7 m, 22–27 years) are usually solitary except when with schools of females for breeding for about 5 months in the spring and early summer. The female bears a calf (about 4.0 m) once every 3 to 5 years. Gestation lasts 14 to 15 months, and the calf nurses 1 to 2 years and is weaned at about 6.7 m long.

Age-Growth Data.—Newborn calves are about 3.5 to 5 m, and weigh about 1,000 kg. Growth of males continues until they are 45 to 60 years old, and about 15.5 m long.

Feeding Habits.—This species dives to at least 1,000 m, can remain submerged for about an hour, and feeds mainly on large squid. It also consumes significant quantities of octopuses and demersal and mesopelagic fishes.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is studying the life history of the sperm whale. Other organizations carrying out research on this species are the Japanese Whales Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), British National Institute of Oceanography (South Africa and western South America), South African Division of Sea Fisheries (South Africa), Australian Commonwealth Scientific and Industrial Research Organization (Australia), the University of Chile (Chile), the Marine Institute of Peru (Peru), and the Marine Department of New Zealand (New Zealand).

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PYGMY SPERM WHALE

(*Kogia breviceps*)

Distribution and Migration: The pygmy sperm whale occurs in all the warmer seas of the world. In the Pacific Ocean it ranges north to Washington and Japan; in the Atlantic Ocean it ranges north to Nova Scotia and the Netherlands. Its southern range limit is not well known.

Abundance and Trends: The status of this species is unknown other than the fact that it is apparently rather rare. There are many more records of stranding than there are for *Kogia simus*, the dwarf sperm whale (C. O. Handley, Jr., pers. comm.). This species is occasionally taken in the Japanese small-whale fishery (Yamada, 1954).

General Biology: Adult pygmy sperm whales are 2.7 to 3.4 m long. Their dorsal fin is low and posterior to the center of the back. This species was long confused with the dwarf sperm whale, and the following composite statement is based on both species. They are usually solitary or in small pods. They feed mostly on squids, but also take pelagic crustaceans such as shrimps and giant mysids. Females simultaneously pregnant and lactating have been found, suggesting that they may bear a calf 2 years in succession.

Parasites include tapeworm cysts in the blubber, roundworms in the stomach, and giant kidney worms.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: D. K. Caldwell and M. C. Caldwell have been gathering data on the life history in Florida (D. K. Caldwell, pers. comm., 1974). D. K. Caldwell, M. C. Caldwell, and C. O. Handley,

Jr., have been working on the distribution (seasonal as well as geographical) in southeastern U.S. (Caldwell, pers. comm., 1974).

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DWARF SPERM WHALE

(Kogia simus)

Distribution and Migration: The dwarf sperm whale apparently has a discontinuous distribution around the world. It has been found in the seas adjacent to South Africa, India, Ceylon, Japan, Hawaii, South Australia, and the west and east coasts of the United States. On the west coast it has been recorded only from Cabo San Lazaro, Baja, California, and San Luis Obispo County, California. On the east coast it ranges from Cape Henry, Virginia, south and west to Texas.

Abundance and Trends: The status of this species is unknown other than the fact that it is apparently rather rare over much of its range. However, it strands rather frequently on the southeast coast of the United States and is taken in the Japanese small-whale fishery (Yamada, 1954).

General Biology: Adult dwarf sperm whales are 2.1 to 2.7 m long. Their dorsal fin is high and near the center of the back. This species was long confused with the pygmy sperm whale, and the following is a composite statement based on both species. They are usually solitary or in small pods. They feed mostly on squid, but also take pelagic crustaceans such as shrimps and giant mysids. Females simultaneously pregnant and lactating have been found, suggesting that they may bear a calf 2 years in succession.

Parasites include tapeworm cysts in the blubber, roundworms in the stomach, and giant kidney worms.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: D. K. Caldwell and M.C. Caldwell have been gathering data on the life history in Florida (D. K. Caldwell, pers. comm., 1974). D. K. Caldwell, M. C. Caldwell have been gathering data have been working on the distribution (seasonal as well as geographical) in southeastern U.S. (Caldwell, pers. comm., 1974).

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BAIRD'S BEAKED WHALE
GIANT BOTTLENOSE WHALE

(Berardius bairdii)

Distribution and Migration: The giant bottlenose whale is endemic to the North Pacific Ocean, where it ranges from St. Matthew Island in the Bering Sea south to central Honsuh on the western side and southern California on the eastern side. Its migrations are poorly known.

Abundance and Trends: The status of this species is unknown except that it is uncommon but not rare. According to information taken from the Bureau of International Whaling Statistics, between 100 and 400 giant bottlenose whales have been taken annually in the Japanese small-whale fishery during the past 20 years.

General Biology: This species is the largest of the beaked whales. Males attain a maximum length of 11.9 m and females 12.8 m. Their long narrow beak, bulging forehead, and size distinguish them from other species of beaked whales in the North Pacific Ocean. They usually travel in tight schools of up to 30 individuals. Their main foods are deepwater fishes and squids. Males attain sexual maturity at a length of about 10.0 m, and females at about 10.3 m. Sexual maturity is not attained earlier than age 3 years, and probably much later. Mating takes place mostly in February, and calves are born in December.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on this species has been conducted incidentally to other studies in Japan by the Whales Research Institute and the Ocean Research Institute; in California by the National Marine Fisheries Service; and in British Columbia by the Fisheries Research Board of Canada.

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CUVIER'S BEAKED WHALE

(Ziphius cavirostris)

Distribution and Migration: The goose-beaked whale is found in all oceans except Arctic and Antarctic waters. In the North Pacific Ocean it ranges north to Hokkaido, the Commander and Aleutian Islands, and the Queen Charlotte Islands. In the North Atlantic Ocean it ranges north to Cape Cod, Massachusetts, on the western side and the Shetland and Orkney Islands on the eastern side. Its migrations are not understood.

Abundance and Trends: The status of this species is unknown. The goose-beaked whale is the most frequently observed ziphiid, at least in the eastern North Pacific Ocean, and throughout its range has been found stranded far more often than any other species of the family (Mitchell, 1968). Between 13 and 16 goose-beaked whales have been taken annually in the Japanese small-whale fishery during a recent 5-year period Nishiwaki and Oguro, 1972).

General Biology: The goose-beaked whale is distinguishable from other ziphiids by its relatively short beak, the dorsal profile of which forms an almost straight line with the steeply sloping forehead, and by its brown coloration; older males have snow-white heads. The maximum body length in both sexes is about 7.0 m. These whales usually travel in tight schools of up to about 10 individuals, but old males are often solitary. Their main foods are squids and deepwater fishes. Sexual maturity is attained at a length of about 5.5 m in both sexes.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on this species has been conducted incidentally to other studies in Japan by the Whales Research Institute and the Ocean Research Institute.

References

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NORTHERN BOTTLENOSE WHALE

(Hyperoodon ampullatus)

Distribution and Migration: This species of bottlenose whale is endemic to the colder waters of the North Atlantic Ocean. On the western side it ranges from Davis Strait south to Rhode Island; on the eastern side it ranges from Novaya Zemlya south to the Azores and English Channel. It migrates south in the autumn and north in the spring.

Abundance and Trends: The initial population in all waters east of Greenland is estimated to have been between 40,000 and 100,000; by 1915 it was reduced to about half its initial size (Christensen, 1974). It is not known whether it has since increased. Norwegian catches in the North Atlantic ranged from 2,000 to 3,000 annually between 1890 and 1900. Catches ranged from 20 to 100 per year from 1920 to 1954. From 1955 to 1971, a few hundred have been caught annually, peaking at about 700 in 1965. Catches have been near zero since then. A few individuals are sometimes taken by whalers operating from Nova Scotia and the Faeroe Islands.

General Biology: The bottlenose whale is easily recognized by a conspicuous beak that is sharply demarked from the high bulging forehead which, in old males, becomes almost vertical and flattened in front and slightly overhangs the

base of the beak. Bottlenose whales are black when young, turn brown when adult, and almost yellow with a white head when very old. Males attain a maximum length of 10.7 m, and females 9.7 m. Females attain sexual maturity at about 9 years, males at 9 to 11 years. Mating occurs in April, and the 3.0-m calf is born about 12 months later. Bottlenose whales usually travel in small herds of 4 to 10, but the adult males are often by themselves. Their food appears to be mainly squids. Females attain sexual maturity when about 6.5 m long. The calves are born from early spring to early summer.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: This species is being studied by the Statens Institute for Hvalforskning, Oslo, Norway.

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TRUE'S BEAKED WHALE

(Mesoplodon mirus)

Distribution and Migration: The True's beaked whale has been found in the western North Atlantic Ocean from Nova Scotia south to Northern Florida, and in the eastern North Atlantic Ocean from the Outer Hebrides south along the west coast of Ireland. There is another population off the coast of South Africa. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None.

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GERVAIS' BEAKED WHALE

(Mesoplodon europaeus)

Distribution and Migration: The Antillean beaked whale ranges from Trinidad, Jamaica, and the Gulf of Mexico, north to Long Island, New York. One record for the English Channel has been obtained. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Problems: None.

References

Moore, J. C. 1966. Diagnoses and distributions of beaked whales of the genus *Mesoplodon* known from North American waters, pp. 32–61. In K. S. Norris (ed.), Whales, dolphins, and porpoises. Univ. Calif. Press, Berkeley and Los Angeles.

GINKGO-TOOTHED WHALE

(Mesoplodon ginkgodens)

Distribution and Migration: The ginkgo-toothed whale has been recorded from Ceylon, in the western North Pacific Ocean from Taiwan to the Sanriku coast of Hokkaido, and in the eastern North Pacific Ocean at Del Mar in southern California. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it may not be so rare in the western part of the North Pacific as once thought (Nishiwâki, et al., 1972).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None. Present knowledge is based on opportunistic examination of specimens.

References

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HUBB'S BEAKED WHALE

(Mesoplodon carlhubbsi)

Distribution and Migration: The arch-beaked whale has been recorded only in the North Pacific Ocean, from the Sanriku coast of Hokkaido on the western side and from British Columbia south to southern California on the eastern side. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None.

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STEJNEGER'S BEAKED WHALE

(Mesoplodon stejnegeri)

Distribution and Migration: The Bering Sea beaked whale is endemic to the North Pacific Ocean. It ranges from the Commander and Pribilof Islands, Bristol Bay, and the northern Gulf of Alaska south to the Sea of Japan on the western side and Oregon on the eastern side. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None.

References

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SOWERBY'S BEAKED WHALE

(Mesoplodon bidens)

Distribution and Migration: The North Sea beaked whale ranges mostly from the western Baltic Sea and central Norway south to the Bay of Biscay. It has been recorded in the western North At-

lantic Ocean from Newfoundland and Massachusetts. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966).

General Biology: This species is the only one of its genus for which even rudimentary life history data are available. The beaked whales attain a maximum length of 5.5 m for males and 4.9 m for females. Mating and birth usually take place in late winter and spring. The gestation period is about 1 year. At birth the calf is between 1.8 and 2.1 m long, nurses for about 1 year, and at weaning is probably about 3.0 m long.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None.

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BLAINVILLE'S BEAKED WHALE

(Mesoplodon densirostris)

Distribution and Migration: The dense-beaked whale is widely, but perhaps discontinuously, distributed in tropical and warm temperate waters around the world. In the North Pacific Ocean it has been recorded from Taiwan, Japan, and Midway Island. In the North Atlantic Ocean it has been recorded from Nova Scotia south to the Bahamas on the western side, and from Madeira on the eastern side.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Besharse, 1971; Moore, 1966).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: None.

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CONTRIBUTORS OUTSIDE DEPARTMENT OF COMMERCE (TO THE STATUS OF STOCKS REPORT)

Brodie, Paul F., Fisheries Research Board of Canada, Marine Ecology Laboratory, Bedford Institute, Dartmouth, Nova Scotia, Canada.

Brooks, James W., Alaska Department of Fish and Game, Subport Building, Juneau, AK 99801.

Brownell, Robert L., Jr., Division of Mammals, National Museum Natural History, Smithsonian Institution, Washington, DC.

Burns, John J., Alaska Department of Fish and Game, 1300 College Road, Fairbanks, AK 99701.

Caldwell, David K., Communication Sciences Laboratory, Route 1, Box 122, St. Augustine, FL 32804.

Caldwell, Melba C., Communication Sciences Laboratory, Route 1, Box 122, St. Augustine, FL 32804.

Carlisle, John G., California State Fisheries Laboratory, Marine Resources Region, 350 Golden Shore, Long Beach, CA 90802.

Chapman, Douglas G., College of Fisheries, University of Washington, Seattle, WA 98195.

Drury, William H., Massachusetts Audubon Society, Lincoln, MA 01773.

Durham, Floyd, Department of Biology, University of Southern California, Los Angeles, CA 90007.

Evans, William E., Naval Undersea Research and Development Center, San Diego, CA 92132.

Fay, Francis H., University of Alaska, College, AK 99701.

Gates, Doyle, California Department of Fish and Game, Marine Resources Region, 350 Golden Shore, Long Beach, CA 90802.

Handley, Charles O., Jr., Department of Vertebrate Zoology, Smithsonian Institution, Washington, DC 20560.

Houck, Warren J., Division of Biological Sciences, Humboldt State University, Arcata, CA 95521.

Kenyon, Karl W., 11964 Lakeside Place NE., Seattle, WA 98125.

Leatherwood, J. Stephen, Marine Life Sciences Laboratory, Naval Undersea Research and Development Center, San Diego, CA 92132.

Mansfield, Arthur W., Arctic Biological Station, Fisheries Research Board of Canada, P. O. Box 400 Ste. Anne de Bellevue, P. Q., Canada.

Mead, James G., Smithsonian Institution, National Museum of Natural History, Washington, DC 20560.

Norris, Kenneth S., University of California at Santa Cruz, Santa Cruz, CA 95060.

Ray, G. Carleton, Department of Pathobiology, Johns Hopkins University, 615 North Wolfe Street, Baltimore, MD 21205.

Scheffer, Victor B., 14806 SE. 54th Street, Bellevue, WA 98006.

Siniff, Don B., Department of Ecology and Behavior, JFB Museum of Natural History, University of Minnesota, Minneapolis, MN 55455.

Vania, John S., Marine Mammal Studies, Alaska Department of Fish and Game, 1018 International Airport Road, Anchorage, AK 99502.

Ximenez, Isaias, SOYP Depto Cientifico y Tecnico del Servicio, Oceanografico y de Pesca, Juan Lindolfo Cuestas 1409, Montevideo, Uruguay.

LAWS AND TREATIES GOVERNING THE PROTECTION OF MARINE MAMMALS

Each marine mammal of U.S. concern is protected by one or more U.S. laws or acts, and the conservation of some species is at least partially assured by international treaty or law. A summary of the various laws, conventions, and commissions designed and enacted to protect marine mammals follows:

1. *Marine Mammal Protection Act of 1972:* A U. S. Federal law that prohibits U.S. citizens from taking, harassing, or importing any marine mammal or its by-products into the United States, except when authorized to do so by special permit. Indians, Eskimos, and Aleuts of the North Pacific and Arctic Oceans can take marine mammals for subsistence, and for creating and selling handicraft items and clothing as long as the stocks can support the harvest.

2. *Endangered Species Act of 1973:* The purpose of this U.S. Federal law, which became effective Decemebr 28, 1973, are to provide a program for the conservation of species that are either endangered (presently) or threatened (within the foreseeable future) with extinction and their dependent ecosystems, and implement certain international conservation conventions (including the Convention on International Trade in Endangered Species of Wild Fauna and Flora). Marine Mammals, under the jurisdiction of NMFS, which are listed as endangered species are the blue whale, bowhead whale, gray whale, humpback whale, right whales, fin whale, sei whale, sperm whale, Mediteranean monk seal, and Hawaiian monk seal. No marine mammals are listed as threatened species.

3. *International Whaling Convention:* The International Whaling Commission was established under a convention signed in Washington, D.C. in December 1946. The membership includes all countries that catch significant numbers of whales except Spain, Portugal, Chile, Peru, and Brazil. The IWC is responsible for whale conservation worldwide. Since 1964, the IWC has acted to bring world whaling under control by prohibiting the taking of some species, sharply reducing the authorized catches of species in certain areas, establishing catch quotas by species, and implementing an international observer plan for policing quotas and regulations at land stations and on factory ships. The IWC appears to be extending its authority to cover all cetaceans and to implement regulations for threatened species. The IWC now regulates the harvest of fin, sei, Bryde's, minke, and sperm whales. A subcommittee of the IWC may be established to improve data collection on small cetaceans and review problems. The gray, bowhead, right, blue, and humpback whales are completely protected, except for some hunting by aboriginals.

4. *International Convention on Trade in Endangered Species of Wild Fauna and Flora:* This Convention, which entered into force on July 1, 1975, provides additional protection for the following marine mammals under the jurisdiction of NMFS: Appendix I—blue whale, bowhead whale, gray whale, humpback whale, right whales, certain stocks of fin and sei whales, Ganges River dolphin, Mediterranean monk seal, Hawaiian monk seal, Caribbean monk seal, and northern elephant seal; Appendix II—certain stocks of fin and sei whales,

southern elephant seal, Galapagos fur seal, Guadalupe fur seal, Juan Fernandez fur seal, southern (South American) fur seal, Amsterdam Island fur seal, Kerguelen fur seal, New Zealand fur seal, and South African fur seal. Trade is more strictly controlled for Appendix I animals than for Appendix II animals. The import, export, re-export, and introduction from the sea of convention animals are controlled by the U.S. management authority for the Convention (U.S. Department of the Interior) by a system of permits and enforcement. Implementation by regulating commerce began in February 1977.

5. *Interim Convention on North Pacific Fur Seals:* This convention prohibits most citizens of Japan, Canada, the U.S.S.R., and the United States from taking northern fur seals. The exceptions are aboriginal Indians, Aleuts, and Eskimos, who may take them only at sea and by primitive methods. The convention also provides for intensive research on this species by the four countries. The economic utilization of northern fur seals on their breeding grounds is conducted by the respective governments and is regulated on a scientific basis.

6. *International Convention for the Northwest Atlantic Fisheries:* Under terms of a convention signed in 1949, ICNAF is responsible for the investigation, protection, and conservation of the fisheries of the Northwest Atlantic in order to make possible the maintenance of a maximum sustained catch from these fisheries. The harp seal harvest is regulated by ICNAF, which imposes quotas for the taking of these mammals.

7. *International Convention for the Conservation of Antarctic Seals, 1972:* The purpose of this convention is to safeguard all species of Antarctic seals and to ensure that, if commercial sealing begins on floating ice of the Southern Ocean, the killing of certain species will be prohibited and the taking of other species will be subject to strict limitations. Measures adopted under the Antarctic Treaty of 1959 provide only for the protection of seals and other animals around the shoreline of the Antarctic Continent, but not on floating ice. The convention of 1972 may be applicable to any crabeater, and Ross seals, and southern fur seals.

8. *Canadian-Norwegian Agreement on Sealing:* On December 22, 1971, these two governments ratified an agreement on sealing and the conservation of seal stocks in the Northwest Atlantic. The agreements applies to the harp seal, but provision is made for extension to hooded and bearded seals and to the walrus.

9. *Miscellaneous regulations and agreements of some U.S. interest:* a. Harp seal—The U.S.S.R. and Norway signed an agreement in 1958 entitled "Preservation of Seals in the Greenland Sea." The agreement provides for the regulation of harp seal catches by these two nations. The U.S.S.R., however, has not hunted harp seals since 1965.

b. Gray seal.—The U.S.S.R. has prohibited (since 1970) the hunting of gray seals for sport and by amateurs, but permits the taking of these animals for subsistence. Canada uses an 1886 law for authority in regulating the take of gray seals. England has prohibited the hunting of gray seals on the Farne Islands since 1932 and on Orkney Island since 1923. Norway has forbidden hunting at Sör Trondelag (since 1923). Finland and Sweden offer bonuses for gray seals taken.

c. Hooded seal.—Canada and Norway prohibit the taking of hooded seals near Newfoundland before 10 March, near Jan Mayen Island before 13 March, in Denmark Strait from 15 June to 15 July, and in northern waters from 20 March to 5 May. The U.S.S.R. and Norway in 1958 agreed to prohibit the harvest of hooded seals near Jan Mayen Island before 13 March, and banned hunting in Denmark Strait.

d. Bearded seal.—The U.S.S.R. has, since 1970, banned the commercial hunting of bearded seals from vessels, and regulates the take of this species by aborigines and the harvest from shore by others.

e. Ribbon seal.—Since the 1960's, the U.S.S.R. has forbidden the hunting of ribbon seals at sea from 1 March to 1 September, and in 1970 stopped hunting by amateurs.

f. Ringed seal.—The U.S.S.R. banned sport hunting of *Pusa hispida hispida* beginning in 1970. Sport hunting of another subspecies (apparently accepted by the U.S.S.R. as *P. h. kraschenini kovi*) was also banned by the U.S.S.R. In that year, local harvests were regulated, and hunting of the subspecies between 1 March and 1 September was prohibited. The U.S.S.R. has also, since 1970, prevented commercial hunting of *P. h. ochotensis* from vessels, and regulated the take of this subspecies by aborigines and the harvest from shore by others.

g. Harbor seal—Ice-dwelling populations.—The U.S.S.R. has prohibited sport hunting of these populations of the harbor seal since 1970, protects its rookeries from harassment and pollution, and regulates the harvest.

Land-dwelling populations. — The U.S.S.R. has prohibited the sport hunting of these populations since 1970, and regulates the take of harbor seals from the White and Barents Seas.

h. Northern sea lion.—The U.S.S.R. regulates the harvest of northern sea lions and protects its rookeries from harassment.

i. Walrus.—In 1958, the U.S.S.R. and Norway agreed to ban the hunting of walrus except to satisfy local needs and those of expeditions.

j. Guadalupe fur seal.—Mexico has safeguarded the breeding grounds of the Guadalupe fur seal on the Guadalupe Islands by making this island a wildlife refuge.

k. South American fur seal.—The Uruguayan and Argentinian Governments protect the South American fur seal on land and out to 200 miles at sea. In addition, the Uruguayan Government regulates the harvest by protecting all female seals except the 1-year-olds, controlling take of pups by season restrictions, and imposing quotas in some instance.

l. South African fur seal.—The harvest of South African fur seals is largely a state enterprise in South Africa, however, the system includes one of control and leasing of rookeries to private contractors. The South West African Administration has not entered the harvesting business, but licenses private firms, restricts gear to be used, establishes closed seasons, and places limits on sex and condition of catch.

m. Narwhal.—Canada allows its Eskimos to take five narwhals annually for personal use and issues permits to capture this mammal for exhibition.

n. Killer whale.—Canada allows this species to be taken under a permit system.

