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FRIDAY, NOVEMBER 11, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for November are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, 202–523–3517.

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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	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.

Note: As of Nov. 3, 1977, Food Safety and Quality Service (USDA) documents are being assigned to the Tuesday/Friday schedule.

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

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NOTE: the listing of the following two public bills is republished to show the correct page numbers for each. The page numbers published in the issue of Nov. 9, 1977 were incorrect.

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H.R. 4297 ..... Pub. L. 95–153
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Title 3—The President

PROCLAMATION 4536

National Family Week, 1977

By the President of the United States of America

A Proclamation

Patterns of living and working have changed during our two centuries as a Nation, and the American family has changed with them. Participation in family life is more and more a personal choice, less and less an economic and social necessity.

But even as customs have changed and many of the traditional sanctions have lost their force, the overwhelming majority of Americans have still chosen the rewards of family life. It is within the family that we first learn to communicate with other people, to give and receive love and understanding, to work together for common goals, and to respect the rights, needs and talents of others. The family teaches us responsibility and compassion, it encourages our best efforts, and it forgives our failures. It fills many of the gaps left by other institutions in our society. As a Nation we must strengthen and support the values of family life for they are inseparable from our finest national traits.

In honoring the family it is especially appropriate to acknowledge those Americans who, through adoption, open their homes and hearts to wanted children. They bring a special commitment to the family and share a special reward in nurturing their children and seeing them grow in love.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with a joint resolution of the Congress, approved August 15, 1977 (91 Stat. 836) do hereby proclaim the week of November 20, 1977, as National Family Week and call upon the American people to observe that week with appropriate ceremonies, programs and activities.

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

Jimmy Carter

[FR Doc.77-32901 Filed 11-9-77;4:50 pm]

rules and regulations

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

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

[6325–01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Assistant Attorney General for Legislative Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3310(v)(3) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(v) *Office of Legislative Affairs.* * * *

(3) One Special Assistant to the Assistant Attorney General.

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

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

[FR Doc.77-32593 Filed 11-10-77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Secretary (Stenography) to the Special Advisor to the Secretary of State for Soviet Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(32) is added as set out below:

§ 213.3304 Department of State.

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

(32) One Secretary (Stenography) to the Special Advisor to the Secretary of State for Soviet Affairs.

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

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

[FR Doc.77-32594 Filed 11-10-77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Intelligence Operations Specialist in the Bureau of Intelligence and Research, Department of State, are excepted under Schedule A because it is impracticable to to examine for them.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3104(f) is added as set out below:

§ 213.3104 Department of State.

* * * * *

(f) *Bureau of Intelligence and Research.*

(1) Two positions of Intelligence Operations Specialist.

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

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

[FR Doc.77-32595 Filed 11-10-77;8:45 am]

[3410–05]

Title 7—Agriculture

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 5]

PART 722—COTTON

Subpart—Marketing Quota Regulations for the 1972 and Succeeding Crops of Extra-Long Staple Cotton and Recordkeeping Requirements for Extra-Long Staple and Upland Cotton

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the rate of penalty applicable to excess extra-long staple cotton produced in the 1977 crop year. As specified in the Agricultural Adjustment Act of 1938, as amended, this rate of penalty is based on the higher of 50 percent of the parity price as of June 15 of the calendar year in which the crop is produced or 50 percent of the 1977 support price of extra-long staple cotton.

EFFECTIVE DATE: November 11, 1977.

ADDRESS: Production Adjustment Division, ASCS, U.S. Department of Agriculture, room 3631, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

George Roach, ASCS, 202–447–4695.

SUPPLEMENTARY INFORMATION: Since the rate of penalty is simply a mathematical determination, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 722.73 shall become effective with respect to the 1977 crop of extra-long staple cotton.

The amendment to the regulations is as follows:

1. Section 722.73 is amended by adding a new subparagraph (c)(6) to read as follows:

§ 722.73 Rate of penalty.

* * * * * *

(c) * * *

(6) 1977 ELS cotton penalty rate is 65.5 cents per pound.

(Secs. 346, 347, 373, 375, 63 Stat. 674, as amended, 63 Stat. 675, as amended, 52 Stat. 65, 66, as amended; 7 U.S.C. 1346, 1347, 1373, 1375.)

Signed at Washington, D.C. on November 3, 1977.

RAY FITZGERALD,
Administrator, Agricultural stabilization and Conservation Service.

[FR Doc.77-32726 Filed 11-10-77;8:45 am]

[3410–05]

[Amdt. 9]

PART 726—BURLEY TOBACCO

Burley Tobacco 1971–72 and Subsequent Marketing Years

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the penalty rate that applies to the 1977 crop of burley tobacco which is subject to marketing quota penalty during the 1977–78 marketing year.

Also a new § 726.107 is added to permit warehouses to retain producer's marketing card between sales if the eligibility conditions are met.

EFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

David W. Anderson, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202–447–7935.

SUPPLEMENTARY INFORMATION: Since the penalty rate is simply a mathematical determination, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 726 is amended as follows:

1. The table of contents is amended by adding a new § 726.107 as follows:

Sec.

* * * * * *

726.107 Warehouses authorized to retain producer marketing cards between sales.

§ 726.50 [Amended]

2. In § 726.50 the first sentence is amended by substituting the words "this subpart" in lieu of the words "§§ 726.50 through 726.104".

3. Section 726.52 is amended to read as follows:

§ 726.52 Extent of determinations, computations, and Rule for Rounding Fractions.

(a) *General.* All prescribed rounding shall be according to the provisions of Part 793 of this chapter.

(b) *Yields and quotas.* Yields and quotas shall be determined in whole pounds.

(c) *Percent reduction for violation.* A percentage reduction in a tobacco farm marketing quota for violation of this part shall be determined in tenths of a percent.

4. In § 726.86 paragraph (c) is amended to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c)(1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

Marketing year:	Cents per pound
1972 to 1973	80.9
1973 to 1974	79.2
1974 to 1975	92.9
1975 to 1976	113.7
1976 to 1977	114.2

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

Marketing year:	Cents per pound
1973 to 1974	59
1974 to 1975	70
1975 to 1976	85
1976 to 1977	79
1977 to 1978	86

5. Section 726.107 is added to read:

§ 726.107 Warehouses authorized to retain producer marketing cards between sales.

Notwithstanding any other provision of this part, to facilitate the scheduling of farmers' tobacco to the warehouse, marketing cards with the permission of the producer may be retained at the warehouse between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(a) *Warehouses eligible to retain producer marketing cards between sales.* A warehouse shall be eligible to retain producer marketing cards between sales if the operator thereof shall:

(1) Execute and file on a form approved by ASCS a written request with the State committee (or county committee if designated by the State committee).

(2) Agree to be responsible to ASCS for an amount of money equal to the amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Overmarketing resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card.

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card.

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(iv) Tobacco marketed at the warehouse in excess of 110 percent of quota as shown on the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

(i) Name of farm operator;

(ii) Serial number of farm;

(iii) Date marketing card obtained from producer; and

(iv) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the conditions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request, or in the absence of a request, return it to the producer within seven (7) days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by ASCS for failure to comply with provisions of this agreement.

(b) *Penalties considered to be the responsibility of warehouseman.* Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State committee (or county committee if designated by the State committee) for authorization to retain producers' marketing cards at the warehouse, with grower permission, shall be responsible to ASCS for an amount of money equal to the amount that may be assessed against producer as marketing quota penalties: *Provided,* The marketing that is the basis of such assessment occurred while the warehouse was authorized to have custody of the marketing card, for:

(1) Overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on the producer's marketing card. Except that no warehouse operator shall be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against the producer in accordance with paragraph (e) of § 726.89.

(2) Tobacco falsely identified for marketing by use of the producer's marketing card.

(3) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(4) Tobacco marketed at the warehouse in excess of 110 percent of quota as shown on the producer's marketing card.

(Secs. 301, 312, 313, 314, 316, 318, 319, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 46 as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 85 Stat. 28, (7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314c, 1363, 1372–1375, 1377, 1378); 11821 and OMB Circular A–107.

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Economic

Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on November 4, 1977.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-32780 Filed 11-10-77;8:45 am]

[3410-02]

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

[Lemon Reg. 119, Lemon Reg. 118, Amdt 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 13-19, 1977, and increases the quantity of such lemons that may be so shipped during the period November 6-12, 1977. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effiective November 13, 1977, and the amendment is effective for the period November 6-12, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 8, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is generally good on all sizes and grades.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.419 **Lemon Regulation 119.**

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period November 13, 1977, through November 19, 1977, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. The provisions of paragraph (a) in § 910.418 Lemon Regulation 118 (42 FR 57684) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period November 6, 1977, through November 12, 1977, is established at 220,000 cartons."

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

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

[FR Doc.77-32935 Filed 11-10-77;11:45 am]

[3410-02]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the Cranberry Marketing Committee which locally administers the Federal marketing order covering cranberries.

DATES: Effective September 1, 1977, through August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: On October 12, 1977, notice was published in the FEDERAL REGISTER (42 FR 54950) inviting written comments not later than October 27, 1977, on proposed expenses, rate of assessment, and carryover of unexpended funds, under Marketing Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. None was received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

§ 929.218 **Expenses, rate of assessment, and carryover of unexpended funds.**

(a) Expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the period September 1, 1977, through August 31, 1978, will amount to $75,835.56.

(b) The rate of assessment for said period payable by each handler in accordance with § 929.41 is fixed at $0.03 per barrel or equivalent quantity of cranberries.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal period ended August 31, 1977, shall b ecarried over as a reserve in accordance with § 929.42.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGIST5R (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable cranberries handled from the beginning of the period.

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

Dated: November 7, 1977.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-32764 Filed 11-10-77;8:45 am]

[3410-02]

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Expenses of Filbert Control Board and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1977-78 fiscal year, to be collected from handlers to support activities of the Filbert Control Board which locally administers the Federal marketing order covering Oregon and Washington filberts.

EFFECTIVE DATES: August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader 202–447–6393.

SUPPLEMENTARY INFORMATION: On October 19, 1977, notice was published in the FEDERAL REGISTER (42 FR 55821) inviting written comments, not later than November 4, 1977, on proposed expenses and a rate of assessment under the marketing agreement, and Order No. 982, both as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

§ 982.322 Expenses of the Filbert Control Board and rate of assessment for the 1977–78 fiscal year.

(a) Expenses that are reasonable and likely to be incurred by the Filbert Control Board during the period August 1, 1977, through July 31, 1978, will amount to $38,630.

(b) The rate of assessment for said period payable by each handler in accordance with § 982.61, is fixed at 0.2125 cent per pound of filberts.

It is further found that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The order requires that the rate of assessment for the fiscal year shall apply to all assessable filberts from the beginning of the year.

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

Dated: November 7, 1977.

D. S. KURYLOSKI,
Acting Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-32765 Filed 11-10-77;8:45 am]

[3410–05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1435—SUGAR

Subpart—Price Support Loan Program for 1977 Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a loan program pursuant to Section 201 of the Agricultural Act of 1949, as amended by Section 902 of Title IX of the Food and Agriculture Act of 1977 (Pub. L. 95–113, 91 Stat. 949, effective October 1, 1977) to provide price support to sugarbeet and sugarcane producers at a level of not less than 52.5 percent of the parity prices for such commodities but not less than 13.50 cents per pound raw sugar equivalent. Price support for sugarbeets and sugarcane will be made through loans by the Commodity Credit Corporation (CCC) to sugar processors at the rate of 14.24 cents per pound of refined beet sugar and at the rate of 13.50 cents per pound of cane sugar, raw value, but only for sugar processed from sugarbeets and sugarcane grown by producers who agree to pay their agricultural employees engaged in sugar production according to wage rate regulations now being developed. Processors will be eligible for loans upon the condition that they pay producers no less than the applicable support price for the unprocessed commodities and agree to store the processed commodity during the loan period and after maturity of the loan until disposition of such commodity by CCC. Eligible processors may apply for loans on the quantity of refined beet sugar or raw cane sugar processed from the 1977 crop that is in eligible storage and which has not been reported as marketed under the interim price support payment program which became effective September 15, 1977.

EFFECTIVE DATE: November 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr., ASCS 202–447–7561 or 202–447–3517, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On October 7, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 54556) implementing a program, effective as of September 15, 1977, to support prices in the marketplace for producers of 1977 crop sugarbeets and sugarcane through payments made to sugar processors. The payment program was designed to support the prices of sugarbeets and sugarcane as authorized under Section 301 of the Agricultural Act of 1949, as amended, only until such date that a new program under any superseding legislation could be implemented.

Section 902 of the Food and Agriculture Act of 1977 amended section 201 of the Agricultural Act of 1949 to provide that the price of the 1977 crop of sugarbeets and sugarcane shall be supported through loans or purchases of the processed products thereof. Section 201 directs the Secretary in carrying out this program to establish minimum wage rates for agricultural employees engaged in the production of sugar.

It is further provided in Section 201 that the Secretary's authority to establish under any other existing provision of law a price support program for that portion of the 1977 crop of sugarbeets and sugarcane marketed prior to the implementation of a program under section 201 is not affected.

The following statement appeared in the Conference Report with respect to section 201:

> . . . the implementation of the loan and purchase program [should] not be delayed even if there should be a delay in the establishment of minimum wage rates for agricultural employees engaged in the production of sugar because of any public hearings that may be held thereon. It is the Conferees' intent, however, that the loan and purchase and wage rate provisions of section 902 be implemented without any delay upon the bill becoming effective.

Producers of sugarbeets and sugarcane are presently involved in harvesting the 1977 crop. If a price support loan program is to be carried out for this crop of sugar as mandated by Section 201 of the Agricultural Act of 1949, as amended, it is essential that it be implemented as soon as possible. In view of the foregoing legislative history and the harvesting situation, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Section 201 of the Agricultural Act of 1949, as amended, provides that the price of sugar beets and sugarcane shall be supported at a level not in excess of 65 percent nor less than 52.5 percent of the parity price, but in no event shall the support level be less than 13.5 cents per pound, raw sugar equivalent. The program provides for the support at 52.5 percent of the parity price since, on the basis of the production cost data available to the Department, it has been determined that such price will be sufficient to cover efficient producers' cost of production.

The harvesting periods selected for the various sugar producing areas are those which were traditionally used in the administration of the Sugar Act of 1948, as amended, and which continue to be used throughout the sugar industry.

An economic impact statement will be available by contacting John Stovall, room 350, GHI Building, USDA, 20250.

The Secretary of Agriculture is obtaining pertinent information for the purpose of establishing minimum wage rates for agricultural employees engaged in the production of sugar. These regulations will be issued as soon as practicable.

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by adding a new Subpart—Price Support Loan Program for 1977 Crop Sugarbeets and Sugarcane—to Part 1435 which reads as follows:

Subpart—Price Support Loan Program for 1977 Crop Sugarbeets and Sugarcane

Sec.

1435.15 General statement.
1435.16 Administration.
1435.17 Definitions.
1435.18 Level and method of support and loan rates.
1435.19 Eligibility requirements.
1435.20 Availability, disbursement, and maturity of loan.
1435.21 Quantity for loan.
1435.22 Loan maintenance and liquidation.
1435.23 Processor storage agreement.
1435.24 Miscellaneous provisions.
1435.25 Applicable forms.

AUTHORITY: The provisions of this subpart are issued under secs. 201 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 et seq.).

§ 1435.15 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1977 crop of sugarbeets and sugarcane. The Commodity Credit Corporation (CCC) will offer to eligible processors nonrecourse loans which must be evidenced by notes and security agreements and secured by the pledge of eligible sugar in eligible storage.

§ 1435.16 Administration.

The Procurement and Sales Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, Commodity Operations.

In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as KCCO and MFO respectively) and designated Agricultural Stabilization and Conservation State and county committees (referred to as State and county committees).

§ 1435.17 Definitions.

(a) "1977 crop" means domestic sugarbeets and sugarcane, the substantial portion of which is harvested in the areas indicated below during the following periods:

Sugar Producing Area	*Harvesting Period*
Sugarbeets:	
All States, excl. Cal. and Az.	September to November 1977.
California, excl. southern area.	July 1977 to June 1978.
Southern California.[1]	March to August 1978.
Arizona — lowland area.	April to August 1978.
Arizona — upland area.	September 1977 to January 1978.
Sugarcane:	
Florida	October 1977 to May 1978.
Louisiana	October 1977 to January 1978.
Texas	October 1977 to May 1978.
Hawaii	Calendar year 1977.
Puerto Rico	December 1977 to July 1978.

[1] Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

(b) "Producer" means the owner of a portion or all of the sugarbeets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Eligible producer" means a producer who pays and certifies to his processor that he has paid or will pay, to his agricultural employees engaged in the production of sugar, wage rates in accordance with wage rate regulations to be issued by the Secretary.

(d) "Sugar" means refined beet sugar or raw cane sugar, cane syrup or edible molasses which is not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(e) "Processor" means a person who commercially processes sugarbeets into refined sugar or sugarcane into raw sugar, cane syrup or edible molasses.

(f) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(g) "Sugarbeets of average quality" means sugarbeets containing 15.44 percent sucrose.

(h) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 14.01 percent sucrose in normal juice; and (2) for Louisiana, sugarcane containing 12.69 percent sucrose in normal juice of 78.18 percent purity.

(i) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.18 Level and method of support, and loan rates.

Prices to domestic producers of 1977 crop sugarbeets and sugarcane will be supported at average levels estimated to be equivalent to 52.5 percent of the parity prices for sugarbeets and sugarcane as of July 1977. The support to domestic producers of 1977 crop sugarbeets and sugarcane will be made available through nonrecourse loans to eligible processors. Loan rates for the 1977 crop shall be 14.24 cents per pound for refined beet sugar, and 13.50 cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses: *Provided*, That in the case of refined or specialty cane sugars made, by a cane sugar refining facility that is cooperatively owned by its raw can sugar processors or by a processor of sugarcane who is also a refiner, from sugar which would otherwise be eligible for loan except that such sugar is no longer in its raw form, the loan rate shall be 13.50 cents per pound of the cane sugar, raw value, equivalent of the refined or specialty sugars. The general support prices for sugarbeets and sugarcane are as specified in § 1435.19(b).

§ 1435.19 Eligibility requirements.

(a) Eligible sugar must be processed from that part of the 1977 crop grown by eligible producers. Such sugar must be owned by the eligible processor (or jointly owned by eligible processor and eligible producer) tendering the sugar as collateral for loan, must be in eligible storage, and must not have been reported as marketed under the price support payment program.

(b) Eligible processors for the 1977 crop are those who pay to all eligible producers who deliver to them for processing sugarbeets and sugarcane of average quality, not less than:

(1) For sugarbeets, $22.84 per net ton,

(2) For producers of sugarcane in Florida, $18.37 per net ton,

(3) For producers of sugarcane in Louisiana, $15.90 per net ton,

(4) For producers of sugarcane in Texas, the amount determined by multiplying 8.10 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane,

(5) For producers of sugarcane in Hawaii, where the delivery point is at the mill, the amount determined by multiplying 8.91 cents times the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer, and

(6) For producers of sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico; *Provided, however*, That for any producing area where the specified support price is based on sugar beets or sugarcane of average quality, that price may be adjusted for sugar beets or sugarcane of non-average quality on the method agreed upon by the producer and processor, subject to prior approval of the Executive Vice President, CCC, or his designee.

(c) Nothing in paragraph (b) of this section shall be construed as prohibiting normal and traditional customs or practices agreed upon between the producer and processor with respect to the marketing of sugar beets and sugarcane or the products processed therefrom. Any such custom or practice which would cause any reduction in the specified support price must be reported in writing by the processor to, and approved by, the Executive Vice President, CCC.

(d) Eligible storage shall consist of a storage structure which is determined by the State committee to be under the control of the processor, solely for his use, and safe for storage of refined beet sugar, raw cane sugar, cane syrup, or edible molasses.

§ 1435.20 Availability, disbursement, and maturity of loan.

(a) *Obtaining price support.* To obtain price support on eligible sugar, an eligible processor must file a request for a loan with the State committee of the State where he is headquartered; and must execute a note, security agreement, and storage agreement as prescribed by CCC. Such request may be filed by a processor within 90 calendar days after he completes processing the 1977 crop.

(b) *Redeemed loan collateral.* A processor may not reoffer as security or repledge to CCC as collateral any sugar that has been redeemed from CCC loan.

(c) *Disbursement of loans.* Disbursement will be made by means of sight drafts drawn on CCC.

(d) *Maturity of loans.* Loans will mature on the last day of the eleventh calendar month following the month in which the loan was disbursed. Whenever the final date falls on a weekend or federal holiday, the date shall be extended to the next workday.

§ 1435.21 Quantity for loan.

Loans shall not be made on more than the quantity which an eligible processor

certifies is eligible, available, properly stored and for which processor's weight and polarization records, or such other records satisfactory to CCC, are furnished. Sugar pledged as collateral for a loan is not required to be stored identity preserved; however, a processor's outstanding loan quantity may not exceed his total storage capacity less ineligible sugar in storage.

§ 1435.22 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage a quantity of eligible sugar sufficient to cover his loan.

(b) *Loan liquidation.* (1) CCC may at any time accelerate the time for repayment of price support loan indebtedness. In the event of any such acceleration, CCC will give the processor notice of such acceleration at least 10 days in advance of the accelerated loan maturity date. Upon maturity of the loan, the processor is required to pay off his loan or deliver to CCC a quantity of eligible sugar equivalent to that pledged as collateral for loan, title to which shall, without a sale thereof, immediately vest in CCC. If the processor wishes to deliver the commodity to CCC he must, on or before maturity, give the State committee notice in writing of his intention to do so. Notwithstanding any of the provisions of this section, the State committee may on request of the processor authorize delivery prior to maturity if the processor loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, damage to the storage structure, or deterioration of the quality of the stored commodity beyond the control of the processor, or for any other reason deemed sufficient by the Deputy Administrator, Commodity Operations.

(2) At his option, a processor may, at any time prior to maturity, redeem all or any part of his loan.

(3) The CCC interest rate for price support loans in effect at the time of the loan disbursement will be the interest rate for such loan until its maturity.

(c) Storage costs through the loan maturity date shall be borne by the borrower.

(d) *Processor incorrect certification or unauthorized removal.* If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for loan is less than the loan quantity, then CC may call the loan. If CCC feels the seriousness of the matter so justifies it, CCC may call other outstanding loans of the processor and may deny further loans for one year or more.

(e) *Loss or damage.* The processor is responsible for any loss in quantity or quality of sugar under loan, except that CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC each of the following conditions: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the loan documents or in obtaining the loan.

(f) *Settlement of loan.* If the loan rate value of the sugar delivered to CCC, plus loss assumed by CCC according to paragraph (e) of this section, is equal to or greater than the outstanding loan balance, the loan shall be considered as fully satisfied. The loan rate value of the collateral delivered to CCC in excess of that required to satisfy the loan will be paid to the processor.

(g) *Foreclosure.* If the loan indebtedness is not satisfied in accordance with provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell it at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan the borrower shall pay the difference to CCC.

§ 1435.23 Processor storage agreement.

(a) The borrower shall (1) maintain the loan collateral in eligible storage while it is under loan and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions issued by CCC.

(b) CCC shall make monthly storage payments to the processor for the time he stores the commodity for CCC after the maturity date of the unredeemed loan. The storage payment rate shall not exceed $.000833 per pound, per month.

§ 1435.24 Miscellaneous provisions.

(a) *Insurance.* CCC will not require the processor to insure the sugar pledged as collateral; however, if the processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the processor's equity in the sugar involved in the loss.

(b) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any subterfuge or device whatsoever.

(c) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(d) *Liens.* Waivers of liens or encumbrances on the sugar tendered as collateral for loans must be obtained which will fully protect the interest of CCC. A lienholder in lieu of waiving his prior lien on sugar tendered as collateral for a loan, may execute a Lienholder's Subordination Agreement (Form CCC-864) with CCC in which he subordinates his security interest to the rights of CCC. No liens or encumbrances shall be placed on the sugar pledged as collateral after the loan is approved.

(e) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

(f) *Records and inspection thereof.* ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data used in furnishing reports required by this subpart.

(g) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain any loan to which he is not entitled, will subject the person making such certification to liability under applicable Federal, civil and criminal statutes.

(h) *Handling payments and collections not exceeding three dollars.* In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(i) *Death, incompetency, or disappearance.* In case of the death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a loan, payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in Part 707 of this title—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.25 Applicable forms.

The CCC forms for use in connection with this program will be made available by the State committee.

NOTE.—The ASCS, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a major Federal action significantly affecting the human environment.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Ordre 11921 and OMB Circular A-107.

Signed at Washington, D.C. on November 8, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-32729 Filed 11-8-77;2:51 pm]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements

FMHA Affirmative Action; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule which appeared at page 45893 in the FEDERAL REGISTER of Tuesday, September 13, 1977 regarding affirmative action.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

William A. Tippins, 202–447–2243.

In FR Doc. 77–26552, in paragraph (c)(4)(ii) of § 1901.203, the form number and title shown as "AD–621, "Preapplication for Federal Assistance", should be "AD–625, "Application for Federal Assistance".

Dated: October 31, 1977.

GORDAN CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77–32779 Filed 11–10–77;8:45 am]

[6210–01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. M; Docket No. R–0127]

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Reserves Against Foreign Branch Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended a provision of its Regulation M to reduce from four to one percent the balances that member banks must maintain as reserves against their foreign branch deposits based on the daily average credit outstanding from their foreign branches to United States residents. This amendment is being adopted in order to enable foreign branches of United States banks to compete on more equal terms with foreign banks in lending to United States borrowers.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert F. Gemmill, Associate Director, Division of International Finance, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–3733.

SUPPLEMENTARY INFORMATION: (1) Section 213.7(b) of Regulation M now requires member banks of the Federal Reserve System that have one or more foreign branches to maintain, subject to certain exceptions, reserves against their foreign branch deposits, equal to four percent of the daily average credit from those branches outstanding to "United States residents," as the section defines that term. This amendment, which was adopted in order to enable foreign branches of United States banks to compete on more nearly equal terms with foreign banks in lending to United States borrowers, reduces the reserve requirement to one percent. It does not affect the reserve requirements of section 213.7(a), which relate to transactions between foreign and domestic offices of member banks.

In recent years, foreign banks have increased their efforts to lend to U.S. corporations from offices outside the United States. As the spreads between Euro-dollar lending and deposit rates have narrowed, the Board's reserve requirement on U.S. branch lending to U.S. residents has become a more important factor limiting the ability of overseas offices of U.S. banks to bid for the business of U.S. firms against foreign banks which are not required to maintain reserves against Euro-dollar deposits. Outstanding loans to U.S. residents from foreign branches of U.S. banks amount currently to about $500 million; they have ranged between $200 million and $800 million over the past two years. In conjunction with the reduction of reserve requirements, the Board also intends to monitor developments in foreign branch lending to U.S. residents.