PART IV—APPENDIXES

APPENDIX A—PERMIT STATISTICS TABLES

Table I—Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications.
Table II—Synopsis of Permit Applications.
Table III—Number of Cetaceans Requested in Scientific Research/Public Display Permit Applications.
Table IV—Number of Pinnipeds Requested in Scientific Research/Public Display Permit Applications.
Table V—Number of Cetaceans Authorized to be Taken or Imported Under Scientific Research/Public Display Permits; and
Table VI—Number of Pinnipeds Authorized to be Taken or Imported Under Scientific Research/Public Display Permits.

TABLE I.—*Common and scientific names of marine mammals involved in scientific research/public display permit applications*

CETACEANS

Common name:	*Scientific name*
Black Right Whale	*Balaena glacialis.*
Bowhead Whale	*Balaena mysticetus.*
Gray Whale	*Eschrichtius robustus.*
Minke Whale	*Balaenoptera acutorostrata.*
Bryde's Whale	*Balaenoptera edeni.*
Sei Whale	*Balaenoptera borealis.*
Fin Whale	*Balaenoptera physalus.*
Blue Whale	*Balaenoptera musculus.*
Humpback Whale	*Megaptera novaeangliae.*
Rough-toothed Dolphin	*Steno bredanensis.*
Bottlenosed Dolphin	*Tursiops truncatus.*
Risso's Dolphin	*Grampus griseus.*
Lagenorhynchine Dolphins.	*Lagenorhynchus sp.*
White-beaked Dolphin	*Lagenorhynchus albirostris.*
Atlantic White-sided Dolphin.	*Lagenorhynchus acutus.*
Pacific White-sided Dolphin.	*Lagenorhynchus obliquidens.*
Dusky Dolphin	*Lagenothynchus obscurus.*
Fraser's Dolphin	*Lagenodelphis hosei.*
Stenelline Dolphins	*Stenella sp.*
Spinner Dolphin	*Stenella longirostris.*
Spotted Dolphin	*Stenella attenuata.*
Striped Dolphin	*Stenella coeruleoalba.*
Common Dolphin	*Delphinus delphis.*
Northern Right Whale Dolphin.	*Lissodelphis borealis.*

CETACEANS—Continued

Common name:	*Scientific name*
Melon-headed Whale	*Peponocephala electra.*
Pygmy Killer Whale	*Feresa attenuata.*
False Killer Whale	*Pseudorca crassidens.*
Pilot Whales	*Globicephala* sp.
Long-finned Pilot Whale	*Globicephala melaena.*
Short-finned Pilot Whale	*Globicephala macrorhynchus.*
Killer Whale	*Orcinus orca.*
Harbor Porpoise	*Phocoena phocoena.*
Cochito	*Phocoena sinus.*
Finless Porpoise	*Neophocoena phocaenoides.*
Dall's Porpoise	*Phocoenoides dallii.*
White Whale	*Delphinapterus leucas.*
Sperm Whale	*Physeter catodon.*
Pygmy Sperm Whale	*Kogia breviceps.*
Dwarf Sperm Whale	*Kogia simus.*
Blainville's Beaked Whale	*Mesoplodon densirostris.*
Hubb's Beaked Whale	*Mesoplodon carlhubbsi.*
Cuvier's Beaked Whale	*Ziphius cavirostris.*
Baird's Beaked Whale	*Berardius bairdii.*
Bottlenose Whales	*Hyperoodon* sp.

PINNIPEDS

South American Sea Lion	*Otaria flavescens.*
California Sea Lion	*Zalophus californianus.*
Northern Sea Lion	*Eumetopias jubatus.*
Arctocephaline Fur Seals	*Arctocephalus* sp.
Antarctic Fur Seal	*Arctocephalus gazella.*
South African Fur Seal	*Arctocephalus pusillus.*
Northern Fur Seal	*Callorhinus ursinus.*
Pacific Harbor Seal	*Phoca vitulina richardii.*
Ice-breeding Harbor Seal	*Phoca vitulina largha.*
Atlantic Harbor Seal	*Phoca vitulina vitulina.*
Western North Atlantic Harbor Seal	*Phoca vitulina concolor.*
Ringed Seal	*Phoca hispida.*
Gray Seal	*Halichoerus grypus.*
Ribbon Seal	*Phoca fasciata.*
Bearded Seal	*Erignathus barbatus.*
Hawaiian Monk Seal	*Monachus schauinslandi.*
Crabeater Seal	*Lobodon carcinophagis.*
Ross Seal	*Ommatophera rossii.*
Leopard Seal	*Hydrurga leptonyx.*
Weddell Seal	*Leptonychotes weddelli.*
Southern Elephant Seal	*Mirounga leonina.*
Northern Elephant Seal	*Mirounga angustirostris.*

TABLE II.—*Synopsis of permit applications*

	As of Mar. 31, 1976			Apr. 1, 1976 to Mar. 31, 1977			As of Mar. 31, 1977—cumulative total
	Scientific research	Public display	Scientific and public display	Scientific research	Public display	Scientific and public display	
Number of applications submitted	70	99	0	17	39	4	[1] 238
Number of animals requested (total)	57,270	707	0	11,530	165	168	[1] 70,040
Of these:							
Taken by killing	4,731	0	0	9,009	0	0	13,740
Taken and kept alive	300	657	0	96	165	33	1,251
Killed in captivity	57	0	0	0	0	0	57
Taken and released	50,850	0	0	2,425	0	135	53,610
Found dead	1,332	50	0	0	0	0	1,382
ACTION TAKEN							
Number of applications forwarded to Marine Mammal Commission	71	84	0	17	34	3	209
Number of applications reviewed by Marine Mammal Commission	65	81	0	22	33	2	203
Number of applications withdrawn	4	8	0	0	2	0	14
Number of applications referred to States	3	1	0	0	0	0	4
Number of applications resolved through interagency agreement	1	0	0	0	0	0	1
Number of applications returned due to inappropriate submittal	0	5	0	0	1	0	6
Number of applications inactivated	1	5	0	1	0	0	7
Number of applications denied	2	5	0	0	1	0	8
Number of applications approved	60	67	0	19	27	2	175
Number of animals approved (total)	50,109	331	0	17,754	106	152	68,452
Of these:							
Taken by killing	4,027	0	0	9,739	0	0	13,766
Taken and kept alive	283	331	0	0	106	23	743
Killed in captivity	49	0	0	0	0	0	49
Taken and released	44,978	0	0	7,465	0	129	52,572
Found dead	772	0	0	550	0	0	1,322

[1] Included in the application totals above are 42 applications in which no numbers of animals are specified. The total number of animals requested, therefore, does not include the animals which would be taken under these applications.

TABLE III.—*Number of Cetaceans requested in scientific research/public display permit applications*

Common name [1]	Requested (As of Apr. 30, 1976)					Requested (Apr. 1, 1976, through Mar. 31, 1977)					Cumulative total requested [2]
	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	
Black Right Whale				645							645
Bowhead Whale				130	40						170
Gray Whale				324	11						336
Minke Whale				1,350	3				50		1,412
Bryde's Whale				930							930
Sei Whale				935					100		1,035
Fin Whale				875					125		1,000
Blue Whale				625					25		650
Humpback Whale				775	30				100		905
Rough-toothed Dolphin		7		100		410	2				519
Bottlenosed Dolphin		265		804	3	410	99		129		1,710
Risso's Dolphin		2		174		410	6				592
Lagenorhynchine Dolphins				50							50
White-beaked Dolphin				24			2				26
Atlantic White-sided Dolphin		6		24							30
Pacific White-sided Dolphin		23		521	3		6				553
Dusky Dolphin				61							61
Fraser's Dolphin				100		410					510
Stenelline Dolphins				174							174
Spinner Dolphin		17		4,500		3,269			530		8,316
Spotted Dolphin				8,500	3	5,265			530		14,298
Striped Dolphin				100		440					540
Common Dolphin		6		1,011	3	495	2		530		2,047
Northern Right Whale Dolphin		2		130	3						135
Melon-headed Whale				100		385	4				489
Pygmy Killer Whale		4		100		385	4				493
False Killer Whale		7		74			9		6		96
Pilot Whales				160							160
Long-finned Pilot Whale		2		24	60						86
Short-finned Pilot Whale		23		44	3	410	2				482
Killer Whale		8		134	23				50		215
Harbor Porpoise				50	3		1	—	100		154
Cochito					2						2
Finless Porpoise							6				6
Dall's Porpoise				330	3				280		613
White Whale	55	4			50		6				115
Sperm Whale				1,475					225		1,700
Pygmy Sperm Whale					3						3
Dwarf Sperm Whale											
Blainville's Beaked Whale											
Hubb's Beaked Whale					3						3
Cuvier's Beaked Whale		2									2
Baird's Beaked Whale									25		25
Bottlenose Whales				25							25
Total [2]	55	352	0	20,222	249	8,889	149	0	1,805	0	31,721

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications," for the appropriate scientific names.

[2] In some cased, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE IV.—*Number of Pinnipeds requested in scientific research/public display permit applications*

Common name [1]	Requested (As of Mar. 31, 1976)					Requested (Apr. 1, 1976 thru Mar. 31, 1977)					Cumulative total requested [2]
	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	
South American Sea Lion		9									9
California Sea Lion	600	414	29	1,036	243	80	117				2,519
Northern Sea Lion	360			12,500	3				65		13,133
Arctocephaline Fur Seals											65
Antarctic Fur Seal	8			100	550				10		658
South African Fur Seal											10
Northern Fur Seal		12			3						15
Pacific Harbor Seal	946	267	29	3,160	3	40	2				4,378
Ice-breeding Harbor Seal	170	6		300							476
Atlantic Harbor Seal		1									1
Western North Atlantic Harbor Seal		35		145	20		21				221
Ringed Seal	1,220	4			25						1,249
Gray Seal		28					2				30
Ribbon Seal	140										140
Bearded Seal	890				10						900
Hawaiian Monk Seal		2							880		882
Crabeater Seal	24			300							324
Ross Seal	8			106							114
Leopard Seal	24	2		200							226
Weddell Seal	48		37	3,635							4,969
Southern Elephant Seal	8			100							108
Northern Elephant Seal		141		9,046	276		3				9,466
Total [2]	4,676	605	57	30,628	1,133	120	145	0	955	0	38,319

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE V.—*Number of cetaceans authorized to be taken or imported under scientific research/public display permits*

Common name [1]	Authorized (As of Mar. 31, 1976)					Authorized (Apr. 1, 1976 through Mar. 31, 1977)					Cumulative total authorized
	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	
Black Right Whale									120		120
Bowhead Whale				50	40				80		170
Gray Whale				209	10				90		309
Minke Whale				774					100		874
Bryde's Whale				350					70		420
Sei Whale				330					170		500
Fin Whale				230					220		450
Blue Whale				30					70		100
Humpback Whale				30	20				250		300
Rough-toothed Dolphin		7		100		410					517
Bottlenosed Dolphin		151		604		410	46		329		1,540
Risso's Dolphin				124		410			50		584
Lagenorhynchine Dolphins									50		50
White-beaked Dolphin				24							24
Atlantic White-sided Dolphin		6		24							30
Pacific White-sided Dolphin		15		521							536
Dusky Dolphin				61							61
Fraser's Dolphin				100		410					510
Stenelline Dolphins				174					50		174
Spinner Dolphin		11		4,500		3,269			530		8,310
Spotted Dolphin				8,500		5,405			530		14,235
Striped Dolphin				100		440					540
Common Dolphin		6		961		495			580		2,041
Northern Right Whale Dolphin				130							130
Melon-headed Whale				100		385					485
Pygmy Killer Whale				100		385					485
False Killer Whale		5		24			2		50		81
Pilot Whales				110					50		160
Long-finned Pilot Whale		2		24	60						86
Short-finned Pilot Whale		15		44		410	3				472
Killer Whale		4		50	20				100		183
Harbor Porpoise									150		150
Cochito					2						2
Dall's Porpoise				330					280		610
White Whale	15	4			50						69
Sperm Whale				650					350		1,000
Pygmy Sperm Whale											
Hubb's Beaked Whale											
Cuvier's Beaked Whale											
Bottlenose Whales											
Unidentified	75			200							275
Total [2]	90	202	0	19,277	203	9,089	58	0	2,009	0	30,887

[1] Please refer to table 1 of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE VI.—*Number of Pinnipeds authorized to be taken or imported under scientific research/public display permits*

Common name [1]	Authorized (As of Mar. 3, 1976)					Authorized (Apr. 1, 1976 through Mar. 31, 1977)					Cumulative total authorized
	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	
South American Sea Lion	9										9
California Sea Lion	600	308	12	1,025	240	80	52				2,327
Northern Sea Lion	380			10,000		250			2,500		13,130
Arctocephaline Fur Seals									65		65
Antarctic Fur Seal	8			100						550	658
South African Fur Seal									10		10
Northern Fur Seal											
Pacific Harbor Seal	846	155	12	580		120	4		2,500		4,217
Ice-breeding Harbor Seal	70	6		300		100					476
Atlantic Harbor Seal											
Western North Atlantic Harbor Seal		25		145	20		10				200
Ringed Seal	1,120	4			25	100					1,249
Gray Seal		22					2				24
Ribbon Seal	40					100					140
Bearded Seal	790				10	100					900
Hawaiian Monk Seal				54							54
Crabeater Seal	20			400					450		880
Ross Seal	9			206							215
Leopard Seal	26	2		300							328
Weddell Seal	50		37	3,635							3,722
Southern Elephant Seal	8			100							108
Northern Elephant Seal		131		9,046	275		3				9,455
Total [2]	3,937	612	49	25,701	570	850	71	0	5,525	550	37,065

[1] Please refer to table 1 of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for the species. However, the total number given for a Category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

APPENDIX B—NOTICES AND REGULATIONS

B-1—REGULATIONS RELATING TO THE DEFINITION OF OPTIMUM SUSTAINABLE POPULATION

a. Proposed rulemaking, October 6, 1976, FEDERAL REGISTER reference 41 FR 44049.

b. Final rulemaking, December 21, 1976, FEDERAL REGISTER reference 41 FR 55536.

B-2—NOTICES AND REGULATIONS RELATING TO THE INCIDENTAL TAKING OF MARINE MAMMALS IN THE COURSE OF COMMERCIAL FISHING OPERATIONS

a. Final rulemaking, September 5, 1974, FEDERAL REGISTER reference 39 FR 32117.

b. Amended rulemaking, September 25, 1974, FEDERAL REGISTER reference 39 FR 34417.

c. Amended rulemaking, December 5, 1975, FEDERAL REGISTER reference 40 FR 56899.

d. Notice of methodology to be used in determining whether to impose a quota, April 5, 1976, FEDERAL REGISTER reference 41 FR 14401.

e. Amended rulemaking to implement the Order of a U.S. District Court, May 28, 1976, FEDERAL REGISTER reference 41 FR 21782.

f. Correction to amended rulemaking, June 4, 1976, FEDERAL REGISTER reference 41 FR 22,565.

g. Amended rulemaking to implement the Order of a U.S. Court of Appeals, June 9, 1976, FEDERAL REGISTER reference 41 FR 23205.

h. Amended rulemaking establishing a quota, June 11, 1976, FEDERAL REGISTER reference 41 FR 23680.

i. Proposed amended rulemaking, July 27, 1976, FEDERAL REGISTER reference 41 FR 31227.

j. Rulemaking on expedited procedures for consideration of proposed regulations for calendar year 1977, October 1, 1976, FEDERAL REGISTER reference 41 FR 43550.

k. Amended rulemaking, October 4, 1976, FEDERAL REGISTER reference 41 FR 43726.

l. Proposed rulemaking for calendar year 1977, October 14, 1976, FEDERAL REGISTER reference 41 FR 45015.

m. Amended rulemaking, October 15, 1976, FEDERAL REGISTER reference 41 FR 45569.

n. Proposed rulemaking, interim regime, November 11, 1976, FEDERAL REGISTER reference 41 FR 49859.

o. Final rulemaking, interim regime, January 5, 1977, FEDERAL REGISTER 42 FR 1034.

p. Final rulemaking for calendar year 1977, March 1, 1977, FEDERAL REGISTER reference 42 FR 12009.

q. Notice of decision for calendar year 1977, March 1, 1977, FEDERAL REGISTER reference 42 FR 12015.

B-3—NOTICES AND REGULATIONS RELATING TO THE SOUTH AFRICAN FUR SEAL WAIVER OF THE MORATORIUM

a. Final rulemaking, February 19, 1976, FEDERAL REGISTER reference 41 FR 7510.

b. Notice of waiver, February 19, 1976, FEDERAL REGISTER reference 41 FR 7537.

c. Notice of supplemental decision, March 15, 1976, FEDERAL REGISTER reference 41 FR 10940.

d. Notice of correction, April 13, 1976, FEDERAL REGISTER reference 41 FR 15437.

e. Rulemaking, notice of annual review of management program, July 23, 1976, FEDERAL REGISTER reference 41 FR 30337.

f. Rulemaking, notice of decision, August 30, 1976, FEDERAL REGISTER reference 41 FR 36496.

g. Proposed rulemaking, September 17, 1976, FEDERAL REGISTER reference 41 FR 40167.

h. Amended rulemaking, November 24, 1976, FEDERAL REGISTER reference 41 FR 51795.

i. Amended rulemaking, December 16, 1976, FEDERAL REGISTER reference 41 FR 54946.

B-4—NOTICES AND REGULATIONS RELATING TO STATE MANAGEMENT OF MARINE MAMMALS

a. Proposed rulemaking regarding approval and monitoring of State laws, and regarding the taking and importing of marine mammals for which the moratorium has been waived, April 9, 1976, FEDERAL REGISTER reference 41 FR 15173.

b. Revised notice of public hearings; revised pre-hearing order; May 28, 1976, FEDERAL REGISTER reference 41 FR 21832.

c. Final rulemaking regarding approval and review of State laws and regulations, August 31, 1976, FEDERAL REGISTER reference 41 FR 36659.

B-5—REGULATIONS RELATING TO THE DEPLETED STATUS OF HAWAIIAN MONK SEALS

a. Proposed rulemaking, June 16, 1976, FEDERAL REGISTER reference 41 FR 24393.

b. Final rulemaking, July 22, 1976, FEDERAL REGISTER reference 41 FR 30120.

APPENDIX C—FUNDING TABLE

The table which follows details the status of authorization and funding for fiscal year 1977-78.

APPENDIX C.—*Marine mammal conservation—status of authorization and funding—fiscal year 1977 and 1978*

Authorizing legislation	Fiscal year 1977 Base+Increase		Fiscal year 1977 Requested authorization		Fiscal year 1978 Base funding		Fiscal year 1978 Increase request		Fiscal year 1978 Requested total		Fiscal year 1978 Requested authorization	
	Positions	Funding	Amount	Expiration date	Positions	Funding	Positions	Funding	Positions	Funding	Amount	Expiration date
Marine Mammal Protection Act of 1972 (Public Law 92-522, Oct. 21, 1972):												
Sec. 110 research grants	0	$1,667,000	$1,667,000	Sept. 30, 1977	0	$1,667,000	0	0	0	$1,667,000	$1,667,000	Sept. 30, 1980
Sec. 114 administration, enforcement and research	77	2,778,000	4,000,000	do	77	2,778,000	1	$206,000	78	2,984,000	8,000,000	do
MMPA—Subtotal	77	4,445,000	5,667,000	do	77	4,445,000	1	206,000	78	4,651,000	9,667,000	do
Endangered Species Act of 1973	6	294,000	2,000,000	do	6	294,000	0	0	6	294,000	2,000,000	do
Fur Seal Act of 1966	14	595,000	(1)	(1)	14	595,000	0	0	14	595,000	(1)	(1)
Saltonstall Kennedy funding	0	[2] 600,000									(1)	(1)
Other authorizations—Subtotals	20	1,489,000			20	889,000	0	0	20	889,000		
Marine mammal conservation—total	97	5,934,000			97	5,334,000	1	206,000	98	5,540,000		

[1] Open.
[2] One-time funds made available by the Office of Management and Budget solely for support of the enforcement plan submitted to the U.S. Circuit Court of Appeals for the District of Columbia Circuit, February 1977.

[FR Doc.77-21718 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977

PART III



COMMODITY FUTURES TRADING COMMISSION

■

CHIEF OF THE OPINIONS SECTION

Delegation of Authority

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Delegation of Authority to the Chief of the Opinions Section

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of final rule delegating authority to Chief of the Opinions Section to grant or deny certain procedural motions.

SUMMARY: The Commodity Futures Trading Commission has delegated to the Chief of the Opinions Section, or to such person or persons under his direction as he may designate from time to time, the authority to consider and grant or deny motions for procedural orders directed to the Commission in adjudicatory proceedings and in reparations proceedings conducted under the Commodity Exchange Act by parties seeking review by the Commission after the initial decision has been filed in these proceedings by the Administrative Law Judge.

This delegation reserves to the Commission the right to revoke the delegated authority at any time and specifically empowers the Chief of the Opinions Section to submit matters to the Commission for its consideration whenever he believes it to be appropriate. The delegation will enable the Commission to handle these procedural motions much more expeditiously than in the past, due to the more abbreviated nature of the decisional process.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Graham, Chief, Opinions Section, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202-254-7602).

SUPPLEMENTAL INFORMATION: The Commission has determined to authorize the Chief of the Opinions Section to consider and grant or deny procedural motions which otherwise would of necessity have to be entertained by the Commission itself. In the past, nearly all of these procedural motions have involved requests for extensions of time in filing briefs before the Commission and for waivers of page limitations for briefs to be submitted. Only on rare occasions have the motions been contested by the parties. Nevertheless, a considerable number of these motions are made and the Commission's consideration of these motions requires a rather significant amount of Commission time. Since the number of reparations and enforcement cases requiring Commission review is increasing dramatically, consideration of such motions would require a great deal more of the Commission's time in the future.

In order to eliminate this pressure upon the Commission, except in rare cases deemed either by the Commission or by the Chief of the Opinions Section to warrant Commission consideration, the Commission has delegated the authority to decide such matters on a day-to-day basis to the Chief of the Opinions Section.

Based on the foregoing, the Commission hereby amends Part 140 of Chapter 17 of the Code of Federal Regulations by adding a new § 140.71 to read as follows:

§ 140.71 Delegation of authority to Chief of the Opinions Section.

Pursuant to the authority granted under sections 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Chief of the Opinions Section, to be performed by him or by such person or persons under his direction as he may designate from time to time:

(a) (1) With respect to proceedings conducted pursuant to the Commodity Exchange Act, as amended, 7 U.S.C. 1 et seq., and subject to the Commission's Rules of Practice as set forth in Part 10 of this chapter, to consider and grant or deny such motions submitted under § 10.26(c) of the Rules of Practice as may be directed to the Commission pursuant to § 10.26(a) of the Rules of Practice after the initial decision has been filed in the proceeding.

(2) With respect to reparation proceedings conducted pursuant to Section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18, and subject to the Commission's reparation rules as set forth in Part 12 of this chapter, to consider and grant or deny such motions submitted under § 12.26(c) of the reparation rules as may be directed to the Commission pursuant to § 12.26(a) of the reparation rules after the initial decision has been filed in the proceeding.

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the Chief of the Opinions Section believes it appropriate, he may submit the matter to the Commission for its consideration.

(Pub. L. 93-463 Sec. 101(a)(4) and 101(a)(11), 88 Stat. 1391 (7 U.S.C. 4a(c) and 4a(j) (Supp. V, 1975)).)

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C., on July 26, 1977.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-21951 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977
PART IV



COMMODITY FUTURES TRADING COMMISSION

■

MINIMUM FINANCIAL REQUIREMENTS

Proposed Adoption and Monitoring

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

MINIMUM FINANCIAL REQUIREMENTS

Proposed Adoption and Monitoring

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rule would require all self-regulatory organizations under the jurisdiction of the Commodity Futures Trading Commission ("Commission") to adopt minimum financial and related reporting requirements with respect to their member futures commission merchants ("FCM's"). The proposed rule also would permit the responsibility for monitoring and auditing any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. This proposed regulation is intended to accomplish the Commission's goal of industry self-regulation by increasing regulatory efficiency, facilitating the reduction of the undue burden of multiple financial monitoring, auditing, and reporting imposed upon FCM's which are members of more than one self-regulatory organization, and facilitating the development of a registered futures association under section 17 of the Commodity Exchange Act, as amended.

DATES: Comments on the proposed rule should be submitted by November 1, 1977.

ADDRESS: Send comments to Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202–254–5218.)

SUPPLEMENTARY INFORMATION: The Commission is proposing the fourth and final stage of its proposed revisions to Commission regulations dealing with the minimum financial and related reporting requirements imposed upon FCM's. The proposed regulation requires each self-regulatory organization to adopt minimum financial and related reporting requirements with respect to its member FCM's. The proposed regulation also would permit the responsibility for monitoring and auditing the financial status of any FCM which is a member of more than one self-regulatory organization, and for receiving such FCM's related financial reports, to be delegated to a single self-regulatory organization. Such a delegation would not relieve the self-regulatory organization of its duty to enforce its regulations, but would relieve the self-regulatory organization of its duty to maintain a continuing affirmative action program to secure compliance with such regulations under § 1.51 of this part. The first three stages were proposed as follows: On October 6, 1976, the Commission proposed extensive revisions in the financial reporting requirements imposed upon FCM's under Commission regulations. 41 FR 45706 (October 15, 1976). On May 17, 1977, the Commission proposed substantial amendments to the minimum financial standards to which FCM's are subject under its regulation 1.17. 42 FR 27166 (May 26, 1977). On June 14, 1977, the Commission proposed an improved early warning system based upon the proposed amendments to its regulation 1.17. 42 FR 31740 (June 22, 1977).

SELF-REGULATION

In the October 15, 1976 FEDERAL REGISTER release announcing the proposal of revised financial reporting requirements for FCM's, the Commission stated that

> (I)t is Commission policy to encourage contract market self-regulation. In this regard, the Commission anticipates requiring all contract markets to adopt and to enforce uniform minimum financial and related reporting requirements. Such requirements would be subject to the same active oversight regulation as are the other rule enforcement programs of the contract markets. However, because of the common interest of the contract markets in the financial integrity of their member FCM's and because of the uniform applicability of the minimum financial and related reporting requirements envisioned by the Commission, it may be advantageous for the contract markets to engage in a joint enforcement or audit program to monitor compliance with such uniform minimum financial and related reporting requirements. Such a joint program or an alternative program through a national futures association, as provided for in Title III of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 21, could meet the anticipated Commission requirements. 41 FR 45706.

The Commission believes it is the responsibility of the contract markets, as quasi-public institutions, to insure the financial integrity of their member FCM's, thereby insuring the integrity of the marketplace itself, as well as protecting the funds of customers who use that marketplace. This belief is in keeping with the self-regulatory responsibilities of the commodity futures industry envisioned by the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 1–22 (Supp. V. 1975)). Further, recent and anticipated changes in the size and nature of the commodity futures industry and the increase in the number and types of activities subject to Commission regulation under the Act have made it appropriate for the Commission to place a significantly greater emphasis on industry self-regulation under the oversight surveillance of the Commission.[1]

Section 4f(2) of the Act and regulation 1.17 provide that an FCM must at all times meet the minimum financial and related reporting requirements established by the Commission unless the FCM is a member of a contract market and conforms to the minimum financial and related reporting requirements set by that contract market and approved by the Commission. At present, only 2 of the 10 contract markets have adopted minimum financial and related reporting requirements which have been approved by the Commission under section 4f(2) of the Act. In order to have self-regulation in the area of financial responsibility, it is necessary for all self-regulatory organizations to adopt rules requiring their member FCM's to maintain an adequate minimum level of net capital and adhere to adequate related financial reporting requirements.

UNIFORM COMPUTATIONAL CRITERIA

If the Commission were to require all self-regulatory organizations to adopt and enforce minimum financial and related reporting requirements for their member FCM's without requiring the computational criteria contained in those rules to be uniform throughout the industry, it is possible that ten different computational criteria could result. The burden of learning and complying with such divergent rules would be placed upon the approximately 110 FCM's which are currently members of more than one contract market.

The existence of different minimum financial regulations would also hinder the development of an effective financial surveillance program by a Title III Association. If an FCM were a member of two contract markets, each having a different minimum financial rule, a Title III Association delegated the responsibility for monitoring the financial status of that FCM by both contract markets would have to learn and apply the different rules of each contract market to that FCM.

In addition, for the same reasons described in the preceding paragraph, unless the self-regulatory organization's minimum financial requirements contained uniform computational criteria, it would not be feasible to delegate the responsibility for monitoring the financial status of an FCM which is a member of more than one self-regulatory organization to a single contract market or other self-regulatory organization. Further, if the self-regulatory organizations' minimum financial requirements contained uniform computational criteria, each FCM could compute its net capital for one self-regulatory organization and have that computation be valid for any other self-regulatory organization of which it is a member.

In order to avoid the necessity of complying with divergent financial regulations, to facilitate the development of a Title III Association, and to facilitate the delegation of financial oversight responsibility, the Commission is proposing that each of the minimum financial regulations adopted by the self-regulatory organizations contain uniform computational criteria.

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[1] See the Commission's May 26, 1977, FEDERAL REGISTER release (42 FR 27166) for a further explanation of the changes in the size and nature of the commodity futures industry and the increase in the number and types of activities subject to Commission regulation.

DELEGATION OF RESPONSIBILITY

The uniformity described above will enable the responsibility for the financial oversight of an FCM which is a member of more than one self-regulatory organization to be delegated to a single contract market or other self-regulatory organization. The Commission is proposing to permit such a delegation of responsibility. This delegation would permit the FCM's which are members of more than one self-regulatory organization to be monitored and audited for compliance with such self-regulatory organizations' minimum financial and related reporting requirements by a single contract market or other self-regulatory organization. It also would enable such FCM's to submit the financial reports necessitated by such minimum financial and related reporting requirements to a single contract market or other self-regulatory organization.

The self-regulatory organizations will also benefit from this delegation of responsibility. They will have fewer FCM's to audit and monitor, yet they still will receive the necessary financial information with which to protect the integrity of the marketplace, fulfill their responsibilities to the customers that use that marketplace, and enforce their minimum financial regulations.

The Commission has elected to permit the contract markets to develop their own plans for the delegation of oversight responsibility for FCM's which are members of more than one self-regulatory organization to a single contract market or other self-regulatory organization. This approach was taken in the belief that the reduction of costs to the contract markets and the relieving of the unnecessary burden placed upon FCM's would be enough incentive for the contract markets to come to agreement on plans for the delegation of this oversight responsibility. An alternative to this approach would be for the Commission to allow the contract markets to develop their own plans within a specified time period, but at the end of that time period, if plans are not developed to delegate the financial oversight responsibility for all FCM's which are members of more than one self-regulatory organization to a single contract market or other self-regulatory organization, then the Commission would act to insure such a delegation. The Commission specifically requests comments on this alternative.

FCM/BROKER-DEALER

As these financial surveillance systems are implemented, cooperative efforts will also continue between the Commission and the Securities and Exchange Commission with regard to a uniform financial surveillance system between the two industries. Eventually, FCM's which are also broker-dealers could save even more time and money through this increased uniformity between the commodity futures industry and the securities industry. The implementation of this regulatory efficiency program in the commodity futures industry is a vital first step towards such a goal.

PROPOSED DEFINITIONS

The Commission is proposing the adoption of definitions for the terms "self-regulatory organization" and "designated self-regulatory organization". "Self-regulatory organization" would mean a contract market, domestic commodity option exchange, or a registered futures association under section 17 of the Act. "Designated self-regulatory organization" would mean the self-regulatory organization of which an FCM is a member, or if the FCM is a member of more than one self-regulatory organization and is the subject of an approved plan under proposed regulation 1.52, then a self-regulatory organization delegated oversight responsibilities under proposed regulation 1.52.

SUMMARY OF PROPOSED REGULATION 1.52

Regulation 1.52(a) would require each self-regulatory organization to adopt minimum financial and related reporting requirements for all of its member FCM's. The computational criteria used to determine compliance with such requirements would have to be the same as that set forth in proposed regulation 1.17(c), as ultimately adopted after due consideration of public comment. These minimum requirements must be the same as, or more stringent than, those contained in proposed regulations 1.10[2] and 1.17,[3] as ultimately adopted after due consideration of public comment. For example, a self-regulatory organization might reasonably conclude that a higher minimum net capital should be necessary for membership in that self-regulatory organization. This would be consistent with this regulation.

Proposed regulations 1.52(b) (1) and (2) permit any two or more self-regulatory organizations to establish a plan or plans for delegating financial oversight responsibility to a designated self-regulatory organization with respect to any FCM which is a member of more than one self-regulatory organization. This delegation of oversight responsibility should result in considerable savings to the industry. For example, the Chicago Board of Trade and the Chicago Mercantile Exchange have approximately fifty-five joint FCM members. If these two self-regulatory organizations alone shared financial oversight responsibility through such a delegation, considerable time and money could be saved.

Commission regulation 1.51(a)(3) requires each contract market to maintain a continuing affirmative action program for the examination of the books and records kept by its members relating to their business of dealing in commodity futures and cash commodities, insofar as such business relates to their dealings on such contract market. An adequate program includes periodic examinations to determine compliance with exchange recordkeeping requirements and compliance with contract market rules in certain areas such as handling of discretionary accounts, margins, and handling of customers' orders. Proposed regulation 1.52(b) would permit the various self-regulatory organizations, if they believe it appropriate, to delegate these examination functions to a designated self-regulatory organization for any FCM which is a member of more than one self-regulatory organization.

The Commission wishes to emphasize that in order for a plan submitted by two or more self-regulatory organizations to be approved, it would not be necessary for all their FCM's which are members of more than one self-regulatory organization to be included. For example, assume that self-regulatory organizations A and B have twenty members in common, and have five additional joint members which are also members of self-regulatory organization C. If agreement could be reached between A and B on only fifteen of their twenty joint members, and between A, B and C for only three of their five members in common, then a plan could be submitted for those eighteen FCM's. In addition, if self-regulatory organization C would not agree to a plan for the delegation of responsibility for the two remaining FCM's it has in common with A and B, but A and B could agree on such a delegation, then self-regulatory organizations A and B could still submit their plan for those FCM's.

Proposed regulation 1.52(c) would permit a sharing of the expenses reasonably incurred by a designated self-regulatory organization due to a plan's operation. This sharing of expenses could assist certain designated self-regulatory organizations which may find their costs increased slightly due to the implementation of a delegation plan. To offset such costs the other self-regulatory organizations in the plan may want to share part of these costs.

Proposed regulations 1.52(d) and 1.52(e) provide a structure for the dissemination of information from a designated self-regulatory organization to the other self-regulatory organizations in a plan. These provisions authorize access to the information that such a self-regulatory organization would have been obligated to obtain itself were it not for the implementation of this regulatory efficiency system. A self-regulatory organization may then use this information to protect the integrity of the marketplace and to meet its rule enforcement obligations.

Commission regulation 1.51 requires each contract market to maintain an affirmative action program to secure compliance with such contract market's rules and regulations. Once responsibility for certain financial surveillance programs has been delegated to a designated self-regulatory organization under this proposed regulation 1.52, the self-regulatory organization which has delegated such responsibility shall be considered to have met its affirmative action responsibilities under regulation 1.51, to the extent of such a delegation.

[2] 41 FEDERAL REGISTER 45706 (October 15, 1976).

[3] 41 FEDERAL REGISTER 27166 (May 26, 1977).

When an FCM ceases to be a member in good standing of any self-regulatory organization, proposed regulation 1.52(i) requires notification to be sent to the Commission by both the FCM and the self-regulatory organization of which it is no longer a member in good standing. This notification is necessary because such an occurrence may require a re-delegation of responsibility under a plan or result in the Commission becoming the primary regulator of the FCM.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 as follows:

1. By amending § 1.3 to include new paragraphs (ee) and (ff) to read as follows:

* * * * *

(ee) "Self-regulatory organization." This term means a contract market, a domestic commodity option exchange, or a registered futures association under section 17 of the Act.

(ff) "Designated self-regulatory organization." This term means a self-regulatory organization of which a futures commission merchant is a member or, if the futures commission merchant is a member of more than one self-regulatory organization, and is the subject of an approved plan under § 1.52 of this part, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such a futures commission merchant for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant.

2. By adding a new § 1.52, reading as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) Each self-regulatory organization must adopt minimum financial and related reporting requirements for all its member futures commission merchants. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17 of this part, and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c) of this part.

(b) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any futures commission merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this § 1.52; and

(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Such a plan may also delegate the responsibility of examining the books and records kept by such futures commission merchant relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3) of this part.

(c) Any plan filed under this § 1.52 may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(d) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibility to monitor, audit or examine has been delegated to such designated self-regulatory organization under this § 1.52.

(e) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary financial or related information.

(f) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part thereof: is necessary or appropriate to serve the public interest; is for the protection and in the interest of customers; reduces multiple monitoring and auditing for compliance with the minimum financial rules of the self-regulatory organizations submitting the plan for any futures commission merchant which is a member of more than one self-regulatory organization; reduces multiple reporting of the financial information necessitated by such minimum financial and related reporting requirements by any futures commission merchant which is a member of more than one self-regulatory organization; fosters cooperation and coordination among the contract markets; and does not hinder the development of a registered futures association under section 17 of the Act.

(g)(1) Upon the approval of a plan or part thereof under § 1.52(f), a self-regulatory organization which is included in such a plan shall be considered to have met its affirmative action responsibilities under § 1.51 of this part to the extent that such responsibilities have been delegated to a designated self-regulatory organization.

(2) After the Commission has approved a plan or part thereof under § 1.52(f), a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan: (A) of the limited nature of its responsibility for such a member's compliance with its minimum financial and related reporting requirements; and (B) of the identify of the designated self-regulatory organization which has been delegated responsibility for such a member.

(h) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part thereof established under this § 1.52, if such plan or part thereof ceases to adequately effectuate the purposes of section 4f(2) of the Act or of this § 1.52.

(i)(1) If a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such futures commission merchant must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C.

(2) Whenever a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C., send a copy of that notification to such futures commission merchant, and notify such futures commission merchant of its responsibilities under this § 1.52(i).

(j) Nothing in this § 1.52 shall preclude the Commission from examining any futures commission merchant for compliance with the minimum financial and related reporting requirements to which such futures commission merchant is subject.

(7 U.S.C. 6c, 6f, 7a and 12a).

Issued in Washington, D.C., on July 27, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-22052 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977

PART V



FEDERAL TRADE COMMISSION

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HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

FEDERAL TRADE COMMISSION

[16 CFR Parts 801, 802, 803]

HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Proposed rulemaking.

SUMMARY: These proposed rules prescribe reporting and waiting period requirements for persons who intend to make certain acquisitions of assets or voting securities. The rules are needed in order to implement Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, which relates to Premerger Notification. The intended impact of these rules is to explain which persons and transactions are subject to the statute (Part 801), which persons and transactions are exempt from the requirements of the statute (Part 802), and how persons who are subject to the statute shall comply with its requirements (Part 803).

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, D.C. 20580 and (2) Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580. Telephone: 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, requires persons contemplating certain direct or indirect mergers or acquisitions to give the Federal Trade Commission (hereafter referred to as the Commission) and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to as the Assistant Attorney General) advance notice and to wait certain designated periods before consummation of such plans. The transactions to which the advance notice requirement is applicable and the length of the waiting periods required are set out in the Act, the complete text of which is reprinted below. The amendment to the Clayton Act does not change the standards to be used in determining the legality of mergers and acquisitions.

Section 7A of the Amended Clayton Act, 15 U.S.C. 18A, provides:

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

Sec. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"Sec. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2) (A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

"(b)(1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereinafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance,

from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e)(2) or (g)(2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the FEDERAL REGISTER a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount of percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisitions;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 and 408(e) of the National Housing Act 12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

"(9) acquisition, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer;

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisitions may, if consummated, violate the antitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to

the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b)(1) of this section, or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e)(2), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e)(2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to comply substantially with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of Law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section."

EFFECTIVE DATES

Sec. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

Subsection 7A(d)(1) of the amended Clayton Act, 15 U.S.C. 18A(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. 553, to require that the notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Subsection 7A(d)(2) of the amended Act, 15 U.S.C. 18A(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. 553, the authority (A) to define the terms used in the amendment; (B) to exempt additional persons or transactions from the Act's notice and waiting period requirements; and (C) to prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

On December 20, 1976, the Federal Trade Commission published proposed rules and a proposed notification form in the FEDERAL REGISTER and invited written comments on those rules and form prior to January 19, 1977. The comment period was subsequently extended to February 18, 1977. More than 120 comments were received from interested persons; many were lengthy and detailed. Study of these comments and of the proposed rules by the staffs of the Commission and the Antitrust Division of the Department of Justice resulted in a very large number of substantive changes in individual rules, although the basic requirements embodied in the originally proposed rules were retained.

In an effort to make the order and numbering of these rules somewhat more logical, the Commission has renumbered many of the proposed rules. The following table indicates the number of the revised rule corresponding with the number of each rule originally published in the Federal Register on December 20, 1976.

As originally proposed, section:	*As revised, section*
801.05	801.1.
801.10	801.2.
801.15	801.3.
801.20	801.10.
801.25	801.11.
801.30	801.12.
801.35	801.13.
801.40	801.15.
801.45	801.20.
801.50	801.21.
801.55	801.40 and 802.41.
801.60	801.30.
802.05	802.70.
802.10	802.60 and 802.62.
802.15	802.61.
802.20	802.30.
802.25	803.32.
802.30	802.40.
802.35	802.50, .51 and .52.
802.40	802.20.
802.45	802.21.
802.50	Deleted.
802.75	802.6.
802.85	802.9.
802.90	802.10.
802.95 [Reserved]	802.64 and .64a.
803.05	803.1.
803.10	803.10.
803.15	803.4.
803.20	803.5.
803.25	803.3.
803.30	803.20.
803.35	802.11.

The following revised rules have been added:

Sec. 801.4, 801.14, 802.8, 802.22, 802.23, 802.31, 802.63, 802.71, 803.2, 803.30.

There are three areas in which the originally proposed rules generated significant comment, but where the Commission has made no basic changes in the revised rules. In addition, significant changes from or additions to the rules

originally proposed have been made in about a dozen areas. The reasons for the Commission's actions are briefly explained below, in order to highlight significant areas for possible additional comment.

Areas in Which No Significant Changes Have Been Proposed

1. definition of "person"

Among the provisions in the proposed rules which drew widespread comment was the definition of "person" (proposed § 801.05(a)). The definition of this term has a significant impact upon both the coverage of the statute and the specific reporting requirements imposed by the rules. The problem arises from the fact that the statute does not refer to companies or firms, but instead speaks of "persons". Moreover, it uses the single term "person" in at least two different senses.

Section (a) of the statute says that, providing three conditions are satisfied, "no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons * * * file notification pursuant to rules (promulgated by the Commission) and the (prescribed) waiting period * * * has expired * * *." The first of these three conditions (subsection (a)(1)) is that either of the parties to the transaction be engaged in commerce or in any activity affecting commerce. The second (subsection (a)(2)) requires basically that one of the parties have annual net sales or total assets of $100 million or more and that the other have annual net sales (if engaged in manufacturing) or total assets of $10 million or more. The third (subsection (a)(3)) specifies that as a result of the transaction the acquiring person would hold either 15 percent of the voting securities or assets of the acquired person or an aggregate total amount of the voting securities and assets of the acquired person in excess of $15 million.

It seems obvious, for purposes of testing the subsection (a)(2) size criteria of the Act, that the relevant "person" must be the entire corporate structure, rather than just the company or perhaps the particular subsidiary which is making the acquisition. In other words, whether the size criteria are met should depend upon the size of the overall corporate structure, rather than on the form of corporate organization that is acquiring legal title as a result of the transaction.

The 15 percent test in subsection (a)(3) raises a different problem. For example, suppose the transaction involves the purchase by a large corporation of a subsidiary of another large corporation. The definition of "person" as the entire corporate structure would dictate that the selling corporation's entire corporate structure be considered the "acquired person" for purposes of the $100 million or $10 million size criteria. But if the selling corporation and its subsidiary each issue their own stock, then a specific number of the subsidiary's shares cannot conveniently be expressed as a percentage of either the shares of the parent, or the combined shares of the parent and its subsidiary corporations. The problem is not as acute when the acquisition is of assets rather than voting securities, since assets could be valued without reference to the corporate forms.

There is, however, the anomaly that, in a statute designed to reach acquisitions by, and mergers between, large entities, the larger the acquired person, the more of its assets can be sold without reporting. This anomaly would be magnified if the acquired person were always the entire corporate structure of the seller.