Reserves under section 213.7(b) are currently maintained by member banks during four-week "maintenance periods." The next maintenance period begins on December 1, 1977, and the Board believes it is in the public interest to implement the new reserve requirements effective December 1, 1977, without further delay. Because under section 213.7(b) reserves maintained during the period beginning December 1, 1977, will be computed on the basis of credits outstanding between October 20 and November 16, 1977, the Board finds that immediate announcement of this final action is necessary to avoid uncertainty and disruption of commercial transactions now occurring. Therefore, with respect to this amendment, the Board finds good cause for determining that notice and public participation required by sectioin 553(b) of Title 5 of the United States Code are contrary to the public interest .The effective date of this amendment is postponed for less than the 30 days required by section 553(d) of Title 5 because the amendment relieves an existing restriction.

(2) This action is taken pursuant to the Board's authority under section 25 of the Federal Reserve Act.

Effective December 1, 1977, section 213.7(b) of Regulation M is amended by deleting the number "4" that appears immediately before the words "per cent", and substituting therefor the word "one".

By order of the Board of Governors, November 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–32776 Filed 11–10–77;8:45 am]

[6740–02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Order No. 526–B; Docket No. RM74–16]

PART 3—ORGANIZATION: OPERATION; INFORMATION AND REQUESTS

Order on Court Remand Prescribing FPC Form No. 40 With Amendments; Correction

JUNE 30, 1977.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum Notice.

SUMMARY: The Commission is correcting Ordering Clause (B) of Order No. 526–B, issued June 30, 1977, published July 29, 1977 (42 FR 38556), as follows: Asterisks should be inserted under paragraph (a) of § 3.170, and the designation of paragraph "(b)" should be changed to "(31)".

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 202–275–4166.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–32799 Filed 11–10–77;8:45 am]

[6740–02]

[Docket No. RM74–16]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: Form No. 40

AGENCY: Federal Energy Regulatory Commission.

ACTION: Extension of Time.

SUMMARY: The Federal Energy Regulatory Commission is extending the time to and including December 1, 1977, for filing Form No. 40, as required by Commission Order No. 526–B. This action is taken in response to numerous requests for extensions of time and as a result of eight applications for rehearing and a motion for partial stay of Order No. 526–B. The extension of time will allow the Federal Energy Regulatory Commission adequate time to act on the merits of the applications for rehearing and motion for stay.

DATES: Form No. 40 must be filed on or before December 1, 1977.

ADDRESSES: Form No. 40 should be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 202–275–4166.

SUPPLEMENTARY INFORMATION: Requests for extensions of time in which to file Form No. 40, as required by Commission Order No. 526–B, issued June 30, 1977, published July 29, 1977 (42 FR 38556), were filed by the following: Suburban Propane Gas Corp. (filed July 29, 1977); McMoRan Exploration Co. (filed September 12, 1977); Jake L. Hamon (filed September 23, 1977); 1975 McCormick Oil & Gas Program (filed September 26, 1977); General American Oil Co. of Texas (filed September 30, 1977); Getty Oil Co. (filed October 4, 1977); Consolidate Oil & Gas Co., Inc. (filed October 5, 1977); Cities Service Co. (filed October 7, 1977); W. R. Grace & Co. (filed October 7, 1977); Amerada Hess Corp. (filed October 11, 1977); Husky Oil Co. (filed October 11, 1977); Exchange Oil & Gas Corp. (filed October 11, 1977); Supron Energy Corp. (filed October 13, 1977); and Atlantic Richfield Co. (filed October 14, 1977).

On October 7, 1977, 1975 McCormick Oil & Gas Program filed a petition to review the Commission's September 30, 1977, letter order which denied McCormick's September 26, 1977, request for extension of time.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95–91, 95 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 13, 1977), the Federal Power Commission ceased to exist and its principal functions and regulatory responsibilities were transferred to the Federal Energy Regulatory Commission (FERC), which was activated on October 1, 1977. The "savings provisions" of Section 705 (b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC provided that this proceeding would be continued before the FERC.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–32798 Filed 11–10–77;8:45 am]

[4110–03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77N–0306]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority to provide a new delegation regarding issuance of bioequivalence regulations. The Director and Deputy Director of the Bureau of Drugs are being delegated this authority as a means of expediting the publication of these bioequivalence regulations in the FEDERAL REGISTER.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Administration (HFA–340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: A new § 5.79 is being established authorizing the Director and Deputy Director of the Bureau of Drugs to issue, amend, or repeal regulations establishing bioequivalence requirements for drug products for human use.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by adding new § 5.79 to read as follows:

§ 5.79 Issuance, amendment, or repeal of regulations establishing bioequivalence requirements for drug products for human use.

The Director and Deputy Director of the Bureau of Drugs are authorized to perform all of the functions of the Commissioner of Food and Drugs under § 320.51 of this chapter regarding the issuance, amendment, or repeal of regulations establishing bioequivalence requirements for drug products for human use.

Effective date. This regulation shall be effective November 11, 1977.

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

Dated: November 2, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77–32572 Filed 11–10–77;8:45 am]

[6560–01]

[FRL 813–7; FAP6H5140/T25]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes food and feed additive regulations permitting the use of the herbicide glyphosate in an experimental program involving growing sugarcane. The regulations were requested by Monsanto Agricultural Products Co. This rule will permit the marketing of sugarcane molasses while further data is collected on the subject pesticide.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, L.C. 20460, 202–755–4851.

SUPPLEMENTARY INFORMATION: On August 20, 1976, the EPA announced (41 FR 35216) that Monsanto Agricultural Products Co., 800 M. Lindbergh Blvd., St. Louis, Mo. 63116, had filed a food additive petition (FAP 6H5140). This petition proposed that 21 CFR 193.235 and 561.253 be amended to permit the experimental use of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in a proposed experimental program involving application of the heribicide to growing sugarcane with a tolerance limitation of 1 ppm for residues of the herbicide in sugarcane molasses in accordance with an experimental use permit issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Monsanto Agricultural Products Co. subsequently amended the petition by proposing that the tolerance be increased from 1 ppm to 2 ppm. Accordingly, a notice of proposed rulemaking appeared in the FEDERAL REGISTER of June 24, 1977 (42 FR 32262). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which was issued under FIFRA. It has further been determined

that since residues of the pesticide may result in sugarcane molasses from the agricultural use provided for in the experimental use permit, the feed and food additive regulations should be established and should include tolerance limitations.

Accordingly, food and feed additive regulations are established as set forth below.

Any person adversely affected by this regulation may, on or before December 12, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective November 11, 1977, 21 CFR 193.235 and 561.253 are amended as set forth below.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348(c)(1)].)

Dated: November 3, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

1. Part 193, Subpart A, § 193.235 is amended by (1) redesignating and revising paragraph (b) as paragraph (c), (2) redesignating and revising paragraph (c) as paragraph (d), and (3) adding the new paragraph (b) as follows:

§ 193.235 Glyphosate.

* * * * *

(b) A tolerance of 2 parts per million is established for residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine and its metabolite aminomethylphosphonic acid in sugarcane molasses resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires June 15, 1978.

(c) Residues in potable water and sugarcane molasses not in excess of 0.1 part per million and 2 parts per million, respectively, resulting from the uses described in paragraphs (a) and (b) of this section remaining after expiration of the experimental programs will not be considered to be actionable if the pesticide is legally applied during the term of an in accordance with the provisions of the experimental use permits and food additive tolerances.

(d) Monsanto Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental uses that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

2. Section 561.253 is revised by (1) redesignating paragraph (a)(1) as paragraph (a), (2) redesignating paragraph (a)(2) as paragraph (b), (3) deleting paragraphs (b)(1) and (b)(2), (4) redesignating and revising paragraph (c) as paragraph (e), and (5) adding new paragraphs (c) and (d) as follows:

§ 561.253 Glyphosate.

* * * * *

(c) A tolerance of 2 parts per million is established for residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in sugarcane molasses resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires June 15, 1978.

(d) Residues in dried citrus pulp not in excess of 0.4 part per million, soybean hulls not in excess of 20 parts per million, and sugarcane molases not in excess of 2 parts per million resulting from the uses described in paragraphs (a), (b), and (c) of this section remaining after expiration of the experimental programs will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and feed additive tolerances.

(e) Monsanto Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental uses that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc.77-32359 Filed 11-10-77;8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0235]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Neomycin Palmitate-Trypsin-Chymotrypsin Ointment; Revocation of Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment revokes provisions for certification of a drug product containing neomycin palmitate, trypsin, and chymotrypsin because data provided by the manufacturer did not establish its effectiveness. The product has been used to treat certain localized infections.

DATES: Effective December 21, 1977; requests for hearing by December 12, 1977.

ADDRESS: Requests for hearing to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 50020) published in the FEDERAL REGISTER of July 8, 1972 (37 FR 13497), the Commissioner of Food and Drugs announced his conclusion that the combination drug product described below is possibly effective for the treatment of localized infections or for suppressive therapy in such conditions, and invited additional data to establish its effectiveness.

NDA 50-020; Biozyme Ointment containing neomycin palmitate and trypsin-chymotrypsin concentrate; Armour Pharmaceutical Co., Division, Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Section 444.540a (21 CFR 444.540a) of the antibiotic drug regulations provides for certification of this preparation.

The antibiotic drug application for Biozyme Ointment (formerly called Chymar Ointment) was approved in 1968, after the Federal Food, Drug, and Cosmetic Act was amended to require and define substantial evidence of effectiveness, but before development and enunciation of the essential elements of an adequate and well-controlled clinical investigation, which provide the basis for determining whether there is "substantial evidence" (21 CFR 314.111(a)(5)). Therefore, a review was made of the original data submitted by the manufacturer. Data submitted pursuant to the notice of July 8, 1972 were also reviewed. None of the studies, which are summarized below, compare results of treatment with Biozyme Ointment to any control (enzymes alone, antibiotic alone, or placebo) and thus do not meet the fundamental requirement of an adequate and well-controlled study as required by 21 CFR 314.111(a)(5)(ii) (*a*)(*4*). In addition, these data do not demonstrate the effectiveness of each of the individual ingredients, or that each component of the combination contributes to the claimed effect, in accord with the requirements for fixed combinations as set forth in 21 CFR 300.50. Therefore, the drug is now regarded as lacking substantial evidence of effectiveness.

STUDIES IN THE ORIGINAL APPLICATION

These studies are facially deficient in that none of them conducted a comparison with a control (enzymes alone, antibiotic alone, or placebo) as stated above, nor did they contain supporting bacteriological data, except where stated.

1. Malcolm C. Spencer, M.D., used Biozyme on 93 various lesions in 38 patients: 25 were decubitus ulcers, 22 were stasis ulcers, 25 factitial, and 21 unclassified. Bacteriological data are available on only 10

patients, and there was no uniform dosage schedule.

2. Bert Seligman, M.D., used Biozyme on 20 patients with topical ulcers of the legs, administering it once daily for varying periods of time ranging from 2 weeks to 6 months.

3. B. A. Gross, M.D., used Biozyme on 14 patients with a variety of lesions, including 9 with ulcers and 5 with other lesions including paronychia abrasion, laceration, and avulsion, using a variable treatment schedule. Pretreatment bacteriological data were available on only seven patients.

4. M. H. Samitz, M.D., used Biozyme on eight patients with ulcers. Dosage schedule was variable.

5. Howard P. Steiger, M.D., used Biozyme on eight patients with various ulcers using various dosages.

6. Kenneth Price, M.D., used Biozyme on nine patients with ulcers. Dosage varied.

7. Peter Horvath, M.D., used Biozyme on nine patients with varied lesions including one burn and one case of folliculitis.

8. Leon Goldman, M.D., used the product on eight patients with various ulcers. Dosage schedules were quite varied.

9. Vincent C. Sansone, M.D., used the product on eight patients with various conditions including ulcers, burns, and pyoderma. The dosage schedule varied.

10. Alvin C. Larson, a podiatrist, used the product on 10 patients with varied podiatric conditions. Dosage was varied.

11. A. L. Lichtman, M.D., used the product on 12 patients with burns, using a variable dosage.

12. E. J. Chesrow, M.D., using Biozyme, studied 12 patients with ulcers of the lower leg. The product was applied once daily for varying periods of time.

13. C. B. Puestow, M.D., used the product on five patients with various ulcers. Only pretreatment cultures were obtaned. In all five cases, pHisoHex was used as concomitant therapy. The ointment was applied twice daily for varying time periods.

14. William J. Hagstrom, M.D., used the product on 13 patients with various lesions, including 7 with ulcers. Bacteriological studies were done on all patients during pretreatment and on three patients during treatment. The product was applied once daily for varying time periods. Penicillin was used as concomitant therapy in one patient.

15. Ramon Isales, M.D., used Biozyme on six patients with burns. Bacteriological cultures were done on all six patients during treatment, two patients before treatment, and none after treatment. The product was applied three times daily for various time periods.

Studies Submitted Pursuant to the Notice of July 8, 1972

Armour submitted reports from seven investigators comparing in a randomized double-blind manner the neomycin-enzyme formulation with the formulation containing only proteolytic enzymes. Lesions treated included ulcers due to peripheral vascular disease and/or decubitus. The products were applied twice per day after the lesions were debrided surgically or mechanically. No local concomitant medication was permitted, but systemic antibiotics could be used if the investigator felt that they were warranted. Final evaluation considered three questions: Whether the Biozyme is or is had a more effective debridling agent than the control; whether the side effects are more or less with Biozyme; and whether gross infection is more or less controlled with Biozyme than with the control. Of the seven investigators, six found no statistically significant difference between Biozyme Ointment and the control ointment in the control of infection and enzymatic debridement. Because of the small number or patients (five), no conclusions could be drawn from the seventh study. Thus, by its own analysis, Armour found no statistically significant contribution of the neomycin. These studies provide no evidence that each component of Biozyme contributes to the claimed effect and, in fact, provide considerable evidence that the neomycin has no effect. It should be further noted that, in the absence of a placebo group, none of these studies provide evidence of the effectiveness of the enzymes alone. The studies are summarized as follows:

1. J. J. Timmes, M.D., compared 28 patients receiving Biozyme with 26 receiving the control agent. He concluded that the study demonstrated no difference in enzymatic debridement or in reduction of infection.

2. Ki Ho Kim, M.D., compared 22 patients receiving the control drug with 22 patients receiving Biozyme. The study demonstrated no difference between the drugs in controlling infection and enzymatic debridement.

3. Marvin A. Ackerman, M.D., compared the two products in treating 25 patients who had a total of 68 skin ulcers. The study demonstrated no difference between the test products.

4. Jay S. Reese, M.D., used the products in five patients with ulcers secondary to peripheral vascular disease. Because of the small number of patients, no conclusions could be drawn.

5. Irving B. Margolis, M.D., compared the two products in a total of 25 patients, 13 of whom received Biozyme and 12 of whom received the control agent. The study demonstrated no difference between the two agents.

6. Malcolm Spencer, M.D., compared the two products in a total of 62 patients, of whom 31 received Biozyme and 31 the control agent. He concluded that there was no difference between the products in enzymatic debridement or reduction of infection.

7. Darryl Sutorius, M.D., used the products on 30 patients, of whom 14 received the control drug and 16 Biozyme. The study demonstrated no significant difference between the two test products in controlling infection or enzymatic debridement.

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) and 21 CFR 300.50, 314.111(a)(5) and Part 430, demonstrating the effectiveness of this combination drug.

Accordingly, the Director concludes that the antibiotic drug regulations should be amended to revoke § 444.540a, which provides for certification of such antibiotic combination drug. Section 444.40 (21 CFR 444.40), which provides for the bulk drug, is also being revoked since no other antibiotic drug product containing neomycin palmitate is being certified or released (elsewhere in this issue of the Federal Register, the Director proposes to revoke § 444.540b that provides for Biozyme Lotion (neomycin palmitate-trypsin-chymotrypsin concentrate), which product was never approved).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 444 as follows:

§ 444.40 [Revoked]

1. By revoking § 444.40 *Neomycin palmitate.*

§ 444.540a [Revoked]

2. By revoking § 444.540a *Neomycin palmitate-trypsin-chymotrypsin ointment.*

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. It is the responsibility of every manufacturer or distributor of an antibiotic drug product to review every antibiotic order published in the Federal Register to determine whether any product it manufactures or distributes is covered.

Any person who elects to avail himself of the opportunity for a hearing shall file (1) on or before December 12, 1977 a written notice of appearance and request for hearing, and (2) on or before January 10, 1978 the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 430.20. Any other interested person may submit comments on this order. The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 430.20.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that no genuine and substantial issue of fact precludes the action taken by this order or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this order shall be filed in four copies (identified with docket number appearing in the heading of this notice) with the Hearing Clerk (HFC–20), Food and Drug Administration.

All submissions pursuant to this order, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may

be seen in the office of the Hearing Clerk (HFC–20), between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This order shall be effective December 21, 1977. If objections are filed, the effective date will be extended as necessary to rule thereon.

(Secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357).)

Dated: November 1, 1977.

J. RICHARD CROUT, M.D.,
Director, Bureau of Drugs.

[FR Doc.77-32399 Filed 11-10-77;8:45 am]

[4110–03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Fenthion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a supplemental new animal drug application for revised labeling for use of a topical insecticide for treating grub and lice infestations of cattle. The application was filed by Bayvet Division of Cutter Laboratories, Inc.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed a supplemental new animal drug application (NADA 47–138V) providing for revised labeling for use of a topical insecticide solution for control of cattle grubs and as an aid in controlling lice. No new safety or efficacy data were required.

Amendment of the regulations to reflect this change does not require a reevaluation of the NADA, nor does it constitute a reaffirmation of the safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 524.920 is amended by revising paragraph (c)(5)(i) to read as follows:

§ 524.920 Fenthion.

* * * * *

(c) * * *

(5) *Conditions of use.* (i) The drug is used for control of cattle grubs and as and aid in controlling lice on beef cattle and on dairy cattle not of breeding age.

* * * * *

Effective date: November 11, 1977.

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

Dated: November 7, 1977.

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

[FR Doc.77-32685 Filed 11-10-77;8:45 am]

[4410–01]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This rule exempts the below listed chemical preparations and mixtures which contain controlled substances from the application of various provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration regulations. This action is in response to applications for exemptions filed with the DEA and is consistent with the needs of researchers, chemical analysts, and suppliers of these products.

DATES: This rule is effective November 11, 1977, subject to being suspended, reinstated, revoked or amended by the Administrator upon consideration of any comments or objections which raise significant issues on any finding of fact or conclusion of law supporting this order, received on or before (60 days after order is signed).

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Chief, Regulatory Control Division, telephone 202–633–1366.

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

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

Therefore, pursuant to section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and under the authority vested in the Attorney General by sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration, it is hereby ordered that Part 1308 of Title 21 of the Code of Federal Regulations be amended as hereinafter appears.

Dated: November 3, 1977.

PETER B. BENSINGER,
Administrator.

a. Section 1308.24(i) is amended by adding the following:

§ 1308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Abbott Labs	Polyethylene gylcol 6000 18 pct solution in barbital buffer.	Plastic bottle: 335 ml; 200 ml	Apr. 22, 1977
Do	Thyroscreen T4 diagnostic kit	Kit: 500 tests, 100 tests, 50 tests	July 8, 1977
Do	T4 RIA (PEG) diagnostic kit	Kit: 1,000 tests	Sept. 1, 1977
Amersham Corp	Amobarbital-2-C14 No. CFA–401	Ampule: 110 mm x 13 mm or Vial: 38.40 mm x 11 ml.	Sept. 19, 1972
Do	HPLimmunoassay kit No. IM-68	Bottle: 30 ml	May 18, 1973
Do	Morphine (N-methyl-C14) hydrochloride, No. CFA–363.	do	Mar. 27, 1972
Do	Pentothal-S35 sodium salt, No. SJ–77.	Ampule: 110 mm x 13 mm or Vial: 38.40 mm x 11 mm.	Sept. 19, 1972
Do	Codeine (N-methyl-C14) hydrochloride No. CFA–421.	Ampule: 10 cc	Mar. 27, 1972
Do	d-(side chain 3H) amphetamine sulfate No. No. TRK–444.	Ampule: 5 ml	Sept. 20, 1973
Do	Lysergic acid di[1-14C] ethylamide, catalog No. CFA–534.	Ampule: 0.6 mg to 8.1 mg	July 2, 1974
Do	T–3 RIA Kit, catalog No. IM.74	Kit	Nov. 4, 1974
Do	Pheno[2-14C] barbital, catalog No. CFA–537.	Ampule: 50 μCi; 250 μCi	Nov. 5, 1974
Do	[15,16(n)-3H] etorphine, catalog No. TRK–476.	Ampule: 250 μCi	Nov. 19, 1974

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Do	[2(n)-3H] Lysergic acid diethylamide, No. TRK-461.	Ampule: 0.003 mg to 0.04 mg	May 22, 1974
Do	[15,16(n)-3H] etorphine TRK-476.	Ampule: 1 mCi	Feb. 17, 1975
Do	(−)Δ^1-tetrahydro[3′5′-14C] catalog No. CFA-538.	Ampule: 10 and 50 μCi	Mar. 5, 1975
Do	d-[methylene 14C] amphetamine sulphate, catalog No. CFA-544.	Ampule: 110 q 13 mm	June 11, 1975
Do	T-4 RIA kit, catalog No. IM.80	Kit: 50 tests	Nov. 25, 1975
Do	T-4 RIA kit, catalog No. IM.801	Kit: 100 tests	Do.
Do	T-4 RIA kit, catalog No. IM.801A	do	Do.
Do	1-[G-3H]tetrahydrocannabinol, No. TRK-446.	Ampule: 0.005 mg to 0.06 mg	Feb. 26, 1974
Do	[1(n)-3H]morphine, No. TRK-447.	Ampule: 0.002 mg to 0.105 mg	Do.
Do	[1(n)-3H] codeine, No. TRK-448	do	Do.
Do	Diacetyl [1(n)-3H]morphine, No. TRK-449.	Ampule: 0.003 mg to 0.012 mg	Do.
Do	[1,7,8(n)-3H]dihydromorphine, No. TRK-450.	Ampule: 0.0008 mg to 0.008 mg	Do.
Analytical Systems, Inc	TOXI-CONTROL No. 10	Glass vial: 10 ml	Mar. 30, 1977
Do	SPECIAL TOXI-DISCS™	Glass vial: 50 discs per vial	Do.
Bio-Rad Labs	Quantimune T-4 RIA kit	Kit: 500 tests	July 1, 1977
Do	Quantimune thyroxine radioimmunoassay T-4 125I tracer/dissociating agent.	Glass serum vial: 10 cc	Do.
Do	Quantimune thyroxine radioimmunoassay barbital buffer.	Plastic bottle with screw cap: 1 liter.	Do.
Bioscientific Corp	ECA buffer catalog No. ECA 05805.	Plastic packet: 18.0 g, 10 packets per box.	July 14, 1977
Carolina Biological Supply Co.	Hoyer's solution	Brown glass bottle: 1 oz	July 15, 1977
Clinical Assays Division, Travenol Labs.	Assay buffer CA-742	Polypropylene bottle: 150 ml	Mar. 14, 1977
Eppendorf-Brinkmann, Inc.	Brinkmann drug standard basic mixture A.	Amber vial: 10 ml	June 17, 1977
Do	Brinkmann drug standard basic mixture B.	do	Do.
Do	Brinkmann drug standard acidic/neutral mixture A.	do	Do.
Do	Brinkmann drug standard acidic/neutral mixture B.	do	Do.
E. R. Squibb & Sons, Inc	Thyrostat^{R}-3 diagnostic test kit	Kit: 25 tests, 100 tests, 500 tests	Apr. 1, 1977
Do	Thyrostat^{R}-3 liothyronine I^{125} buffer solution.	Amber PVC bottle: 50 ml; 100 ml	Do.
Do	Angiotensin I adsorbent charcoal tablets, list No. 09402.	Amber polystyrene vial: 210 tablets per vial.	May 13, 1977
Grand Island Biological Co.	Complement fixation buffer solution pH 7.3-7.4, NDC 011815/0247/2.	Bottle: 500 ml	Apr. 5, 1977
ICL Scientific	EIQ intensifier I	Bottle: 7.6 gm	June 30, 1977
Kallestad Labs., Inc	Immunoelectrophoresis profile kit, catalog No. 1100.	Kit: 42 tests	June 29, 1977
Do	Immunoelectrofilm	Ager gel film in plastic container	Do.
Do	Barbital buffer	Snap top plastic vial: 50 mm X 28 m.	Do.
Do	Immunoelectro film™ Kit, catalog No. 1176.	Kit: 42 tests	Do.
Mallinckrodt Nuclear [1]			
Miles Labs., Inc	Seralute total T-4 (RIA) 125I reagent kit, No. 3304, No. 3305.	Kit: 20 cols., 100 cols	Mar. 28, 1977
Do	T-4 buffer	Glass screwtop vial: ¾ oz	Do.
New England Nuclear	Methadone hydrobromide dextro-[1-3H] catalog No. NET-488.	Combi-vial: 1 mCi	Jan. 4, 1977
Do	Methadone hydrobromide levo-[2-14C] catalog No. NEC-696.	Combi-vial: 0.050 μCi, 0.250 μCi	Do.
Do	Morphine-[6-3H(N)] catalog No. NET-445.	Combi-vial: 0.250 μCi, 1 mCi	Aug. 25, 1975
Do	Ethyl-5-phenylbarbituric acid, 5-[3H(G)] catalog No. NET-401.	Combi-vial: 0.025 μCi., 5 mCi	Do.
Do	Ethyl-5-phenylbarbituric acid, 5-[ring-2-14C] catalog No. NEC-337.	Combi-vial: 0.050 μCi., 0.250 μCi	Do.
Do	Ethyl-5-(1-methylbutyl) barbituric acid, 5-[ring-2-14C] catalog No. NEC-389.	Combi-vial: 0.100 μCi., 0.500 μCi	Do.
Do	Cyclohexenyl-3,5-[dimethyl barbituric acid, 5-[2-14C] catalog No. NEC-653.	Combi-vial: 0.050 μCi., 0.250 μCi	Do.
Do	Mescaline hydrobromide catalog No. NEC-186.	Combi-vial: 0.250 μ Ci., 0.050 μCi	Do.
Do	Methadone hydrobromide, levo-[1-3H] catalog No. NET-357.	Combi-vial: 1 mCi	Do.
Nichols Institute	Neonatal thyroxine T4 RIA program, catalog No. 9231-3.	Glass bottle: 500 ml	May 17, 1977
Nuclear Diagnostics, Inc	TETRIA P.E.G. reagent, catalog No. 16100.	Polypropylene bottle: 105 ml	July 8, 1977
Oxford Labs., Inc	Oxford R T3 RIA reagent set, catalog No. 200.	Kit: 100 tests	Mar. 18, 1977
Do	T3 isotope reagent	Amber glass bottle: 4 oz	Do.
Do	T3 antibody reagent	do	Do.
Do	Oxford R T4 RIA reagent set, catalog No. 210.	Kit: 200 tests	Do.
Do	T4 isotope reagent	Amber glass bottle: 4 oz	Do.
Do	T4 antibody reagent	do	Do.
Do	Oxford R T3 liquid reagent (used in catalog Nos. 875 and 875C).	High density bottle: 50 tests	Mar. 23, 1977
Do	Oxford R T4 adsorbent (used in catalog Nos. 895 and 895C).	do	Mar. 29, 1977
Pfizer Pharmaceuticals, Pfizer Inc.	Barbital electrophoresis buffer, product No. 637E.	Clear plastic vial: 9 dram	May 4, 1977
Do	Iso-barbital-buffer, product No. 638E.	do	Do.