The proposed rules sought to deal with this problem by defining "person" in two different ways. Each separate corporation or other entity was a "person," but all such persons controlling, controlled by, or under common control with another corporation were also collectively defined as a single, larger "person". In that way, any particular "person" could be used for purposes of the 15 percent criteria, but the collective "person" could be used for the size criteria. Although this approach was slightly awkward, the awkwardness stemmed from the statute itself, and the approach seemed to achieve the intent of the drafters.

The revised rules retain this basic approach but seek to clarify it by introducing a new term "entity" (§801.1(a)(2)) to describe and distinguish the component parts of the larger "person" (§ 801.1(a)(1)). For purposes of the subsection (a)(2) size criteria the rules look to the acquiring and acquired "persons," while for the 15 percent tests in subsection (a)(3), they look to the specific entity whose voting securities or assets are being acquired.

One specific alternative that was rejected envisioned that for all purposes the acquiring person would consist of the entire corporate structure, while the acquired person would always consist of the specific entity whose voting securities or assets were being acquired, along with any other entities which it controlled. The major disadvantage of this proposal is that it unnecessarily limits coverage of the Act. A very large corporation might sell the voting securities or assets of one of its subsidiaries and escape reporting, whereas the same transaction would have been reportable if the corporation had sold its own voting securities or assets. Apart from the problem of inconsistency, this arrangement would invite the possibility that a large corporation might transfer assets to one of its small subsidiaries and then sell them to another large corporation without reporting. Rather than bifurcating the definition of person between acquired and acquiring persons, the Commission determined in the revised rules that "persons" would be used for subsection (a)(2) size criteria, and "entities" would be used for subsection (a)(3) transaction criteria. This formula follows the basic approach of the originally proposed rules.

2. coverage of joint ventures

The basic policy decision, reflected in § 801.55 of the originally proposed rules, to require reporting and waiting by persons forming certain joint ventures, generated substantial comment. Numerous comments insisted that, since the legislative history is silent on joint ventures, they may not appropriately be included within the scope of the rules. The Commission's determination to include coverage of joint ventures in the rules was, however, unanimously supported by the comments received from members of Congress. The Supreme Court opinion in *United States* v. *Penn-Olin Chemical Co.*, 378 U.S. 158 (1964), supports the position that at least some types of joint ventures should be subject to antitrust scrutiny prior to formation. The Commission has determined that acquisitions of voting securities or other interests in connection with the formation of joint ventures are to be treated like other acquisitions subject to the Act.

In order to implement this approach in a manner consistent with the Act, both the proposed and revised rules (§ 801.40) define the joint venturers as "acquiring persons" (since they acquire shares or other interest in the joint venture), and the venture itself as the "acquired person" (since its shares or assets are being acquired). Thus, no change in the basic approach to coverage of joint ventures is embodied in the revised rules.

3. basic concept of the report form

The most significant comments relating to the Notification and Report Form focused on the degree of detail demanded by the form. The general thrust of many of the comments was that the proposed form requires more data than Congress intended. It was argued that the statutory term "notification" implies a much less burdensome submission than the proposed form. Some maintained that the initial notification should do little more than inform the antitrust enforcement agencies of the participants to the transaction, the projected date of consummation, and other noncontroversial and generally uninformative data. After this initial notification, if the agency determined that the transaction may violate the antitrust laws, the transaction could be investigated in detail by requesting additional information from the reporting companies, as is provided by the Act.

This position fundamentally misconceives the amount of information necessary to make even a tentative determination whether a transaction may violate the antitrust laws. The information requested by the proposed form is necessary to a determination whether to issue a request for additional information, and what information to request at that time. The legislative history suggests that Congress did not intend these reports to be vehicles to amass an economic data base for generalized research, and they are not intended to be. The reports are designed to provide data needed to evaluate the legality of particular transac-

tions. Congress also intended that the reports would consist of data and documents reasonably available to reporting companies, and some revisions have been made in response to specific suggestions of this type in the comments.

Beyond these two criteria, the Commission does not believe that the legislative history contemplated any particular level of detail. Rather, the statute explicitly leaves to the Commission and the Antitrust Division the task of specifying what "documentary material and information relevant to a proposed acquisition * * * is necessary and appropriate to enable the * * * Commission and the [Division] to determine whether such acquisitions may, in consummated, violate the antitrust laws * * *."

Another reason for the decision to retain the overall approach to the Notification and Report Form embodied in the proposed rules is that it may permit a larger number of mergers and acquisitions to be consummated without extensions of the waiting period. Section (e) of the statute permits either the Commission or the Antitrust Division to request additional information. The waiting period may be extended during the time that a response to that request is being prepared, and for as long as twenty days after the response has been received. The greater the extent to which requests for data are deferred from the initial report until the request for additional information, the more likely it becomes that a second request may be necessary in order to satisfy an agency that no antitrust violation is likely. If second requests are issued more frequently, the average waiting period may be longer, rather than shorter, than it would be with a more comprehensive initial notification procedure. The requirements of the initial report will be publicly available, and companies will be able to begin compiling required data in advance of the transaction. By contrast, the second request and its content will not be regularly anticipated, and the reporting company will have to begin compiling the data during the waiting period, thus lengthening, possibly substantially, the time required for full compliance. Moreover, a second request after receipt of a sketchy initial report is likely to be more detailed and may require an even larger amount of time for preparation of a response.

In response to requests that the Notification and Report Form be made less burdensome, the Commission has made the following revisions.

1. With respect to assets being acquired, the revised form requests only a description of the "general classes of assets," rather than a description of all the assets required by Item 2(e) of the proposed form. In addition, the revised form does not request detailed information relating to the value of the assets, the method of valuation, date of valuation, or dollar sales or revenues attributable to the assets.

2. Both the proposed and revised form request copies of the contract or agreement embodying the proposed transaction, but in lieu of the request in Item 2(g) to furnish copies of all contracts, options and agreements relating to the proposed transaction, the revised form requests only an index of the ancillary documents or classes of such documents.

3. In lieu of that portion of Item 2(h) which required submission of all studies, surveys, analyses, and reports which contain *any* information relevant to market shares, competition, competitors, markets, etc., the revised form requests only those documents prepared for the purpose of evaluating or analyzing the proposed transacation, along with a narrative description of the planning process and persons responsible for planning within the reporting person, so that meaningful second requests can be formulated where appropriate.

4. No 7-digit SIC-based produce data is requested in the revised form with respect to activities other than manufacturing, and no reporting companies are required to submit any 7-digit data for any year other than 1972, when such information would have been prepared for the Census of Manufactures. In lieu of the latter, companies engaged in manufacturing must report their revenues for the most recent year by 5-digit product class, which most large companies already prepare for purposes of the Annual Survey of Manufactures.

5. No export or import data is required on the revised form as such. However, manufactured products which are exported will be included (without separate identification) in the value of shipments of domestic producers, and imported products which are resold will be included upon resale in the United States (again without separate identification) in domestic sales figures. This treatment conforms with that of the Census Bureau.

6. The requirement in Item 6(c), for state-by-state breakdowns of shipments in 4-digit SIC code industries in which both the acquiring and acquired companies derive revenues, has been replaced. Companies must list instead the locations of establishments from which dollar revenues in such industries were derived, and, for 2-digit SIC major groups of industries for which it is appropriate, list the states which comprise the ultimate market for the product or service. In addition, Item 6(d), which requested state-by-state data when there was a 7-digit overlap, has been deleted.

7. Item 6(e), which required reporting companies to list their five most significant competitors for each of their ten largest selling product groups, has been deleted.

8. Items 8(a) and 8(b), which requested data relating to all products which either company could have sold to the other, have been substantially streamlined. The revised form requires identification of products as to which the parties had a vendor-vendee relationship during the most recent year.

Although information requests in several items have been somewhat expanded, the basic thrust of the proposed Notification and Report Form has not been changed in the revised rules, and compliance with its requirements should be considerably less burdensome for reporting companies by reason of the above changes.

Areas in Which Significant Changes Have Been Proposed

1. definition of "control"

Definition of the term "control" is crucial, because control is the concept used to link up the entire corporate structure which constitutes a "person" for purposes of testing the size criteria of the statute. The definition in the proposed rules (§ 801.05(b)) recognized that ownership of 50 percent or more of the outstanding voting securities of an issuer constituted control. That definition also sought to formulate a subjective test by focusing on the fact of control. A great many comments were critical of this wholly subjective standard, not only because it may be difficult to determine the precise percentage of voting securities which constitutes control of a particular enterprise, but also because many types of relationships may confer upon persons other than shareholders different kinds of "powers" which may resemble control.

The 50 percent stock ownership test has been retained (§ 801.1(b)), and a narrow additional test (where one party has a contractual power presently to designate a majority of the directors of another) has been added. The Commission is considering adoption of a further test, which would define "control" to include the holding of sufficient voting stock or the possession of sufficient voting power to designate or elect a majority of the directors. Where this type of "control" would arise at some future time or upon the happening of some contingency, one person would "control" another only from the time that such power vests. This result might be accomplished by changing the last clause of § 801.1(b) to read:

> (B) Power to presently designate or elect a majority of the directors or trustees of an entity.

The Commission considered adoption of a percentage smaller than 50 as a wholly objective criterion for control. In some situations, particularly with relatively large corporations, there is no doubt that de facto control arises at some point below, sometimes well below, 50 percent. Because it is difficult to devise a test which determines an appropriate percentage based solely on objective criteria, the Commission may adopt a test which focuses on the objective factors of voting control (or contractual power), without relying on a specific percentage of voting securities held. Comments relating to these alternatives are especially invited.

2. convertible securities

Subsection (b)(3)(A) of the statute provides:

> The term "voting securities" means any securities which at present or *upon conversion* entitle the owner or holder thereof to

vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions. (emphasis supplied)

The proposed rules provided no detail concerning the manner in which convertible securities were to be treated, either when acquired or when held. The revised rules contemplate that the acquisition of convertible securities may be a reportable transaction and that convertibles are valued like other voting securities. Because the acquisition of convertibles is the point at which the reporting and waiting period requirements attach, the subsequent conversion of such securities into voting stock is exempted from these requirements (§ 802.31). An exception is created for options, warrants, and other rights to purchase voting securities upon payment of additional consideration; these are excluded from the definition of "voting securities" (§ 801.1(f)(1)) and their exercise is excluded from the definition of "conversion" (§ 801.1(f)(2)). The result is that these types of securities or rights can be acquired without reporting, but are subject to reporting and waiting period requirements at the time of their exercise.

Where convertible securities are acquired or held, the revised rules also clarify the procedures for calculating the percentage of the issuer's voting securities which the acquiring person will hold as a result of the transaction (§ 801.12). The rule provides that all securities held by the acquiring person which are convertible upon the happening of an event certain to occur within five years, plus all securities which are convertible at the option of the acquiring person, are treated as though they were presently entitled to vote. The purpose is to assess the maximum voting power that the acquired person could achieve for himself within a reasonable period of time by means of conversions; this projection is required by reason of the fact that a subsequent conversion of voting securities is an exempt transaction.

3. JOINT VENTURE EXEMPTIONS

The specific exemptions contained in proposed § 802.30 have been restated as coverage criteria and are embodied in § 801.40 of the revised rules. One exemption has been added in § 802.40 of the the revised rules for tax-exempt nonprofit corporations, which seemed unlikely in most cases to pose significant antitrust problems.

The Commission received a large number of comments describing a variety of joint ventures which are frequently utilized in a number of industries. The comments uniformly asserted that these types of joint ventures were unlikely to violate the antitrust laws or were not intended to be covered by the Act, or that reporting and waiting period requirements would impose substantial burden on these industries because of the frequency with which joint ventures are utilized.

The Commission does not believe that, simply because joint ventures are widely utilized in certain industries, the likelihood of their possible anticompetitive consequences is necessarily small. The Commission is particularly concerned that the formation of joint ventures contemplating ongoing manufacturing or service functions or of ventures in which two or more of the venturers are actual or potential competitors or could have a customer-supplier relationship may raise possible antitrust problems. Moreover, both the scope and duration of a proposed joint venture may affect the extent of the possible anticompetitive consequences raised by its formation.

The Commission invites comment in several specific areas. First, the Commission desires to learn the number of joint ventures, formed each year in each industry, which would be reportable under the revised requirements of § 801.40. With respect to these joint ventures, it would be helpful for comments to indicate:

(a) Who the joint venturers generally are;

(b) What the purposes of such ventures are;

(c) Whether the ventures are typically incorporated;

(d) Why a joint venture, rather than individual participation by the venturers, is typically used;

(e) Whether the venture engages in marketing of any product or service or derives any revenues from its activity, and, if so, who its "customers" are;

(f) The value of assets typically contributed by the venturers; the sources and magnitude of other assets obtained by the joint venture; and the extent to which the commitment of such assets is typically arranged at or prior to formation of the venture;

(g) A description of the lines of business and geographic areas in which the venture typically does business;

(h) Whether any of the venturers are typically competitors of one another in any market;

(i) Whether any of the venturers are typically customers or suppliers of one another in any market;

(j) The number of competitors and the degree of concentration in the industries in which the joint venturers and the joint venture do business;

(k) The duration of the joint ventures and the events upon which or conditions under which any of the ventures are typically dissolved; and

(l) Whether there are any limitations on the scope of the individual joint ventures;

Second, the Commission would like to know in greater detail the reasons that formation of specific types of joint ventures might be unlikely to violate the antitrust laws, as many of the comments have alleged. Given the fact that some judgment concerning the possible anticompetitive impact of a joint venture must be made by the enforcement agencies at the time of its formation, the Commission specifically invites comments concerning appropriate tests that would prospectively distinguish ventures which might raise possible anticompetitive consequences from those that are unlikely to do so.

The Commission has difficulty with the suggestions, made in a significant number of comments received in response to the originally proposed rules, that narrow exemptions relating to specific types of joint ventures in particular industries would be appropriate. The Commission invites specific suggestions concerning principles of general application to broad classes of joint ventures, regardless of the specific industry or particular purpose of the venture, which may serve to distinguish those ventures raising little likelihood of antitrust problems. The Commission is not inclined to grant exemptions absent clear indication that they are warranted under the Act. Comments which do not attempt to relate suggested exemptions to the underlying purposes of the Act are not likely to be helpful to the Commission.

4. ACQUISITIONS OF VOTING SECURITIES FROM THIRD PARTIES

Except with respect to tender offers, the proposed rules focused upon acquisitions of voting securities only from the issuers of those securities, or from other related sellers such as the parent of the issuer. No provision was made, however, for two other common types of transactions: the acquisition of blocks of stock from third parties unrelated to the issuer and the acquisition of stock through a securities exchange or other open market transaction. The major policy consideration which arises in connection with these transactions concerns the starting of the waiting period. Should the waiting period begin to run when the acquiring company files notification, as it does in the case of a tender offer? Or should the issuer have to file its notification within some time period (e.g., fifteen days) after filing by the acquiring person, before the waiting period begins to run?

The latter course would permit a hostile or indifferent issuer to block the proposed acquisition by simply refusing to file its notification, since it could effectively prevent the waiting period from ever beginning. However, the threat of civil penalties under subsection (g)(1) might deter such recalcitrance. On the other hand, the former approach appears inconsistent with the statutory language of subsections (a) and (b)(1) which are limited only in the case of tender offers. Section (a) states in part:

* * * no person shall acquire * * * any voting securities * * * of any other person, *unless both persons* (or in the case of a tender offer, the acquiring person) file notification * * * and the waiting period * * * has expired * * * (emphaisis supplied).

Moreover, subsection (b)(1) of the statute states in part:

The waiting period required under subsection (a) shall—

(A) begin on the date of receipt * * * of * * * completed notification required under subsection (a) * * * *from both persons*, or, in the case of a tender offer, the acquiring person * * *. (emphasis supplied)

The Commission's view is that, notwithstanding the language of subsections (a) and (b)(1), any third party (including an open market) transaction is more closely analogous to a tender offer than to a traditional two-party acquisition, although the market impact of the latter may be different from that of a public tender offer, and, of course, the Williams

Act does not apply. Under the broad rulemaking authority of subsection (d)(2)(C), §§ 801.30(b) and 803.10(a) of the revised rules thus provide that the waiting period begins to run upon the filing by only the acquiring person in any acquisition from a third party (including both tender offers and open market transactions).

It should be noted that while under subsection (e)(2) of the statute a request for additional information may be made of an issuer in a tender offer, such a request does not serve to extend the waiting period. The Commission felt that there was no reason to extend this specific form of special treatment to third party or open market transactions other than tender offers (as to which the statute is silent). Thus, in a third party transaction, the waiting period begins to run when the acquiring person files; the issuer then has fifteen days within which to file its report (§ 801.30(c)); a request for additional information may be made to either the acquiring person or to the issuer, or to both, and the waiting period is extended in the event of any such request (§ 803.20(c)). Moreover, the waiting period, here as elsewhere, may upon request be terminated by the Commission and the Assistant Attorney General in advance of its normal expiration (§ 803.11).

5. INDIRECT ACQUISITIONS

When an acquiring person purchases a controlling interest in a corporation which holds 50 percent or more of the stock of another corporation, both the proposed and the revised rules treat that subsidiary as part of the acquired person. But where the acquiring person obtains control of a corporation which holds 15 percent or $15 million worth of the stock of another corporation but does not control that other corporation, the indirect acquisition of that 15 percent or $15 million block of stock would seem, logically, to fit within the statutory scheme. The proposed rules did not explain whether this transaction was separately reportable, but § 801.4 of the revised rules makes clear that it is. An indirect acquisition of the second corporation cannot occur, however, until the purchaser acquires control of the first corporation. Revised § 801.4 also specifies that if the direct acquisition transaction is exempt from reporting and waiting period requirements, the indirect acquisition may nevertheless be reportable, unless there is an independent basis for exemption of the indirect acquisition under the statute or the rules.

6. ADVISORY OPINION/BUSINESS REVIEW LETTER EXEMPTION

Subparagraphs (c) and (d) of proposed § 802.05 provided exemptions from the requirements of the statute if the acquiring person had obtained a favorable Advisory Opinion from the Commission or a favorable opinion under the Business Review Procedure of the Antitrust Division. Both exemptions have been deleted from the revised rules. The reason is that, since the statute envisions that either the Commission or the Antitrust Division may investigate or seek to enjoin a projected acquisition, both agencies must receive completed Notification and Report Forms from the parties to the transaction. Even if one agency or the other were able to determine ahead of time that it would not investigate or challenge a particular transaction, the Commission feels that the other agency should be able to obtain sufficient information to permit its own informed judgment on the possible anticompetitive consequences of that transaction.

7. FOREIGN COMMERCE EXEMPTIONS

The proposed rules (§ 802.35) stated a single exemption for transactions involving insufficient relation to United States foreign commerce. That involvement was measured, in the case of an issuer whose voting securities were being acquired, by looking at its annual domestic, import and export sales in U.S. commerce over the preceding three years, and at any assets that issuer may have held in the United States. In an assets acquisition, the involvement was measured by the annual domestic, import and export sales in U.S. commerce attributable to those assets. The threshold level of involvement, below which the exemption applied, was $10 million. The comments generally suggested that threshold was too low.

The revised rules contain three types of exemptions applicable to foreign commerce. First, as to acquisitions of assets located in a foreign country or of voting securities of a foreign issuer, § 802.50 provides an exemption where the assets do not generate significant sales in or into the United States or where the issuer does not make significant sales in or into the United States and does not hold significant assets in the United States. Each of these thresholds is $10 million. Second, where the parties to a transaction are not U.S. companies, § 802.51 exempts an acquisition of either assets or voting securities unless one or both parties have substantial sales in or into or assets located in the United States, and unless either significant assets in the United States or the stock of a U.S. company will be acquired in the proposed transaction. The threshold for substantial sales is reached when the combined sales of the acquiring and acquired persons in or into the United States reach $110 million; the same figure is used to measure substantial assets in the United States held by the parties. The threshold applied to the assets or voting securities being transferred is $10 million for all purposes under this rule, assuming the criteria of subsection (a)(3) are otherwise met.

Finally, where an acquisition involves only assets located in a foreign country or only voting securities or an issuer located in foreign country, and where either the acquiring or the acquired person is a corporation controlled by the government of that country, § 802.52 exempts the transaction from reporting and waiting period requirements. The Commission is considering the appropriateness of limiting this exemption where assets located in the United States or voting securities of a U.S. issuer are indirectly acquired from a foreign government-controlled corporation.

For purposes of testing whether any foreign assets or foreign issuer, or any foreign purchaser or seller, is responsible for generating significant sales in U.S. commerce, all three of these revised rules look to sales made in or into the United States, but not to export sales made outside the United States.

These exemptions are somewhat complex because the underlying rationale involves superimposing upon the statutory tests of subsections (a)(2) and (a)(3) a similar set of tests which look to the sizes of the parties and the size of the transaction from the perspective of their impact on U.S. commerce. The Commission considered and rejected a simpler scheme along the lines of the proposed rule, but with a higher threshold such as $50 million or $100 million, because it is not clear that all transactions below those thresholds are unlikely to violate the antitrust laws.

8. SUBSEQUENT ACQUISITIONS AFTER ONE REPORT

Once a notification report has been filed in connection with an acquisition of voting stock, the proposed rules (§ 802.45) permitted the acquiring person to purchase up to 5 percent more of the voting securities of the same issuer without reporting. But for each transaction involving the purchase of 5 percent or more of the voting securities of that issuer, a separate report and waiting period was required. (Once the acquiring person reaches 50 percent, any subsequent acquisition of voting securities is exempt under subsection (c)(3).)

The revised rules seek to reduce the burden of reporting these subsequent acquisitions of the same issuer's stock. Revised § 802.21 provides essentially that, within the six-month period after notification has been filed, the purchaser must again file notification and observe the waiting period only when his holdings would reach 25 percent and 50 percent of the outstanding voting securities of that issuer. In other words, the first report is required at either 15 percent or $15 million, whichever is smaller, and subsequent reports are required within six months only when the purchaser would reach 25 percent, and again when the purchaser would control the issuer. If more than six months have elapsed since an earlier notification, any additional purchase would be subject to reporting and waiting period requirements. The revised rule also permits the acquiring person to cross two or more of these three reporting thresholds at once by stating in his notification the intention to make such additional acquisitions within 180 calendar days. Finally, under revised § 802.22 if an acquiring company crosses a threshold and files notification, then sells some of that stock (or for some other reason falls below the same threshold), and within 180 days of the first

filing makes a purchase which results in crossing the same threshold, a new notification is not required.

The Commission believes that the 180-day time periods in §§ 802.21(b)(3(A) and 802.22(b)(3) may be shorter than necessary to implement the underlying purposes of the Act. The Commission specifically invites comment on the length of time during which the information contained in the earlier notification remains reasonably current and is thus reasonably likely to reflect the sizes and operations of the acquiring and acquired persons.

9. INSTITUTIONAL INVESTORS

The entire subject of financial institutions is complex. The "Statement with Respect to Certain Financial Transactions and Institutions," which was published with the proposed rules, was meant to evoke comments indicating the types of transactions in which financial institutions normally engage, which might fall within the ambit of the statute. The comments were helpful, but they did not provide sufficient information to permit the Commission systematically to identify the transactions unlikely to pose any potentially significant antitrust problems.

The revised rules contain a series of five related exemptions (§§ 802.60 through 802.64), one of which is also stated in the alternative (§ 802.64a). Revised § 802.60 exempts certain persons, rather than certain transactions from reporting and waiting period requirements. Where a broker or dealer in securities, a trustee or fiduciary, or any agent makes an acquisition on behalf of, and at the specific direction of another person, this rule, in effect, obligates the beneficial owner to file any notification which the statute may require. (In contrast to the originally proposed rules, a broker, trustee, or agent who purchases stock for the benefit of another person, but not at his specific direction, would be subject to the requirements of the Act.) Revised § 802.61 exempts acquisitions in escrow and essentially embodies § 802.15 of the proposed rules. Revised § 802.62 exempts acquisitions by securities underwriters, on the theory that their holding of any voting securities is temporary; purchases from an underwriter are treated like any other acquisition from a third party. Revised § 802.63 exempts acquisitions of collateral by creditors and acquisitions by creditors in foreclosure or upon default, so long as the creditor relationship arose from a bona fide credit transaction in the ordinary course of the creditor's business. The rule also exempts acquisitions by insurance companies pursuant to a surety contract or through subrogation. All of these appear to be temporary situations, where the acquiring person seems unlikely to be interested in retaining control or in exercising continuing influence over management.

The rules that have caused the greatest difficulty are the alternative §§ 802.64 and 802.64a. These rules deal with organizations which regularly buy and sell voting (and non-voting) securities in the ordinary course of business, usually for investment purposes only. The Commission believes that some type of exemption for these transactions in addition to subsection (c)(9) of the Act may be appropriate, but invites comment on three problems which remain unresolved: (1) The specific types of investors which ought to be able to take advantage of the exemption; (2) appropriate limits of such an exemption where it applies; and (3) appropriate exceptions where the exemption should not apply at any level.

The Commission has proposed §§ 802.64 and 802.64a as alternative exemptions, in an effort to stimulate comments that will clarify the problem and shed additional light on whether other types of investors should also be listed, whether any types of investors are inappropriately included, or whether greater precision is needed adequately to define any of the categories listed. It is the intention of the Commission to include a version of either § 802.64 or § 802.64a in the final rules, but not both.

Both alternative rules have three important limitations. No exemption from the reporting or waiting period requirements applies if (1) the acquisition is not made in the ordinary course of business, (2) the acquisition is not made solely for investment purposes, or (3) if as a result of the acquisition the acquiring company would control the issuer whose stock is being acquired.

Both alternative rules also have two significant exceptions. First, if the acquiring entity is an institutional investor controlled by another entity which is not an institutional investor, the exemptions do not apply. For example, an insurance company controlled by a company engaged in manufacturing is not an institutional investor for purposes of these exemptions. Second, if the acquisition is of the voting securities of another institutional investor, whether directly or through a person who controls another institutional investor, then the exceptions do not apply. These broad exceptions are designed to encourage institutional investors to provide comments which will help clarify which transactions are covered by which statutory exemptions, and which transactions not covered by those statutory exemptions nevertheless are unlikely to violate the antitrust laws.

For the acquisitions by institutional investors which meet all of the above criteria, two alternative exemption schemes are proposed. Revised § 802.64 exempts such transactions unless they result in the acquiring person's holding both 15 percent and $25 million of the voting securities of the issuer. If those thresholds (which essentially supersede subsection (a)(3) of the statute for this limited purpose) are exceeded, the transaction would be subject to both reporting and waiting period requirements.

The reporting requirements triggered at 25 percent and at 50 percent would apply to subsequent acquisitions by institutional investors, just as they do to acquisitions by other types of purchasers.

Alternate § 802.64a would continue to use the subsection (a)(3) criteria, but would exempt all acquisitions by institutional investors meeting the above tests, on condition that such investors file an annual report summarizing the transactions as to which the exemption had been claimed during the previous year. The Commission is hopeful that additional comments will indicate a preference as between these alternatives, and will explain the reasons for such preference.

10. FILING NOTIFICATION IN TENDER OFFERS

Proposed § 803.15 stated that the notification required by the statute in a tender offer situation must contain an affidavit attesting that the tender offer had been published, sent or given to security holders of the issuer whose voting securities were sought to be acquired. Numerous comments pointed out that statutes in a number of states require that persons who intend to make certain tender offers must file notice of their intentions significantly in advance of the time when those offers will be made. The comments objected to the "tacking" of a waiting period under this statute onto the waiting period required by a state statute, and requested that an acquiring person be permitted to file notification at any time after a state filing or after the intention to make the tender offer has been made public.

The reason for the proposed rule was to assure, before notification would be permitted, that the tender offer would be made. The Commission wanted to avoid requiring the target to report unnecessarily and sought also to avoid reviewing hypothetical transactions and perhaps giving even an informal indication of concern (or lack of it) by the enforcement agencies before the acquiring persion had actually decided whether to make its tender offer. The comments appear convincing that the likelihood of receiving notification reports with respect to hpyothetical transactions is relatively low after the prospective tender offeror has filed under a state statute or publicly announced the intention to make the tender offer. Thus revised § 803.4(a)(2) permits the filing of notification at any time after the intention to make the tender offer has been publicly announced (which presumably occurs as soon as a filing is made under a state statute). Subparagraph (a)(1) of revised § 803.4 also requires that the acquiring person in any acquisition from a third party, including tender offers, file an affidavit attesting that he issuer has been previously (or is being contemporaneously) served with a written statement containing information which the issuer will need in order to comply with its reporting requirements.

In permitting the acquiring person to file notification under this statute prior to the time when the tender offer has been published, sent or given to security holders of the issuer, the Commission takes no position on the question whether any state statute requiring any

type filing by the acquiring person at any time may be pre-empted by Federal statute or regulations, or may be otherwise unlawful, and the Commission specifically does not endorse or oppose the principle of required disclosure of planned tender offers which underlies such statutes.

11. SUBSETION (C)(9) EXEMPTION

Subsection (c)(9) of the statute exempts acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer.

Proposed § 802.85 purported to condition this statutory exemption upon the filing, by an acquiring person, of a certified statement containing certain information relating to such transactions. In its place, revised § 802.9 seeks to interpret the statutory exemption, but does not require any type of filing when the exemption applies, although the Commission is continuing to consider a filing requirement of the type contained in § 802.85 of the originally proposed rules. The Commission specifically invites comments concerning the circumstances under which a person may hold securities solely for investment purposes and may nevertheless vote for the election of directors. Where a person claims to be holding voting securities "solely for the purpose of investment," but nevertheless votes that stock for election of directors, the Commission believes it may be "necessary and appropriate to carry out the purposes" of the Act to obtain further information from the person as a condition of the person's claiming exemption under subsection (c)(9) of the Act.

Because of the difficulty in establishing criteria for determining when voting securities are held "solely for the purpose of investment," the Commission also invites comment on the desirability of exempting from the reporting requirements all acquisitions of voting securities which do not result in the acquiring person holding more than 10 percent of the outstanding voting securities of the issuer regardless of the acquiring person's intent.

The requirement that holdings of voting securities be "solely for investment purposes" also appears in §§ 802.64 and 802.64a. Because the exemption contained in subsection (c)(9) does not apply to any holdings of the stock of an issuer after 10 percent of the issuer's stock is held, the Commission is considering the possibility of changing the 15 percent figure in § 802.64(b)(5)(A) to 10 percent, so that the conditional exemption and reporting requirements for institutional investors would apply to any holdings which are too large to qualify for exemption under subsection (c)(9). The Commission specifically invites comment concerning whether the $25 million figure in proposed § 802.64(b)(5)(B) should be changed in this event, and, if so, what figure would be appropriate and why.

The Commission is also considering whether assets may ever be held "solely for investment purposes" (see proposed § 802.51) and may delete this reference.

12. SPECIAL REPORTS CONCERNING CERTAIN GROCERY AND MILK PRODUCTS ACQUISITIONS

Under the Commission's Special Order of February 14, 1973 (pursuant to its Resolution of November 29, 1967), certain persons contemplating acquisitions of voting securities or assets of a person engaged in whole or in part in wholesale or retail grocery distribution (SIC Groups 514 and 541, respectively), are required to file FTC Forms 1859 A and B with Supplement. Under the Commission's Special Order of October 7, 1974 (pursuant to its Resolution of October 7, 1974), certain persons contemplating acquisitions of voting securities or assets of a person engaged in whole or in part in the processing or distribution of Class I milk products (SIC product classes 20262 and 20264) are required to file an FTC Special Report on Acquisitions and Mergers by Corporations in the Fluid Milk Products Industry. Under each of these programs, the required reports must be submitted under a timetable different from that required for the Notification and Report Form under these rules.

In order to obtain the information requested in these special reports at the same time that the Notification and Report Form is submitted, § 803.1 (b) and (c) require that the special reports be filed simultaneously with the Notification and Report Form by those companies subject to both the Act and either of these special reporting programs. At the time that final rules are promulgated, the Commission intends to modify these reporting programs so that duplicative filings of the special reports will not be required.

13. STATEMENT OF REASONS FOR NONCOMPLIANCE

Under the Act, a person required to file notification by section (a) or to provide additional information or documentary material pursuant to a supplemental request under section (e) is required to provide a "complete response" or, if the response is not complete, to provide a "statement of the reasons for such noncompliance." Subsection (g)(2) of the Act states that in the event a person fails substantially to comply with either of these requirements, a U.S. district court may order compliance and (except where the issuer in a tender offer has failed substantially to comply) shall extend the waiting period until there has been substantial compliance.

The Commission has taken the position, in § 803.3, that a complete response within the meaning of the Act is one which includes all requested information. When the person filing notification cannot supply a complete response, § 803.3 requires further information concerning the reasons for noncompliance. In the event that an enforcement agency believes that an incomplete response does not constitute substantial compliance, it may seek civil penalties under subsection (g)(1) or an order requiring compliance, an extension of the waiting period, and other equitable relief under subsection (g)(2). The meaning of "substantial compliance" may thus be determined by the district courts when such relief is sought.

PROPOSED RULEMAKING

The Commission believes it desirable to invite additional comments on these revised proposed rules, because of their complexity and because of the number of changes from the originally proposed rules. During the period prior to promulgation of final rules, the Commission's Transitional Rule, published in the FEDERAL REGISTER of February 2, 1977 (Volume 42, number 22, at pages 6365–6366) remains in effect. The Commission does not intend to alter the filing requirements under its existing premerger notification program (pursuant to its Resolution Requiring Notification and Submission of Special Reports Relating to Corporate Mergers or Acquisitions, dated August 15, 1974) until after these rules become effective and are in operation.

The Commission proposes the following amendment to Title 16, Chapter I, by adding a new Subchapter H—Rules, Regulations, Statements, and Interpretations under the Hart-Scott-Rodino Antitrust Improvements Act of 1976—and Parts 801, 802, and 803 under the Subchapter (Part 800 would be reserved).

PART 801—COVERAGE RULES

Sec.

801.1 Definitions.
801.2 Acquiring and acquired persons.
801.3 Activities in or affecting commerce.
801.4 Indirect acquisitions.
801.10 Value of voting securities and assets.
801.11 Annual net sales and total assets.
801.12 Calculating percentage of voting securities or assets.
801.13 Voting securities or assets to be held as a result of acquisition.
801.14 Holdings of affiliates.
801.15 Aggregate total amount of voting securities and assets.
801.20 Incremental acquisitions prior to exceeding threshold.
801.21 Acquisitions subsequent to exceeding threshold.
801.30 Tender offers and acquisitions of voting securities from third parties.
801.40 Formation of joint ventures.

§ 801.1 Definitions.

When used in this section and these rules—

(a)(1) *Person.* Except as provided in § 801.12, the term "person" means an entity together with any and all other entities controlled by, controlling, or under common control (by an entity) with, such entity.

Examples: 1. In the case of corporations, "person" encompasses the entire corporate structure, including all parent corporations, subsidiaries and divisions (whether consolidated or unconsolidated, and whether incorporated or unincorporated), and all related corporations under common control with any of the foregoing.

2. Corporations A and B are each controlled by the same foreign state. They are not included within the same "person," although

the corporations are under common control, because the foreign state which controls them is not an "entity" (see § 801.1(a)(2)). Therefore, the corporations are not "under common control (by an entity)" within the meaning of this subparagraph. Corporations A and B, however, each constitute a separate "person" which includes any entities each may control.

3. Since a natural person is an entity (see § 801.1(a)(2)), a natural person and a corporation which he or she controls are part of the same "person." If that natural person controls two otherwise separate corporations, both corporations and the natural person are all part of the same "person."

(2) *Entity.* The term "entity" means any natural person, corporation, company, partnership, joint venture, association, joint-stock company, trust, foundation, found, institution, society, union, club or other group organized for any purpose whether incorporated or not, wherever located and of whatever citizenship or domicile; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his or her capacity as such; or any joint venture which has not been formed but the acquisition of the voting securities or other interest in which would require notification under this section and these rules: *Provided however,* That the term "entity" shall not include any foreign state, foreign government, or agency thereof (other than a corporation or other business or commercial operation engaged in commerce), nor any of the United States, or any political subdivision or agency thereof (other than a corporation engaged in commerce).

(3) *Ultimate parent entity.* The term "ultimate parent entity" means that entity included within a person which is not controlled by any other entity, and which controls directly or indirectly all other entities included within such person.

Examples: 1. If corporation A holds 100 percent of the stock of subsidiary B, and B holds 75 percent of the stock of its subsidiary C, corporation A is the ultimate parent entity, since it controls subsidiary B directly and subsidiary C indirectly, and since it is the entity within the person which is not controlled by any other entity.

2. If corporation A is controlled by natural person D, natural person D is the ultimate parent entity.

(b) *Control.* (1) The term "control" (as used in the terms "control," "controlling," "controlled by," and "under common control * * * with") means either (A) holding (excluding any holdings of affiliates) 50 percent or more of the outstanding voting securities of an issuer; or (B) contractual power to presently designate a majority of the directors or trustees of an entity.

Example: Corporation A holds 100 percent of the stock of corporation B, 75 percent of the stock of corporation C, 50 percent of the stock of corporation D, and 30 percent of the stock of corporation E. Corporation A controls corporations B, C, and D, but not corporation E. Corporation A is the ultimate parent entity of a person comprised of corporations A, B, C, and D, and each of these corporations (but not corporation E) is "included within the person."

(c) *Hold.* The term "hold" (as used in the terms "hold," "holds," "holding," and "held") means record or beneficial ownership, whether direct, or indirect through agents, brokers, nominees, controlled entities, or other means. The holdings of the spouse and minor children of a natural person shall be deemed holdings of that person.

Example: If a stockbroker holds stock in "street name" for the account of a natural person, both the stockbroker (who has record title) and the natural person (who has beneficial ownership) "hold" that stock. (But the acquisition of the stock by the broker may be exempt; see § 802.60.)

(d) *Affiliate.* A person is an "affiliate" of another person if either (1) the entities included within such person hold an aggregate total of at least 25 but less than 50 percent of the outstanding voting securities of the ultimate parent entity of such other person; or (2) the entities included within such other person hold an aggregate total of at least 25 but less than 50 percent of the outstanding voting securities of the ultimate parent entity of such person.

Examples: 1. Corporation A is the ultimate parent entity within person A; corporation B is the ultimate parent entity within person B. Person A is an "affiliate" of person B if the aggregate holdings of the voting securities of corporation B by corporation A (and all other entities included within person A) are equal to or exceed 25 percent, but are less than 50 percent, of the outstanding voting securities of B. (If the holdings equal or exceed 50 percent, then A controls B and they are not affiliates.) Person A may also be an affiliate of person B if the aggregate holdings of the voting securities of corporation A by person B amount to at least 25 percent, but less than 50 percent, of the outstanding voting securities of corporation A.

2. Corporation C is controlled by corporation D. Corporation C cannot itself be an "affiliate" of anyone else, because "entities" cannot be affiliates of other "entities." Only "persons" may be affiliates, and they may be affiliates only of other "persons." The holdings of corporation C must be aggregated with those of its ultimate parent and of all other entities within that person, for purposes of determining whether that person is an affiliate of any other person.

3. A partnership, a natural person, or any other entity which does not issue voting securities can be an "affiliate" of another person only by reason of its holdings (or the holdings of any entities it controls) of the stock of the ultimate parent entity of that other person.

(e) *Security.* The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral-trust certificate, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or to purchase, any of the foregoing.

(f) (1) *Voting securities.* The term "voting securities" means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

(2) *Conversion.* The term "conversion" means the conversion, without the payment of additional consideration, of securities not presently entitled to vote into securities entitled to vote. Transfer costs and fees, and any payments made to complete fractional shares, shall not be deemed additional consideration.

Examples: 1. The acquisition of convertible debentures which are convertible without the payment of additional consideration is an acquisition of "voting securities." Notification must be filed prior to acquisition of such securities if the criteria of subsection (a) are satisfied.

2. Options and warrants are not "voting securities" for purposes of this section, since the payment of additional consideration is necessary to exercise the options or warrants. Notification need not be filed prior to the acquisition of such securities, but may be required prior to exercising the options or warrants, if the criteria of subsection (a) are otherwise satisfied at that time.

(g) *Tender offer.* The term "tender offer" means any offer to purchase voting securities which is a tender offer within the meaning of section 14 of the Securities Exchange Act of 1934, 15 U.S.C. 78n.

(h) *Cash tender offer.* The term "cash tender offer" means any tender offer in which cash is the only consideration offered to the holders of the voting securities sought to be acquired.

(i) *Solely for investment purposes.* Voting securities are held or acquired "solely for investment purposes" if the person holding or acquiring such voting securities has no intention of participating in the formulation, determination or direction of the basic business decisions of the issuer.

Example: If a person holds stock "solely for investment purposes" and thereafter decides to influence or participate in management of the issuer of that stock, the stock is no longer held "solely for investment purposes."

(j) *Engaged in manufacturing.* A person shall be deemed to be "engaged in manufacturing" if it produces and derives annual sales or revenues in excess of $1 million from products within industries 2000-3999 as coded in the Standard Industrial Classification Manual (1972 edition) published by the Executive Office of the President, Office of Management and Budget.

(k) *United States.* The term "United States" shall include the United States, the commonwealths, possessions and territories thereof, and the District of Columbia.

(l) *Commerce.* The term "commerce" shall have the meaning ascribed to that term in section 1 of the Clayton Act, 15 U.S.C. 12, and 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

(m) *This section.* References to "this section" refer to section 7A of the Clayton Act, 15 U.S.C. 18A, as added by section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435. References to specific subsections refer to subsections thereof.

§ 801.2 Acquiring and acquired persons.

(a) Any person who is acquiring voting securities or assets (other than cash), either directly or indirectly, or through one or more agents, brokers, or other entities acting on behalf of and at the specific direction of such person, shall be deemed an acquiring person.

(b) Any person whose voting securities or assets (other than cash) are being acquired shall be deemed an acquired person.

(c) For purposes of this section and these rules, a person may be both an acquiring person and an acquired person in a single transaction.

Example: Corporation A plans to transfer certain of its assets to corporation B in return for voting securities of B. Since corporation A is acquiring voting securities, A is an acquiring person; since corporation B is acquiring assets, B is also an acquiring person. In addition, both A and B are acquired persons, since the assets of A are being acquired, and the voting securities of B are being acquired.

(d) A merger, consolidation, or other transaction combining all or any part of the business of two or more persons shall be deemed to be an acquisition subject to this section, and each party to such a transaction shall be deemed both an acquiring and acquired person.

§ 801.3 Activities in or affecting commerce.

Subsection (a)(1) is satisfied if any entity included within the acquiring person, or any entity included within the acquired person, is engaged in commerce or in any activity affecting commerce.

Examples: 1. A foreign subsidiary of a United States corporation seeks to acquire a foreign business. The acquiring person includes the United States parent corporation. If the United States corporation, or the foreign subsidiary, or any entity controlled by either one of them, is engaged in commerce or in any activity affecting commerce, the acquisition satisfies subsection (a)(1). Note, however, that §§ 802.50–802.52 may exempt certain acquisitions otherwise within subsection (a)(1).

2. Even if none of the entities in example #1 is engaged in commerce or in any activity affecting commerce, the acquisition nevertheless satisfies subsection (a)(1) if any entity included within the acquired person is so engaged.

§ 801.4 Indirect acquisitions.

(a) *Indirect acquisitions.* If the acquiring person prior to an acquisition did not, but as a result of an acquisition would, control the issuer whose voting securities are being directly acquired, and such issuer (and all entities it controls) hold an aggregate amount of the voting securities of another issuer insufficient to control such other issuer, then such voting securities of such other issuer shall be deemed indirect acquisitions of the acquiring person. Such indirect acquisitions shall be subject to the requirements of this section if the criteria of subsection (a) are satisfied with respect to such acquiring person and the person within which such indirectly acquired issuer is included.

(b) *Indirect acquisitions: Exemptions.* (1) No indirect acquisition shall be exempt from the requirements of this section solely because the direct acquisition of which it is a part is exempt from the requirements of this section.

(2) An indirect acquisition may be exempt from the requirements of this section under subsection (c) or any of these rules.

Examples: 1. Acquiring person A proposes to acquire the voting securities of corporation B's wholly owned subsidiary, corporation S, and the requirements of subsection (a) are otherwise satisfied. The voting securities of issuers held but not controlled by S and all entities which it controls are being acquired indirectly by A. Thus, if S holds $15 million of the voting securities of corporation X, and A and X also satisfy subsections (a)(1) and (a)(2), A must file notification separately with respect to its indirect acquisition of voting securities of X. X must file notification within fifteen days after A files, pursuant to § 801.30.