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Searle Diagnostics Inc., subsidiary of G.D. Searle & Co.	T-3 RIA reagent set, catalog No. 61113.	Kit: 100 tests	Mar. 14, 1977
Do	T-3 RIA isotope reagent composition.	Amber glass bottle: 4 oz	Do.
Do	T-3 antibody reagent composition	do	Do.
Do	T-4 RIA reagent set, catalog No. 61114.	Kit: 200 tests	Do.
Do	T-4 RIA isotope reagent composition.	Amber glass bottle: 4 oz	Do.
Do	T-4 RIA antibody reagent composition.	do	Do.
Do	T-3 Uptake reagent, catalog No. 61133.	Kit: 50 tests	Mar. 28, 1977
SIGMA Chemical Co	Ammonia reagent kit, stock No. 170-3.	Kit: 10 vials	Feb. 17, 1977
Do	Ammonia reagent, stock No. 170-3.	Vial: 10 cc	Do.
Do	BUN single assay, stock No. 65-1	Vial: 6 cc	Feb. 24, 1977
Do	BUN 10 assay, stock No. 65-10	Vial: 30 cc	Do.
Do	Barbital buffer, product No. B-6632	Polyethylene vial: 30 ml	May 11, 1977
Do	Amobarbital, product No. A5142	Sealed ampule: 1 ml	June 30, 1977
Do	DL-amphetamine HCl, product No. A5017.	do	Do.
Do	Barbital, product No. B8632	do	Do.
Do	Bufotenine monooxalate, product No. B8757.	do	Do.
Do	Butabarbital, product No. B8882	do	Do.
Do	Chloral hydrate, product No. C6516.	do	Do.
Do	5,5-Diallylbarbituric acid, product No. D6013.	do	Do.
Do	N,N-Dimethyltryptamine, product No. D6263.	do	Do.
Do	Glutethimide, product No. G3134	do	Do.
Do	Hexobarbital, product No. H2007	do	Do.
Do	Ibogaine HCl, product No. I4630	do	Do.
Do	Lysergic acid, product No. L5881	do	Do.
Do	Mescaline HCl, product No. M5153.	do	Do.
Do	Methamphetamine HCl, product No. M5260.	do	Do.
Do	Pemoline, product No. P3518	do	Do.
Do	Pentobarbital, product No. P3393	do	Do.
Do	Phenobarbital product, No. P3646	do	Do.
Do	Secobarbital, product No. S4006	do	Do.
Supelco, Inc	Barbital	Glass serum bottle: 50 ml	June 16, 1977
Do	Anticonvulsant internal standard mixture.	do	Do.
Do	Anticonvulsant mixture No. 1	do	Do.
Technam, Inc	3-0-carboxymethylmorphine (CMM).	Vaccine vial: 10 ml	May 3, 1978
Do	CMM-BSA and CMM-RSA (carboxymethylmorphine bovine serum albumin or carboxymethylmorphine rabbit serum albumin).	do	Do.
Do	5-Ethyl-5-(1-carboxy-n-propyl) barbituric acid.	do	Do.
Do	5-Ethyl-5-(1-carboxy-n-propyl) barbituric albumin.	do	Do.
Do	5-Ethyl-5-(1-carboxy-n-propyl) barbituric acid rabbit serum albumin.	do	Do.
Do	Tropinecarboxylic acid (ecgonine)	Screw-cap bottle: 10 ml	Do.
Do	Benzoyl ecgonine sensitized red blood cells.	Vaccine vial: 50 ml	Do.
Do	Barbituric acid sensitized red blood cells.	do	Do.
Do	Morphine sensitized red blood cells.	do	Do.
Do	Morphine standard (in distilled water).	Screw-cap vial: 10 ml	July 17, 1977
Do	Morphine-urine standard	Vaccine vial: 50 ml	Do.
Do	Barbiturate-urine standard	do	Do.
Do	Ecgonine-urine standard	do	Do.
Do	Benzoyl ecgonine-urine standard	do	Apr. 18, 1974
Do	Benzoyl ecgonine	Screw-cap vial: 10 ml	Do.
Do	Cocaine-urine standard	Vaccine vial: 50 ml	Do.
Do	Methadone-urine standard	do	Do.
Do	Phenobarbital-urine standard	do	Do.
Do	Secobarbital-urine standard	do	Do.
Do	Amobarbital-urine standard	do	Do.
Do	Methadone standard	Screw-cap vial: 10 ml	July 17, 1976
Do	Barbiturate standard	do	Do.
Do	Benzoyl ecgonine (cocaine) standard.	do	Do.
Do	Amobarbital-urine standard	do	Do.
Do	Methadone standard	Screw-cap vial: 10 ml	July 17, 1976
Do	Barbiturate standard	do	Do.
Do	Benzoyl ecgonine (cocaine) standard.	do	Do.

[1] Add name only. Old name to be deleted on another list.

b. CFR 1308.24(i) is amended by deleting the following:

* * * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Amersham/Searle [1]			Mar. 09, 1977
E.R. Squibb & Sons, Inc.	Angiotensin I adsorbent charcoal tablets, list No. 09402.	Amber Polystyrene vial: 210 tablets per vial.	May 26, 1976
General Diagnostics	fasT3—No. 36903	Vial: 10.5 cm X 1.2 cm	Aug. 25, 1972
CL Scientific	EIQ intensifier I	Bottle: 7.6 gm	Feb. 26, 1975
Mallinckrodt Nuclear [2]			Mar. 02, 1977
Materials & Technology Systems, Inc. [3]			Apr. 05, 1977
New England Nuclear	Methadone hydrobromide dextro-[1-3H], catalog No. NET-488.	Glass vial: 1 mCi	Jan. 04, 1977
Do	Methadone hydrobromide levo-[2-14C], catalog No. NEC-696.	Glass vial: 250 μCi, 50 μCi	Do.
Do	Morphine (6-3H(N)), catalog No. Net-445.	Combi-vial: 250 μCi, 100 μCi, 1 mCi.	Aug. 25, 1975
Do	5-Ethyl-5-phenylbarbituric acid (3H (G)), catalog No. NET-401.	Combi-vial: 0.250 mc, 5.0 mc, 1.0 mc.	Do.
Do	5-Ethyl-5-phenylbarbituric acid (ring-2-14C), catalog No. NEC-337.	Screwcap bottle: 0.250 mc, 0.050 mc.	Do.
Do	5-Ethyl-5-(1 methylbutyl) barbituric acid (ring-2-14C), catalog No. NEC-389.	Screwcap bottle: 0.500 mc, 0.100 mc, 1.0 mc.	Do.
Do	5-Cyclohexenyl-3,5,dimethylbarbituric acid (2-14C), catalog No. NEC-653.	Screwcap bottle: 0.250 mc, 0.050 mc.	Do.
Do	Mescaline hydrochloride (8-14C), catalog No. NEC-186.	Glass vial: 250 μCi, 50 μCi	Do.
Do	Methodone hydrobromide (1-3H), catalog No. NET-357.	Screwcap vial: 1 mCi	Do.

[1] Name has been changed to Amersham Corporation and products added under new name—see item No. 2 under additions.
[2] Portion of name for this company. To read: Mallinckrodt, Inc. only. (See FR, Vol 42, No. 115—Wed., June 15, 197.7, last item.)
[3] Any and all products mentioned under this name. (Products have been added under the name of Technam, Inc, as they have taken over company—see item No. 22 under additions.)

[FR Doc.77-32676 Filed 11-10-77;8:45 am]

[4310-02]

Title 25—Indians

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

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 256—OFF-RESERVATION TREATY FISHING

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

REVOCATION OF EMERGENCY FISHING REGULATIONS

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Revocation of emergency fishing regulations.

SUMMARY: This action revokes the emergency regulations which implemented a treaty Indian fishery for sockeye and pink salmon in waters coming under the Fraser River Convention with Canada. The Fraser River fish stocks protected under the Convention, regulated this year by the International Pacific Salmon Fisheries Commission (IPSFC) for non-treaty fishermen and by the Department of the Interior and the treaty tribes for treaty Indian fishermen, have essentially completed their migration through the Convention waters fished by U.S. fishermen. Since there no longer exists a need for Department of the Interior to regulate the fishery for which the emergency regulations were designed, these regulations are revoked and regulation of other treaty Indian fisheries will proceed under the appropriate treaty Indian management entities.

EFFECTIVE DATE: 0001 a.m. on October 8, 1977

FOR FURTHER INFORMATION CONTACT:

Susan Hvalsoe, Office of Rights Protection, Bureau of Indian Affairs, Washington, D.C. 20245, 202-343-5473.

SUPPLEMENTARY INFORMATION: The Department of the Interior promulgated these emergency fishing regulations under the authority of 43 U.S.C. 1457, 25 U.S.C. 2 and 9, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262). The purpose of the regulations was to implement a treaty Indian fishery in off-reservation non-exclusive treaty fishing areas located in waters coming under the United States Convention with Canada for the protection, preservation, and extension of the sockeye and pink salmon fishery of the Fraser River System. (Fraser River Convention). These regulations implemented U.S. domestic law to provide the treaty Indian fishery in a manner consistent with the U.S. obligations to Canada under the Fraser River Convention. The non-treaty fishery was regulated by the International Pacific Salmon Fisheries Commission (IPSFC).

The IPSFC began to relinquish control over Fraser River Convention waters on September 11, 1977, as they were satisfied that the fish runs protected under the Convention had completed their migration through these waters. On September 19, 1977, control over essentially all of the Fraser River Convention waters had been relinquished. Management of the fisheries currently underway in these waters is by the appropriate treaty tribal and state management entities, under Federal District Court supervision.

Since the fishing season governed under these regulations is over, the Secretary of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public interest. The primary author of this document is Susan Hvalsoe, Office of Rights Protection, Bureau of Indian Affairs, Department of the Interior, 202-343-5473.

Dated: October 28, 1977.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

25 CFR Part 256 Subpart B, (§ 256.11 et seq.) is hereby revoked in its entirety.

[FR Doc.77-32747 Filed 11-10-77;8:45 am]

[4510-27]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 519—EMPLOYMENT OF FULL-TIME STUDENTS AT SUBMINIMUM WAGES

Increase in Number of Full-Time Students of Employers

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases from four to six the number of full-time students who may be employed at 85 percent of the normal minimum wage rate without prior authorization by the Department of Labor. This change is made necessary by amendments to the Fair Labor Standards Act effective on November 1, 1977. Retail or service establishments and agricultural employers, in order to be able to employ up to six such students, need merely certify to the Department of Labor that this employment will not reduce job opportunities for other workers.

EFFECTIVE DATE: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur H. Korn, Director, Division of Special Minimum Wages, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room C4316, Washington, D.C. 20210, 202-523-8727.

SUPPLEMENTARY INFORMATION: Section 14(b) of the Fair Labor Standards Act (29 U.S.C. 214(b)) authorizes the employment of full-time students by retail or service establishments, agricultural employers and institutions of higher education at 85 percent of the normal minimum wage rate. Where a retail or service establishment or an agricultural employer wishes to hire full-time students at the 85 percent rate,

the Department of Labor may issue a special certificate authorizing the employer to do so only if the Department first finds that the employment of such full-time students will not create a substantial probability of reducing the full-time employment opportunities of individuals other than those under a special section 14(b) certificate. However, there is an exception to this requirement, which was established by the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 55). Those amendments eliminated the precertification requirement for any retail or service establishment or agricultural employer employing four or fewer full-time students at the 85 percent rate. Such an employer need only certify to the Department of Labor that the employment of these students will not reduce the full-time employment opportunities of individuals other than those under a special section 14(b) certificate.

The Fair Labor Standards Amendments of 1977 (Pub. L. 95–151, 91 Stat. 1245) increase from four to six the number of full-time students which a retail or service establishment or an agricultural employer may hire without precertification by the Department of Labor.

Accordingly, as required under the Fair Labor Standards Amendments of 1977 and as authorized under Section 14 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR Part 519, §§ 519.2(f), 519.4(a), 519.5(b), 519.6(c), 519.6(d), and 519.6 (i) are amended to read "six full-time students" instead of "four full-time students" or "4".

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division.

No notice or public hearing is required as these amendments merely incorporate into § 519 the provisions of the Fair Labor Standards Amendments of 1977.

As amended §§ 519.2(f), 519.4(a), 519.5(b), 519.6(c), 519.6(d), and 519.6(i) of Part 519, Title 29, Code of Federal Regulations read as follows:

§ 519.2 Definitions.

* * * * *

(f) *Employer.* Section 514.4(a) permits an agricultural or retail or service establishment employer to employ not more than six full-time students at subminimum wages on forwarding an application but before certification. For this purpose, the term "employer" looks to the highest structure of ownership or control, and hence may be more than a single retail or service establishment or farm, e.g., the controlling conglomerate or enterprise would be the "employer". With respect to public employers who operate retail or service establishments (see 29 CFR Part 779), the "employer" means the highest structure of control such as the State, municipality, county or other political subdivision.

* * * * *

§ 519.4 Procedure for action upon an application.

(a) Under certain conditions, an agricultural or retail or service establishment employer may obtain temporary authorization to employ full-time students at subminimum wages. These conditions are: (1) Attestation by the employer that he/she will employ no more than six full-time students at subminimum wages on any workday and that the employment of such students will not reduce the full-time employment opportunities of other persons, and (2) forwarding a properly completed application to the Wage and Hour Division not later than the start of such employment, and (3) posting a notice of such filing at the place(s) specified in paragraph (a) of § 519.6, and (4) compliance during the temporary authorization period with the requirements set forth in paragraphs (b) and (j) through (o) of § 519.6.

* * * * *

§ 519.5 Conditions governing issuance of full-time student certificates.

* * * * *

(b) The employment of more than six full-time students by an employer will not create a substantial probability of reducing the full-time employment opportunities for persons other than those employed under such certificates.

* * * * *

§ 519.6 Terms and conditions of employment under full-time student certificates and under temporary authorization.

* * * * *

(c) For retail or service establishment employers or agricultural employers, the allowable extent of full-time student employment under certificates varies depending on whether: (1) The employer proposes to employ no more than six full-time students at subminimum wages on any workday, (2) the applicant requests authority for not more than 10 percent of the total hours of all employees during any month, or (3) the applicant requests authority for more than 10 percent of the total hours during any month. (For agricultural employers, the month of full-time student certificated employment may vary somewhat from the month in a previous year on which the certificate is based, depending on seasonal factors.)

(d) *Retail or service establishment employers or agricultural employers requesting authorization to employ not more than six full-time students at subminimum wages on any workday.* An application from such an applicant provides temporary authorization for the employment of full-time students at subminimum wages: *Provided,* The conditions set forth in paragraph (a) of § 519.4 are met. Upon review of the application by the Administration or his/her authorized representative, the extent of the temporary authority may be modified.

* * * * *

(i) An overestimate of total hours of employment of all employees for a current month resulting in the employment of the full-time students in excess of the hours authorized in paragraph (e), (f), (g), or (h) of this section may be corrected by compensating them for the difference between the subminimum wages actually paid and the applicable minimum under section 6 of the Act for the excess hours. Similarly, if an agricultural employer or a retail or service establishment employer has authorization to employ no more than six full-time students at subminimum wages on any workday but exceeds that number, the excess may be corrected by compensating the additional full-time students for the difference between the subminimum wages actually paid and the applicable minimum under section 6 of the Act. This additional compensation shall be paid on the regular payday next after the end of the period.

* * * * *

(Secs. 11, 14, 52 Stat. 1068; sec. 11, 75 Stat. 74; Secs. 501, 602, 80 Stat. 843, 844 (29 U.S.C. 211, 214).)

Signed at Washington, D.C., this 7th day of November 1977.

XAVIER M. VELA,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.77-32773 Filed 11-10-77;8:45 am]

[4510-26]

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

PART 1902—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

Evaluation of State Plans After Certification

ACTION: Final rule.

SUMMARY: This amendment changes the reporting period from quarterly to semi-annually for evaluation reports on approved State occupational safety and health plans after a plan has been certified.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

John Kelly, Office of Federal and State Compliance, Occupational Safety and Health Administration, room N3608, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–523–8041.

SUPPLEMENTARY INFORMATION: Section 1902.38 of Subpart D of Part 1902 sets out procedures for evaluating the operations of State occupational safety and health plans after the plan has been certified under § 1902.34. (Certification occurs only after the State has completed all the developmental steps contained in a plan approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651).

Section 1902.38(b) provides that the Regional Administrator for Occupational Safety and Health "shall prepare a quarterly report of his evaluation of the actual operations under the State plan or any portion thereof in narrative form." The Assistant Secretary for Occupational Safety and Health then reviews this report and transmits it to the State. The State has the right to respond to each evaluation report.

At present, eight certified State plans are being evaluated under these procedures. Experience demonstrates that a six-month reporting interval would make the evaluation more comprehensive and the recommendations on the state's operations more useful. Under this new rule, the evaluation reports on certified State plans will be prepared at six-month, rather than three-month intervals. This rule is effective immediately upon publication because this change in procedure will promote the efficient utilization of Federal and State resources and the orderly evaluation of certified State plans.

§ 1902.38 [Amended]

Accordingly, the first sentence of § 1902.38(b) of this chapter is hereby amended effective November 11, 1977, by deleting the word "quarterly" and substituting the word "semi-annual."

(Secs. 8(g)(2), 18(e), Pub. L. 91-596, 84 Stat. 1600, 1608, (29 U.S.C. 657(g), 667(e)).)

Signed at Washington, D.C., this 7th day of November 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-32808 Filed 11-10-77;8:45 am]

[4510-26]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Tennessee State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: Various supplements to the Tennessee State Plan are approved. The supplements include: the fulfillment of various supplemental assurances contained in the plan, the updating of the State's health program, approval of the State's merit staffing system, amendments to the Administrative Procedures Act, and various changes to the plan narrative to reflect current operations. Of these, the amendment of the State's staffing organization, a supplemental assurance included in the plan, was previously made available for public comment (41 FR 1918). The operation of the State's management information system, another supplemental assurance, is codified as a completed developmental step.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Barbara E. Bryant, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3112, Washington, D.C. 20210, phone: 202-523-8031.

A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309; and Office of the Tennessee Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37219; and Office of the Tennessee Commissioner of Public Health, 344 Cordell Hull Building, Nashville, Tenn. 37219.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, a notice was published in the FEDERAL REGISTER (33 FR 17838) of the approval of the Tennessee Plan and the adoption of Subpart P of Part 1952 containing the decision and describing the plan. By letters dated December 12, 1975, from James G. Neeley, Commissioner, Tennessee Department of Labor; February 2, 1976, April 29, 1976, June 30, 1976, and September 24, 1976, from Commissioner Neeley and Eugene W. Fowinkle, Commissioner, Tennessee Department of Public Health; and August 11, 1976, from Robert Wolle, Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, to Donald E. MacKenzie, Regional Administrator, the State of Tennessee submitted supplements to its plan involving developmental, State-initiated, and response to Federal program changes.

Following regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for determination as to whether they should be approved. The supplements are described below.

DESCRIPTION OF THE SUPPLEMENTS

a. The State plan has been revised to document the fulfillment of certain supplemental assurances contained in the State plan. These include the following:

1. *Variances.* Multi-establishment variances granted by the Assistant Secretary to employers for places of employment within the State of Tennessee under procedures to which the State of Tennessee was given an opportunity to participate (29 CFR 1905.13 and 1905.14) will be honored by the Commissioner of Labor and of Public Health.

2. *Standards.* Occupational safety and health standards indentical to Federal standards were adopted as interim standards by the Commissioner of Public Health on July 18, 1973, and the Commissioner of Labor on July 2, 1973, and January 9, 1974. Permanent health standards were promulgated on April 17, 1974, and safety standards on May 31, 1974. (See standards approval notices, 40 FR 14383 dated March 31, 1975, and 41 FR 47613 dated October 29, 1976). The plan has also been updated to contain the most recent standards promulgation documents as filed with the Tennessee Secretary of State.

3. *Voluntary compliance.* The State has updated its pledge to abide by Federal directives for handling of serious violations and imminent danger situations discovered during on-site consultation activities.

4. *Management information system.* The State's automated management information system which provides information for the quarterly statistical reports required by the Assistant Secretary as well as internal management data became operational on June 30, 1975. A manual system was utilized from July 1, 1973, until June 30, 1975.

5. *Safety staffing.* The Tennessee Department of Labor certifies that its Division of Occupational Safety was fully staffed on March 1, 1975. The plan has been amended to contain a current organization chart, staffing pattern and mission and function statements for the Offices of the Director, Training and Education, Public Sector Programs and Standards.

6. *Training.* The plan has been revised to document completion of training for Division of Occupational Safety employees and to assure that all new compliance officers will attend the Chicago Institute in addition to receiving on-the-job training. Personnel trained through participation in section 7(c)(1) Target Health Hazard and Target Industry Programs, prior to plan approval, have been utilized in training new staff.

7. *Public information.* In accord with a contract with the University of Tennessee, a 30 hour course entitled "OSHA for Laymen" was completed in June 1975 and is being delivered at 17 local education facilities; a publicity program, including brochures on the OSHA course, was initiated in May 1975; and comprehensive OSHA libraries were established at 17 local education facilities effective October 1974.

b. Health program. The section of the State plan describing the Department of Health's occupational health effort has been updated to reflect current program operation including staffing levels, organization charts, accomplishment of developmental goals, job descriptions, position responsibilities, etc.

c. Merit staffing. Tennessee certifies that all positions in the Department of Public Health occupational health program are included in the classified service under the State's approved merit system. All positions in the Division of Occupational Safety, Department of Labor were placed under the State merit system by Executive Order effective July 1, 1975. The plan has also been updated to include statements on affirmative action intent. By letter dated January 15, 1976, the State's merit staffing system was approved by the Civil Service Commission.

d. Administrative Procedures Act. The State's Uniform Administrative Procedures Act as amended in 1975 has been added to the plan. The Act defines Statewide procedures for the adoption and filing of rules and regulations.

e. Narrative. The State plan narrative has been amended throughout to reflect the language of enacted legislative amendments and current program status.

PUBLIC PARTICIPATION

No public comments or requests for a hearing were received in response to the January 13, 1976, FEDERAL REGISTER notice. Other plan changes submissions described herein merely update and clarify existing State plan documents which were previously made available for public comment. Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Tennessee plan supplements described above are consistent with commitments contained in the approved plan and amendments which were previously made available for public comment. Accordingly it is found that further public comment and notice is unnecessary.

DECISION

After careful consideration, the Tennessee plan supplements outlined above are approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition Subpart P of 29 CFR Part 1952 is amended to reflect completion of a developmental step by adding a new paragraph (f) to § 1952.224 as follows:

§ 1952.224 Completed developmental steps.

* * * * *

(f) In accordance with § 1952.223(f) Tennessee implemented a manual management information system in July 1973, and converted to an automated system in July 1975.

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

Signed at Washington, D.C., this 7th day of November 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-32774 Filed 11-10-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 815-4]

PART 415—INORGANIC CHEMICAL MANUFACTURING POINT SOURCE CATEGORY

Pretreatment Standards for Existing Sources; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This action extends the deadline for the receipt of comments from September 19, 1977, to December 7, 1977, on the interim final rulemaking establishing pretreatment standards for existing sources for the inorganic chemicals manufacturing point source category (42 FR 37294, July 20, 1977).

DATES: Comments submitted not later than December 7, 1977 will be considered

ADDRESSES: Comments to: Environmental Protection Agency, 401 M St., SW., Washington, D.C., 20460, Attention: Distribution Officer, WH-552.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On July 20, 1977, the Agency published a notice of interim final rulemaking establishing pretreatment standards for the inorganic chemicals manufacturing point source category (42 FR 37294). This notice stated that the Development Document and Economic Impact Analysis were available to the public and provided for a 60-day public comment period. There has been a delay in the printing of the Development Document which necessitates an extension of the comment period. Therefore the comment period is being extended to December 7, 1977.

Dated: November 4, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-32723 Filed 11-10-77;8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-211]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Procurement and Requisitioning of Items and Services

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates the Federal Property Management Regulations to include references to GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings; reflect recent changes in GSA and Defense Logistics Agency (DLA) supply support responsibilities to Government activities; and incorporate minor procedural changes. The changes contained in this regulation are necessary to reference instructions for reporting discrepancies or deficiencies in shipments, material, or billings; reflect agreements that have been made between GSA and DOD to eliminate duplication and overlap of supply functions; and include minor procedural and related changes to improve and update the provisions covering procurement and requisitioning of items and services.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Acting Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-26 is amended to delete §§ 101-26.603-1, 101-26.603-2, 101-26.603-3, 101-26.603-4, and 101-26.4904-1520 and to add or revise the following entries:

101-26.310	Ordering errors.
101-26.602	Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.
101-26.603	Electronic items available from the Defense Logistics Agency.
101-26.605	Items other than petroleum products and electronic items available from the Defense Logistics Agency.
101-26.606	Supply support available from the inventory control points of the military departments.
101-26.607	Billings.
101-26.607-1	Payments.
101-26.607-2	Adjustments.
101-26.607-3	Emergency requirements.

Subpart 101–26.1—General

Section 101–26.100–3(b) introductory text is revised as follows:

§ 101–26.100–3 Warranties.

* * * * *

(b) Using activities shall take the following actions when items or services (except for automotive vehicles and components which are subject to the provisions of § 101–26.501–6(b)) covered by warranty provisions are found to be defective during the warranty period.

* * * * *

Subpart 101–26.3—Procurement of GSA Stock Items

1. Section 101–26.305 (a) and (c) are revised as follows:

§ 101–26.305 Submission of orders to GSA.

(a) Orders shall be submitted in accordance with the instructions in the FEDSTRIP Operating Guide (FPMR 101–26.2).

* * * * *

(c) Sufficient funds should be reserved by the requisitioner to cover expenses incurrtd by GSA in export packing, marking, documentation, etc. GSA will assess a surcharge on all material ordered and delivered to customers in certain overseas areas. The surcharge is a percentage agencies to return for credit material shipped. Information on the specific areas and the current perctntage of surcharge is included in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8).

2. Section 101–26.310 is amended by revising the introductory text, paragraph (a) introductory text, (a)(1), (4) through (7) and (b) as follows:

§ 101–26.310 Ordering errors.

In acordance with the provisions of this § 101–26.310, GSA may authorize agencies to return for credit material that has been ordered in error by the agency. Material shipped in error by GSA is subject to the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8). Credit for material ordered in error will be based on the selling price billed the agency at the time shipment was made to the agency, with the adjustment reflected in current or future billings. Material shall not be returned until appropriate documents authorizing such action are received from the shipping GSA region.

(a) The return of material by an agency, to correct ordering errors, may be authorized and later accepted by GSA: *Provided,*

(1) The value of the material exceeds $25 per line item based on the selling price billed the customer.

* * * * *

(4) Each item is identified with a specific purchase order or requisition number.

(5) The condition of the material is acceptable on inspection by GSA. When it is not acceptable, disposition, without credit, will be made by GSA. However, when the condition is attributable to carrier negligence, subsequent credit allowed by GSA will be reduced by the amount to be paid the agency by the carrier for damages incurred.

(6) The merchandise to be returned will not adversely affect the GSA nationwide inventory situation.