2. In the previous example, if A's acquisition of the voting securities of S is exempt, A may still be required to file notification with respect to its indirect acquisition of the voting securities of X, unless it is also exempt.

3. In the previous example, assume that A's acquisition of S was exempt, but that A's indirect acquisition of X was not exempt. If A wishes to acquire S prior to the expiration of the waiting period with respect to X, S must place its holdings of X into escrow, or A must otherwise refrain from acquiring the holdings until the expiration of the waiting period.

§ 801.10 Value of voting securities and assets.

The value of voting securities and assets, except as provided in § 801.13, shall be determined as follows:

(a) *Voting securities.* (1) If the security is traded on a national securities exchange or is authorized to be quoted in an inter-dealer quotation system of a national securities association registered with the United States Securities and Exchange Commission—

(i) And the acquisition price has been determined, the value shall be the market price or the acquisition price, whichever is greater; or if

(ii) The acquisition price has not been determined, the value shall be the market price.

(2) If subparagraph (1) of this paragraph is inapplicable—

(i) But the acquisition price has been determined, the value shall be the acquisition price; or if

(ii) The acquisition price has not been determined, the value shall be the fair market value.

(b) *Assets.* (1) The total assets of a person shall be as stated in accordance with § 801.11.

(2) For all purposes other than determining the total assets of a person, the value of assets shall be the fair market value of the assets, or, if determined and greater than the fair market value, the acquisition price.

(c) For purposes of this rule and § 801.13(a)(2):

(1) *Market price.* The market price shall be the closing quotation on the last business day of the week prior to the filing of the notification required by this section. If such closing quotations are available in more than one market, the person filing notification may select any such quotation.

(2) *Acquisition price.* The acquisition price shall include the value of all consideration to be received for such voting securities and/or assets.

(3) *Fair market value.* The fair market value shall be determined in good faith by the board of directors of the entity controlling the acquiring person, or, in the case of unincorporated persons, officials exercising similar functions; or by a person delegated that responsibility by such board or officials. In all cases, such determination must be made as of any day within fifteen calendar days prior to the filing of the notification required by this section.

§ 801.11 Annual net sales and total assets.

(a) The annual net sales and total assets of a person shall include all sales and assets, whether foreign or domestic, except as provided in paragraph (d) of this section.

(b) The annual net sales and total assets of a person shall be as stated on the most recent financial statement of that person; *Provided:*

(1) That the annual net sales and total assets of each entity included within such person are consolidated therein. If the annual net sales and total assets of any entity or entities included within the person are not consolidated in such statement, such annual net sales and total assets of the person filing notification shall be computed in accordance with generally accepted accounting principles to include the non-duplicative annual net sales and non-duplicative total assets of each such entity or entities; and

(2) That the annual net sales and total assets of the person shall be restated, in accordance with generally accepted accounting principles, to reflect all significant acquisitions and dispositions (exept dispositions of assets which continue to be attributed to an acquired person pursuant to § 801.13(b)) by any entity included within the person which have occurred since the date of the most recent financial statement.

Examples: 1. Person A is composed of entity A, subsidiaries B1 and B2 which A controls, subsidiaries C1 and C2 which B1 controls, and subsidiary C3 which B2 controls. Suppose that A's most recent financial statement consolidates the annual net sales and total assets of B1, C1, and C2, but not B2 and C3. In order to determine whether person A meets the criteria of subsection (a)(2), whether as an acquiring or acquired person, A must restate its annual net sales and total assets to reflect a consolidation into A's financial statement of the non-duplicative annual net sales and non-duplicative total assets of the previously unconsolidated subsidiaries, B2 and C3. This consolidation must be performed in accordance with the generally accepted accounting principles used by A to consolidate the annual net sales and total assets of B1, C1 and C2.

2. In example No. 1, if, since A's most recent financial statement, A has made a significant acquisition of assets, the total assets of A must be restated to reflect this acquisition. If the acquisition is of assets which have a significant amount of sales attributable thereto, the net annual sales of A must be restated to reflect the annual net sales attributed to those assets in accordance with generally accepted accounting principles.

(c) The financial statement used for purposes of determining annual net sales and total assets must have been prepared in accordance with the generally accepted accounting principles normally used by such person and shall be as of a date not more than fifteen months prior to the date of notification under this section.

(d) No assets of any natural person, other than voting securities and income-producing property, shall be included in determining the total assets of a person.

§ 801.12 Calculating percentage of voting securities or assets.

(a) *Voting securities.* Any issuer whose voting securities are being acquired shall be deemed an "acquired person" in calculating the percentage of voting securities to be held or acquired for purposes of subsection (a)(3)(A).

Example: Person A is composed of entity A and subsidiary A1; person B is composed of entity B and subsidiary B1. Assume that A1 proposes to sell assets to B1 in exchange for common stock of B1. Under this paragraph, for purposes of calculating the percentage of voting securities to be held, the "acquired person" is B1. (For all purposes, the "acquiring persons" are A and B.)

(b) *Percentage of voting securities.* (1) Whenever this section or these rules require calculation of the percentage of voting securities of an issuer to be held or acquired by a person, the percentage shall be the ratio, expressed as a percentage, of:

(i) The sum of the number of votes for directors of the issuer presently entitled to be cast by the voting securities to be held or acquired by such person, plus the votes which such person would be entitled to cast upon conversion of all voting securities to be held or acquired by such person which are not presently entitled to vote, but which are convertible upon the occurrence of an event certain to occur within five years or convertible at the option of the holder; to

(ii) The sum of the number of votes for directors of the issuer presently entitled to be cast by all outstanding voting securities, plus the votes represented by conversion of voting securities of the issuer which are included in the numerator by reason of paragraph (b)(1)(i) of this section.

(2) Authorized but unissued voting securities and treasury securities shall not be considered securities presently entitled to vote for directors of the issuer.

Example: In the example to paragraph (a), to determine what percentage of B1's voting securities will be held by A after the transaction, all voting securities of B1 held by A, the "acquiring person" (including A1), and by A's affiliates, must be aggregated. See also § 801.14. In addition, if A holds convertible securities of B1 which meet the definition of voting securities in § 801.1(f), and which are convertible at A's option or which automatically convert within five years, then in calculating the percentage of voting securities held by A these securities must be treated as though converted.

(c) *Assets.* Any entity whose assets (other than cash) are being acquired shall be deemed an "acquired person" in calculating the percentage of assets to be held or acquired for purposes of subsection (a)(3)(A).

Example: In the example to paragraph (a), for purposes of calculating the percentage of assets to be held, the "acquired person" is A1.

(d) *Percentage of Assets.* Whenever this section or these rules require calculation of the percentage of assets of a person to be held or acquired, the percentage shall be the ratio, expressed as a percentage, of:

(1) The value of the assets to be held or acquired, stated in accordance with § 801.10(b)(2); to

(2) The total assets of the entity whose assets are being acquired (including all entities controlled by such entity), determined in accordance with generally accepted accounting principles.

Example: In the example to paragraph (a), the percentage of the assets of A1 to be held or acquired by B, the "acquiring person," is the following percentage fraction. The numerator is the value of all assets to be acquired in the transaction, valued in accordance with § 801.10(b)(2). The denominator is the total assets of A1, prior to the acquisition, determined in accordance with the generally accepted accounting principles.

§ 801.13 Voting securities or assets to be held as a result of acquisition.

(a) *Voting securities.* (1) All voting securities of the issuer which will be held by the acquiring person after the consummation of the acquisition shall be deemed voting securities held as a result of such acquisition. The value of such voting securities shall be the sum of the value of the voting securities to be acquired, determined in accordance with § 801.10, and the value of the voting securities previously held by the acquiring person, determined in accordance with subparagraph (2) of this paragraph.

(2) The value of voting securities of the issuer held prior to an acquisition shall be:

(i) If the security is traded on a national securities exchange or is authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission, the market price calculated in accordance with § 801.10(c)(1); or

(ii) If subdivision (i) is not applicable, the fair market value as provided in § 801.10(c)(3).

(b) *Assets.* (1) All assets being acquired from the acquired person shall be assets held as a result of the acquisition. The value of such assets shall be determined in accordance with § 801.10.

(2) Assets which were acquired by the acquiring person from the acquired person within 180 calendar days preceding the date of filing of the notification required by this section:

(i) Shall be deemed assets of the acquired person held by the acquiring person as a result of the acquisition for purposes of subsection (a)(3)(B), but not for purposes of subsection (a)(3)(A). The value of such assets shall be determined in accordance with § 801.10(b)(2), as of the time of their acquisition;

(ii) Shall be deemed assets of the acquired person for purposes of subsection (a)(2), but not for purposes of subsection (a)(3)(A) or § 801.12(d)(2). Such assets shall not be deemed "dispositions" of the acquired person for purposes of § 801.11(b)(2);

(iii) Shall be deemed assets of the acquired person held by the acquiring person as a result of the acquisition for all purposes under this section and these rules not specified in subdivisions (i) or (ii) of this subparagraph.

Example: Acquiring person A makes two acquisitions of assets from person B, ninety days apart, and wishes to determine whether notification is necessary prior to the second acquisition. For purposes of the percentage test of subsection (a)(3)(A), A would hold only the assets it acquired in the second acquisition. For purposes of the $15 million test of subsection (a)(3)(B), however, A must aggregate both of its acquisitions and must value each as of the time of its acquisition. The total assets of B, for purposes of subsection (a)(2), shall be the total assets of B prior to the first acquisition by A; for purposes of the denominator in the percentage test of subsection (a)(3)(A), the total assets of B may reflect the earlier sale as a "significant disposition"; see § 801.11(b)(2). The total assets of A do not include the assets acquired by A in its first acquisition from B.

§ 801.14 Holdings of affiliates.

(a) Pursuant to subsection (b)(3)(B), the amount or percentage of voting securities or assets of a person which are acquired or held by an acquiring person, whenever required to be determined by this section or these rules, shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such acquiring person and each affiliate thereof.

Examples: 1. In the examples of §§ 801.12, 801.13, 801.15, 801.20, and 801.21, and any other rules which refer to an acquiring person, the amount or percentage of voting securities or assets held by the acquiring person, for purposes of subsection (a)(3), should be determined by aggregating the holdings of the acquiring person with those of its affiliates.

2. Person A is composed of corporation A and subsidiaries B1 and B2. Corporation B1 proposes to acquire voting securities of corporation T. B1 and B2 together hold 25 percent of the voting securities of corporation F. If corporation F is the ultimate parent entity within another person, then person F is an affiliate of person A. See § 801.1(d). Subsection (b)(3)(B) requires that A aggregate F's holdings in T with its own holdings in determining whether the test of subsection (a)(3) is satisfied.

(b) For purposes of subsection (b)(3)(B), the holdings of an affiliate shall not include the holdings of any affiliate of such affiliate.

Example: In example No. 2 to paragraph (a) of this rule, if corporation F and the entities it controls hold 25 percent of the outstanding voting securities of corporation N, and N is an ultimate parent entity, then N is an affiliate of F. Paragraph (b) of this rule provides that N's holdings of T's voting securities need not be aggregated with the holdings of F for purposes of A's proposed acquisition of the voting securities of T. Only the voting securities held by A's own affiliate F (and the entities controlled by F), and not the holdings of F's affiliates, must be aggregated with the holdings of A.

§ 801.15 Aggregate total amount of voting securities and assets.

For purposes of subsection (a)(3)(B), the aggregate total amount of voting securities and assets shall be the sum of:

(a) The value of all voting securities of the acquired person, calculated in accordance with §§ 801.10(a) and 801.13(a), which the acquiring person would hold as a result of the acquisition; and

(b) the value of all assets of the acquired person, calculated in accordance with §§ 801.10(b)(2) and 801.13(b), which the acquiring person would hold as a result of the acquisition.

Examples: 1. Acquiring person A and its affiliates previously acquired $6 million of the voting securities of corporation X. A now intends to acquire $8 million of X's assets. Pursuant to § 801.13(a), A must determine the present value of the previously acquired securities in order to determine whether the proposed acquisition is subject to the requirements of this section. If these securities have a present value of more than $7 million, the acquisition is subject to the requirements of this section since, as a result of it, A would hold an aggregate total amount of the voting securities and assets of B in excess of $15 million.

2. In the previous example, assume that the assets acquisition occurred first, and that the acquisition of the voting securities is to occur more than six months after the first acquisition. Since the assets are no longer to be considered assets of B, see § 801.13(b)(2), they need not be aggregated with the second acquisition. Therefore, the second acquisition would be subject to the requirements of this section by reason of subsection (a)(3)(B) only if the acquisition price or market value of the securities to be acquired exceeds $15 million.

§ 801.20 Incremental acquisitions prior to exceeding threshold.

Any particular acquisition, even though part of a sequence eventually attaining a threshold level of subsection (a)(3), is not subject to the requirements of this section unless as a result of the acquisition the acquiring person's holdings would meet or exceed a threshold level of subsection (a)(3).

§ 801.21 Acquisitions subsequent to exceeding threshold.

Example: Corporation A plans to acquire $16 million of corporation B's voting securities in a series of four equal acquisitions, and the requirements of subsections (a)(1) and (a)(2) are satisfied. The requirements of this section need be observed only with respect to the fourth acquisition.

Acquisitions meeting the criteria of subsection (a), and not otherwise exempted by subsection (c) or § 802.21 or any other of these rules, are subject to the requirements of this section even though:

(a) Earlier acquisitions of assets or voting securities may have been subject to the requirements of this section;

(b) The acquiring person's holdings initially may have passed a threshold level of subsection (a)(3) before the effective date of these rules; or

(c) The acquiring person's holding initially may have passed a threshold level of subsection (a)(3) by increases in market values or other events other than acquisitions.

Examples: 1. Person A acquires $10 million of the voting securities of person B before the effective date of these rules. If A wishes to acquire an additional $6 million of the voting scurities of B after the effective date of the rules, notification will be required under subsection (a)(3)(B) if the other criteria of subsection (a) are satisfied.

2. In example #1, assume that the value of the votign securities of B originally acquired by A has reached a present value exceeding $15 million. If A wishes to acquire *any* additional voting securities or assets of B, notification will be required if the other criteria of subsection (a) are satisfied. See § 801.13(a).

§ 801.30 Tender offers and acquisitions of voting securities from third parties.

In the case of all transactions other than mergers or consolidations, but including tender offers, in which securities are to be acquired from a holder other than the issuer (or an entity included within the same person as the issuer, or any agent or broker for the issuer or any such entity):

(a) The person within which such issuer is included shall be deemed the acquired person.

(b) The waiting period required under this section shall commence upon the filing of notification by the acquiring person as provided under §§ 803.1 and 803.10.

(c) The acquired person shall file the notification required by this section, in accordance with these rules, no later than 5 p.m. Eastern Time on the fifteenth (or, in the case of cash tender offers, the tenth) calendar day following the date of receipt, as defined by § 803.10(a), by the Federal Trade Commission and Assistant Attorney General of the notification filed by the acquiring person. Should the fifteenth (or, in the case of cash tender offers, the tenth) calendar day fall on a weekend day or federal holiday, the notification shall be filed no later than 10 a.m. Eastern Time on the next following business day.

Examples: 1. Acquiring person A proposes to acquire the voting securities of corporation B's wholly-owned subsidiary, corporation S, and the criteria of subsection (a) are otherwise satisfied. Since A is acquiring the shares of S from B, an entity controlling S, this rule does not apply and the waiting period does not begin until both A and B file notification.

2. Acquiring person A proposes to acquire $20 million of the voting securities of corporation X on a securities exchange, and the criteria of subsection (a) are otherwise satisfied. The waiting period begins when A files notification. Corporation X must file notification within fifteen calendar days of A. The seller of the X shares is not subject to any obligations under this section.

§ 801.40 Formation of joint ventures.

(a) Persons who contribute to the formation of a joint venture in return for voting securities or other interests in the joint venture shall be deemed acquiring persons. The joint venture to be formed shall be deemed the acquired person.

(b) Unless otherwise exempted by this section or these rules, in the formation of a joint venture, an acquiring person otherwise meeting the criteria of subsections (a)(1) and (a)(3) shall be subject to the requirements of this section if:

(1)(i) Such acquiring person has annual net sales or total assets of $100 million or more;

(ii) The joint venture will have assets of $10 million or more; and

(iii) At least one other acquiring person has annual net sales or total assets of $10 million or more; or

(2)(i) Such acquiring person has annual net sales or total assets of $10 million or more;

(ii) The joint venture will have total assets of $100 million or more; and

(iii) At least one other acquiring person has annual net sales or total assets of $10 million or more.

(c) The assets of the joint venture shall be deemed to include:

(1) All assets which any persons (whether or not subject to the requirements of this section) contributing to the formation of the joint venture have agreed to contribute at any time;

(2) All assets for which agreements have been secured for the joint venture to obtain at any time; and

(3) Any amount of credit or any obligations of the joint venture which the persons contributing to its formation have agreed to guarantee, at any time.

(d) The commerce requirement of subsection (a)(1) shall be deemed satisfied if:

(1) The activities of any acquiring person are in or affect commerce, or

(2) It is contemplated by the joint venture agreement among the acquiring persons that the activities of the joint venture will be in or will affect commerce.

Example: Corporations A, B, and C agree to enter into a joint venture V. A has more than $100 million in annual net sales. B has more than $10 million in total assets. Both C's total assets and its annual net sales are less than $10 million. All of the corporations are engaged in commerce. The corporations have agreed to make a total initial contribution to the joint venture of $6 million in assets and to make contributions of an additional $6 million in each of the next three years. Under paragraph (c), the assets of the joint venture are $24 million. Under paragraph (b), only corporation A must file notification, and only then if corporation A meets a criterion of subsection (a)(3)—that is, if it will be acquiring 15 percent or $15 million of the voting securities of the joint venture. The joint venturers need not file notification on behalf of V, but V will be subject to the waiting period; see § 802.41.

PART 802—EXEMPTION RULES

Sec.

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§ 802.6 Federal agency approval.

For the purposes of subsections (c)(6) and (c)(8), the term "information and documentary material" includes all documents, application forms, and all written submissions of any type whatsoever. In lieu of providing all such information and documentary material, or any portion thereof, an index describing such information and documentary material may be provided, together with a certification that any such information or documentary material not provided will be provided within ten calendar days upon request by the Federal Trade Commission or Assistant Attorney General, or a delegated official thereof.

§ 802.8 Certain supervisory acquisitions.

Pursuant to subsections (c)(12) and (d)(2)(B), a merger, consolidation, purchase of assets, or acquisition requiring agency approval under section 403 or 408 (e) of the National Housing Act, 12 U.S.C. 1726, 1730a(e), or under section 5 of the Home Owner's Loan Act of 1933, 12 U.S.C. 1464, shall be exempt from the requirements of this section, including specifically the filing requirement of subsection (c)(8), if the agency whose approval is required finds that approval of such merger, consolidation, purchase of assets, or acquisition is necessary to prevent the probable failure of one of the institutions involved.

§ 802.9 Acquisitions solely for investment purposes.

No acquisition of voting securities shall be exempt from the requirements of this section under subsection (c)(9):

(a) Even though as a result of the acquisition the holdings of the acquiring person would not exceed 10 percent of the outstanding voting securities of the issuer, unless such acquisition is solely for investment purposes; or

(b) If as a result of the acquisition, the acquiring person would hold more than 10 percent of the outstanding voting securities of the issuer.

Examples: 1. Acquiring person A acquires 6 percent of the voting securities of issuer X, solely for investment purposes, and the requirements of subsection (a) are satisfied. The acquisition is exempt under subsection (c)(9).

2. After the acquisition in example #1, A decides to acquire an additional 7 percent of the voting securities of X. Regardless of A's intentions, the acquisition is not exempt under subsection (c)(9).

3. After the acquisition of example No. 1, acquiring person A decides to participate in the management of issuer X. Any subsequent acquisitions of X stock by A would not be exempt under subsection (c)(9).

4. The affiliates of acquiring person B hold an aggregate total of 10 percent of the voting securities of issuer X. If B makes any acquisition of the voting securities of X, it cannot be exempt under subsection (c)(9).

§ 802.10 Stock dividends and splits.

The acquisition of voting securities, pursuant to a stock split or pro rata stock dividend, or pursuant to an issue of new shares offered proportionally to all shareholders, shall be exempt from the requirements of this section under subsection (c)(10).

§ 802.20 Minimum dollar value.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition (other than in connection with the formation of a joint venture) which would be subject to the requirements of this section and which satisfies subsection (a)(3)(A), but which does not satisfy subsection (a)(3)(B), shall be exempt from the requirements of this section if as a result of the acquisition the acquiring person would not hold:

(a) Assets of the acquired person valued at more than $10 million;

(b) Voting securities of the issuer valued at more than $10 million; or

(c) Any lesser amount of voting securities which confers control of an issuer with annual net sales or total assets of $10 million or more.

Examples: 1. Acquiring person A intends to acquire 16 percent of the voting securities of corporation X. If the value of A's holdings in X (including all voting securities of X held by the entities included within person A prior to the acquisition, or by affiliates of A) would be $10 million or less, the acquisition would be exempt under this rule.

2. Acquiring person B holds voting securities of corporation X valued at $9 million. B now intends to acquire assets of X valued at $7 million. Since the aggregate total amount of voting securities and assets of X to be held by B would exceed $15 million, subsection (a)(3)(B) is satisfied, and the acquisition cannot be exempt under this rule.

§ 802.21 Acquisitions of voting securities after exceeding notification threshold.

(a) For purposes of this rule and § 802.22, the term "notification threshold" means:

(1) (i) For all acquisitions other than those subject to § 802.64, 15 percent of the outstanding voting securities of an issuer, or an amount of such securities valued at $15 million; or

(ii) In the case of an acquisition subject to § 802.64, the least amount of voting securities exceeding both 15 percent of the outstanding voting securities of an issuer and $25 million;

(2) 25 percent of the outstanding voting securities of an issuer; or

(3) 50 percent of the outstanding voting securities of an issuer.

(b) Pursuant to subsection (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section if:

(1) The acquiring person and all other persons required by this section and these rules to file notification previously filed notification with respect to an earlier acquisition of voting securities of the same issuer;

(2) The acquisition will be consummated within 180 days of the date of filing of the acquiring person's earlier notification; and

(3) (i) The acquisition will not increase the holdings of the acquiring person to reach or exceed a notification threshold; or

(ii) The acquiring person declared its intention, in an affidavit filed with the earlier notification, to increase its holdings to reach or exceed such notification threshold.

Examples: 1. Corporation A acquires 15 percent of voting securities (or $15 million in value of such securities) of corporation B and files notification as required. Within 180 days, A acquires additional voting securities of B but not in a sufficient amount to reach 25 percent of the voting securities of B. No additional notification is required for these subsequent acquisitions.

2. In example No. 1, A continues to acquire B's securities. Before A's holdings exceed 25 percent of B's outstanding voting securities, A must file notification and wait the prescribed period before making the next acquisition.

3. In example No. 2, within the 180 days after notification A continues to acquire voting securities of B. No further notification is required until A plans to make the acquisition that will give it 50 percent ownership of B. (After acquiring 50 percent further acquisitions of voting securities are exempt under subsection (c)(3).)

4. In examples No. 2 and No. 3, A may avoid the need to file reports at the 25 and 50 percent levels, or to observe a waiting period, by stating in the affidavit filed with its initial notification that it intends to

acquire 25 (or 50) percent or more of B's voting securities within the next 180 days. No affidavit would be necessary if A stated in its initial notification that it would acquire 25 (or 50) percent or more of B's voting securities in the original, single, acquisition.

§ 802.22 Acquisitions of voting securities recrossing same notification threshold.

(a) For purposes of this rule, the term "notification threshold" shall have the meaning assigned by § 802.21(a).

(b) Pursuant to subsection (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section if:

(1) The acquiring person and all other persons required by this section and these rules to file notification previously filed with respect to an earlier acquisition of voting securities of the same issuer;

(2) The acquisition will increase the holdings of the acquiring person to reach or exceed the same notification threshold with respect to which the earlier notification was filed, but not to reach or exceed any greater notification threshold; and

(3) The acquisition will be consummated within 180 days of the date of filing of the acquiring person's earlier notification.

Example: This rule allows a person to cross any of the three threshold notification levels—15 percent/$15 million, 25 percent and 50 percent—any number of times within 180 days of the filing of notification for that level. Thus, if an example No. 1 to § 802.21, A had disposed of some voting securities so that it held less than 15 percent and $15 million of its voting securities of B, and then had increased its holdings to more than 15 percent but less than 25 percent of B, notification would not be required if the increase occurred within 180 days of filing its original notification. Similarly in examples No. 2 and No. 3 to § 802.21, A could decrease its holdings below, and then increase its holdings above, 25 percent and 50 percent, respectively, without filing notification, if done within 180 days of the respective earlier notifications.

§ 802.23 Amended or renewed tender offers.

Pursuant to subsections (c)(12) and (d)(12)(B), an acquisition of voting securities pursuant to a tender offer shall be exempt from the requirements of this section if:

(a) Within 180 calender days prior to the consummation of such acquisition, the acquiring person previously filed the notification required by this section, with respect to a tender offer for the same class of the voting securities of the same issuer;

(b) Any voting securities which are to constitute consideration for such acquisition also constituted consideration for such previous tender offer; and

(c) (1) The percentage of the class of voting securities to be held or acquired by the acquiring person as a result of such acquisition does not exceed the percentage to be held or acquired pursuant to the previous tender offer; or

(2) The acquisition of any voting securities in excess of the amount to be held or acquired pursuant to such previous tender offer would be exempt under § 802.21 or subsection (c)(3) had the acquisition of voting securities pursuant to the previous tender offer been consummated.

Examples: 1. Acquiring person A makes a tender offer for voting securities of B, and files notification. Before A makes any acquisitions, person C makes a competing tender offer for B's voting securities. In response to C's offer, A amends its offer to raise its price, or if its offer has expired, makes a second tender offer at a higher price. A need not file a second notification, or observe any waiting period, by reason of its amendment or the renewal of its tender offer, provided that the acquisition is to be consummated within 180 calendar days of the earlier notification.

2. In example No. 1, if A's original tender offer had offered only cash as consideration, and its subsequent tender offer offers both cash and voting securities of A as consideration, the acquisition of voting securities of B would not be exempt under this rule.

3. If in example No. 1 A's original notification had stated its intention to acquire 30 percent of the outstanding voting securities of B by a tender offer, under this rule A may acquire any amount up to 50 percent of the voting securities of B, if paragraphs (a) and (b) of the rule are satisfied. The reason is that if A had acquired 30 percent of B's voting securities as a result of the tender offer described in the earlier notification, § 802.21(b)(1)(B) would exempt acquisitions not raising A's holdings to or above 50 percent. The result is the same whether or not A actually acquired any shares in response to its earlier tender offer.

§ 802.30 Repurchase of own voting securities.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition by a corporation of its own voting securities, including redemption and retirement of such voting securities, shall be exempt from the requirements of this section.

§ 802.31 Conversion of voting securities.

Pursuant to subsections (c)(12) and (d)(2)(B), the conversion of voting securities not presently entitled to vote into voting securities entitled to vote shall be exempt from the requirements of this section.

Example: Acquiring person A previously acquired convertible debentures of issuer B. If the debentures may be converted into securities presently entitled to vote without the payment of additional consideration, then the debentures are voting securities, see § 801.1(f), and their conversion would be exempt under this rule. If, however, A must pay additional consideration to convert these securities, then the debentures are not "voting securities," as defined, and their conversion is not exempt under this rule. The exercise of options or warrants is not exempt under this rule.

§ 802.32 Intra-enterprise transactions.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition (other than in connection with the formation of a joint venture) to which only entities included within the same person by reason of holdings of voting securities are party, or of voting securities of a new corporation which at the time of the acquisition will hold only assets or voting securities acquired from the acquiring person, shall be exempt from the requirements of this section.

Examples: 1. Corporation A merges its two wholly-owned subsidiaries S1 and S2. The transaction is exempt under this rule.

2. Corporation B creates a new wholly-owned subsidiary which it furnishes with $50 million of assets of B. The transaction is exempt under this rule.

3. Corporation A, which controls corporation B by a contract giving A the power to name a majority of B's directors, proposes to acquire a majority of B's voting securities. The transaction is not exempt under this rule.

§ 802.40 Exempt joint ventures.

Pursuant to subsections (c)(12) and (d)(2)(B), acquisitions in connection with the formation of a joint venture shall be exempt from the requirements of this section if the joint venture will be not for profit within the meaning of sections 501 (c) (1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

§ 802.41 Joint ventures at time of formation.

Pursuant to subsections (c)(12) and (d)(2)(B), whenever any person(s) contributing to the formation of a joint venture are subject to the requirements of this section by reason of the formation of the joint venture, the joint venture need not file the notification required by this section and § 803.1 with respect to the acquisition of its voting securities by any such persons or its acquisition of assets or voting securities from any of them, in the transaction forming the joint venture.

Examples: 1. Corporations A and B, each having sales in commerce of $100 million, each propose to contribute $10 million in cash in exchange for 50 percent of the voting securities of a joint venture, V, which will also engage in commerce. V need not file notification under this section, although both A and B must do so prior to receiving any voting securities of V.

2. In addition to the facts in example #1 above, A and B have agreed that upon creation, V will purchase 100 percent of the voting securities of corporation C for $15 million. Because C is not a contributor to the formation of V, V must file with respect to the proposed acquisition of C and must observe the waiting period. Note that C would be required to comply with this section and these rules in any event.

§ 802.50 Acquisitions of foreign assets or of voting securities of a foreign issuer.

(a) *Assets.* Pursuant to subsections (c)(12) and (d)(2)(B), in a transaction in which assets located outside the United States are being acquired:

(1) The acquisition of assets located outside the United States, to which no sales in or into the United States are attributable, shall be exempt from the requirements of this section; and

(2) The acquisition of assets located outside the United States, to which sales in or into the United States are attributable, shall be exempt from the requirements of this section unless as a result of the acquisition the acquiring person would hold assets of the acquired person

to which such sales aggregating $10 million or more in the most recent calendar or fiscal year were attributable.

Examples: 1. A and B are both United States corporations, and the requirements of subsection (a) are satisfied. A proposes selling to B a manufacturing plant located abroad. Sales in or into the United States attributable to the plant totaled $8 million in the most recent calendar or fiscal year. The transaction is exempt under this paragraph.

2. Sixty days after the transaction in example #1, A proposes to sell B a second manufacturing plant located abroad; sales in or into the United States attributable to this plant totaled $5 million in the most recent calendar or fiscal year. Since B would be acquiring the second plant within 180 days of the first plant, both plants considered assets of A now held by B. See § 801.-13(b)(2)(C). Since the total sales in or into the United States of $13 million exceeds $10 million, the acquisition of the second plant would not be exempt under this paragraph.

(b) *Voting securities.* Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities of an issuer domiciled outside the United States shall be exempt from the requirements of this section unless the issuer (including all entities controlled by the issuer) either:

(1) Holds assets located in the United States (other than assets held solely for investment purposes) having an aggregate book value of $10 million or more; or

(2) Made aggregate sales in or into the United States of $10 million or more in the most recent calendar or fiscal year.

Example: A, a United States corporation, acquires the voting securities of C, a foreign corporation, and the criteria of subsection (a) are satisfied. C has no assets in the United States, but made aggregate sales into the United States of $12 million in the most recent calendar year. The transaction is not exempt under this rule.

§ 802.51 Acquisitions involving only foreign persons.

(a) Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition by a person not domiciled in the United States from another person also not domiciled in the United States shall be exempt from the requirements of this section unless:

(1) The aggregate annual sales of the acquiring and acquired persons in or into the United States or the aggregate total assets of the acquiring and acquired persons located in the United States (other than assets held solely for investment purposes) exceed $1.0 million; and

(2) Either $10 million or more of assets located in the United States (other than assets held solely for investment purposes) or $10 million or more of voting securities of an issuer domiciled in the United States (other than voting securities held solely for investment purposes) will be acquired directly or indirectly.

(b) For purposes of this rule, the domicile of a person shall be the domicile of the pre-acquisition ultimate parent entity. If under these rules more than one entity controls a person, this rule shall not apply unless each such controlling entity is domiciled outside the United States.

Examples: 1. A and B are both corporations domiciled in a foreign country. A's aggregate annual sales into the United States are $80 million, B's aggregate annual sales into the United States are $50 million. If A acquires B, and no assets in the United States or voting securities of an issuer domiciled in the United States will be acquired, the transaction is exempt under this rule.

2. In example 1, assume that B has a subsidiary C domiciled in the United States, and that voting securities of C (held by B) are valued at $12 million. The transaction is not exempt under this rule.

§ 802.52 Acquisitions by or from foreign governmental corporations.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if:

(a) Either the acquiring person or the acquired person is a corporation more than half the voting securities of which are held by a foreign state, foreign government, or agency thereof, and

(b) The acquisition is solely of assets located within that foreign state or of voting securities of an issuer domiciled in that state.

Examples: 1. The government of foreign country X has decided to sell assets of its wholly-owned corporation, B, all of which are located in foreign country X. The buyer is A, a United States corporation, and the criteria of subsection (a) are satisfied. Regardless of the aggregate annual sales in or into the United States attributable to the assets of B, the transaction is exempt under this rule. (If such aggregate annual sales were less than $10 million, the transaction would also be exempt under § 802.50.)

2. In example No. 1, the assets of corporation B are located in part in foreign country Y. The transaction is not exempt under this rule.

§ 802.60 Acquisitions by agents.

An acquisition by an agent on behalf of and at the specific direction of another person shall be deemed an acquisition by such other person. Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), such agent shall be exempt from the requirements of this section as to such acquisition. Nothing in this paragraph shall exempt the person on whose behalf the acquisition is made from any requirement under this section, with respect to any acquisition attributed to such person by this section and this rule. For purposes of this rule the term "agent" shall be deemed to include brokers and dealers in securities, trustees, and fiduciaries.

Example: Broker B purchases $15 million of the voting securities of X for the account of C at C's specific direction. The acquisition is to be held in "street name" by B. If C and X otherwise satisfy the criteria of subsection (a), notification must be filed by C and X, but not by B.

§ 802.61 Acquisitions in escrow.

Pursuant to subsections (c)(12) and (d)(2)(B):

(a) An acquisition in escrow by an escrow agent pursuant to a written escrow agreement shall be exempt from the requirements of this section. Except as provided in paragraph (b) of this section, nothing in this rule shall exempt any acquisition from an escrow agent from any requirements under this section.

(b) If, pursuant to a written escrow agreement, the same voting securities or assets revert from the escrow agent to the original holder, such acquisition shall be exempt from the requirements of this section.

Example: In the example to § 802.60, broker B may acquire the voting securities of X in the capacity of an escrow agent, pursuant to a written escrow agreement. The voting securities of X may be transferred to the benefit of C (whether in C's name or B's "street name") upon notification by C and X and expiration of the waiting period.

§ 802.62 Acquisitions by underwriters.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities by a person acting as an underwriter, in the normal course of business and solely for investment purposes, for its own account and in the process of underwriting, shall be exempt from the requirements of this section.

§ 802.63 Certain acquisitions by creditors and insurers.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if made:

(a) By a creditor in a bona fide credit transaction entered into in the ordinary course of the creditor's business, of collateral, or in foreclosure, or upon default; or

(b) By an insurer in the ordinary course of business, pursuant to a suretyship contract or in the exercise of a right of subrogation.

Examples: 1. A bank makes a loan and acquires collateral in any form. The bank's receipt or holding of collateral is not subject to the requirements of this section. If upon default on the loan, the bank takes legal title to the collateral, the transaction is also exempt.

2. The rule exempts only the acquisition by the creditor or insurer, and not the subsequent disposition of the assets or voting securities. If a creditor or insurer sells voting securities that have come into its possession through foreclosure or subrogation, the requirements of this section may apply. Assuming that all other criteria of this section are met, the acquiring person and issuer of the voting securities must file notification prior to the transaction. The creditor or insurer, however, would not be required to file notification. See § 801.30.

§ 802.64 Acquisitions of voting securities by certain institutional investors and others.

(a) *Institutional investor.* For purposes of this rule, the term "institutional investor" shall include any bank, banking association, savings and loan company or association, trust company, insurance company, mutual fund, investment company registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), finance company, broker or dealer in se-

curities, trust (including a pension or benefit plan qualified under section 401 (a) of the Internal Revenue Code), foundation, or non-profit entity within the meaning of sections 501(c), (1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

(b) *Exemption.* Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section, except as provided in paragraph (c) of this section, if:

(1) Made by an institutional investor;

(2) Made in the ordinary course of business;

(3) Made solely for investment purposes;

(4) As a result of the acquisition the acquiring person would not control the issuer; and

(5) As a result of the acquisition the acquiring person would hold either:

(i) Less than 15 percent of the outstanding voting securities of the issuer; or

(ii) Voting securities of the issuer valued at less than $25 million.

(c) *Exception to exemption.* Notwithstanding paragraph (b) of this section:

(1) No acquisition or indirect acquisition of voting securities of an institutional investor shall be exempt under this rule; and

(2) No acquisition by an institutional investor which is controlled directly or indirectly by an entity other than an institutional investor shall be exempt under this rule.

Examples: 1. Assume that A and its subsidiary, B, are both institutional investors as defined in paragraph (a) of this rule, that X is not, and that the conditions set forth in subparagraphs (2), (3) and (4) of paragraph (b) of this rule are satisfied. Either A or B may acquire voting securities of X worth in excess of $25 million as long as the amount held as a result of the acquisition does not equal or exceed 15 percent of X's outstanding voting securities. If the holdings would exceed 15 percent, B may acquire no more than $25 million worth without being subject to the requirements of this section.

2. In example No. 1, assume that B plans to make the acquisition, and that corporation B's parent, corporation A, is not an institutional investor. Acquisitions by B can never be exempt under this rule. The exemption does not apply to acquisitions by institutional investors controlled by entities which are not themselves institutional investors.

3. In example No. 1, assume that A is an institutional investor and that B plans to make the acquisition. Corporation B must also be an institutional investor in order for the exemption to apply. The fact that B is controlled by an institutional investor is insufficient. The acquiring entity must satisfy the conditions set forth in paragraph (b)(1).

4. In example No. 1, the exemption does not apply if X is also an institutional investor.

§ 802.64a Acquisitions of voting securities by certain institutional investors and others—Alternate Rule.

(a) *Institutional investor.* For purposes of this rule, the term "institutional investor" shall include any bank, banking association, savings and loan company or association, trust company, insurance company, mutual fund, investment company registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), finance company, broker or dealer in securities, trust (including a pension or benefit plan qualified under section 401(a) of the Internal Revenue Code), foundation, or non-profit entity within the meaning of sections 501(c)(1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

(b) *Exemption.* Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section, except as provided in paragraph (c) of this rule, if:

(1) Made by an institutional investor;

(2) Made in the ordinary course of business;

(3) Made solely for investment purposes;

(4) As a result of the acquisition the acquiring person would not contol the issuer; and

(5) The acquiring person files with the Federal Trade Commission and Assistant Attorney General, within sixty days after the end of its fiscal year, a report containing the following information:

(i) The ending date of the fiscal year covered by the report;

(ii) The identity of the issuer and class of voting security for which exemption is claimed;

(iii) The aggregate total number of each such class of voting security (a) held at the beginning of the fiscal year; (b) acquired during the fiscal year; (c) disposed of during the fiscal year; and (d) held at the end of the fiscal year;

(iv) A statement that all such voting securities, whenever held during the fiscal year, were held solely for investment purposes; and

(v) A certification in the same form as that appearing in the Notification and Report Form, completed in accordance with § 803.5.

(c) *Exception to exemption.* Notwithstanding paragraph (b) of this section:

(1) No acquisition or indirect acquisition of voting securities of an institutional investor shall be exempt under this rule; and

(2) No acquisition by an institutional investor which is controlled directly or indirectly by an entity other than an institutional investor shall be exempt under this rule.

Example: In example #1 to § 802.64, the acquisition would be exempt regardless of the amount of voting securities acquired (short of control), so long as the annual report required by subparagraph (b)(5) is filed. Examples #2, #3, and #4 to § 802.64 remain applicable.

§ 802.70 Acquisition subject to order.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if:

(a) The voting securities or assets are to be acquired from a person ordered to divest such voting securities or assets by order of the Federal Trade Commission or of any federal court in an action brought by the Federal Trade Commission or the Department of Justice; or

(b) The acquiring person is subject to an order of the Federal Trade Commission or of any federal court requiring prior approval of such acquisition by the Federal Trade Commission, such court, or the Department of Justice, and such approval has been obtained.

§ 802.71 Acquisitions by gift, succession, or devise.

Pursuant to subsections (c)(12) and (d)(2)(B), acquisitions resulting from gifts, intestate succession, or testamentary devise shall be exempt from the requirements of this section.

PART 803—TRANSMITTAL RULES

Sec.

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§ 803.1 Notification and Report Form.

(a) *All acquisitions.* Except as provided in paragraphs (b) and (c) of this section, the notification required by this section shall be the Notification and Report Form promulated by the Federal Trade Commission, as amended from time to time. All persons required to file notification by this section and these rules shall do so by completing and filing the Notification and Report Form, or a photostatic or other equivalent reproduction thereof, in accordance with the instructions thereon and these rules. Copies of the Notification and Report Form may be obtained by hand from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C., or by writing to the Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580.

(b) *Certain grocery acquisitions.* Persons required to file the notification required by this section who are to acquire voting securities or assets of a person engaged in whole or in part in wholesale or retail grocery distribution (SIC Groups 514 and 541, respectively) shall, in addition to the notification required by paragraph (a) of this section, simultaneously file FTC Forms 1859 A and B, completed in accordance with the instructions thereon. The requirement of this paragraph shall not constitute a request for additional information within the meaning of subsection (e) and § 803.20.

(c) *Certain milk products acquisitions.* Persons required to file the notification required by this section who are to acquire voting securities or assets of a person engaged in whole or in part in the processing or distribution of Class I milk products (SIC product classes 20262 and

20264) shall, in addition to the notification required by paragraph (a) of this section, simultaneously file FTC Special Report on Acquisitions and Mergers by Corporations in the Fluid Milk Products Industry, completed in accordance with the instructions thereon. The requirement of this paragraph shall not constitute a request for additional information within the meaning of subsection (e) and § 803.20.

§ 803.2 Instructions applicable to Notification and Report Form.

(a) The notification required by this section shall be filed by the pre-acquisition ultimate parent entity, or by any entity included within such person authorized by such pre-acquisition ultimate parent entity to file notification on its behalf. If under these rules more than one entity controls a person, all such entities must file notification. In the case of a natural person required by this section to file notification, such notification shall be filed by such natural person, or by his or her guardian or conservator: *Provided, however,* That notification with respect to an acquisition of voting securities in trust for one or more natural persons shall be filed either by such natural persons or by the trustee(s) for such natural persons.

(b) Except as provided in paragraph (c) of this section, items 5–7 and the Appendix to the Notification and Report Form must be completed—

(1) By acquiring persons, with respect to all entities included within the acquiring person;

(2) By acquired persons, in the case of an acquisition of assets, only with respect to the assets to be acquired;

(3) By acquired persons, in the case of an acquisition of voting securities, only with respect to the issuer whose voting securities are being acquired, and all entities controlled by such issuer;

(4) By persons who are both acquiring and acquired persons, separately in the manner that would be required of acquiring and acquired persons under this paragraph, if different.

(c) In response to items 5–7 and the Appendix to the Notification and Report Form—

(1) Information shall be supplied only with respect to operations conducted within the United States; and

(2) Information need not be supplied with respect to assets or voting securities to be acquired, the acquisition of which is exempt from the requirements of this section under this section or these rules.

(d) The term "dollar revenues," as used in the Notification and Report Form, means value of shipments for manufacturing operations, and sales, receipts, revenues, or other appropriate dollar value measure for operations other than manufacturing, f.o.b. the plant or establishment less returns, after discounts and allowances and excluding freight charges and excise taxes. Dollar revenues including delivery may be supplied if delivery is an integral part of the sales price. Dollar revenues include interplant transfers.

§ 803.3 Statement of reasons for noncompliance.

A complete response shall be supplied to each item on the Notification and Report Form and to any request for additional information pursuant to subsection (e) and § 803.20. Whenever a complete response cannot be supplied, the person filing notification shall provide for each item for which less than a complete response has been supplied a statement of reasons for noncompliance which includes at least the following information:

(a) Why a complete response could not be given;

(b) What information would have been required for a complete response;

(c) Who, if anyone, has the required information.

§ 803.4 Affidavits required.