(7) The return transportation costs are not excessive in relation to the cost of the material.

(b) Transportation costs on material specifically authorized for return by a GSA regional office will be paid by the customer activity. Claims against carriers for discrepancies in shipment will also be the responsibility of the customer activity in accordance with the provisions of Subpart 101–40.7. When appropriate, GSA will prepare initial documentation to support claim actions.

3. Section 101–26.311(b) is revised as follows:

§ 101–26.311 Frustrated shipments.

* * * * *

(b) Requests to GSA for disposition instructions shall be directed to the GSA office which made or directed shipment. Data provided by the agency shall include the original requisition document number, purchase order number (if any), supplementary addresses, and present location of the frustrated shipment. In addition, the agency should furnish the Government bill of lading number or commercial bill of lading reference and the carrier's freight or waybill number.

* * * * *

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

Section 101–26.403–2(b)(3) is revised as follows:

§ 101–26.403–2 Inspection.

* * * * *

(b) * * *

(3) Agency reports of nonconforming supplies ordered through Federal Supply Schedules and inspected at source by GSA shall be submitted to GSA in accordance with the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8).

Subpart 101–26.6—Procurement Sources of the Department of Defense

1. Section 101–26.600 is revised as follows:

§ 101–26.600 Scope and applicability of subpart.

This subpart prescribes the policies, procedures, and limitations relating to civil agency use of procurement sources of the Department of Defense (DOD), which include the Defense supply centers of the Defense Logistics Agency (DLA) and the inventory control points of the military departments. The provisions of this Subpart 101–26.6 are applicable to executive agencies unless otherwise specifically indicated. Other Federal agencies are encouraged to satisfy their requirements in the same manner.

2. Section 101–26.602 is revised as follows:

§ 101–26.602 Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.

(a) Agencies shall be governed by the provisions of this § 101–26.602 in obtaining requirements of coal, petroleum fuels, and certain petroleum products from or through the Defense Logistics Agency.

(b) The Defense Logistics Agency has been assigned the supply responsibility for these materials which will be available either from contracts (or contracts summarized in contract bulletins) issued by the Defense Fuel Supply Center, Alexandria, Va., or through FEDSTRIP/MILSTRIP requisitions placed on the Defense General Supply Center, Richmond, Va., in accordance with instructions contained in § 101–26.602–2. Agencies submitting estimates of requirements which are summarized in the Defense Fuel Supply Center contract bulletins are obligated to procedure such requirements from these contracts. Estimates submitted shall not include requirements normally obtained through service station deliveries utilizing the U.S. Government National Credit Card.

3. Section 101–26.602–2 is amended by revising paragraphs (a), (b) introductory text and (b)(2) and by reserving paragraphs, (d) through (f) as follows:

§ 101–26.602–2 Procurement of packaged petroleum products.

(a) Packaged petroleum products listed in the Federal Supply Catalog for Civil Agencies shall be obtained by submitting requisitions prepared in accordance with the FEDSTRIP Operating Guide (FPMR 101–26.2) to the Defense General Supply Center (DGSC), Richmond, Va. 23297, using routing identifier code S9G. The Federal Supply Catalog for Civil Agencies may be obtained, upon written request, from the Commander, Defense Logistics Services Center, Attn: DLSC–T, Battle Creek, Mich. 49016. Requisitions for packaged petroleum items not in this catalog and not otherwise included in Defense Fuel Supply Center (DFSC) procurements under the provisions of § 101–26.602–1 may be submitted to DGSC. DGSC will supply the items from inventory or will refer the requisitions to DFSC for purchase and direct delivery to the requisitioner. Packaged petroleum items may be obtained from other Federal activities by agreement with the activity concerned or by local purchase when such action is authorized under the provisions of the Defense Logistics Agency (DLA) local purchase policy contained in paragraph (b), below.

(b) Activities may effect local purchase of any DLA-managed, centrally procured item, commercially available, provided the purchase:

* * * * *

(2) Is to satisfy a routine requirement having a total line value not in excess of $25 and is determined to be the most economical method of supply.

* * * * *

(d) [Reserved.]
(e) [Reserved.]
(f) [Reserved.]

4. Section 101–26.602–3 is amended by revising paragraphs (a) introductory text, (a)(2) and (b) through (h) as follows:

§ 101–26.602–3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.

(a) Estimates of annual requirements will be solicited annually by the Defense Fuel Supply Center from agencies on record so as to reach that activity approximately 45 calendar days before the due date shown in the Defense Fuel Supply Center geographic alignment of States set forth in § 101–26.602–3 (d) and (e). The requirements call will be accomplished by mailing a computer-produced record of the file data for each delivery point that has been identified to each submitting addressee; instructions for validation and return will be included. Activities not on record but requiring procurement support shall prepare and submit estimates on DFSC Form 15:18 to the Defense Fuel Supply Center, Cameron Station, Alexandria, Va. 22314. An illustration of DFSC Form 15: 18 is contained in § 101–26.4904–1518. Copies may be obtained on request from: Commander, Defense Fuel Supply Center, Attention: DFSC–OD, Cameron Station, Alexandria, Va. 22314.

* * * * *

(2) Estimates shall not be submitted when the minimum quantities to be delivered to any one point on a single delivery are less than the following minimums, unless the activity does not have the authority or capability to procure locally.

Delivery method	*Minimum quantity furnished on a single delivery*
Drums	4 drums (200–220 gallons).
Tank wagon	50 gallons.
Transport truck	Full truckload (5,200–7,500 gallons).
Tank car	Full carload (8,000–12,000 gallons).

(b) Agency requirements will be solicited for procurement by the Defense Fuel Supply Center, and contracts resulting from these solicitations will be summarized in contract bulletins, separately for each Defense Fuel Supply Center geographic region, and distributed to agencies on record. Activities requiring additional contract bulletins shall submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC–OD, Cameron Station, Alexandria, Va. 22314.

(c) The items covered in contract bulletins issued by the Defense Fuel Supply Center are in accordance with the latest issue of the applicable Federal specification. Agency requirements submitted for products not under a Federal specification must include accurate and complete product laboratory analysis.

(d) The following illustrates the Defense Fuel Supply Center geographic alignment of the States, the delivery periods covered for each region, the identification of purchase programs, and the due dates for submission of requirements for motor gasoline, fuel oil (diesel and burner), and kerosene.

Motor gasoline, fuel oils (diesel and heating), and kerosene

State	Delivery period	Requirements due date
Alaska—purchase program 3.9.[1]	July 1 to June 30	Jan. 1
Hawaii—purchase program 3.10.[1]	Jan. 1 to Dec. 31	July 1
DFSC Region 1—purchase program 3.21:		
Connecticut	Sept. 1 to Aug. 31	Mar. 1
Maine	do	Do.
Massachusetts	do	Do.
New Hampshire	do	Do.
Rhode Island	do	Do.
Vermont	do	Do.
DFSC Region 2—purchase program 3.22:		
New Jersey	Oct. 1 to Sept. 30	Apr. 1
New York	do	Do.
Pennsylvania	do	Do.
DFSC Region 3—purchase program 3.23:		
Delaware	Aug. 1 to July 31	Feb. 1
District of Columbia	do	Do.
Indiana	do	Do.
Kentucky	do	Do.
Maryland	do	Do.
Ohio	do	Do.
Tennessee	do	Do.
Virginia	do	Do.
West Virginia	do	Do.
DFSC Region 4—purchase program 3.24:		
Alabama	Apr. 1 to Mar. 31	Oct. 1
Arkansas	do	Do.
Florida	do	Do.
Georgia	do	Do.
Louisiana	do	Do.
Mississippi	do	Do.
Missouri	do	Do.
North Carolina	do	Do.
South Carolina	do	Do.
Puerto Rico	do	Do.
Virgin Islands	do	Do.
DFSC Region 5—purchase program 3.25:		
Illinois	May 1 to Apr. 30	Nov. 1
Iowa	do	Do.
Michigan	do	Do.
Minnesota	do	Do.
Wisconsin	do	Do.
DFSC Region 6—purchase program 3.26:		
Colorado	June 1 to May 31	Dec. 1
Kansas	do	Do.
Nebraska	do	Do.
New Mexico	do	Do.
North Dakota	do	Do.
Oklahoma	do	Do.
South Dakota	do	Do.
Texas	do	Do.
Wyoming	do	Do.
DFSC Region 7—purchase program 3.27:		
Arizona	Nov. 1 to Oct. 31	May 1
California	do	Do.
Nevada	do	Do.
Utah	do	Do.
DFSC Region 8—purchase program 3.28:		
Idaho	July 1 to June 30	Jan. 1
Montana	do	Do.
Oregon	do	Do.
Washington	do	Do.

[1] Includes solvents.

NOTE.—Program 3.23 does not include requirements for those activities supported by the GSA Region 3 Fuel Yard.

(e) Estimates of requirements for solvents to be delivered in the continental United States, Puerto Rico, and the Virgin Islands during the period January 1 through December 31 shall be submitted to arrive at the Defense Fuel Supply Center by the preceding July 1. The purchase program identification is 3.11.

(f) Estimates of requirements for aviation fuels for delivery in the United States shall be submitted in accordance with section II, chapter 1, of DOD 4140.-25–M, Procedures for the Management of Petroleum Products.

(g) Requirements for aviation fuels (all grades) shall be submitted in accordance with DFSC Regulation 4220.1, Requirements Submission Schedule for Petroleum Products. Copies of DFSCR 4220.1 may be obtained from the Defense Fuel Supply Center (DFSC–W), Cameron Station, Alexandria, Va. 22314.

(h) Requirements for petroleum fuels at locations other than as identified in this § 101–26.602–3 may be obtained from other Federal activities by agreement with the activity concerned or from local purchase sources, when local purchase authority and capability exists, or by submitting requests direct to the Defense Fuel Supply Center, Attention: DFSC–OD, Cameron Station, Alexandria, Va. 22314, if centralized procurement is desired.

5. Section 101–26.602–4(d) is revised as follows:

§ 101–26.602–4 Procurement of coal.

* * * * *

(d) Copies of DD Form 416 may be obtained from: Comander, Defense Fuel Supply Center, Attention: DFSC–PE, Cameron Station, Alexandria, Va. 22314.

* * * * *

6. Section 101–26.603 is revised as follows:

§ 101–26.603 Electronic items available from the Defense Logistics Agency.

Executive agencies shall satisfy their requirements for electronic items listed in the Federal Supply Catalog for Civil agencies (FSC group 59, except classes 5940, 5970, 5975, 5977, and 5995) from the Defense Electronic Supply Center (DESC), DLA. Requisitions shall be prepared in accordance with the FEDSTRIP Operating Guide and submitted to DESC, 1507 Wilmington Pike, Dayton, Ohio 45444, using routing identifier code S9E. Items listed in classes 5940, 5970, 5975, 5977, and 5995, unless managed as exceptions by GSA, shall be obtained from the Defense General Supply Center (DGSC), Richmond, Va. 23297. Electronic items may be obtained from local purchase sources when such action is authorized under the provisions of § 101–26.602–2(b). DESC may return requisitions for local purchase under the same conditions governing the return of requisitions by DGSC set forth in § 101–26.602–2(c).

§§ 101–26.603–1—101–26.603–4 [Deleted]

7. Sections 101–26.603–1 through 101–26.603–4 are deleted.

8. Section 101–26.605 is revised as follows:

§ 101–26.605 Items other than petroleum products and electronic items available from the Defense Logistics Agency.

Agencies required to use GSA supply sources should also use Defense supply centers (DSC's) as sources of supply for items listed in the Federal Supply Catalog for Civil Agencies, Identification and Management Data List, published by DLA. By agreement with the Defense Logistics Agency, the catalog will contain only those items in Federal supply classification classes which are assigned to them for Government-wide integrated management, or exception items in other classes similarly assigned. A list of DSC's and their corresponding commodity areas along with requisitioning instructions are published in the FEDSTRIP Operating Guide. As additional items are assigned to managers other than GSA for Government-wide integrated material management, GSA will announce the changes through the Federal Catalog System and GSA's regular supply publications.

9. Section 101–26.606 is revised as follows:

§ 101–26.606 Supply support available from the inventory control points of the military departments.

Federal civil agencies may obtain items of supply which are procured and managed by the inventory control points (ICP) of the Army, Navy, and Air Force and are available in the United States, provided that a national stock number has been assigned to the items. A list of ICP's and their corresponding commodity areas is in the FEDSTRIP Operating Guide. Agencies should also refer to the FEDSTRIP Operating Guide for additional information concerning supply support from the ICP's and for instructions on obtaining items from these sources.

10. Sections 101–26.607, 101–26.607–1, 101–26.607–2, and 101–26.607–3 are added as follows:

§ 101–26.607 Billings.

Unless other arrangements have been made between the Defense Logistics Agency and the requisitioning activity, billings for sales will be rendered at least monthly on Standard Form 1080, Voucher for Transfers Between Appropriations and/or Funds, supported by a listing of documents including identification of requisitions and related cards reflecting data pertaining to the gross sale, the retail loss allowance, and any credits for adjustments applicable to prior billings. In addition to these charges, an accessorial charge will be made on shipments destined for overseas to cover expenses incident to overseas packing, handling, and transportation. The Defense supply centers shall be provided with a continental U.S. address for payment of bills for overseas shipments.

§ 101–26.607–1 Payments.

Payments are expected to be made within 15 calendar days of receipt of the Standard Form 1080 from the Defense supply centers. Payment shall not be deferred until receipt of shipment or withheld pending resolution of adjustments.

§ 101–26.607–2 Adjustments.

Requests for billing adjustments should be submitted in accordance with chapter 5 of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8).

§ 101–26.607–3 Emergency requirements.

In cases of public exigency, items available from the Defense Logistics Agency may be procured from other sources as provided in § 1–3.202.

Subpart 101–6.49—Illustrations of Forms

§ 101–26.4904–1520 [Deleted]

11. Section 101–26.4904–1520 is deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

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

Dated: October 28, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77–32602 Filed 11–10–77;8:45 am]

[6712–01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77–762]

PART 73—RADIO BROADCAST SERVICES

Allowing Stations Programing in Foreign Language to Transmit Emergency EBS Announcements in Foreign Language Prior to Broadcasting Such Announcements in English; Revision of EBS Checklist to Include Announcement of Operational Area Name in Weekly EBS Test Script

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the Emergency Broadcast System (EBS) rules and procedures pursuant to recommendations proposed by the Broadcast Services Subcommittee of the National Industry Advisory Committee. One revision is made to the Weekly EBS Transmission Test announcement to include the "Operational Area" designation so that listening audiences may determine if the broadcast station being listened to will be serving their area of concern in an emergency situation. The other revision allows broadcast stations programming in a foreign language to place foreign language emergency announcements ahead of such announcements in English which will enable non-English speaking audiences to receive and understand emergency announcements in a timely manner.

EFFECTIVE DATE: December 1, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Dan Vance, Office of Executive Director, 202–632–7232.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Part 73, Subpart G of the Commission's rules to allow stations programing in a foreign language to transmit emergency EBS announcements in the foreign language prior to broadcasting such announcements in English; revision of EBS Checklist to include announcement of operational area name in Weekly EBS Test Script.

Adopted: November 1, 1977.

Released: November 8, 1977.

1. The Broadcast Services Subcommittee of the National Industry Advisory Committee (NIAC) met on March 29, 1977 and recommended two revisions to Commission rules and procedures governing the Emergency Broadcast System:

(a) Amend the second announcement under the EBS Checklist procedures for the Weekly Transmission Tests of the Attention Signal and Test Script to add a sentence, "This station serves the (operational area name) area." This change will enable the listening audience to determine if the broadcast station being listened to will be serving their area of concern in an emergency situation and will also familiarize the public with the "Operational Area" concept. The "Operational Area" is a geographical area which encompasses a number of contiguous communities which are served by specific broadcast stations in a coordinated manner, under Detailed EBS Operational Plans, to provide emergency information relative to those communities.

(b) Amend the FCC EBS Rules to give stations which broadcast foreign language programs the authority, during emergencies in which the EBS is activated, to transmit emergency announcements in the foreign language then being broadcast, prior to broadcasting those announcements in English. This change will allow the listening audience which does not comprehend English to receive and understand emergency announcements in a timely manner.

2. The National Industry Advisory Committee (NIAC) advises and assists the Federal Communications Commission by studying and submitting recommendations for emergency communica-

tions policies, plans, systems, and procedures. In this regard, the Broadcast Services Subcommittee of NIAC has recommended the above two changes be reflected in the EBS broadcast rules and EBS Checklist to enhance the effectiveness of the Emergency Broadcast System in saving life and property. NIAC members are industry representatives who voluntarily contribute their time and expertise to emergency communications planning.

3. After careful review and study, we concur in the NIAC recommendation to amend the verbal portion of the Weekly Transmission Tests of the Attention Signal and Test Script. We also see considerable merit in allowing foreign language stations to place foreign language emergency announcements ahead of such announcements in English.

4. The implementation of these recommendations require changes in the EBS Checklist. These changes will be prepared and distributed to all AM, FM, and TV broadcast station personnel for appropriate inclusion in their EBS Checklists.

5. Authority for these rule revisions is found in sections 1, 4(i), 4(o), and 303 (r) of the Communications Act of 1934, as amended. Because the amendments herein ordered impose no new substantive requirements and are basically procedural or interpretive in nature, the prior notice provisions of the Administrative Procedure Act (5 U.S.C. 553) are inapplicable.

6. Accordingly, *it is ordered*, That effective December 1, 1977, Subpart G (Part 73) of the Commission's rules are amended as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

A. In § 73.933, subparagraph (8) of paragraph (b) is amended to read as follows:

§ 73.933 Emergency Broadcast System operation during a National Level Emergency.

* * * * *

(b) * * *

* * * * *

(8) Stations which provide foreign language programming may transmit emergency announcements in the foreign language prior to broadcasting such announcements in English.

* * * * *

B. In § 73.936, the second sentence of subparagraph (3) of paragraph (d) is amended to read as follows:

§ 73.936 Emergency Broadcast System operation during a State Level Emergency.

* * * * *

(d) * * *

* * * * *

(3) * * * Stations which provide foreign language programming may transmit emergency announcements in the foreign language prior to broadcasting such announcements in English. * * *

* * * * *

C. In § 73.937, the second sentence of subparagraph (3) of paragraph (d) is amended to read as follows:

§ 73.937 Emergency Broadcast System Operation during an Operational (Local) Area Level Emergency.

* * * * *

(d) * * *

* * * * *

(3) * * * Stations which provide foreign language programming may transmit emergency announcements in the foreign language prior to broadcasting such announcements in English. * * *

* * * * *

[FR Doc.77-32678 Filed 11-10-77;8:45 am]

[6712-01]

[Docket No. 21207; RM-2520]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Station in Altoona, Pennsylvania; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein substitutes television Channel 23 for Channel 28 in Altoona, Pa., and modifies the outstanding permit to specify the new channel. The substitution of channels will permit acquisition of readily available used equipment which would make it possible to seek the use of improved facilities.

EFFECTIVE DATE: December 21, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: November 4, 1977.

Released: November 9, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Altoona, Pennsylvania), Docket No. 21207, RM-2520.

1. The Commission has before it the Notice of Proposed Rule Making, adopted April 15, 1977, 42 FR 21630, in response to a petition filed by John R. Powley ("petitioner"), permittee of TV Station WOPC, Channel 38, Altoona, Pa. The petitioner proposed the substitution of UHF TV Channel 23 for UHF Channel 38 and requested that his construction permit for Channel 38 be modified to specify Channel 23. Comments were filed only by the petitioner in support of his proposal.

2. Altoona (pop. 63,115), situated in Blair County (pop. 135,116),[1] is located approximately 130 kilometers (80 miles) east of Pittsburgh, Pa.

3. The Notice indicated that the proposed substitution could be made without requiring any other changes in the Television Table of Assignments. The proposed assignment of Channel 23 would result in new preclusion only on Channel 30 over a limited area in Somerset County, Pa. However, Channel 60 is available for assignment to any community located in this area should the need arise.

4. Petitioner, in his supporting comments, contends that the substitution of Channel 23 for Channel 38 will permit Station WOPC to improve its facilities through the use of used equipment that is readily available for Channel 23 but not for Channel 38, especially the antenna system. He notes that the change in the assignment would permit greater selection in the transmitter site, as distance separations to other channel assignments would be improved over those of the presently assigned Channel 38. It would also make it possible to seek improved facilities for Station WOPC.

5. We believe the public interest would be served by substituting Channel 23 for Channel 38 at Altoona, and modifying the construction permit of John R. Powley to specify the new channel.[2] It would result in more efficient use of the television broadcast spectrum, and deletion of Channel 38 would make related channels available to other areas.

6. The Canadian Government has given concurrence to the proposed substitution of UHF Channel 23 for UHF Channel 38 at Altoona, Pa.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules: *It is*

[1] Population figures are taken from the 1970 U.S. Census.

[2] Following a modification approach here does not raise a problem for any other party wishing to operate in Altoona, as already assigned UHF Channel 47 remains available should any other person express an interest in operating a commercial station there. In addition, the possible assignment of VHF Channel 12 is being considered in Docket 20418.

ordered, That effective December 21, 1977, the Television Table of Assignments (§ 73.606(b) of the Commission's rules) is amended with respect to the following community:

City	Channel No.
Altoona, Pennsylvania	10—, 23—, 47, *57+

8. *It is further ordered*, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by John R. Powley, is modified, effective December 21, 1977, to specify operation on TV Channel 23 instead of Channel 38. The permittee shall inform the Commission in writing no later than December 21, 1977, of its acceptance of this modification. Station WOPC may continue to operate on Channel 38 for one year from the effective date of this action or until it is ready to operate on Channel 23, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 23 the permittee of Station WOPC shall submit to the Commission the technical information normally required of an applicant for Channel 23.

(b) At least 10 days prior to commencing operation on Channel 23 the permittee of Station WOPC shall submit the measurement data required of an applicant for a TV broadcast station license; and

(c) The permittee of Station WOPC shall not commence operation on Channel 23 without prior Commission authorization.

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-32756 Filed 11-10-77;8:45 am]

[6712-01]

[Docket No. 21231; RM-2791]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Tacoma, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein substitutes a Class C for a Class A channel at Tacoma, Washington, and at its request modifies the license of Station KBRD now operating on the Class A channel to specify operation on the new Class C channel. Petitioner, Entertainment Communications, Inc., stated that this would improve the station's facilities and would place it on a technically competitive basis with two other Class C FM stations in Tacoma.

EFFECTIVE DATE: December 19, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: November 2, 1977.

Released: November 7, 1977.

In the matter of Amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations. (Tacoma, Washington), Docket No. 21231, RM-2791.

1. The Commission has before it the Notice of Proposed Rule Making, adopted in this proceeding on April 28, 1977 (42 FR 23165), inviting comments on a proposal to substitute Class C FM Channel 279 for Channel 280A at Tacoma, Washington. The notice was issued in response to a petition submitted by Entertainment Communications, Inc. ("petitioner"), licensee of FM Station KBRD, Tacoma, Washington, which requested the substitution described above so that it could upgrade its broadcast facilities. Petitioner filed supporting comments in which it reaffirmed its intention to use the channel, if assigned.

2. Tacoma (pop. 154,581)[1] in Pierce County (pop. 411,027), is located approximately 161 kilometers (100 miles) south of the Canada-U.S. border, and approximately 48 kilometers (30 miles) southwest of Seattle, Washington. It is presently served by three full-time AM stations and three FM stations (two Class C and one Class A).

3. Channel 279 could be assigned to Tacoma in conformity with the minimum distance separation requirements if the transmitter site is located approximately 40 kilometers (25 miles) east southeast of the community. Preclusion would occur on Channels 276A, 279 and 280A. The preclusion areas for Channels 276A and 279 are relatively small and contain no communities with populations exceeding 1,000 persons. On Channel 280A, the precluded area contains three significant Washington communities: Aberdeen (pop. 18,489); Hoquiam (pop. 10,466) and Central Park (pop. 2,720). Aberdeen and Hoquiam each has an FM station and at least one AM station. Central Park has no local broadcast service, but the petitioner shows that alternate channels are available for assignment to this community. Petitioner indicates that, in upgrading its present Class A station to a Class C station, it would serve 1,990,000 persons in an area of 20,332 square kilometers (7,850 square miles), whereas it presently serves 632,000 persons in a 1,515 square kilometer (585 square mile) area.

[1] Population figures are taken from the 1970 U.S. Census.

4. The change in the assignment could provide service to substantially more persons in a substantially enlarged area. It would also end the current intermixture of channels at Tacoma, and since it has been shown that there are alternate channels available for assignment to the community without local broadcast service located in the precluded area, we believe the public interest would be served by the change in the channel assignment. Substitution of Channel 279 for Channel 280A would also eliminate the current intermixture of channel assignments in Tacoma.

5. The Notice stated that, if no other person expressed an interest in the proposed assignment of Channel 279 to Tacoma, the license of Station KBRD could be modified to the Class C channel. Since no other party has expressed an interest in the proposed channel, Channel 279 will be substituted for Channel 280A at Tacoma, Washington, and the license of Station KBRD will be modified.[2]

6. The Canadian Government has given its concurrence to the proposed assignment of Channel 279 to Tacoma, Washington.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules: *It is ordered*, That effective December 19, 1977, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended with respect to the following community:

City:	Channel No.
Tacoma, Wash	247, 279, 291

8. *It is further ordered*, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Entertainment Communications, Inc. for Station KBRD, Tacoma, Washington, is modified, effective December 19, 1977, to specify operation on Channel 279 instead of Channel 280A. The licensee shall inform the Commission in writing no later than December 19, 1977, of its acceptance of this modification. Station KBRD may continue to operate on Channel 280A for one year from the effective date of this action or until it is ready to operate on Channel 279, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 279 the licensee of Station KBRD shall submit to the Commission the technical information normally requested of an applicant for Channel 279 including that connected with the change in site.

(b) At least 10 days prior to commencing operation on Channel 279 the licensee of Station KBRD shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KBRD shall not commerce operation on Chan-

[2] Cheyenne, Wyo., 62 F.C.C. 2d 63 (1976).

nel 279 without prior Commission authorization.

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-32755 Filed 11-10-77;8:45 am]

[6712-01]

[Docket No. 21033; RM-2664; RM-2780; FCC 77-764]

PART 97—AMATEUR RADIO SERVICE

Simplifying Licensing and Operation of Complex Systems of Stations and Modifying Repeater Subbands in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and order staying regulations in Docket 21033.

SUMMARY: The Commission is staying regulations it adopted in a Report and Order in Docket 21033 (42 FR 52418, September 30, 1977) concerning the licensing and operation of repeater and associated stations in the Amateur Radio Service. We are taking this action in response to a Petition for Stay filed by the American Radio Relay League, Inc.

DATE: The Stay is effective November 4, 1977.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, Safety and Special Radio Services Bureau, 202-634-6619 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

In the matter of deregulation of Part 97 of the Commission's rules to simplify the licensing and operation of complex systems of stations and modify repeater subbands in the Amateur Radio Service (Docket No. 21033, RM-2664, RM-2780) MEMORANDUM OPINION AND ORDER (See 42 FR 52418).

Adopted: November 4, 1977.

Released: November 4, 1977.

1. The Commission has before it a Petition for Stay in Docket 21033, submitted by the American Radio Relay League, Inc. (ARRL), in accordance with Sections 1.44 and 1.429(k) of the Commission's Rules.

2. In a Notice of Inquiry and Notice of Proposed Rulemaking in Docket 21033, released January 6, 1977, 42 Fed. Reg. 2089 (1977), the Commission proposed substantial revisions of its rules concerning the licensing and operation of repeater and associated stations in the Amateur Radio Service. Final regulations, with an effective date of November 4, 1977, were adopted in a Report and Order released September 27, 1977, 42 FR 52418 (1977). Additional editorial amendments were made in an Order released October 26, 1977, mimeo 83536. Petitioner requests that the effective date of the regulations adopted in the Report and Order be stayed until 45 days after the Commission has disposed of a Petition for Reconsideration submitted by petitioner, as well as all other Petitions for Reconsideration filed with the Commission in this proceeding.

3. Petitioner states that a Stay is necessary to prevent irreparable injury to radio amateurs and the public interest. In particular, the ARRL alleges that amateurs engaging in satellite, moon bounce, and other forms of so-called "weak signal" communications will be harmed if the revisions of the repeater frequency subbands adopted in the Report and Order in Docket 21033 take effect as scheduled without additional consideration. Petitioner further claims that no one will be adversely affected by a Stay of the Docket 21033 Report and Order. Finally, petitioner states that there is a reasonable possibility that it will prevail on the merits of its Petition for Reconsideration, and that the effective date of the new rules should be stayed for that reason.

4. We believe there to be good cause (See Section 1.429(k)) for granting petitioner's request, namely, the potential for interference to amateur operations if the new regulations go into effect as scheduled. For this reason, we believe the new rules should be permitted to go into effect only after all the Petitions for Reconsideration submitted in this proceeding have been fully analyzed and considered. We will attempt to resolve the issues raised by the various Petitions for Reconsideration as quickly as possible, however.

5. Accordingly, the Commission orders that the effective dates of the regulations adopted in the Report and Order in Docket 21033 and the editorial Order of October 26, 1977 are stayed until further order of the Commission.[1] Further, in order to continue the efficient processing of other amateur radio operator and station license applications, the Commission orders a continuation of the "freeze" announced in the Report and Order in this proceeding on the filing of applications for new repeater, auxiliary link and control station licenses. Authority for this action is contained in Sections 4(i), 5(e) and 303 of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-32800 Filed 11-10-77;8:45 am]

[1] We emphasize that this action also stays the effective date of the non-controversial provisions of the Report and Order in Docket 21033. For example, operators of so-called "remote base" stations may not operate their stations from portable and mobile control points until after the Commission has disposed of the Petitions for Reconsideration it has received. Additionally, Technician Class operators will not be permitted to use the new privileges authorized by the Report and Order.

[4910-62]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-130]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Assistant Secretary for Budget and Programs

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This revision abolishes the Office of the Deputy Under Secretary and establishes an Office of the Assistant Secretary for Budget and Programs to assume the functions of the Deputy Under Secretary.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Corrine Woodard, Office of Management Systems, Department of Transportation, 400 Seventh Street SW., Room 10324A, Washington, D.C. 20950, 202-426-4738.

SUPPLEMENTAL INFORMATION: The person responsible for the drafting of this document is Corrine Woodard, Office of Management Systems. The person responsible for its legal sufficiency is B. T. Wade, Jr., Office of the General Counsel.

On July 20, 1977, the Secretary of Transportation determined that greater efficiences could be accomplished in his management of the Department by reorganizing various offices within the Office of the Secretary. Consistent with that decision, this revision abolishes the Office of the Deputy Under Secretary and establishes an Office of the Assistant Secretary for Budget and Programs to assume the functions of the Deputy Under Secretary. It also transfers the responsibility for program evaluation and project management formerly assigned to the Assistant Secretary for Systems Development and Technology to the Assistant Secretary for Budget and Programs. This change is intended to improve the management of the Department by emphasizing the analysis of regulatory activities to produce uniform regulatory systems and emphasizing and expanding the systematic evaluation of Departmental programs.

Since this relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing—

(1) Paragraph 1.64 of Title 49, of Code of Federal Regulations is revised to read as follows:

* * * * *

§ 1.64 Delegations to the Assistant Secretary for Budget and Programs.

The Assistant Secretary for Budget and Programs is delegated authority to—

(a) Exercise day-to-day operating management responsibility over the Office of Programs and Evaluation and the Office of Budget.

(b) Direct and manage the Departmental planning, evaluation, and budget activities.

(c) Request apportionment or reapportionment of funds by the Office of Management and Budget, provided that no request for apportionment or reapportionment which anticipates the need for a supplemental appropriation shall be submitted to the Office of Management and Budget without appropriate certification by the Secretary.

(d) Issue allotments or allocations of funds to components of the Department.

(e) Authorize and approve official travel and transportation for staff members of the Immediate Office of the Secretary including authority to sign and approve related travel orders and travel vouchers, but not including requests for overseas travel.

(f) Issue monetary authorizations for use of reception and representation funds.

(g) Act for the Secretary and Deputy Secretary with respect to certain budgetary and administrative matters relating to the Immediate Office of the Secretary.

(2) Appendix A of Paragraph 1.64 of Title 49, Code of Federal Regulations is amended to read as follows:

* * * * *

APPENDIX A—DELEGATIONS AND REDELEGATIONS BY SECRETARIAL OFFICERS.

1. Director of Budget. The Assistant Secretary for Budget and Programs has redelegated to the Director of Budget authority to—

* * * * *

(Section 1652(c) and 1657(c) of the Department of Transportation Act, 49 USC 1652(c) and 1657(c).)

Issued in Washington, D.C. on November 3, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77-32746 Filed 11-10-77;8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Final Endangered Status and Critical Habitat for the Florida Population of the Pine Barrens Treefrog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service hereby determines the Florida population of the Pine Barrens treefrog (*Hyla andersonii*) to be an Endangered species and determines Critical Habitat for this unique population. This action is being taken because of the threatened adverse modification of the habitat. This rule provides additional protection necessary for this species.

EFFECTIVE DATE: December 8, 1977.

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. On April 5, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 18109-18111) advising that sufficient evidence was on file to support a determination that the Florida population of the Pine Barrens treefrog was an Endangered species as provided for by the Act. That proposal summarized the factors thought to be contributing to the likelihood that this frog could become extinct within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Askew of Florida on April 27, 1977, notifying him of the proposed rulemaking for the Florida population of the Pine Barrens treefrog. A similar letter on the same date was sent to the Director of the Florida Game and Fresh Water Fish Commission. On May 4, 1977, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties. No official comments were received from the Governor of Florida or members of his staff.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

In the April 5, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 18109-18111) and the associated April 7, 1977, News Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period April 5, 1977, to July 29, 1977, were considered.

Comments were received from 6 individuals and organizations, including Dr. Clyde Jones, Director of the National Fish and Wildlife Laboratory, Dr. James Lazell (Massachusetts Audubon Society), Ms. Phoebe Wray (Endangered Species Productions), Mr. J. H. Carter III (Southern Pines, N.C.), Mr. Russell A. Cookingham, Director of the Department of Environmental Protection of the State of New Jersey, and Mr. David Moore (New Jersey Conservation Foundation).

The Director of the National Fish and Wildlife Laboratory, Dr. Lazell, and Ms. Wray supported the proposed Endangered status for the Florida population of the Pine Barrens treefrog. Ms. Wray commented extensively on past studies which support such a designation and the need for habitat protection throughout its range. No changes in the proposal were recommended.

Mr. Carter commented on populations of the Pine Barrens treefrog in North and South Carolina. While he provided information on these populations, no comments were made on the Florida populations. Likewise, Mr. Cookingham and Mr. Moore did not comment on the proposal, but stressed the need for protection and Critical Habitat designation for those populations in New Jersey.

CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the Florida population of the Pine Barrens treefrog is in danger of extinction throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (42 FR 18109-18111). Those factors were described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Pine Barrens treefrog is now known to exist as seven small populations in Okaloosa County, Fla. Four other populations including those in Walton County, have been extirpated since the frog's discovery in 1970. These losses were due to development and land clearing for agricultural use. These Florida populations, isolated by over 750 kilometers from the nearest Pine Barrens treefrog populations in South Carolina, are unique in their color pattern, mating calls, and body proportions. At present, their relationship with other isolated populations of the Pine Barrens treefrog in North Carolina, South Carolina, and New Jersey remains unclear. Unless measures are taken soon to protect the remaining seven populations which include less than 500 individuals, a unique member of the Florida Gulf Coast herpetofauna may be extirpated.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The location of these populations is not generally known to the public, and there is no evidence of overutilization at present. If, however, the populations

were to be discovered by collectors, serious reduction of the populations might occur.

3. *Disease or predation.* Not applicable for this species.

4. *The inadequacy of existing regulatory mechanisms.* Populations of the Pine Barrens treefrog are protected by the Florida Game and Fresh Water Fish Commission against taking, possession, and transport of specimens. Addition to the Endangered and Threatened Wildlife list would provide additional discouragement to collectors, especially as regards prohibitions against interstate commerce.

5. *Other natural or manmade factors affecting its continued existence.* None.

Critical Habitat

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Florida population of the Pine Barrens treefrog (42 FR 18109–18111).

Based on this review the Critical Habitat for the Florida population of the Pine Barrens treefrog, *Hyla andersonii*, is determined to include the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species):

1. NW ¼ Section 35 T4NR22W Okaloosa Co.
2. NE ¼ Section 27 T4NR22W Okaloosa Co.
3. SW ¼ Section 26 T5NR23W Okaloosa Co.
4. NW ¼ Section 34 T5NR23W Okaloosa Co.
5. NW ¼ Section 32 T4NR22W Okaloosa Co.
6. NW ¼ Section 12 T4NR22W Okaloosa Co.
7. NE ¼ Section 11 T4NR22W Okaloosa Co.

Effect of the Rulemaking

The effects of these determinations and this 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 which apply to all Endangered species. The regulations referred to above, which pertain to Endangered species, are found at § 17.21 of Title 50 and are summarized below.

With respect to the Florida population of the Pine Barrens treefrog in the United States, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

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.

The determination set forth in this final rulemaking also makes the Florida population of the Pine Barrens treefrog eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

Interagency Cooperation

Section 7. 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 the 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.

The Director has prepared, in consultation with an *ad hoc* interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the Federal Register (42 CFR 4868–4875) to assist Federal agencies in complying with Section 7.

Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the Federal Register on September 26, 1975 (40 FR 44412) and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

Effect Internationally

In addition to the protection provided by the Act, the Service will review the Florida population of the Pine Barrens treefrog to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the Florida population of the Pine Barrens treefrog. The assessment is the basis for a decision that this determination is not 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.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202/343–7814).

Regulations Promulgation

Accordingly § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

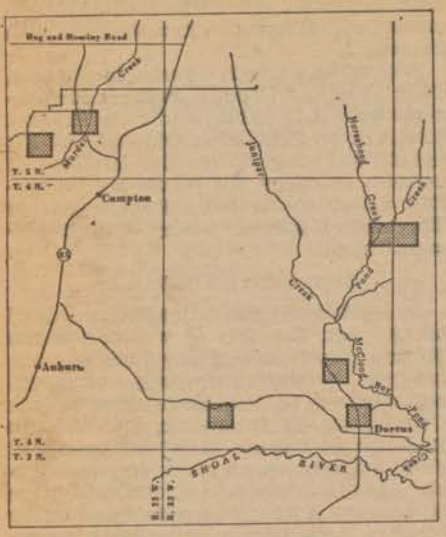
1. By adding alphabetically the Florida population of the Pine Barrens treefrog to the list under "Amphibians" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

SPECIES			RANGE				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
AMPHIBIANS							
Treefrog, Pine Barrens	Hyla andersonii	Florida	USA(Florida)	Entire	E	29	N/A

Final Critical Habitat for the Pine Barrens Treefrog in Florida (Okaloosa County).


Campton
Auburn
Bonifay
Creek
Juniper
Holmes
Creek
Creek
Creek
Bonifay
Road
McDavid
Road
Bonifay
Road
Bonifay
Road
Bonifay

they may be proposed as Critical Habitat at a later date. In a letter to the Fish and Wildlife Service (dated November 22, 1976) Dr. Thomas did say that he felt the range of the golden coqui may be greater than presently known. However, he neither indicated that he had actually found the coqui elsewhere, nor did he state the basis for his opinion. Dr. Thomas was also contacted as an interested party when the proposal was published in the FEDERAL REGISTER but no comments were received from him.

With regard to overcollection, simply because there are 31 preserved specimens of the golden coqui in various museums does not mean that overcollection will be avoided. Some types of research do not require preserved specimens and there remains the threat of collection simply to have a specimen or for commercial purposes.

The color of a frog is not relevant to a discussion of its status. However, color photographs in the files of the Fish and Wildlife Service show the frog to be yellow and could easily be interpreted as golden. Since the authors of the paper describing *Eleutherodactylus jasperi* as a new species prefer to call it the golden coqui, and since they have been the prime movers behind a move to acquire Threatened status, Dr. Rivero's statement on exploitation as opposed to protection seems misplaced.

Dr. Rivero is also incorrect in stating that Federal protection would prevent research. It would prevent haphazard projects and collecting trips but would in no way prevent legitimate research designed to gain knowledge of the biology of the species. In fact, research designed to understand basic biology would be encouraged in order to promote the welfare of the species. Federal protection would assist the Commonwealth of Puerto Rico in assuring the survival of this unique member of its herpetofauna.

Finally, Dr. Rivero objects to the use of certain terms as not being justified in light of present knowledge. The terms used in the proposed rulemaking are those used by Dr. George Drewry and Dr. Kirkland Jones in their paper on the golden coqui and in reports submitted to the Fish and Wildlife Service. Much information has been accumulated, based on extensive field work, that has not yet been published in scientific journals. The Service therefore feels justified in retaining the use of these terms in connection with the golden coqui.

After a thorough review and consideration of all the information available, the Director has determined that the golden coqui is in danger of becoming Endangered throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (42 FR 18106–18109). Those factors were described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Within the range of the golden coqui, there is great demand for high elevation land because temperatures are moderate and rainfall is much lower than at most other comparable elevations. The presence of dirt roads and the suitability of the land for pasture have promoted development to the summits well ahead of pavement construction.

The habitat is generally somewhat xeric and susceptible to fire damage. One scrub area searched in 1973 had golden coquis in bromeliads on the ground, in low trees, and on some large boulders. Re-examination in 1973, after a fire, revealed that only the bromeliads and their inhabitants on the boulders survived. Most of the known habitat is privately owned except for a small fraction which is primarily highway right of way. The conflict between uncontrolled human development and the continued existence of the golden coqui is clear.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The golden coqui has only recently been discovered and is currently known only to a few individuals; however, its unique reproductive adaptation and attractive coloration are likely to create a large demand for specimens for scientific, educational and display purposes. Similarly bright colored frogs from the tropics, *Amphodus auratus* from Trinidad and *Atelopus varius zeteki* from Panama, have suffered from extensive collecting pressure because of their attractiveness.

3. *Disease or predation.* Unknown.

4. *The inadequacy of existing regulatory mechanisms.* There currently exist no regulations pertaining to the protection and conservation of this species.

5. *Other natural or manmade factors affecting its continued existence.* The specialized, obligate bromeliad-dwelling mode of existence employed by this species coupled with its low reproductive rate, apparent inability to disperse, and limited range have created a naturally precarious status.

CRITICAL HABITAT

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the golden coqui (42 FR 18106–18109).

Based on this review the Critical Habitat for the golden coqui, *Eleutherodactylus jasperi*, is determined to include the following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species):

(1) Cerro Avispa-elevations above 700 meters on the south and southeastern slope of the mountain: From the northern junction of Highway 715 and an unnumbered dirt road southeast and southwest along Highway 715 to the southern junction with the same unnumbered dirt road and Highway 715, north and northeast along the unnumbered dirt road just below the southeast facing crest of Cerro Avispa to its junction with Highway 715.

(2) Monte el Gato-entire summit above 700 meters: From the junction of Highway 715 and the 700 meter contour interval west along Highway 715 to the junction of Highway 715 and an unnumbered road, north and northeast along this road to where it crosses the 700 meter contour interval, and east along the 700 meter contour interval to where it crosses Highway 715.

(3) Sierra de Cayey-elevations above 700 meters: Southeast from the junction of Highways 738 and 15 along Highway 15 to a point .5 kilometer south of Benchmark 684.5, northeast from this point in a line to a point on Highway 7741 two kilometers south of the junction of Highway 738 and 7741, north and northwest along Highway 7741 to its junction with Highway 738, and northwest from the junction of Highway 7741 and 738 along Highway 738 to its junction with Highway 15.

EFFECT OF THE RULEMAKING

The effects of these determinations and this 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 which apply to all Endangered species. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and are summarized below.

With respect to the golden coqui in Puerto Rico, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

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.

The determination set forth in this final rulemaking also makes the golden coqui eligible for the consideration provided by section 7 of the Act. That section reads as follows:

INTERAGENCY COOPERATION

Section 7. 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 the 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.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with section 7.

Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the golden coqui to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the golden coqui. The assessment is the basis for a decision that this determination is not 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.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202–343–7814.

REGULATIONS PROMULGATION

Accordingly § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding alphabetically the golden coqui to the list under "Amphibians" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

SPECIES			RANGE				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
AMPHIBIANS							
Coqui, golden	Eleutherodactylus jasperi	N/A	USA(Puerto Rico)	Entire	T	29	N/A

* * * * * * *

2. 50 CFR Part 17 is further amended by the addition of the golden coqui in § 17.95(d) after the Pine Barrens treefrog as follows: The following area (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the golden coqui.

§ 17.95 Critical habitat—fish and wildlife.

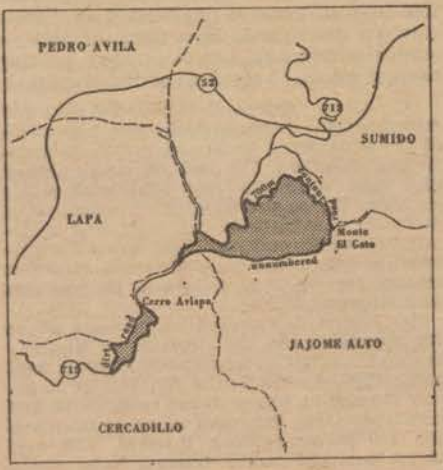
* * * * *

(d) *Amphibians.*

* * * * *

GOLDEN COQUI (*Eleutherodactylus jasperi*)

Puerto Rico. Areas of land, water and airspace with the following components: (1) Cerro Avispa-elevation above 700 meters on the south and southeastern slope of the mountain: from the northern junction of Highway 715 and an unnumbered dirt road southeast and southwest along Highway 715 to the southern junction with the same unnumbered dirt road and Highway 715, north and northeast along the unnumbered dirt road just below the southeast facing crest of Cerro Avispa to its junction with Highway 715. (2) Monte el Gato-entire summit above 700 meters: from the junction of Highway 715 to the junction of Highway 715 and the 700 meter contour interval west along Highway 715 to the junction of Highway 715 and an unnumbered road, north and northeast along this road to where it crosses the 700 meter contour interval, and east along the 700 meter contour interval to where it crosses Highway 715. (3) Sierra de Cayey-elevations above 700 meters: southeast from the junction of Highways 738 and 15 along Highway 15 to point .5 kilometer south of Benchmark 684.5, northeast from this point in a line to a point on Highway 7741 two kilometers south of the junction of Highway 738 and 7741, north and northwest along Highway 7741 to its junction with Highway 738, and northwest from the junction of Highways 7741 and 738 along Highway 738 to its junction with Highway 15.



Refer to 7.5 minute U.S.G.S. Topographical Map, Cayey, Puerto Rico, 1972.

Critical Habitat for the Golden Coqui

NOTE.—Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.

NOTE: The 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: September 29, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77–32669 Filed 11–10–77;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.

[3410–02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Preliminary Free and Reserve Percentages for 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on making preliminary free tonnages of Natural (sun-dried) Seedless and Dipped Seedless raisins from the 1977 production available for sale in domestic and other Western Hemisphere markets. The estimated 1977 production of Natural (sun-dried) Seedless raisins and Dipped Seedless raisins is in excess of domestic and Western Hemisphere market needs. The proposal is intended to provide for orderly marketing of these varietal types during the 1977–78 crop year by making adequate supplies of Natural (sun-dried) Seedless and Dipped Seedless raisins available for these markets at reasonable prices while making the excess available for export to approved countries outside of the Western Hemisphere.

DATE: Comments must be received on or before November 25, 1977. Proposed effective dates: For the 1977–78 crop year beginning August 1, 1977.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposal under consideration pertains to designating preliminary free tonnage precentages of 59 percent and preliminary reserve tonnage percentages of 41 percent for Natural (sun-dried) Seedless and Dipped Seedless raisins for the 1977–78 crop year. These designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989; 42 FR 39200), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended under § 989.54(b) by the Raisin Administrative Committee established under the order as the agency to administer its terms and provisions.

Under § 989.54(b) of the order, the Committee is required to recommend on or before October 5, a preliminary free tonnage percentage for any varietal type of raisin for which a free tonnage has been computed which when applied to the estimated production of that varietal type would release 85 percent of the free tonnage for that varietal type—if the field price is firmly established.

On August 15, the Committee, in accordance with § 989.54(a) computed free tonnages for Natural (sun-dried) Seedless and Dipped Seedless raisins of 149,785 natural condition tons and 5,565 natural condition tons, respectively. The field price for each of these varietal types has been firmly established and the 1977 production of Natural (sun-dried) Seedless and Dipped Seedles raisins is estimated to be 217,000 natural condition tons and 8,000 natural condition tons, respectively.

Eighty-five percent of the free tonnage quantity (149,785 tons) for Natural (sun-dried) Seedless would be 127,317 tons. Dividing this by the estimated production (217,000 tons) and rounding to the nearest full percent results in a preliminary free tonnage percentage of 59 percent. Eighty-five percent of the free tonnage quantity (5,565 tons) for Dipped Seeedless raisins would be 4,730 tons. Dividing 4,730 tons by the estimated production (8,000 tons) and rounding to the nearest full percent also results in a preliminary free percentage of 59 percent.

Section 989.54(b) also provides that any difference between the preliminary or final free tonnage percentages and 100 percent should be the reserve percentage. Thus, the preliminary reserve percentages for Natural (sun-dried) Seedless and Dipped Seedless would each be 41 percent.

The proposed preliminary free tonnage percentages would make 127,317 tons of the estimated 1977 production of Natural (sun-dried) Seedless raisins, and 4,730 tons of the Dipped Seedless raisin production available for immediate sale in domestic and other Western Hemisphere markets. No later than February 15, the Committee shall recommend free tonnage percentages which will tend to release the full free tonnage for those varietal types. By then, the Committee will have firmer estimates of the 1977 raisin production and the trade demand for raisins.

The proposal is to add new § 989.232 to read as follows:

§ 989.232 Free and reserve percentages for the 1977–78 crop year.

The preliminary percentages of standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired by handlers during the crop year beginning August 1, 1977, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) seedless	59	41
Dipped seedless	59	41

NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

Dated: November 8, 1977.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.77–32766 Filed 11–10–77;8:45 am]

[3410–05]

Commodity Credit Corporation

[7 CFR Part 1435]

MINIMUM WAGE RATES FOR SUGAR FIELDWORKERS

Proposed Determination of Minimum Wage Rates for Agricultural Workers Engaged in the Production of Sugar

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture gives notice that he intends to establish minimum wages rates for sugarbeet and sugarcane fieldworkers under section 201 of the Agricultural Act of 1949, as amended by section 902 of Title IX of the Food and Agriculture Act of 1977 (Pub. L. 95–113, 91 Stat. 949, effective October 1, 1977). Subsection (f)(1) of section 201 provides as follows:

The price of the 1977 and 1978 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor: *Provided*, That the support level may in no event be less than 13.5 cents per pound raw sugar equivalent. In carrying out the price support program authorized by this subsection, the Secretary shall establish minimum wages rates for agricultural employees engaged in the production of sugar.

A price support loan program for sugar to be conducted under this authority is being placed into effect. The minimum wage rate requirements to be established will apply to work performed in the production, cultivation, and harvesting of sugarbeets and sugarcane. So that the Secretary will have the benefit of all available information in considering the terms and conditions of the wage requirements, appropriate information (as set forth below in Supplementary Information) along with comments and recomendations are invited from agricultural workers, representatives of labor, producers of sugarbeets and sugarcane, and other interested persons.

DATES: Comments must be received on or before November 21, 1977, to be assured of receiving consideration.

ADDRESS: Mail comments to Sugar Branch, Procurement and Sales Division, ASCS–USDA, Room 5741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr., 202–447–7561 or 202–447–3517.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977 provides no guidance or standards to the Secretary of Agriculture in establishing minimum wage rates for sugar fieldworkers other than the directive that he shall establish such rates in carrying out the sugar price support program. The only basis on which the Department has set wage rates for sugar workers in the past was under the Sugar Act of 1948, as amended, which expired in 1974. The intent of the Sugar Act "fair wage" provision was that producers were to share with their fieldworkers on a fair and reasonable basis the income received from the sale of sugarbeets or sugarcane. However, the Sugar Act was structured in such a way as to assure consistently remunerative prices to producers through its "fair price" provisions. The price support loan program now being placed into effect has no parallel principle. Nevertheless, the Secretary is required to determine minimum wage rates for sugar fieldworkers, and it is believed that the wages must necessarily be established at rates which will be "fair" to the worker and "reasonable" to the producer.

One possible basis for establishing wage rates would be to use the minimum wage rates which were in effect in 1974 under the Sugar Act, adjusted for such factors as cost of living, cost of production, returns to sugar producers, and differences in economic conditions among producing areas. Another basis would be to use the minimum wage rate established under the Fair Labor Standards Act for agricultural workers. Views and recommendations are invited on the use of either of these methods or other proposed methods.

In the interest of obtaining information which will assist the Secretary in establishing minimum wage rates for agricultural employees engaged in the production of sugar, it is requested that respondents to this invitation for comments give careful consideration to the issues discussed above. It is especially requested that interested persons submit the following:

A. Statement on wage rates (hourly and/or piecework) currently prevailing in the area for various classifications of workers:

1. In sugarbeet or sugarcane enterprises.
2. In farm enterprises other than sugar.
3. In nearby industrial enterprises.

B. Comments and recommendations on:

1. Type of wage rate:
a. Minimum hourly rate.
b. Agreements upon piecework rates with minimum hourly guarantee.
c. Piecework rates without minimum hourly guarantee.
d. Other rates, such as those required by labor union agreement or local statute.
2. Operations to be covered.
3. Number and kind of worker classifications.
4. Level of minimum wage rates, including differentials among different classifications of workers.

Prior to establishing minimum wage rates for sugarbeet and sugarcane workers, the Department of Agriculture will give consideration to comments submitted in writing within the comment period. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5759, South Building, 14th Street and Independence Avenue SW., Washington, D.C. (7 CFR 1.27(b)).