(a) *Tender offers and other acquisitions of voting securities from third parties.* (1) The notification required by this section from the acquiring person(s) shall contain an affidavit, attached to the front of the notification, attesting that the issuer whose voting securities are sought to be acquired has been or is being contemporaneously served, in writing by any means permitted under rule 4(d) of the Federal Rules of Civil Procedure, at its principal executive offices, with a written statement containing the following information:

(i) The identity of the acquiring person;

(ii) The fact that the acquiring person intends to acquire voting securities of the issuer;

(iii) The specific classes of voting and nonvoting securities of the issuer, and the number of such securities of each class sought to be acquired;

(iv) The fact that the acquisition may be subject to this section, and that the acquiring person will file notification under this section with the Federal Trade Commission and Assistant Attorney General;

(v) The anticipated date of receipt of such notification under § 803.10(a)(1) of these rules; and

(vi) The fact that the issuer may be required to file notification under this section.

(2) In the case of a tender offer the affidavit required by this paragraph must also state the good faith intention of the person filing notification to make the acquisition, and that the intention to make the tender offer has been publicly announced.

(b) *Other acquisitions, mergers or consolidations, and joint ventures.* The notification required by this section shall contain an affidavit, attached to the front of the notification, attesting that a contract or an agreement in principle to merge or acquire has been executed.

Examples: 1. Subparagraph (a)(2) of this rule permits the tender offeror to file notification at any time after the intention to make the tender offer has been publicly announced.

2. In the example to § 801.20, corporation A signs a contract to make the same sequence of acquisitions. Although A need only file notification with respect to the fourth acquisition, it may do so at any time after executing its contract.

§ 803.5 Certification.

(a) The notification required by this section shall be certified:

(1) In the case of a partnership, by any general partner thereof;

(2) In the case of a corporation, by any officer or director thereof;

(3) In the case of persons lacking officers, directors, or partners, by any individual exercising similar functions;

(4) In the case of a natural person, or trustee(s) for natural persons pursuant to § 803.2(a), by such natural person or trustee(s).

(b) In all cases, the certifying individual must posses actual authority to make the certification on behalf of the person filing notification.

§ 803.10 Running of time.

(a) *Beginning of waiting period.* (1) The waiting period required by this section shall begin on the date of receipt by both designated offices (Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580, and Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530) of the notification required by this section, in the manner provided by these rules (or, if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance in accordance with § 803.3) from:

(i) In the case of acquisitions from third parties, other than mergers or consolidations, but including tender offers, the acquiring person;

(ii) In the case of all other acquisitions, all persons required by this section and these rules to file notification.

The date of receipt shall be the date on which delivery is effected to the designated offices during normal business hours. Delivery effected after 3 p.m. eastern time on a regular business day, or at any time on any day other than a regular business day, shall be deemed effected on the next following regular business day. If delivery of all required notifications to the two offices is not effected on the same date, the date of receipt shall be the latest of the dates on which delivery is effected. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail.

(2) Any additional waiting period, pursuant to subsection (e) and § 803.20(c)(2), shall begin on the date of receipt of the additional information or documentary material requested (or, if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3), by the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material, at the office designated in subparagraph (1) of this paragraph. The

date of receipt shall be the date on which delivery is effected to the designated office during normal business hours. Delivery effected after normal business hours, or at any time on any day other than a regular business day, shall be deemed effected on the next following regular business day. Delivery should be effected directly to the designated office, either by hand or by certified or registered mail.

(b) *Expiration of waiting period.* (1) For purposes of subsection (b)(1)(B), the waiting period shall expire at 5 p.m. eastern time on the thirtieth (or in the case of a cash tender offer, the fifteenth) calendar day after the date of receipt as defined in this rule, unless extended pursuant to subsection (e) and § 803.20, or subsection (g)(2), or unless terminated pursuant to subsection (b)(2) and § 803.11.

(2) Any additional waiting period, pursuant to subsection (e)(2) and § 803.20, shall expire at 5 p.m. eastern time on the date to which extended pursuant to § 803.20(c), unless further extended pursuant to subsection (g)(2), or terminated pursuant to §§ 803.20(c)(4) and 803.11.

§ 803.11 Termination of waiting period.

(a) The waiting period required by this section, and any extension thereof pursuant to subsection (e) and § 803.20, shall not be terminated before its expiration date pursuant to subsection (b)(2) or § 803.20(c)(4), unless at least one person required to file notification under this section submits the following documents to both designated offices listed in § 803.10(a), or, in the case of an extension of the waiting period pursuant to subsection (e) and § 803.20, only to the designated office of the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material:

(1) A written request for termination of the waiting period, signed by an individual authorized to do so by the requesting person; and

(2) An affidavit, attesting that copies of the request have been or are being contemporaneously served, by any means permitted under rule 4(d) of the Federal Rules of Civil Porcedure or by registered or certified mail, upon all other persons required to file notification under this section, including, in the case of acquisitions from third parties (including tender offers), the issuer whose voting securities are sought to be acquired, and in addition, in the case of joint ventures, all other acquiring persons, whether or not filing notification. The request shall be served upon such persons at their principal executive offices, and the affidavit shall list all such persons and the address at which each was served.

A request for termination of the waiting period and its accompanying affidavit may be filed with the notification or at any time during the waiting period.

(b) In any case in which the Federal Trade Commission and Assistant Attorney General authorize the termination of the waiting period before its expiration date, the Federal Trade Commission and Assistant Attorney General, or their designee, shall:

(1) As promptly as possible so notify by telephone each individual identified pursuant to § 803.20(b)(2)(B);

(2) Confirm in writing notice of such terimnation to each person listed in the affidavit required by paragraph (a)(2) of this section, at the address listed in the affidavit; and

(3) Publish a notice in the FEDERAL REGISTER in accordance with subsection (b)(2).

The termination of the waiting period shall be effective as to each acquiring person upon communication by telephone pursuant to subparagraph (1) of this paragraph.

§ 803.20 Requests for additional information or documentary material.

(a) *Persons subject to request.* Pursuant to subsection (e)(1), the submission of additional information or documentary material relevant to the acquisition may be required from any person filing notification, or from any officer, director, partner, agent, or employee thereof, or from more than one of the foregoing if so required by the same request.

Example: A request for additional information may require a corporation and, in addition, a named officer or employee to provide certain information or documents, if both the corporation and the officer or employee are named in the same request.

(b) *When request effective—(1) Who may require submission.* A person filing notification, or an officer, director, partner, agent, or employee thereof, may be required to submit additional information or documentary material with respect to an acquisition by the Federal Trade Commission or its designee, or by the Assistant Attorney General or his or her designee, but not by both.

Example: If the Federal Trade Commission issues a request for additional information or documentary material to a person, the Assistant Attorney General may not thereafter issue another such request with respect to the same acquisition to that person, or to any officer, director, partner, agent, or employee of that person.

(2) *When request effective: Person.* A request that a person (other than a natural person) submit additional information or documentary material shall be effective—

(i) Upon receipt of a written request, by the person to which the request is directed, within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period; or

(ii) When communicated in person, or by telephone and a written request is mailed, within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period. The person filing notification shall keep a delegated individual reasonably available during normal working hours throughout the waiting period through the telephone number supplied on the certification page of the Notification and Report Form. A request for additional information or documentary material need be communicated only to that individual.

(3) *When request effective: Individual.* A request that an individual submit additional information or documentary material shall be effective upon receipt of a written request within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period. The request shall be served upon the individual by any means permitted under rule 4(d) of the Federal Rules of Civil Procedure, or by registered or certified mail at his or her home or business address.

(c) *Waiting period extended.* (1) During the time period when a request for additional information or documentary material remains outstanding to any person other than, in the case of a tender offer, the person whose voting securities are sought to be acquired (or any officer, director, partner, agent, or employee thereof), the waiting period shall remain in effect, even though the original thirty days (or, in the case of a cash tender offer, fifteen days) or more may have elapsed from the date of receipt of the original notification.

(2) Pursuant to subsection (e)(2), a request for additional information or documentary material to any person other than, in the case of a tender offer, the person whose voting securities are being acquired (or any officer, director, partner, agent, or employee thereof) shall in every instance extend the waiting period for an additional period of twenty (or, in the case of cash tender offers, ten) calendar days from the beginning of such additional waiting period pursuant to § 803.10(a)(2).

Example: Assume that a request for additional information is issued to a person (in a transaction other than a tender offer) on the twentieth day of the waiting period, and that that person supplies the response to the request fifteen days later. The waiting period remains in effect from the thirty-first to the thirty-fifth day, and is extended twenty days beyond the thirty-fifth day.

(3) If more than one request for additional information or documentary material has been issued with respect to an acquisition, the waiting period shall not expire until the latest date to which it is extended under subparagraph (2) of this paragraph.

Example: In the example to subparagraph (c)(2), if a request for additional information had also been issued to another person filing notification, and if that person did not supply the additional information until the thirty-eighth day, then the waiting period would be extended for twenty days beyond the thirty-eighth day.

(4) Pursuant to subsection (d)(2)(C), any extension of the waiting period pursuant to this paragraph may be terminated by the Federal Trade Commission or Assistant Attorney General, whichever required the submission of additional information or documentary material, or by the designee of whichever required the submission, in the manner prescribed by § 803.11.

(d) *Request for clarification.* No request for clarification or amplification of any response to any item on the Notification and Report Form, whether communicated in writing, in person, or by telephone, shall be considered a request for additional information or documentary material within the meaning of subsection (e), unless specifically so identified and transmitted in accordance with this rule.

§ 803.30 Formal interpretations of requirements under this section.

Formal interpretations as to the obligations under this section of, or application of these rules to, any party to or participant in an acquisition, or to the acquisition itself, may be obtained upon application to the Federal Trade Commission. The application shall be made by submission to the offices designated in § 803.10(a), and shall state the reasons why the requirements of this section are or may be applicable and state the question or questions that the applicant wishes resolved. The Federal Trade Commission, with the concurrence of the Assistant Attorney General, may inform the applicant of its views as to the questions raised and publish a summary thereof in the FEDERAL REGISTER, or may decline to render a formal interpretation.

ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person who, by reason of a proposed merger, consolidation or acquisition, is subject to § 7A of the Clayton Act, 15 U.S.C. § 18A, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, P.L. 94-435, and rules promulgated thereunder (hereinafter referred to as "the rules"). The statute and rules are set forth in the Federal Register at page ; the rules may also be found at 16 C.F.R. Parts 801-03. Failure to file this Notification and Report Form, and to observe the required waiting period before consummating the transaction, in accordance with the applicable provisions of 15 U.S.C. § 18A and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than $10,000 for each day during which such person is in violation of 15 U.S.C. § 18A.

All information and documentary material filed in or with this form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Complete and return two notarized copies (with one set of documentary attachments) of this Notification and Report Form to Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, and three notarized copies (with one set of documentary attachments) to Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530. The central office for information and assistance with respect to matters in connection with this Notification and Report Form is Room 301, Federal Trade Commission, Washington, D.C. 20580, phone (202) 523-3894.

AFFIDAVIT

Be sure that the affidavit required by § 803.4 of the rules is attached to this page.

CASH TENDER OFFERS

If this transaction is a cash tender offer, check: ☐

DEFINITIONS

The definitions and other provisions governing this Form are set forth in the rules, 16 C.F.R. Parts 801-03.

NAME AND DATE

Enter the name of the pre-acquisition ultimate parent entity of the person filing notification and the date on which this Notification and Report Form is being completed:

Name_____ Date_____

In addition, enter the above name and date at the top of each page of this Form, at the top of any additional sheets attached to complete the response to any item, and at the top of the first or cover page of each documentary attachment.

If this Form is being filed on behalf of the above entity by another entity authorized by it to file notification on its behalf pursuant to § 803.2(a) of the rules, give the name of the entity preparing and filing this form.

Name_____

Notification and Report Form Continued

INSTRUCTIONS

Each answer should identify the item to which it is addressed. Attach separate additional sheets as necessary in answering each item; each additional sheet should identify the item to which it is addressed. If unable to answer any item fully, give such information as is available and explain why the answer is incomplete, as provided by § 803.3 of the rules. If books and records which provide accurate answers are not available, enter best estimates and indicate the sources or bases of such estimates. Estimated data should be followed by the notation, "est." All financial information should be rounded to the nearest thousand dollars.

All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

This Notification and Report Form requests information regarding dollar revenues and lines of commerce at three levels. All persons must submit certain data at the 4-digit (SIC code) industry level (establishment basis). To the extent that dollar revenues are derived from manufacturing operations (SIC major groups 20-39), data must also be submitted at the 5-digit product class and 7-digit product levels (SIC-based codes). In reporting by "4-digit (SIC code) industry (establishment basis)" you should refer to the 1972 edition of the Standard Industrial Classification Manual published by the Executive Office of the President, Office of Management and Budget. In reporting information by "5-digit (SIC-based code) product class," and by "7-digit (SIC-based code) product," you should refer to one or both of the following reference publications published by the U.S. Bureau of the Census: (a) Numerical List of Manufactured Products, 1972 Census of Manufactures (MC72-1.2) (New 1972 SIC basis); (b) Volume II, "Industry Statistics," 1972 Census of Manufactures. In reporting information by "5-digit (SIC-based code) product class" you may also refer to the code appearing in the "Product Class Reference List" shown in the Instruction Manual for the Annual Survey of Manufactures. In reporting information by "7-digit (SIC-based code) product" you may also refer to the applicable "Product Reference Lists" appearing in the Instruction Manual of the various Current Industrial Reports surveys (monthly, quarterly, or annual) conducted by the U.S. Bureau of the Census. For product codes ending in 00, submit information by product as listed in Appendix A to the Numerical List of Manufactured Products cited above.

In responding to items 5-7 and the Appendix --

-- supply information only with respect to operations conducted within the United States, including its commonwealths, territories, possessions and the District of Columbia. See §§ 801.1(k), 803.2(c) of the rules;

-- information need not be supplied with respect to assets or voting securities currently being acquired, the acquisition of which is exempt under the statute or rules. See § 803.2(c) of the rules;

-- limited or separate responses may be required of a person filing notification. See § 803.2(b) of the rules.

Notification and Report Form Continued

Name_____ Date_____

1.(a) Check whether the transaction is (check all boxes that apply to the person filing notification):

an acquisition of assets ☐

an acquisition of voting securities ☐

a merger or consolidation (see § 801.2(d) of the rules) ☐

a tender offer or acquisition from third parties (see § 801.30 of the rules) ☐

formation of a joint venture (see § 801.40 of the rules) ☐

other (specify)_____ ☐

(b) Check whether the person filing notification is:

acquiring person ☐

acquired person ☐

both an acquiring and an acquired person (see § 801.2 of the rules) ☐

(c) Name of ultimate parent entity of person filing notification:_____
Address of headquarters office:_____

(d) Check whether entity in item 1(c) is a:

corporation ☐ partnership ☐ other (specify)_____ ☐

If Corporation: State of incorporation_____

Date of incorporation_____

If partnership or other: Jurisdiction under which formed:_____

Date of formation:_____

Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

- - - -

Notification and Report Form Continued

Name_____ Date_____

- -

2(f)(i) Contract. Furnish copies of final or most recent versions of all documents which constitute the agreement among the acquiring person(s) and the person(s) whose voting securities or assets are to be acquired.

2(f)(ii) Index to ancillary documents. Furnish an index containing a brief description sufficient to identify each ancillary document or class of documents related to this agreement, such as those relating to personnel matters (union contracts, employment agreements, etc.); third-party financing agreements; leases, subleases and other documents relating to the transfer of realty, etc.

3(a) Percentage holdings to be held by acquiring persons.

State: (i) the percentage of the assets;

(ii) the percentage of the voting securities; and

(iii) the aggregate total dollar amount of voting securities and assets

of the acquired person to be held by each acquiring person, excluding holdings of affiliates, as a result of the transaction. (See §§ 801.12, 801.15 of the rules.)

3(b) Percentage holdings held by affiliates. If the person filing notification is an acquiring person, state the aggregate:

(i) percentage of assets;

(ii) percentage of voting securities; and

(iii) the aggregate total dollar amount of voting securities and assets

of the acquired person presently held by all affiliates of the person filing notification. (See § 801.14 of the rules.)

Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

- - - -

Notification and Report Form Continued

Name_____ Date_____

5(b)(iii) Dollar revenues by manufactured product class. Provide the following information on the aggregate operations of the person filing notification for the most recent year for each 5-digit (SIC-based) product class of the person within SIC major groups 20-39 (manufacturing industries). If such data have not been compiled for the most recent year, estimates of dollar revenues by 5-digit product class may be provided if a statement describing the method of estimation is furnished.

5-DIGIT (SIC-BASED) PRODUCT CLASS		TOTAL DOLLAR REVENUES (SPECIFY YEAR:_____)
PRODUCT CLASS CODE	DESCRIPTION	

Notification and Report Form Continued

Name_____ Date_____

5(c) Dollar revenues by non-manufacturing industry. Provide the following information on the aggregate operations of the person filing notification for the most recent year for each 4-digit (SIC code) industry in SIC major groups other than 20-39 in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 4-digit industry may be provided if a statement describing the method of estimation is furnished. Industries for which the dollar revenues totaled less than one million dollars in the most recent year may be omitted.

Insurance carriers (2-digit SIC major group 63) should supply the information requested only with respect to industries not within SIC major group 63, and, if voting securities of an insurance carrier are being acquired directly or indirectly (see § 801.4 of the rules), should complete the Appendix to this Form. Credit agencies other than banks; security and commodity brokers, dealers, exchanges, and services; and holding and other investment offices (2-digit SIC major group 61, 62, and 67) and real estate companies (2-digit SIC major group 65) should identify or explain the dollar revenues reported.

4-DIGIT (SIC CODE) INDUSTRY		TOTAL DOLLAR REVENUES (SPECIFY YEAR: _____)
INDUSTRY CODE	DESCRIPTION	

Notification and Report Form Continued

Name_____ Date_____

5(d) Holdings of institutional investors. For each institutional investor, as defined in § 802.64(a) of the rules, included within the person filing notification, provide the following information:

(i) name and address of headquarters office;

(ii) principal business (i.e., bank, insurer, etc.);

(iii) percent of voting securities held by ultimate parent entity, or, if control is effected by means other than the direct holding of the institutional investor's voting securities, describe the intermediaries or the contract through which control is effected; and

(iv) for each issuer the voting securities of which are held by the institutional investor, list (A) the name of the issuer; (B) the class of voting security held; and (C) the number held. Holdings of voting securities should be listed as of the close of business on the last business day of the week prior to the filing of this notification. Holdings in issuers which the person filing notification controls, see § 801.1(b) of the rules, must be omitted; holdings of less than five percent of the outstanding voting securities of an issuer may be omitted.

Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

6. If, to the knowledge or belief of the person filing notification, the person filing notification derived dollar revenues from operations in any 4-digit (SIC code) industries in which any other person party to the transaction also derived dollar revenues in the most recent year (or in which a joint venture will derive dollar revenues), for each such 4-digit (SIC code) industry:

(a) supply the 4-digit code and description for the industry;

(b) provide the address of each establishment from which dollar revenues were derived in the most recent year by the person filing notification (or from which a joint venture will derive dollar revenues); and

(c) (i) for each 4-digit industry within SIC major groups 20-39 (manufacturing industries) listed in item 6(a) above, list the states or portions thereof in which the products produced in each of the establishments listed in item 6(b) above are sold in substantially the same form, whether by the person filing notification or by others to whom such products have been sold or resold;

(ii) for each 4-digit industry within SIC major groups 01-17 and 40-49 (agriculture, forestry and fishing; mining; construction; transportation, communications, electric, gas and sanitary services) listed in item 6(a) above, list the states or portions thereof in which the person filing notification conducts such operations;

(iii) for each 4-digit industry within SIC major groups 50-51 (wholesale trade) listed in item 6(a) above, list the states or portions thereof in which the customers of each establishment listed in item 6(b) above are located; and

(iv) for each 4-digit industry within SIC major group 63 (insurance) listed in item 6(a) above, list the state(s) in which the person filing notification is licensed to write insurance.

Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

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Notification and Report Form Continued

Name_____ Date_____

- - - -

Notification and Report Form Continued

APPENDIX TO NOTIFICATION AND REPORT FORM: INSURANCE

Insurance carriers (2-digit SIC major group 63) are required to complete this Appendix if voting securities of an insurance carrier are being acquired directly or indirectly (see § 801.4 of the rules).

1. Life Insurance

A. Provide for the most recent year the amount of premium receipts (calculated on an accrual basis) for each of the following lines:
   1. Life Insurance:
      a. Ordinary life insurance;
      b. Group life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
      c. Industrial life insurance;
      d. Credit life insurance;

   2. Annuity Considerations:
      a. Individual annuity considerations;
      b. Group annuity considerations;

   3. Health Insurance:
      a. Individual health insurance;
      b. Group health insurance.

B. Provide for the most recent year the amount of new life insurance business issued in the United States during the calendar year (exclusive of revivals, increases, dividend additions and reinsurance ceded) for each of the following lines:
   1. Ordinary life insurance;
   2. Group life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
   3. Industrial life insurance;
   4. Credit life insurance.

Notification and Report Form Continued

2. Property Liability Insurance

A. Provide for the most recent year the amount of direct premiums written during the calendar year in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

B. Provide for the most recent year the amount of net premiums written during the calendar year in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

3. Title Insurance

A. Provide for the most recent year the amount of net direct title insurance premiums written in the United States during the calendar year.

B. Provide for the most recent year the amount of direct title insurance premiums earned in the United States during the calendar year.

The Federal Trade Commission and the Assistant Attorney General invite and encourage the filing of written comments upon the proposed notification form and proposed rules in order to assure that the final versions thereof will satisfy the law enforcement concerns of the two agencies while, at the same time, not being unduly cumbersome or burdensome. Written comments on the proposal by an interested person could carry the subject "Title II—Premerger Notification." Written comments should be submitted to both addresses listed at the beginning of this notice. All written comments received on or before August 31, 1977, will be considered. Comments and other written materials with respect to the proposed notification form and proposed rules will be available for examination by interested persons in Room 130 of the Public Reference Branch, Federal Trade Commission, 6th Street at Pennsylvania Avenue NW., Washington, D.C., and will be considered by the Federal Trade Commission and the Assistant Attorney General in the Commission's determination (with the concurrence of the Assistant Attorney General) to issue a final version of the notification form and rules. All interested persons are urged to express their approval or disapproval of the proposed notification form and proposed rules, or to recommend specific revisions, and to give a full statement of their views thereon. Comments previously submitted in response to the proposed rules published in the FEDERAL REGISTER of December 20, 1976, will be considered by the Commission and the Assistant Attorney General in connection with the promulgation of final rules. Thus the content of these earlier comments need not be repeated or resubmitted.

Issued July 25, 1977.

By the direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-21767 Filed 7-29-77;8:45 am]

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