Signed at Washington, D.C., on November 8, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-32730 Filed 11-8-77;2:51 pm]

[6210–01]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 204 and 213]

[Reg. D; Reg. M; Docket No. R–0128]

RESERVES OF MEMBER BANKS AND FOREIGN ACTIVITIES OF NATIONAL BANKS

Reserves Against Eurodollar Borrowings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This proposed rule would shorten from four weeks to one week the periods for which reserve requirements that relate to Eurodollar borrowings of member banks are computed and maintained. This proposed revision deals with the timing of the computation and maintenance of certain internationally related reserve requirements.

DATE: Comments must be received before December 6, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R–0128.

FOR FURTHER INFORMATION CONTACT:

Robert F. Gemmill, Associate Director, Division of International Finance, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–3733.

SUPPLEMENTARY INFORMATION: (1) Under section 204.5(c) of Regulation D and 213.7 of Regulation M, member banks now maintain reserves computed on the basis of their Eurodollar borrowings and foreign branch loans to United States residents. A member bank computes its reserve obligation under these sections on the basis of the daily average total of these specified assets and liabilities averaged over a four-week period. Fifteen days after that period ends, the bank must meet its reserve obligation for the period by maintaining at its Reserve Bank, over the next four weeks, daily average balances sufficient to satisfy the requirement.

The Board is publishing for comment a proposed revision of section 204.5(c) of Regulation D and section 213.7 of Regulation M that would shorten the period during which the reserves required by those sections are computed from four weeks to one week and similarly shorten the period during which the reserve requirement must be satisfied to one week.[1] The four-week period was originally established to permit member banks to adjust any large erratic increases in their gross liability positions resulting from major swings in international transactions, at a time when policy restrictions made such adjustments difficult. Those policy restrictions are no longer in effect, and it appears that a long reserve computation period may not be necessary. A one-week computation period would make the reporting and maintenance of these reserves against Eurodollar borrowings more consistent with those of domestic reserves under Regulation D. It would also provide the Board more timely information on foreign branch lending to U.S. residents and other domestic uses of Eurodollars than it now obtains.

Under the proposed revision, a member bank would compute its reserve requirement on the basis of its daily average outstanding Eurodollar borrowings and foreign branch loans to U.S. residents during each week and would satisfy the requirement for that week during a week beginning eight days later. To phase in this revision, which entails shortening by four weeks the period between the time a reserve obligation on

[1] This proposed revision deals with the timing of the computation and maintenance of certain internationally related reserve requirements. It does not alter the rate of those requirements or the items to which they are applied, and it does not affect the general domestic reserve requirements of Regulation D.

Eurodollar transactions is incurred and the time it is satisfied, during a transitional four-week period, reserves would be required to be maintained against Eurodollar transactions under the present as well as the proposed method for computing reserve requirements. There would be no net increase in required reserves of member banks as a result of this proposed change. The dates used in the proposed amendment are for illustrative purposes only.

(2) To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or comments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 6, 1977. All material submitted should include the docket number R–0128. Such material will be made available for inspection and copying upon request except as provided in section 261.6 (a) of the Board's Rules Regarding Availability of Information (12 C.F.R. § 261.6(a)).

(3) This action is proposed pursuant to the Board's authority under sections 19 and 25 of the Federal Reserve Act.

1. Effective _____, § 204.5(c) of Regulation D is revised to read as follows:

§ Reserve requirements.

* * * * *

(c) *Reserve percentages against certain deposits by foreign banking offices.* Deposits represented by promissory notes, acknowledgments of advance, due bills, or similar obligations described in § 204.1(f) to foreign offices of other banks,[7] or to institutions the time deposits of which are exempt from the rate limitations of Regulation Q pursuant to § 217.3(g) thereof, shall not be subject to paragraph (a) of this section or to § 204.3(a) (1) and (2); but a member bank shall maintain with the Reserve Bank of its district a balance equal to 4 percent of such deposits, computed in the manner specified in § 213.7(c). An excess or deficiency in reserves under this paragraph shall be subject to § 204.3 (a) (2), and deficiencies under this paragraph shall be subject to § 204.3(b).[8]

2. Effective _____, § 213.7 of Regulation M is revised to read as follows:

§ 213.7 Reserves against foreign branch deposits.

(a)) *Transactions with parent bank.* A member bank having one or more foreign branches shall maintain with the Reserve Bank of its district, as a reserve against its foreign branch deposits, a balance of 4 percent of the total of:

(1) Net balances due from its domestic offices to such branches, and

(2) Assets (including participations) held by such branches which were acquired from its domestic offices (other than assets representing credit extended to persons not residents of the United States), computed in the manner prescribed in § 213.7(c).

(b) *Credit extended to United States residents.* A member bank having one or more foreign branches shall maintain with the Reserve Bank of its district, as a reserve against its foreign branch deposits, a balance equal to one per cent of the credit outstanding from such branches to United States residents[7] (other than assets acquired and net balances due from its domestic offices), computed in the manner prescribed in § 213.7(c); *Provided,* That this paragraph does not apply to credit extended (1) in the aggregate amount of $100,000 or less to any United States resident, (2) by a foreign branch which at no time during the computation period had credit outstanding to United States residents exceeding $1 million, (3) to enable the borrower to comply with the requirements of the Office of Foreign Direct Investments, Department of Commerce,[8] (4) under binding commitments entered into before May 17, 1973, or (5) to an institution that will be maintaining reserves on such credit under § 204.5(c) of Regulation D or § 211.7(c) of Regulation K or to a foreign-owned banking institution that will voluntarily be maintaining member bank reserves on such credit.

(c) *Computation of reserves; transition provisions.* During the week beginning January 26, 1978, and during each successive week ("maintenance weeks"), a member bank shall maintain with the Reserve Bank of its district a daily average balance to satisfy the reserve requirements of §§ 204.5(c) and 213.7 (a) and (b). This balance shall equal the reserve percentage specified in those sections applied to the daily average total of the deposits and other items to which the percentage pertains computed during the week ending the Wednesday eight days before the beginning of the maintenance week. During the four-week period beginning January 26, 1978, a member bank shall also maintain with the Reserve Bank of its district a daily average balance equal to the reserve percentage specified in those sections applied to the daily average total of the deposits and other items to which the percentage pertains computed during the four-week period beginning December 15, 1977.

By order of the Board of Governors of the Federal Reserve System, November 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-32775 Filed 11-10-77;8:45 am]

[7] Any banking office located outside the States of the United States and the District of Columbia of a bank organized under domestic or foreign law.

[8] The term "computation period" in § 204.3 (a) (3) and (b) shall, for this purpose, be deemed to refer to each maintenance week specified in § 213.7(c).

[7] (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

[8] The branch may in good faith rely on the borrower's certification that the funds will be so used.

[4110–03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 146]

[Docket No. 76P–0181]

ORANGE JUICE WITH PRESERVATIVE AND CONCENTRATED ORANGE JUICE WITH PRESERVATIVE

Proposed Amendment to Standards of Identity

AGENCY: Food and Drug Administration, HEW.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend the standards of identity for orange juice with preservative and concentrated orange juice with preservative to provide for the optional use of "safe and suitable" preservatives or combinations thereof. The proposal is based on a petition filed by the American Hoechst Corp.

DATES: Comments by January 9, 1978.

Proposed effective date July 1, 1979. The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979 shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

ADDRESS: Written comments, data, or information are to be sent to the Hearing Clerk (HFC–20), Food and Drug Administration, room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF–402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–245–1231.

SUPPLEMENTARY INFORMATION:

GROUNDS GIVEN IN SUPPORT OF PETITION

1. Sections 146.152 and 146.154 (21 CFR 146.152 and 146.154) provide for the use of only sodium benzoate or sorbic acid in an amount not exceeding 0.2 percent by weight. Sorbic acid is not readily water soluble, whereas its sodium and potassium salts are. Consequently, permitting the use of the sorbate salts could provide for the use of essentially the same preservative in a more usable form.

2. Sodium benzoate is affirmed as GRAS in § 184.1733 (21 CFR 184.1733),

but is restricted to a level of concentration not to exceed 0.1 percent in foods prepared for direct consumption. Sections 146.152 and 146.154 permit the use of sodium benzoate at levels up to 0.2 percent. But it has been found that quantities of sodium benzoate above 0.1 percent tend to impart a harsh off-flavor and mouth burn. These larger quantities are not only objectionable to the taste, but make the orange juice appear to be bitter and of lower quality. The restriction of the concentration of sodium benzoate to that permitted by § 184.1733 and to the technologically useful maximum would be accomplished by the proposed amendment.

3. Sodium benzoate and sorbate salts are often combined and are used in nonstandardized food products. These combinations have been reported to be more effective than the same amount of either component alone and will permit economy of use because the sorbate alone is more expensive than the benzoate. Such combinations have been used in beverage bases, bakery fillings, and certain ice cream specialties.

4. Advancing technology can be expected to lead to the development of still other effective and safe preservatives for these products. It would appear desirable that the standard of identity should provide for the use of such new and improved materials without the need to further amend the standard. This can be accomplished by amending the present standards so as to permit the use of "safe and suitable" preservatives.

AMERICAN HOECHST CORP. PROPOSED AMENDMENT

1. To provide for the optional use of "safe and suitable" preservatives or combinations thereof.

2. To delete the provision that permits sodium benzoate to be used in a quantity at levels up to 0.2 percent.

3. To provide for the definition of a "safe" ingredient.

4. To provide for the label statement "_____added as a preservative," the blank to be filled in with the name of the preservative used.

5. To delete the requirement to declare the percent-by-weight of the preservative used.

COMMISSIONER'S COMMENTS AND PROPOSED CHANGES

1. The petitioner proposes to define when an optional ingredient is safe. The Commissioner is of the opinion that the term "safe" together with the word "suitable" is already adequately defined in § 130.3(d) (21 CFR 130.3(d)) for the purposes relevant to the proposed use of preservatives in §§ 146.152 and 146.154. Section 130.3(d) defines a "safe and suitable" ingredient as one that performs an appropriate function in the food in which it is used, is used at a level no higher than necessary to achieve its intended purpose in that food, and is not a food additive as defined in section 201 (s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)), or is a food additive as so defined and is used in conformity with regulations pursuant to section 409 of the act (21 U.S.C. 348). Therefore, the Commissioner proposes not to include the definition of a "safe" ingredient in paragraph (b) of either §§ 146.152 or 146.154, but merely proposes the use of the term "safe and suitable." Although the petitioner stated that the "safe and suitable" proposed amendment would result in restricting the use of sodium benzoate to the 0.1 percent level specified in § 184.1733, the Commissioner points out that this may be a misunderstanding by the petitioner. The tolerances set out in the GRAS regulations apply only to foods consumed as such. Consequently, since the two subject foods are prepared and intended only for remanufacturing purposes and not for direct human consumption, the 0.1 percent tolerance would not apply to them, but would apply instead to the consumer food prepared from them, and therefore the proposed change is unnecessary. It should be noted that the 0.1 percent level of sodium benzoate permitted in foods for direct human consumption does not impart a harsh off-flavor and mouth burn. Processors should fully understand that the level of preservatives used in the two subject foods should be no higher than necessary to achieve the intended purpose, which for sodium benzoate is considered by the Commissioner to be no higher than 0.2 percent by weight. Processors should also be aware that 21 CFR 184.1(d) states that the use of a combination of two or more ingredients to accomplish the same technological effect in any one food at a combined level greater than the highest level permitted for one of the ingredients is not authorized.

2. One of the grounds given in support of the proposed amendment was that it would provide for the use of sorbate salts (sodium and potassium), essentially the same preservatives as sorbic acid but in a more usable form. The Commissioner advises that reports resulting from the agency's GRAS review indicate that sodium sorbate is unstable. Consequently, it is anticipated that some action dealing with the GRAS status of sorbate salts in foods will appear in the FEDERAL REGISTER in the near future.

3. Both §§ 146.152 and 146.154 require manufacturers to declare on the label the name and percent-by-weight of the preservative used. The petitioner proposed that the preservative be declared on the label by the statement, "_____ added as a preservative", the blank to be filled in with the name of the preservative used. The Commissioner is of the opinion that since § 101.22(j) (21 CFR 101.22(j)) sets forth the requirement that a preservative shall be declared on the label by its common or usual name and its function, it is not necessary that the statement proposed by the petitioner for declaring the preservative on the label be specifically stated in either standard.

The petition did not provide for the label declaration of the percent-by-weight of the preservative used. The existing regulation requires this declaration, based on testimony given at a hearing on orange juice products in 1961 that indicated that such percentage declaration was the practice of industry at the time. Although the petitioner did not state any reasons for the deletion, the Commissioner believes that it is appropriate in most circumstances to delete this requirement. A declaration of the percent-by-weight of preservatives is not ordinarily required in comparable products. A label declaration of the percent-by-weight of the preservative will be required, however, when the preservative is used at a level higher than that provided for in the applicable food additive regulations in a food intended for remanufacturing. In these circumstances, the label shall bear the following information: (1) a declaration of the percent-by-weight of the preservative used; (2) a statement that the food may be used only for further manufacturing; and; (3) a statement that the food in which it is used shall contain a level of the preservatives no higher than that provided for in the applicable food additive regulations.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1 (d)(4)), that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e) 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 146 be amended as follows:

1. By revising paragraphs (b) and (d) of § 146.152, to read as follows:

§ 146.152 Orange juice with preservative.

* * * * *

(b) The preservatives referred to in paragraph (a) of this section are any safe and suitable preservatives or combinations thereof.

* * * * *

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this subchapter. However, if a preservative is used at a level higher than provided for in the applicable sections of Parts 182 and 184 of this chapter, the label shall bear the following information:

(1) A declaration of the percent-by-weight of the preservative used;

(2) A statement that this food may be used only for further manufacturing; and

(3) A statement that the food in which it is used shall contain a level of the preservatives no higher than that

provided for in the applicable sections of Parts 182 and 184 of this chapter.

* * * * *

2. By revising paragraphs (b) and (d) of § 146.154, to read as follows:

§ 146.154 Concentrated orange juice with preservative.

* * * * *

(b) The preservatives referred to in paragraph (a) of this section are any safe and suitable preservatives or combinations thereof.

* * * * *

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter. However, if a preservative is used at a level higher than that provided for in the applicable sections of Parts 182 and 184 of this chapter, the label shall bear the following information:

(1) A declaration of the percent-by-weight of the preservative used;

(2) A statement that this food may be used only for further manufacturing; and

(3) A statement that the food in which it is used shall contain a level of the preservatives no higher than that provided for in the applicable sections of Parts 182 and 184 of this chapter.

* * * * *

Interested persons may, on or before January 9, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug 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. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 2, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-32687 Filed 11-10-77;8:45 am]

[4110-03]

[21 CFR Parts 182, 184, 186]

[Docket No. 77N-0232]

GELATIN

Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

AGENCY: Food and Drug Administration, HEW.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of gelatin as a direct and indirect human food ingredient. The safety of this ingredient has been evaluated pursuant to a comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct and indirect food substance affirmed as GRAS.

DATE: COMMENTS by January 9, 1978.

ADDRESSES: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: A comprehensive safety review of human food ingredients classified as generally recognized as safe (GRAS), or subject to a prior sanction is being conducted by the Food and Drug Administration. The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review. Pursuant to this review, the safety of gelatin has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of this ingredient.

Gelatin does not occur in nature, as such, but is derived by hydrolysis of collagen, the chief protein component in connective tissues of the animal body. Extraction of gelatin for use as a glue by cooking hides dates back to the earliest recorded history of man and appears in the literature up to the present day. During the early years it was manfactured on a large scale in an attempt to alleviate food shortages. Gelatin was first manufactured in the U.S. in 1809. In 1845 a United States patent was granted for gelatin dessert that contained all the ingredients making it fit for table use, and required only the addition of hot water and subsequent cooling to prepare it for serving.

Although collagen occurs throughout all the tissues and organs of the body, it is concentrated in the skin, the bone of the skeletal system and the tendons attaching muscles to the skeleton. Chemically, collagen and gelatin are virtually indistinguishable, but the process of collagen extraction results in converting the fibrous, water-insoluble, highly organized macromolecules (tropocollagens) irreversibly into a gelatin that has dissimilar physical characteristics. Variations in geletin properties due to scource and treatment make it a highly diverse heterogenous substance, particularly with regard to molecular weight.

The major sources of collagen are cattle hides, pig skins, and bones. The resulting gelatin is of two types commonly designated A and B, depending upon which of two processes are used to convert the collagen into gelatin. Type A gelatin is derived primarily from pig skin by acid processing; type B is derived from cattle hides and bones by alkaline or lime processing. Gelatin from different sources, and as prepared by the different processes, exhibits small differences in amino acid composition. The nutritionally essential amino acid, tryptophan, is absent in gelatin. Gelatin also is unusual in that it contains large proportions of glycine, proline and hydroxyproline, and a small percentage of hydroxylysine, an amino acid which is rare in proteins.

The major use of gelatin in the U.S. is in food products, principally in gelatin desserts, meat products, consummes, marshmallows, candies, bakery and dairy products, including ice cream. It was recognized as GRAS as a direct human food ingredient in hearings before the Subcommittee of the Committee on Interstate and Foreign Commerce of the 85th Congress. Gelatin is listed in § 182.70 (21 CFR 182.70) as GRAS for use in cotton and cotton fabric food packaging materials, pursuant to regulations published in the FEDERAL REGISTER of June 10, 1961 (26 CFR 5224). It is also listed in Chapter I of Title 27 of the Code of Federal Regulations in § 240.1051 (27 CFR 240.1051) for use in clarifying wine. In § 103.29 (21 CFR 103.29) standards of quality are prescribe for gelatin as a food. Additionally, opinion letters were issued for the use of gelatin in chewing gum base, dietary supplements, and for the encapsulation of food.

A representative cross section of food manufacturers was surveyed to determine the specific foods in which gelatin was used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this ingredient. In 1972 about 44.2 million pounds of edible gelatin were produced or imported, primarily for food use in the U.S.

Gelatin has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 775 abstracts on gelatin was reviewed and 38 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Nixon and Mawer reported the results of experiments in which six human volunteers were fed test meals containing milk protein or gelatin as the protein source. Intestinal contents were collected at various levels along the tract to study the distribution of the peptides and amino acids. Free amino acid concentrations in small intestinal contents in collections made 3 hours after ingestion were lower for the gelatin test meal as compared to the milk-protein meal. For both meals arginine, lysine, tyrosine, valine phenylalanine, methionine and leucine appeared to be absorbed as the free amino acid. Glycine, threonine, serine, the imino acids, and dicarboxylic amino acids were released from the peptide form at very slow rates in the intestinal lumen and were not indicated to be absorbed as the free amino acids.

Mason and Palmer determined the absorption and retention of gelatin in studies on the relative nutritional values of gelatin, casein and zein in the maintenance of adult rats. After feeding a nitrogen-free diet, 0.4 g (1 g per kg body weight) of each of the three proteins was added to the daily ration. Feces and urine were collected and analyzed for excreted nitrogen. Additional test protein was added to the diet in quantities required for nitrogen balance. After several days the animals were returned to the nitrogen-free diet and the excreted nitrogen was again determined. Zein was irregularly or poorly digested. Digestion and absorption of gelatin was complete, although it was poorly utilized and had a retention of only 23 percent as compared to casein, 74 percent, and zein, 57 percent.

That storage of creatinine and creatine might occur after ingestion and absorption of gelatin was indicated to Dill and Horvath who studied four human subjects given 60 g of gelatin daily for a 40–50 day period as supplements to their usual diets. They noted that creatine excretion increased in two subjects but the average creatinine excretion was not changed. Creatine and creatinine excretion did increase after the diet period was terminated, suggesting storage. Hueckel and Rogers fed diets containing gelatin, free amino acids or their mixtures to five animal species including man. Urinalyses for free and peptide-bound amino acids were made. Four adult male human subjects given orally 30 g of gelatin showed significant increases in urinary peptide-bound proline and hydroxyproline and free hydroxylysine as compared to a casein control diet. No changes in free proline or hydroxyproline excretion were observed.

Hoffman and Kozoil studied the urinary excretion of intravenous doses of 1,000 ml of 5 percent osseous gelatin administered to 42 normal human male subjects. Three gelatins of weight-average molecular weights 37,000, 47,000 and 58,000 were used. Six hours after injection the amount of gelatin excreted was determined to be inversely related to the molecular weight. After 72 hours, 80 percent of all three gelatins had been excreted, although some excretion was still observable after four or five days; the authors concluded that little gelatin appeared to have been catabolized. No adverse effects were reported.

There are no acute toxicity studies reported. However, much research on the nutritional value of gelatin has shown that high concentrations in the diet retarded growth and produced fatalities unless the inadequacies in amino acids were balanced through other sources. For example, Jackson et al. fed 26 rats weighing 78 to 114 g, a diet containing 35 percent gelatin (35 g per kg body weight) supplemented with tyrosine (0.9 percent), cystine (0.5 percent), and tryptophan (0.35 percent). Half of the animals died within 9 to 48 days, since as is now known, the diet was inadequate in threonine and methionine and even other amino acids.

MacKay and MacKay studied the relationship of level of protein intake and kidney weights in male albino rats fed various proteins from 26 to 70 days of age. They found that rats on diets containing 30 to 50 percent gelatin in combination with 16 percent casein grew poorly, but showed significant increases in kidney size; histologically, the kidneys appeared normal. Although the authors inferred that enlargement represented an early state of renal damage owing to the feeding of gelatin it is likely that enlargement was due to the need to excrete large amounts of amino acid nitrogen from the feeding of a large quantity of a poor quality protein rather than to a direct nephrotic effect of gelatin.

Reports in the literature over the past half-century attest to the inadequacies of dietary gelatin as a nutritional protein source. A wide variety of diets received attention: gelatin alone, gelatin plus amino acid supplements, and gelatin supplemented with various other proteins.

Diets containing casein or gelatin were studied by Ramakrishnan; 80 g rats fed 20 percent casein for 25–28 days grew satisfactorily, while those fed 16.5 percent gelatin (about 15 g per kg of body weight) for 20–25 days lost 20 g in weight and suffered from inanition. Liver xanthine oxidase determination showed 70 percent less activity in the gelatin fed rats than those fed the isonitrogenous casein diet. Methionine supplements (532 mg percent DL-methionine) in the gelatin diet doubled the xanthine oxidase activity, but did not affect the depressed growth rate.

Nilson and Lemon fed 4-week-old rats basal diets containing 15 percent casein, 5 percent lactalbumin, 5 percent brewers yeast, and 2 percent wheat germ. Five to 30 percent gelatin, bone or pig skin, was incorporated in the basal diet retaining approximately enough casein and lactalbumin to balance the amino acid deficiencies of gelatin. Mean daily growth rates were determined for a 10-week feeding period. Growth depression was noted on all diets which contained gelatin and was approximately proportional to the gelatin level. Growth depression was 17 percent at 5 percent gelatin in the diet and 75 percent at the 30 percent level. No difference was observed between bone and pig skin gelatins. The group of rats fed the control diet and the combined groups which had previously been fed the 5 and 10 percent levels of gelatin were fed the 5 percent gelatin diet for over two years. Deaths were finally due to pneumonia and malignant tumors. The authors did not retain animals on a control diet and gave no information on the incidence of malignancies.

Ricceri, noting that diets deficient in one or more essential amino acids result in lowered allantoin excretion regardless of which particular amino acid is missing, studied the purine metabolism of rats given diets deficient in essential amino acids. Male adult albino rates were pair-fed a diet containing 18 percent casein as a control; the casein was replaced by gelatin during a deficiency period and when the felatin diet was supplemented with essential amino acids. Comparisons were drawn by analysis of the urine for allantoin as well as uric acid, total nitrogen and creatinine. Four-stage diets were utilized: casein alone for a period, then gelatin alone, then gelatin plus tryptophan, cystine, and a mixture of leucine, isoleucine, methionine and hyrosine added in that order, and finally casein alone. Each amino acid was added in such quantity that it amounted to 5 percent of the protein content of the diet. Total feeding period for each of 2 pairs of rats was 62 days. Analytical results for allantoin, uric acid and creatinine for each of the four stages followed similar patterns; first a normal value, then a marked decrease in values followed by a slow increase to normal which was only attained after the addition of all of the amino acids, and in the final stage, a continuation of normal values on the casein diet.

Except for studies of Nilson and Lemon reported above, no long-term feeding studies have been found on gelatn. As indicated above, unless supplemented with the amino acids in which it is deficient, gelation will not sustain life.

Maurer injected human volunteers with gelatin and oxypolygelatin and showed not only antibody production but also the presence of antibodies in the preimmunization sera. Ratner and Crawford using guinea pigs performed anaphylactic studies on comminuted crude bovine ossein, crude gelatin prepared from the crude ossein, commercial food grade gelatin, and intravenous grade bone gelatin, and concluded they were nonanaphylactogenic. Randolph reported observing allergic signs in human patients who were sensitive to beef. Ingestion of osseous gelatin by these patients produced severe reactions in three of four tested; the fourth showed no reaction, as did four patients who were not beef-protein sensitive. The signs were nasal stuffiness, nausea, diarrhea, tinnitus and cramps. The same patients showed no reactions when tested with commercial porcine gelatin. Mendez and Hughes reported on a female patient who suffered from urticaria and angioneurotic edema after ingesting boiled and stewed meats or gravies made from meat stock as well as ice cream and jellies. Extracts from gelatin and food containing gelatin all produced positive allergic reactions. Desensitization with gelatin caused the clinical allergic signs to disappear. Circulating antibodies were present in the patients' serum. Among 1,000 allergic individuals tested about 1 in 150 gave positive skin reactions to gelatin and only 1 in 500 showed a clinical sensitivity, leading the authors to conclude that gelatin was a rare allergen in man.

Pietra et al. injected 3 groups of Swiss albino mice with 1 percent gelatin solution: 17 newborn wtih 0.02 ml subcutaneously; 20 newborn with 0.02 ml intraperitoneally and 15 eight-week-old mice with 0.45 ml subcutaneously. Incidence of tumors did not differ from that in control animals. Flaks injected subcutaneously in the interscapular region Strong A and C57B1 mice, 3 groups of each strain, 50 per group—newborn, 7-day and 14-day-old—with 15 mcl of 3 percent aqueous gelatin solution. At 52 weeks incidence of tumors did not differ significantly from untreated control animals. Similarly, Roe et al. found no difference at 36–43 weeks after injection in the incidence of tumors in BALB/C mice between 49 untreated controls and 28 that were injected, newborn, subcutaneously in the interscapular region, with 0.02 ml of 1 percent aqueous gelatin solution.

Teratogenicity, mutagenicity and drug interaction data were lacking in the material available to the committee for consideration.

All the available safety information on gelatin has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Gelatin is a hydrolyzate of naturally occurring collagen, an ingredient of commonly consumed foods of animal origin. It has been used for over 125 years as an ingredient in the manufacture of various foodstuffs.

There is no documented evidence of a deleterious nature to humans from the ingestion of gelatin, other than a rare allergic response, when the diet has provided an adequate amount of the amino acids in which gelatin is deficient. It completely lacks the essential amino acid tryptophan and is deficient in several others, and thus is of low nutritive value. Gelatin is used in various pharmaceutical formulations. The incidence of tumors in experimental animals (mice) injected subcutaneously with gelatin in various strength solutions did not differ from that in untreated control animals.

No significant adverse findings other than rare hypersensitivity have been found in the examination of data from feeding and biochemical experiments. Thus, there is no evidence to demonstrate a hazard to the public at the level gelatin is consumed as a food or a food ingredient.

It is the conclusion of the Select Committee that there is no evidence in the available information on gelatin that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on gelatin, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of gelatin is justified.

However, in consideration of the sources of gelatin and the probability that the animal hides or skins, the principal raw materials, may have been treated with potentially dangerous substances, the Commissioner believes that specific requirements must be applied to the production of food-grade gelatin. For example, it was reported that pentachlorophenol, a preservative, is added to pork and cattle skin. Pentachlorophenol is known to be associated with, and to condense to form, hexa-, hepta- and octachlorodibenzo-*p*-dioxins (chick-edema factors), which are extremely toxic. It is also possible that waste hides from tanneries could be used to manufacture edible gelatin. Some of the substances used to tan hides are chromium salts, extracts of various plants, synthetic organic substances such as naphthalenesulfonic acids, diaryl sulfones, nitrogen resins (e.g., melamine-formaldehyde condensates), and many others whose anionic character allows them to bind proteins. Consequently, in order to prevent the contamination of gelatin by these substances, the Commissioner is prohibiting the use of animal bones, hides, or skins that have been exposed to pentachlorophenol, and of tannery waste materials, in the manufacture of food-grade gelatin. Additional specifications for gelatin have also been added to proposed § 184.1318(b) (21 CFR 184.1318(b)).

Copies of the scientific literature review on gelatin and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price [1]
Gelatin (scientific literature review).	PB–223–857/AS	A06	$5.50
Gelatin (Select Committee report).	PB–254–527/AS	A02	3.5

[1] Price subject to change.

This proposed action does not affect the present use of gelatin for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 401, 409(d), 701(a), 701(e), 52 Stat. 1046, 1055 as amended, 70 Stat. 919 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 341, 348(d), 371(a), 371(e)) and under the authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the entry for "Gelatin."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1318 to read as follows:

§ 184.1318 Gelatin.

(a) Gelatin (CAS Reg. No. 90000–70–8) is the product obtained by the hydrolysis of collagen (the chief protein component in connective tissues of the animal body). The resulting gelatin is of two types, commonly referred to as type A and type B. Type A is produced by acid processing of pig skins, and type B is produced by alkaline or lime processing of cattle hides and bones. The bones, hides, or skins shall not have been exposed to pentachlorophenol, nor consist of tannery waste materials.

(b) Food-grade gelatin shall meet the following specifications:

			Tests	
Protein	(percent)	≥88	AOAC, 11th Ed. (1975) [1]	Sec. 23.006.
Moisture	do	≤12	do	Sec. 23.002.
Ash	do	≤2	do	Sec. 23.003.
Phosphorus	do	≤.4	do	Sec. 23.004.
Arsenic	(parts per million)	≤1	FCC, 2d Ed. (1972) [2]	P. 865.
SO_2	do	≤40	do	P. 964.
Heavy metals (as lead)	do	≤10	do	P. 920.

[1] Copies may be obtained from: Association of Official Analytical Chemists (AOAC), P.O. box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[2] Food Chemicals Codex (FCC). Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW, Washington, D.C. 20037.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, surface-active agent as defined in § 170.3(o)(29) of this chapter, and surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum, level as served of 3.0 percent for baked goods and baking mixes as defined in § 170.3(i)(1) of this chapter, 2.5 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter, 2.5 percent for gelatin, puddings, and fillings as defined in § 170.3(n)(22) of this chapter, 2.5 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter, 3.0 percent for meat products as defined in § 170.3(n)(29) of this chapter, 1.8 percent for poultry products as defined in § 170.3(n)(34) of this chapter, 3.0 percent for soups and soup mixes as defined in § 170.3(n)(40) of this chapter, 1.0 percent for sweet sauces, toppings and sirups as defined in § 170.3(n)(43) of this chapter, and 0.8 percent or less for all other food categories.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 186.1318 to read as follows:

§ 186.1318 Gelatin.

(a) Gelatin (CAS Reg. No. 9000–70–8) is the product obtained by the hydrolysis of collagen (the chief protein component in connective tissues of the animal body). The resulting gelatin is of two types, commonly referred to as type A and type B. Type A is produced by acid processing if pig skins, and type B is primarily produced by alkaline or lime processing of cattle hides and bones. The bones, hides, or skins shall not have been exposed to pentachlorophenol, nor consist of tannery waste materials.

(b) The ingredient meets the specifications for gelatin established in § 184.–1318(b) of this chapter.

(c) The ingredient is used or intended for use as a component of food-packaging materials.

(d) The ingredient is used at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any perosn who intends to assert or rely on such a sanction shall

submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before January 9, 1977, file with the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies) regarding this proposal. Received comments may be seen in the above-named office, between 9 a.m. to 4 p.m., Monday through Friday.

Dated: November 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

NOTE.—Incorporations by reference approved by the Director of the Office of the FEDERAL REGISTER on March 11, 1976 (footnote 1) and July 10, 1973 (footnote 2). Referenced materials are on file in the FEDERAL REGISTER's library.

[FR Doc.77-32686 Filed 11-10-77;8:45 am]

[4110-03]

[21 CFR Part 444]

[Docket No. 77N-0234]

NEOMYCIN PALMITATE-TRYPSIN-CHYMOTRYPSIN CONCENTRATE LOTION

Proposed Revocation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to revoke provisions for certification of a topical product (a lotion) containing neomycin palmitate-trypsin-chymotrypsin concentrate because the product is now regarded as lacking substantial evidence of effectiveness.

DATES: Comments by January 10, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 50020) published in the FEDERAL REGISTER of July 8, 1972 (37 FR 13497), the Commissioner of Food and Drugs announced his conclusion that a topical preparation containing neomycin palmitate and trypsin-chymotrypsin concentrate (Biozyme Ointment) is possibly effective and that additional evidence is required to establish its effectiveness. The drug has been used for treating localized infections or for suppressive therapy in such conditions. Data submitted by the sponsor have been reviewed and found not to support the effectiveness of the drug. The product is now regarded as lacking substantial evidence of effectiveness, and in a regulation appearing elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Drugs is revoking provisions for certification of the drug and providing 30 days for the filing of objections and requests for a hearing.

In addition to the section of the antibiotic drug regulations describing conditions for certification of the above-described preparation, other sections of the regulations provide for other similar or related products for topical use containing proteolytic enzymes in combination with one or more antibiotics. Section 444.540b (21 CFR 444.540b) provides for Biozyme Lotion (neomycin palmitate-trypsin-chymotrypsin concentrate), which was never approved. This is a proposal to revoke that section.

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) and 21 CFR 300.50, 314.111(a)(5) and Part 430 demonstrating the effectiveness of any such combination drug products.

Accordingly, the Director concludes that the antibiotic drug regulations should be amended by revoking provisions for certification or release of such combination antibiotic drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 57 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.1), and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), it is proposed that Part 444 of Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

§ 444.540 [Revoked]

1. By revoking § 444.540 *Neomycin palmitate dermatologic dosage forms.*

§ 444.540b [Revoked]

2. By revoking § 444.540b *Neomycin palmitate-trypsin-chymotrypsin concentrate lotion.*

Interested persons may, on or before January 10, 1978, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug 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. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 1, 1977.

J. RICHARD CROUT, M.D.,
Director, Bureau of Drugs.

[FR Doc.77-32400 Filed 11-10-77;8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 30]

EQUAL EMPLOYMENT IN APPRENTICESHIP PROGRAMS

Extension of Comment Period

AGENCY: Office of the Secretary of Labor.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for filing comments on proposed rulemaking that would amend the Department of Labor's regulations concerning equal employment in apprenticeship programs to include specific provisions requiring affirmative action for women from November 14, 1977 to November 30, 1977.

DATES: Comments by November 30, 1977.

ADDRESSES: Send comments to James P. Mitchell, Deputy Administrator, Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor, Room 5000, Patrick Henry Building, 601 D Street NW., Washington, D.C. Comments received will be available for inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT:

James P. Mitchell, Deputy Administrator, BAT, Room 5000, 601 D Street NW., Washington, D.C. 20213, telephone 202–376–6585.

SUPPLEMENTARY INFORMATION: On September 30, 1977, a document was published in the FEDERAL REGISTER (42 FR 52441) proposing to amend the Department of Labor's regulations concerning equal employment in apprenticeship programs to include specific provisions requiring affirmative action for women.

That proposal allowed a comment period of 45 days or until November 14, 1977.

Since the publication of the document, various requests for the extension of the period provided for the receipt of comments have been received. The importance of the issues addressed in that proposal requires that the Department proceed to final rulemaking as expeditiously as possible. However, the Department also wishes to provide sufficient time for all interested parties to prepare and submit comments.

Therefore, an additional 15 day period is provided and comments will be received on this proposal until November 30, 1977.

Dated: November 4, 1977.

ERNEST G. GREEN,
Assistant Secretary, Employment and Training Administration.

[FR Doc.77-32772 Filed 11-10-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 815-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Oklahoma Regulation 15 and Oxidant Control Strategy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking proposes the approval, in part, of Oklahoma's revised Regulation No. 15 for control of organic emissions (effective date of December 31, 1974) and disapproval of the photochemical oxidant/hydrocarbon control strategy for the Central and Northeastern Oklahoma Intrastate Air Quality Control Regions, as submitted by the Governor on June 16, 1975.

The disapproval of the hydrocarbon control strategy constitutes a formal notice of the inadequacy of the Oklahoma State Implementation Plan to attain the National Ambient Air Quality Standard for photochemical oxidants. Pursuant to Section 110(a)(2)(H)(ii) of the Clean Air Act as amended, the Regional Administrator requests the State to submit a revision to the State Implementation Plan.

The State has received preliminary notice of the inadequacy of the State Implementation Plan to attain and maintain the oxidant standard and has committed a revision of the plan for the two intrastate regions.

DATES: Comments on this proposal must be received on or before December 12, 1977.

ADDRESS: Submit comments to: Air Programs Branch, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Tex. 75270.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Chief, Technical Support Section, Air & Hazardous Materials Division, EPA-Region VI, Dallas, Tex., 75270, 214-749-3837.

BACKGROUND

On June 16, 1975 the State of Oklahoma formally submitted to the Environmental Protection Agency a revised Regulation No. 15, effective December 31, 1974, for control of emissions of non-methane hydrocarbons from stationary sources and a Photochemical Oxidant Control Strategy for the Central and Northeastern Oklahoma Air Quality Control Regions (AQCRs). At that time, a two year extension of time to July 1977 for compliance with the oxidant standard was requested for the Central and Northeastern Oklahoma AQCRs, as allowed under Section 110 of the Clean Air Act, as amended June 1974. With the revised Regulation No. 15, and the extension of compliance time to 1977, the State anticipated that the two AQCRs could attain the oxidant standard as demonstrated in their accompanying control strategy.

Public hearings were held on the revised Regulation No. 15 and on the Oxidant Control Strategy on March 20, 1973 and December 19, 1973 as required in § 51.4 of the CFR.

The State recently acknowledged that the Oxidant Control Strategy is inadequate to attain and maintain the oxidant standard and has committed to revise the plan on the following schedule:

(1) The State shall complete an updated hydrocarbon emission inventory by October 15, 1977.

(2) The State shall determine the degree of hydrocarbon control necessary to attain the oxidant standard and formulate control options by December 15, 1977.

(3) The State shall select control options and emission limitations by February 15, 1978 for consideration by the Oklahoma Air Quality Council.

(4) The State shall conduct public hearings on the proposed hydrocarbon controls by April 15, 1978.

(5) The Oklahoma Air Quality Council shall approve hydrocarbon controls by June 15, 1978.

(6) The State Board of Health shall adopt revised hydrocarbon control regulations by September 15, 1978.

(7) The State shall submit revised hydrocarbon control regulations and a photochemical oxidant control strategy demonstration by November 15, 1978 to the EPA.

REVISION OF REGULATION

Oklahoma Regulation No. 15 as revised December 31, 1974 extended coverage of the regulation to existing hydrocarbon sources in the Central Oklahoma and Tulsa Air Quality Maintenance Areas (AQMA's). The Central Oklahoma AQMA includes Oklahoma County and parts of Canadian and Cleveland Counties. The Tulsa AQMA includes Tulsa County and parts of Rogers, Wagoner, Creek and Osage Counties. Compliance with the revised regulation was required of the existing sources by June 30, 1975. The original Regulation No. 15 adopted January 1972 only regulated hydrocarbon emissions from new sources built after the regulation's effective date.

Additional changes in Regulation No. 15 as adopted in 1974 from the original regulation include:

(1) Revised Regulation No. 15 specifies an efficiency of 85 percent for the vapor recovery systems on storage tanks while the original version did not specify an efficiency.

(2) Revised Regulation No. 15 quantifies allowable emissions from pumps and compressors while the original version did not.

(3) Revised Regulation No. 15 further restricts the use of organic solvents by placing an emission limit in terms of pounds per hour in addition to the existing pounds per day limit. However, the term "organic solvents" is not defined in Regulation 15 or in the definitions of Oklahoma Regulation 3, which is approved as part of the State Implementation Plan (SIP). Unless the definition is part of an approved regulation in the SIP, Section 15.3, entitled Organic Solvents, is unenforceable under the SIP.

Subsection 15.33 of the revised regulation places an emission limit on the use of non-photochemically reactive solvents. However, subsection 15.36b exempts certain non-reactive solvents from subsection 15.33. Recent re-evaluation of smog chamber studies has indicated that given enough time nearly all non-methane organic compounds will react in the photochemical oxidant process. The EPA's policy is, therefore, to require control of all non-methane organic compounds. Subsection 15.36b is inconsistent with this policy.

(4) Revised Regulation No. 15, subsection 15.27c exempts "agricultural purposes" from all provisions for hydrocarbon control. The 1972 regulation did not exempt such sources. The State did not provide the EPA with justification for relaxation of the regulation or with an analysis of the air quality impact of exempting previously controlled sources. The EPA cannot approve relaxation of an approved SIP regulation without such an analysis. Thus, subsection 15.27c is proposed to be disapproved.

HYDROCARBON CONTROL STRATEGY

At the time of submittal, Oklahoma's most recent, validated ozone concentration data for Oklahoma City and Tulsa was from 1971. Based on 1971 air quality data, the State mathematically demonstrated that the oxidant standard would be attained by 1977 in Oklahoma City and Tulsa with the hydrocarbon reductions possible from revised Regulation No. 15 and implementation of the Federal Motor Vehicle Control Program.

However, more recent air quality data has shown an increase in oxidant concentrations in Oklahoma City and Tulsa. The control strategy for hydrocarbons is, therefore, inadequate to attain the oxidant standard and a revision is necessary. The State has committed to revise its hydrocarbon control regulation and control strategy analysis by the end of year 1978.

PROPOSED ACTION

The EPA proposes to approve Oklahoma's revised Regulation No. 15 as submitted by the Governor on June 16, 1975, with the exception of subsection 15.27c and Section 15.3. The EPA proposes to disapprove the hydrocarbon control strategy for attainment and maintenance of the photochemical oxident standard.

The EPA cannot approve the two year extension of time from July 1975 to July 1977 for compliance with the photochemical oxidant standard as requested by the State. Under Section 110(e) of the Clean Air Act, as amended June 1974, the Administrator can only grant such extension if the State has considered and applied as part of its plan reasonably available alternative means of attaining such primary standard. The State did not demonstrate that it had considered any alternative means of obtaining compliance after delay of the Federal Motor Vehicle Control Program requirements.

The State adoption procedures met all requirements of CFR Part 51 including § 51.4, the requirement for adequate public participation. Therefore, the EPA does not plan to conduct further hearings regarding revisions to Oklahoma Regulation No. 15 or the hydrocarbon/oxidant control strategy. Interested persons may still participate in this rulemaking, however, by submitting written comments to the address shown above.

Relevant comments submitted within 30 days of this notice will be considered. The material submitted by the State of Oklahoma is available for inspection during normal business hours at the EPA office in Dallas and also at the following offices:

Environmental Protection Agency, Public Information Reference Unit, room 2932, EPA Library, 401 M Street SW., Washington, D.C. 20460.

Oklahoma State Department of Health, Northeast 10th Street & Stonewall, Oklahoma City, Okla. 73105.

This notice is issued under authority of Section 110(a) of the Clean Air Act, as amended, 42 USC 1857c-5(a).

Dated: October 21, 1977.

ADLENE HARRISON,
Regional Administrator,
Environmental Protection Agency.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

SUBPART LL—OKLAHOMA

1. In § 52.1920, paragraph (c) is amended by adding paragraph (11) as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(11) Revisions of Oklahoma Regulation No. 15 for control of emissions of organic materials were adopted (effective date) December 31, 1974, and submitted by the Governor on June 16, 1975.

2. Subpart LL is amended by adding § 52.1932 as follows:

§ 52.1932 Control strategy: photochemical oxidants.

(a) The requirements of § 51.14(a) of this chapter are not met since the plan submitted by the State does not provide the degree of hydrocarbon emission reduction necessary to attain, as expeditiously as practicable, and maintain the national standards for photochemical oxidants (hydrocarbons) in the Central Oklahoma and Northeastern Oklahoma Intrastate Regions.

(b) Subsection 15.27c of Revised Regulations 15 (effective date of December 31, 1974) is disapproved.

(c) Section 15.3 of Revised Regulation 15 (effective date of December 31, 1974) is disapproved.

[FR Doc.-77-32688 Filed 11-10-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21461; RM-2950]

FM BROADCAST STATION IN WARSAW, MISSOURI

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first FM channel to Warsaw, Missouri. Petitioner, Valkyrie Broadcasting, Inc., states that the proposed station would provide a first local aural broadcast service in the community.

DATES: Comments must be received on or before December 16, 1977, and reply comments on or before January 5, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Section 73.202(b) Table of Assignments, FM Broadcast Stations. (Warsaw, Mo.) (Docket No. 21461, RM-2950).

Adopted: November 1, 1977.

Released: November 4, 1977.

1. *Petitioner, Proposal, Comments:*

(a) Petition for rule making,[1] filed August 23, 1977, by the Valkyrie Broadcasting, Inc. ("petitioner"), proposing the assignment of Channel 249A to Warsaw, Missouri, as a first FM assignment to that community. There were no responses to the petition.

(b) The channel could be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that it will file an application for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Warsaw, seat of Benton County, is located approximately 53 kilometers (33 miles) south of Sedalia, Missouri.

(b) *Population:* Warsaw—1,423; Benton County—9,695.[2]

(c) *Local Broadcast Service:* There is no local aural broadcast service in Warsaw.

3. *Economic Data:* Petitioner states that there has been a 25.9% increase in the population of Warsaw between 1960 and 1970, and that Benton County's population has increased 11% during the same period. We are told that Benton County has a combination of industry, agriculture and other businesses. Petitioner also submitted information with respect to governmental, business and economic activities in order to demonstrate that Warsaw has a need for an FM channel assignment. The community has no daily newspaper. Petitioner states that the proposed station would provide current weather and storm information, a forum for programs dealing with community problems, and a vital advertising outlet for the local business firms.

4. In view of the apparent need for a local broadcast service in Warsaw and Benton County, we believe that consideration of the proposed FM assignment in a rule making proceeding would be in the public interest.

5. Accordingly, It is proposed to amend the FM Table of Assignments, § 73.202 (b) of the Commission's Rules, with regard to Warsaw, Missouri, as follows:

City	Channel No.	
	Present	Proposed
Warsaw, Mo.		249A

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[2] Population figures are taken from the 1970 U.S. Census.

[1] Public Notice of the petition was given on September 13, 1977 (Report No. 1074).

7. Interested parties may file comments on or before December 16, 1977, and reply comments on or before January 5, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (i), and 307(b) of the Communications Act of 1934, as amended, and Section 0. 81(b)(6) of the Commission's rules, It is proposed to amend the FM table of Assignments. Section 73.202 (b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

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

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission Rules.)

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

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

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

[FR Doc.77-32679 Filed 11-10-77;8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21466; RM-2885; RM-2918]

FM BROADCAST STATIONS IN SWAINSBORO AND SOPERTON, GEORGIA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission

ACTION: Notice of Proposed Rule Making.

SUMMARY: FCC proposes three alternative FM channel assignment plans for certain Georgia communities. The first proposal would assign Channels 280A and 269A to Swainsboro and Soperton, Ga., respectively. The second proposal would assign Channel 269A to Swainsboro, Ga. The third proposal would assign Channel 269A to Soperton, Ga. This action could bring both a second FM station to Swainsboro and a first FM station to Soperton or either one of those two possibilities. These proposals result from separate petitions filed by Emanuel County Broadcasters and Center Broadcasting Company.

DATES: Comments must be received on or before December 19, 1977, reply comments must be received on or before January 9, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 4, 1977.

Released: November 10, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Swainsboro and Soperton, Georgia), Docket No. 21466, RM-2885, RM-2918.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration two petitions which propose amending Section 73.202(b) of the Rules, the FM Table of Assignments. The first petition (RM-2885), filed by Emanuel County Broadcasters ("Emanuel"), proposes the assignment of a second FM channel, 269A, to Swainsboro, Ga. The second petition (RM-2918), submitted by Center Broadcasting Company ("Center"), proposes the assignment of the same FM channel as proposed for Swainsboro, 269A, as a first FM channel to Soperton, Ga. Each petitioner has filed a response to the other's request.

2. Since the proposals are mutually exclusive, these two Georgia cities being only 32 kilometers (20 miles) from each other instead of the required 104 kilometers (65 miles), they are being considered jointly. Swainsboro (pop. 7,3215),[1] the seat of Emanuel County (pop. 18,189), is approximately 224 kilometers (140 miles) southeast of Atlanta and 128 kilometers (80 miles) northwest of Savannah. Soperton (pop. 2,596), the seat of Treutlen County (pop. 5,647), is 32 kilometers (20 miles) southwest of Swainsboro.

3. In regard to the Swainsboro proposal (Plan II), petitioner argues that in spite of the city's two aural services, Class A Station -WJAT-FM and daytime-only AM Station WJAT, Swainsboro warrants an additional FM assignmest. Since the AM and FM stations simulcast, Emanuel asserts that another FM station would actually be providing the second rather than the third broadcast voice in the area. Further, petitioner states that Swainsboro has no daily newspaper and only one weekly newspaper. In describing the area, Emanuel indicates that Swainsboro enjoys a mild climate and has experienced a significant increase in population in the last several years. It is said that Swainsboro is the economic center of Emanuel County with approximately twenty-seven manufacturing businesses in the city, many of which are involved in Swainsboro's key industry, the manufacturing of pine chips and lumber. Petitioner also notes that Swainsboro is served by two bus lines, twelve truck lines and one rail line.

4. As to the Soperton proposal (Plan III), its proponent asserts that the city warrants a first FM assignment because daytime-only AM Station WYOK, of which it is the licensee, is Soperton's, as well as Treutlen County's only aural facility. Further, petitioner notes that Soperton has no daily newspaper and only one weekly newspaper. Center further indicates that Soperton has shown a dramatic population growth since 1930, with over a 12 percent increase from 1960 to 1970. It is said that Soperton depends on agriculture, livestock and industry for its livelihood, with five manufacturing plants located in the city. Petitioner also notes that Soperton has an airport and is located on the mainline of the Seaboard Airline Railroad between Macon and Savannah, in addition to being serviced by Southern Trailways Bus Line.

5. In arguing in favor of its proposal and against the Swainsboro proposal, Center states that Soperton is without a nighttime local transmission service whereas Swainsboro already has a full-time FM facility. Further, Center points out that not only does Swainsboro already have a daytime-only AM station, but an application is on file for another daytime-only AM station in that city.[2] In reply to Center's arguments, Emanuel submits that the need for a second FM assignment at Swainsboro is greater than the need for a first FM assignment at Soperton in that Swainsboro's population is almost three times greater than that of Soperton and Emanuel County is four times the size of Treutlen County.

[1] All population figures are taken from the 1970 U.S. Census.

[2] WSJ Radio, Inc., filed an application on February 2, 1976, for an AM station on 1590 kHz in Swainsboro (BP-20223).

Emanuel contends that the Swainsboro assignment would result in service to 30 percent more persons than the Soperton assignment and thus would be a more efficient use of the spectrum. In addition, Emanuel asserts that the Swainsboro proposal would provide its service to persons who are receiving fewer aural services than those that would reside within the 1 mV/m contour of a Soperton assignment. Finally, Emanuel argues that its proposal offers the prospect of greater diversification of control of the media in that it has no other broadcast interests, whereas Center seeks the FM as a companion facility for its existing AM station at Soperton.

6. We believe for the reasons indicated by petitioners that the assignment of an FM channel to both Swainsboro and Soperton merits consideration in a rule making proceeding. Although spacing requirements prohibit the assigning of Channel 269A to both communities, there is another channel, 280A, available for allocation. Channel 280A is the only other available channel for assignment to this area, one which can only be made to Swainsboro. Thus, the following allocation plan (Plan I), assigning Channel 280A to Swainsboro as its second FM allocation and Channel 269A to Soperton as its first FM allocation is proposed for consideration. While this plan is clearly preferable to the other proposals in that each community receives an assignment, it may not be possible to follow it. In such case, a choice will have to be made as to which community receives Channel 269A. Thus, Plan II would assign Channel 269A to Swainsboro with no FM assignment being made to Soperton and Plan III would assign Channel 269A to Soperton with no FM assignment being made to Swainsboro. Proponents of Plans II and III should indicate if they believe that a choice would have to be made because of various site limitations for transmitters operating on Channels 269A and 280A.[3] Additionally, if the site limitation for Channel 280A would appear to cause any significant difficulties in effecting the first proposal, such should be commented upon.

7. When filing comments on this Notice in support of its request for a second Class A FM assignment to Swainsboro, Emanuel should make the required Roanoke Rapids/Anamosa[4] showing as to the area and population that would be given first and second FM and first and second nighttime aural service. Center should submit a preclusion study for the assignment of Channel 280A to Swainsboro.[5] Ordinarily Emanuel would have the responsibility in this regard. However, since Center benefits from the assignment of Channel 280A to Swainsboro, in that Channel 269A is then available for assignment to Soperton, the preclusion study will be required of Center.

8. Since we believe it is appropriate to explore the assignment possibilities described above in a rule making proceeding, we propose to consider the following plans as revisions in the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
PLAN I		
Swainsboro, Ga.	252A	[1] 252A, 280A
Soperton, Ga.		[2] 269A
PLAN II		
Swainsboro, Ga.	252A	[3] 252A 269A
Soperton, Ga.		
PLAN III		
Swainsboro, Ga.	252A	252A
Soperton, Ga.		[2] 269A

[1] Site must be located 3.2 kms (2 mi) west of Swainsboro.
[2] Site must be located 4.8 kms (3 mi) notrheast of Soperton.
[3] Site must be located 6.4 kms (4 mi) south of Swainsboro.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

10. Interested parties may file comments on or before December 19, 1977, and reply, comments on or before January 9, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules. It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

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

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comment. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

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

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

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

[FR Doc.77-32754 Filed 11-10-77;8:45 am]

[3] The transmitter site for Channel 269A must be located 6.4 kilometers (4 miles) south of Swainsboro if the assignment is made to that city, or located 4.8 kilometers (3 miles) northeast of Soperton if the assignment is made to that city. As to Channel 280A, a transmitter must be located 3.2 kilometers (2 miles) west of Swainsboro.

[4] Roanoke Rapids, 9 F.C.C. 2d 672 (1967); and Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974).

[5] A preclusion study is not required for the proposal to assign Channel 269A to Soperton as this is a request for a first Class A FM assignment. As to assigning Channel 269A to Swainsboro, Emanuel indicated in its petition that, with the exception of Soperton, only communities of less than 1,000 population would be precluded from co-channel assignments.

[6712-01]

[47 CFR Part 81]

[Docket No. 21465; RM-2880; FCC 77-759]

STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Permitting Limited Coast Station Licensees Who Service Ship Stations To Use, for Brief Ship Radio Station Checks, Any Frequency Authorized To Be Used by the Ship Station Being Serviced

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: An amendment of the rules is proposed to permit limited coast station licensees who service ship radio stations to use any frequency authorized to be used by the ship station being serviced for ship station receiver tests. This action was requested by Beacon Marine Corporation. Improved testing of ship station receivers is expected to result.

DATES: Comments must be received on or before December 19, 1977, and reply comments must be received on or before December 29, 1977.

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

FOR FURTHER INFORMATION CONTACT:

R. H. McNamara, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 81 of the rules to permit limited coast station licensees who service ship radio stations to use, for brief ship radio station checks, any frequency authorized to be used by the ship station being serviced (Docket No. 21465, RM–2880).

Adopted: November 1, 1977.

Released: November 8, 1977.

1. Notice of Proposed Rule Making is hereby given.

2. Beacon Marine Corporation (hereinafter Beacon) has requested that the Commission amend Part 81 of its Rules and Regulations to permit limited coast station licensees who service and maintain ship radio stations to make brief tests on any frequency authorized to be used by the ship station being serviced, provided "off the air signals" are not available for such tests. Beacon notes that although the rules allow the subject limited coast stations to utilize certain VHF frequencies for radio checks, no such use of intership, public correspondence and HF channels is authorized. Beacon submits that ship radio receivers can develop problems during installation despite complete checks in a maintenance shop and, therefore, a final check after installation is desirable. Under the present regulations a final receiver test can only be accomplished on VHF frequencies available for assignment to limited coast stations and frequencies utilized by other stations in the maritime services which can be received in the local area at the time the equipment is serviced. Beacon concludes that amending the rules as requested would permit more complete testing on frequencies ship stations will or may require in other locations.

3. The Commission adopted Rule 81.355(d) authorizing limited coast station licensees who service and maintain ship radio stations to use any VHF frequency available for assignment to limited coast stations for ship station radio checks, as part of a proceeding involving the general classification of the conditions for assignment and use of working frequencies by coast stations in the maritime mobile services. The rationale for the referenced rule, as indicated, in the NPRM in Docket No. 19360 (FCC 71–1232), was that Class III limited coast stations would need to operate from time to time on each assignable frequency to conduct radio tests in response to requests from ship stations. It appears that a similar need may exist for the subject limited coast stations to conduct tests, in response to requests from ship stations, on other frequencies available to ship stations. It further appears that such a provision would not cause undue congestion or interference problems in light of the continued requirements for full compliance with the testing procedures of Section 83.365 of the rules and coordination of tests on an assigned coast station working frequency.

4. Accordingly, we propose to amend Section 81.355(d) to permit limited coast station licensees who service and maintain ship radio stations to utilize any frequency authorized to be used by the ship stations being serviced for brief ship radio station checks, provided that arrangements for the check are made on an assigned coast station working frequency, and the check is made in full compliance with the testing provisions of Section 83.365 of the rules.

5. The proposed amendment to the Commission's rules, as set forth in the attached Appendix, is issued pursuant to the authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before December 19, 1977, and reply comments on or before December 29, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is proposed amended as follows:

Section 81.355(d) is amended to read as follows:

§ 81.355 Nature of service.

* * * * *

(d) Limited coast station licensees who service and maintain ship radio stations may use, for brief ship radio station checks, any frequency authorized to be used by ship stations being serviced, provided (1) that arrangements for the check are made on an assigned limited coast station working frequency and (2) that the check is made in full compliance with the testing provisions of § 83.365 of the rules.

[FR Doc.77–32677 Filed 11–10–77;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.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

BOIS d'ARC BAYOU WATERSHED, ARK.

Intent to Prepare an Environmental Impact Statement

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 being prepared for the Bois d'Arc Bayou Watershed, Little River County, Ark.

The project concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include land treatment, 7.6 miles of main and lateral ditches with appurtenances, and one water level control structure.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Maurice J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, P.O. Box 2323, Little Rock, Ark. 72203.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: November 1, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

[FR Doc.77-32705 Filed 11-10-77;8:45 am]

[3410-16]

RUSH CREEK WATERSHED, TEX.

Intent Not to Prepare an Environmental Impact Statement

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 the remaining project measures in the Rush Creek Watershed, Comanche, Eastland, and Brown Counties, Texas.

The environmental impact appraisal of this Federal action indicates that implementation of the remaining project measures will not create significant adverse local, regional, or national impacts on the environment and no significant controversy is associated with the project. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The completed project measures concern the establishment of land treatment which contribute directly to watershed protection and flood prevention and the reduction of 70 to 75 percent in average annual flood damages through installation of structural works of improvement to supplement land treatment in the watershed. The remaining project measures included in this notice are the installation of five floodwater retarding structures (No. 1, No. 2, No. 3, No. 6, and No. 8) and the application of land treatment measures on 50 acres of cropland and 6,700 acres of rangeland.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Council on Environmental Quality. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, W. R. Poage, Federal Building, 101 South Main Street, Temple, Tex. 76501. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposed actions will be taken until December 12, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: November 1, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

[FR Doc.77-32706 Filed 11-10-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 23629; Agreement CAB 26937; Order 77-10-80]

AIRPORT SECURITY COUNCIL

Order Approving Agreement

Correction

In FR Doc. 77-31291 appearing at page 56763 in the issue for Friday, October 28, 1977, the Order number was omitted from the heading and should have read as set forth above.

[6320-01]

[Order 77-11-6; Docket 29123; Agreement C.A.B. 26422; Agreement C.A.B. 26914; Agreement C.A.B. 26933; Docket 30332; Agreement C.A.B. 26899; R-1 through R-5; Agreement C.A.B. 26915; R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority November 2, 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 Traffic Conferences of the International Air Transport Association (IATA).

Agreements CAB 26899 and 26915 would amend currency adjustment resolution for cargo rates to provide that from January 1, 1978, calculations in U.S. cents will be carried out to one decimal place, and further decimal places will be disregarded. Currently, under IATA resolutions as conditioned by the Board, extra figures are rounded up or down as appropriate. The proposed amendment will simplify procedures and eliminate the need for rounding without significantly altering actual rates, and will be approved.

Agreement CAB 26933 would amend Resolution 014a (Construction Rule for Passenger Fares) by permitting an additional 500 miles' circuity on routings via Sao Paulo or Rio de Janeiro, between the United States, on the one hand, and Buenos Aires and Montevideo, on the other hand.[1] The proposed allowance is similar to those already approved by the Board in comparable situations, and will be approved.

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[1] The general circuitry rule provides that the passenger can travel at the direct route fare provided that the mileage over his actual itinerary is no more than 20 percent greater than the direct route mileage.

Agreements CAB 26422 and 26914 do not affect transportation to/from U.S. points, and we will therefore disclaim jurisdiction on them. Agreement CAB would amend the definition of "French Gold Francs" in Recommended Practice 1013 (General Conditions of Carriage-Passenger), which does not apply to or from the United States, by establishing a ratio between the gold franc and International Monetary Fund's Special Drawing Right of 15:1.[3] Agreement CAB 26914 would allow Air Malawi to postpone inaugural flights between Amsterdam and Blantyre.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[3] The ratio would be used in establishing carrier liability limits for passengers and baggage under Article XVII of the Recommended Practice, which sets forth the limits in terms of gold francs.

Agreement CAB 26899:	*IATA resolution*
R-1	JT31, JT123 (Mail 161) 022ee
R-2	JT31, JT123 (Mail 161) 022ff
R-3	JT12 (Mail 161) 022gg
R-4	JT12 (Mail 161) 022hh
R-5	JT12 (Mail 161) 022ii

Agreement CAB 26915:	*IATA resolution*
R-1	200 (Mail 161) 022aa
R-2	300 (Mail 161) 022cc
R-3	JT23, JT123 (Mail 161) 022dd

2. It is not found that the following resolution, incorporated in Agreement CAB 26914 as indicated, affects air transportation within the meaning of the Act:

Agreement CAB:	*IATA resolution*
26914	200 (Mail 167) 200h

3. It is not found that the following recommended practice, incorporated in Agreement CAB 26422 as indicated, affects air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
26422	1013	General Conditions of Carriage (Passenger) (Amending)	1;2;3;1/2;2/3; 3/1;1/2/3

Accordingly, *It is ordered*, That: 1. Agreements CAB 26899, CAB 26915, and CAB 26933, are approved subject, where applicable, to conditions previously imposed by the Board; and

2. Jurisdiction is disclaimed with respect to Agreements CAB 26914 and 26422.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-32778 Filed 11-10-77;8:45 am]

[1505-01]

[Docket Nos. 29968; 28112; 28183; Order 77-10-94]

LOUISVILLE SERVICE CASE

Applications of Allegheny Airlines and Frontier Airlines

Correction

In FR Doc. 77-31292 appearing at page 56765 in the issue for Friday, October 28, 1977 the Order number was omitted from the heading and should have read as set forth above.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between October 1, 1977, and October 31, 1977.

Dated: November 7, 1977.

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

State/place or special area	County	Date of census	Population
Alabama: Franklin, town	Macon	Aug. 30, 1977	188
Arkansas:			
Blytheville, city	Mississippi	July 28, 1977	24,304
Campbell Station, town	Jackson	Aug. 29, 1977	328
Corning, city	Clay	Aug. 3, 1977	3,276
Illinois:			
Darien, city	DuPage	July 18, 1977	12,527
Hoffman, village	Clinton	Aug. 2, 1977	458
Lake Zurich, village	Lake	Aug. 18, 1977	7,550
Lincolnshire, village	do	July 13, 1977	4,076
New Lenox, village	Will	Aug. 25, 1977	4,862
Westhaven, village	Cook	Aug. 11, 1977	2,032
Wood Dale, city	DuPage	July 20, 1977	11,173
Woodstock, city	McHenry	July 28, 1977	11,367
Iowa:			
Johnston, city	Polk	July 12, 1977	2,333
Panora, city	Guthrie	July 13, 1977	1,239
Michigan: Ferrysburg, city	Ottawa	Aug. 23, 1977	2,284
Minnesota:			
Cottage Grove, city	Washington	July 7, 1977	17,430
East Bethel, city	Anoka	July 11, 1977	5,438
New Jersey:			
Evesham, township	Burlington	July 12, 1977	18,762
Mount Laurel, township	do	Aug. 9, 1977	15,070
Pine Hill, borough	Camden	Aug. 8, 3977	7,904
Pennsylvania:			
Antrim, township	Franklin	July 6, 1977	8,831
Greene, township	do	July 19, 1977	11,064
Lower Macungie, township	Lehigh	July 25, 1977	11,982
Lower Nazareth, township	Northampton	do	2,873
Newberry, township	York	Aug. 9, 1977	8,540
Stroud, township	Monroe	Aug. 2, 1977	8,450
West Bradford, township	Chester	Aug. 10, 1977	6,159
Wead Mead, township	Crawford	Aug. 15, 1977	5,223
West Norriton, township	Montgomery	Aug. 16, 1977	12,048
Tennessee: Jackson, city	Madison	Jan. 13, 1977	41,145
Wisconsin: Merton, town	Waukesha	Aug. 1, 1977	5,566

[FR Doc.77-32576 Filed 11-10-77;8:45 am]

[3510-24]

Economic Development Administration

J. R. CLARK CO.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by The J. R. Clark Company, 1536 Beech Street, P.O. Box 4066, Terre Haute, Ind. 47804 (a subsidiary of the General Houseware Corp.), a producer of cookware, was accepted for filing on November 7, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequenty, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on November 21, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-32724 Filed 11-10-77;8:45 am]

[3510-24]

MORTON'S SHOE STORES, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Morton's Shoe Stores, Inc., 647 Summer Street, Boston, Mass. 02210, whose subsidiaries produce footwear for men and women as well as rubber recreational goods such as air mattresses, was accepted for filing on November 4, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on November 21, 1977.

CHARLES L. SMITH,
Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-32725 Filed 11-10-77;8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 a commodity produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 14, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 48(a)(2), 85 Stat. 77. It is proposed to delete the following commodity from Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 7510

Refill, List Finder, Automatic, 7510-00-530-7191.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-32759 Filed 11-10-77;8:45 am

[6820-33]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 14, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Fed-

eral Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 1670

Message Dropper, Plastic, 1670-00-797-4495.

Class 8455

Scarf, Neckwear, 8455-00-916-8398, 8455-00-985-7336, 8455-00-405-2294.

SIC 5812

Catering Service (Noon meals), Armed Forces Examining and Entrance Station (AFEES), Seattle, Wash.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-32760 Filed 11-10-77;8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TRANSFER OF ENVIRONMENTAL IMPACT STATEMENT RECEIPT AND FILING FROM CEQ TO EPA

OCTOBER 28, 1977.

The recipt and filing of Environmental Impact Statements (EISs) will be transferred from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA) next month, under the President's reorganization plan for the Executive Office of the President (Reorganization Plan No. 1 of 1977, July 15, 1977). Effective Monday, December 5, 1977, federal agencies should no longer send EISs to CEQ. Instead agencies should deliver ten (10) copies of all draft, final or supplemental EISs filed pursuant to Section 102(2)(C) of the National Environmental Policy Act directly to:

Environmental Protection Agency, Room 537, West Tower, 401 M Street, SW., Washington, D.C. 20460.

Mailed copies should be sent to Mail Code A-104 at the same address.

Beginning on December 16, 1977, EPA will publish the regular weekly Federal Register notices indicating receipt of EISs and the relevant comment periods. EPA will also publish the 102 Monitor beginning in January.

CEQ will continue its NEPA oversight and policy guidance to agencies. However, general information and specific questions from agencies and the public about technical compliance with environmental impact statement requirements and CEQ Guidelines should be directed to EPA after December 2.

Please inform all regional and branch offices of these changes. Any questions should be directed to Sally Mallison at CEQ 202-633-7077 or Thomas Sheckells at EPA, 202-755-0790.

CHARLES WARREN,
Chairman.

[FR Doc.77-32717 Filed 11-10-77;8:45 am]

[3125-01]

LIST OF ENVIRONMENTAL IMPACT STATEMENTS

The following is a list of environmental impact statements received by the Council on Environmental Quality from October 31 through November 4, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (December 26, 1977). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Trabuco Planning Unit, Cleveland National Forest, San Diego, Riverside, and Orange Counties, Calif., November 4: Proposed is the selection of a new land management plan for portions of the Cleveland National Forest in San Diego, Orange, and Riverside Counties, Calif. Four alternative plans are proposed: No. 1. continuation of the present management program, No. 2. increase the present levels of opportunities for recreation uses with emphasis on dispersed use, No. 3. emphasize the high levels of developed recreation opportunities with major increases in road and trail construction for access by standard automobiles, No. 4. emphasize the primitive and near primitive recreation experiences. (ELR Order No. 71335.)

Final

Bears Ears Unit Plan, Routt National Forest, Colorado and Wyoming, November 2: Proposed is the implementation of a revised Land Use Plan (Multiple Use Plan) for the Bears Ears Unit, located on Routt National Forest, Routt and Moffat Counties, Colo., and on the Medicine Bow National Forest, Carbon County, Wyo. Among its uses the proposed plan will provide opportunities to manage 90,000 acres of forest land suitable for timber production, provide 28,000 animal unit months of grazing, ensure the maintenance of a resident elk herd, and increase the resident mule deer herd. Adverse effects include modification of scenic values, and the loss of wilderness character within Inventoried Roadless Areas—DC, DD, and DE. Comments made by: EPA, COE, DOI, AHP, and State and local agencies concerned groups and individuals. (ELR Order No. 71340.)

Mt. Hood National Forest Timber Management Plan, several counties in Oregon, November 2: The proposed action is the implementation of a revised ten year Timber Management Plan for the Mt. Hood National Forest. Intensive forest management activities will allow each acre treated to more nearly achieve its productivity, enabling greater harvest during the plan period. Adverse impacts include degradation of air, erosion of the soil, and changes in the timber stand structure, the microclimate and the associated plant realtionships. Comments made by: USDA, DOC, DOI, HUD, EPA, AHP, and State and local agencies, concerned groups and individuals. (ELR Order No. 71341.)

Flaming Gorge National Recreation Area, Utah and Wyoming, October 31: Proposed is a management plan for the Flaming Gorge National Recreation Area (NRA), Ahsley National Forest, in Daggett County, Utah and Sweetwater County, Wyo. The NRA includes 185,645 net acres of National Forest land and 10,812 acres of State and private land. The proposed mix of uses and land practices is directed toward encouraging and providing varied recreation opportunities. Most adverse effects are of short duration and will involve stability, esthetics, and vegetation. Comments made by: AHP, HEW, DOI, EPA, USDA, and State and local agencies and concerned citizens. (ELR Order No. 71334.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NAT'L OCEANIC AND ATMOSPHERIC ADMIN.

Final

Atlantic Foreign Pelagic Longline Fishery—Preliminary Management Plan, November 4: Proposed is the approval of a Preliminary Fisheries Management Plan for the Atlantic pelagic longline fishery off the Atlantic and Gulf of Mexico coasts and off Puerto Rico and the Virgin Islands. The proposed action provides for prohibition of the retention of all billfishes captured by foreign pelagic longline vessels and regulates the catch of sharks in the Fishery Conservation Zone. This action is expected to have beneficial effects on the environment at the local, regional, and international levels. If approved, the plan will take effect about December 1, 1977. Comments made by: DOC, DOI, COE, DOT, STAT, and State and local agencies. (ELR Order No. 71351.)

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Col. Luis F. Dominguez, Department of the Air Force, Room 5D 431, Pentagon, Washington, D.C. 20330, 202-697-7799.

Final

Loring A.F.B., Proposed Reduction, Maine, November 1: The proposed action is to reduce Loring Air Force Base, ME to a forward operating base by inactivating the 42 Bombardment Wing and its supporting operation and maintenance squadrons. The 14 B-52G aircraft would be relocated to remaining installations that support the same weapon systems. The 30 KC-135 aircraft assigned to Loring AFB would be relocated and transferred to the Air Reserve Forces. Selected tenant organizations would be retained because of special missions requirements. As a result of this candidate reduction, the natural environment should improve due to the decrease in aircraft operations. (80 pages.) Comments made by: DOI, HEW, HUD, DOC, COE, DLAB, USDA, and State and local agencies and concerned groups and individuals. (ELR Order No. 71339.)

DEPARTMENT OF DEFENSE, ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Final

Operation RMT, Chemical Material Transport, Colorado and Utah, November 4: The

proposed action involves the movement of GB nerve agent filled Weteye Bombs from Rocky Mountain Arsenal, Denver, Colo., to Tooele Army Depot, Tooele, Utah. The munitions will be moved across the Arsenal by truck convoy to Stapleton International Airport, then loaded onto USAF C–141 cargo aircraft and flown to the Michael Army Airfield at Dugway Proving Ground. The movement from Dugway Proving Ground to Tooele Army Depot will be by truck convoy. The potential for an accident resulting in release of the chemical agent has been evaluated and is considered to be minimal. Comments made by: DOI, EPA, and State and local agencies. (ELR Order No. 71352.)

CAMDS, Tooele Army Depot, Utah, November 4: Proposed is the operation of the Chemical Agent Munitions Disposal System (CAMDS), a prototype demilitarization plant, at Tooele Army Depot. The CAMDS will test the suitability of new automated equipment and processes which are envisioned for future demilitarization facilities. This action involves the demonstration of selected GB, VX, and mustardfilled munitions and bulk storage containers stored at Tooele Army Depot. Comments made by: EPA, DOI, DOC, and State agencies. (ELR Order No. 71353.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202–693–6795.

Draft

Hackensack River Tidal Barrier and Dredging, Bergen County, N.J., November 2: Proposed is the granting of a permit to the Bergen County Board of Chosen Freeholders for the construction of a tidal barrier in the Hackensack River between Bogota and Hackensack, N.J. An estimated volume of 27,000,000 cubic yards of material will be dredged and deposited upland, creating a freshwater lake which will extent 7 miles upriver to the Hackensack Water Co., New Milford. Adverse impacts include short-term, construction-related pollution, loss of river wetlands and mudflats, and degradation of lake and estuarine water quality. (New York District.) (ELR Order No. 71344.)

West Indian Co. Fill Permit, St. Thomas, Virgin Islands, October 31: Proposed is the granting of a dredge and fill permit for the purpose of creating approximately 29 acres of new land by shoreline extensions at Frederiksberg Point, Long Bay, and Havensight Point, St. Thomas, Virgin Islands. About 900,000 cubic yards of marine sediments would be hydraulically dredged from approximately 102 acres in Gordon Bay and Long Bay in the harbor at St. Thomas and used to fill the 29 acres of submerged land to plus-6 feet elevation. Adverse effects include increased turbidity and siltation during construction, and loss of animal and plant inhabitants from 102 acres of silt and mud bottom. (Jacksonville District.) (ELR Order No. 71333.)

Final

Kapaakea Homestead Flood Control, Molokai, Maui County, Hawaii, November 3: Proposed is a flood control project for the Kapaakea Homestead area, Molokai. The recommended plan consists of the construction of a 1,800-foot long channel with diversion levees. The purpose of the project is to provide flood protection to the Kapaakea Homestead located in the Kamiloa flood plain. Adverse effects include the removal of 10 acres of urban and agricultural lands from productive use. Clearing in the upland areas will eliminate some wildlife habitat. (Pacific Ocean Division.) Comments made by: USDA, DOC, HEW, HUD, DOI, DOT, DOD, EPA, State, and local agencies. (ELR Order No. 71350.).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308.

Draft

Bridgestone Subdivision, Harris County, Tex., October 31: Proposed is the development of 222 acres into a planned community composed of single-family homes located in northwestern Harris County, Tex. The planned project will provide housing for approximately 3,000 people. Adverse impacts include increased loading of solid waste disposal sites, increased ground water consumption, and increased demand for fossil fuels through heavy dependence upon the automobile for transportation. (ELR Order No. 71330.)

Final

Shepard Park West, St. Paul, Ramsey County, Minn., November 1: This statement proposes the approval of mortgage insurance interest reduction and rent subsidy for Shepard Park West in St. Paul, Minn. The project will provide 168 apartment units for elderly persons in an 11-story building. Long-term adverse effects include: increases in noise air pollution, and vehicular traffic, reduction of scenic views from the bluff above W. 7th St., and incompatibility of scale with remaining residential structures by the planned multi-story structures. Comments made by: EPA, FPC, DOI, and State agencies. (ELR Order No. 71336.)

Section 104(h). The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

McGehee, Ark.-Water Expansion and Improvements, Desha County, Ark., November 1: Proposed is a water expansion and improvements project for the city of McGehee, Ark. The project calls for construction of one 750-gpm well and water treatment plant, one 500,000-gallon elevated storage tank, a booster pump for fire protection; and distribution. The project will eliminate potential health hazards and provide fire protection to an area consisting of residential, commercial, and agricultural land. The project will indirectly promote further residential and commercial development. (ELR Order No. 71338.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF LAND MANAGEMENT

Final

1978 Outer Continental Shelf Sale No. 43, South Atlantic, Georgia, Florida, and South Carolina, October 31: Proposed is the 1977 Outer Continental Shelf Oil and Gas Lease Sale No. 43, South Atlantic. Two hundred twenty-five tracts (518,400 hectares—1,280,966) of Outer Continental Shelf lands are proposed for leasing action. The tracts are located offshore of South Carolina, Georgia, and Florida with distance to shore ranging from approximately 48 to 120 kilometers (30 to 75 mi.). The tracts are situated in water depths that range from approximately 13 to 165 meters (43 to 540 ft.). If implemented, the sale is tentatively scheduled to be held in 1978. Comments made by: DOC, DOD, HEW, DOI, STAT, DOT, EPA, RC, and State agencies. (ELR Order No. 71331.)

1977 Outer Continental Shelf Sale No. 45, Gulf of Mexico, Texas and Louisiana, November 3: Proposed is the leasing of 120 tracts comprising 235,875 hectares (582,856 acres) located offshore Texas and Louisiana in water depths ranging from 4 meters to 183 meters and a distance from shore from 5 kilometers to 293 kilometers. If implemented, this sale is tentatively scheduled to be held in April 1978. All tracts offered pose some degree of pollution risk to the environment. The risk potential is related to adverse effects on the environment and other resource uses which may result from accidental or chronic oil spillage. Comments made by: DOC, DOI, DOT, AHP, ERDA, NRC, EPA, and FPC. (ELR Order No. 71349.)

NATIONAL PARK SERVICE

Draft

Biscayne National Monument, Florida, November 2: Proposed is ageneral management plan to guide the future management and development of Biscayne National Monument, Florida. The proposed plan places emphasis on five points: (1) no acquisition of land on north Key Largo, (2) a public transportation system, (3) additional visitor facilities on Elliott and Adams Keys, (4) increased diversity of recreational and interpretive opportunities, and (5) enhanced protection of natural and cultural resources. Adverse effects include short-term, construction-related pollution and increased visitation. (ELR Order No. 71342.)

DEPARTMENT OF LABOR

Contact: David R. Bell, Chief, Office of Environmental and Economic Impact Assessment, Occupational Safety and Health Administration, Room N–3673, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202–523–7111.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Draft

DBCP—Occupational Exposure Standard, November 4: The Occupational Safety and Health Administration proposes to regulate employee exposure to DBCP by limiting worker exposures to 1 part per billion on an 8-hour time-weighted average, with a ceiling level of 10 parts per billion as averaged over any 15-minute period during the working day. The proposal also provides for exposure measurements, methods of compliance, regulated areas, training, personal protective equipment, medical surveillance and recordkeeping. (ELR Order No. 71355.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P–518, Washington, D.C. 20555, 301–492–8446.

Final

Green County Nuclear Powerplant, Greene County, N.Y., November 2: Proposed is the issuance of a construction permit to the Power Authority of the State of New York for the construction of the Greene County Nuclear Power Plant. The plant will employ a pressurized-water reactor to produce a warranted output of 3,600 MWt. A steam turbine generator will use this heat to provide 1,191 MWe (net) of electrical power. Con-

struction of hatcheries will result in cycle system incorporating natural-draft cooling towers using makeup water from the Hudson River. No significant environmental impacts are anticipated. Comments made by: DOI, EPA, DOT, USDA, DOC, HEW, FPC, State and local agencies concerned groups and individuals. (ELR Order No. 71345.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Peter Krenkel, Director of Environmental Planning, Tennessee Valley Authority, 720 Edney Building, Chattanooga, Tenn. 37401, 615-755-3161 and FTS 854-3161.

Final

West Point-Miller, 500 kV Transmission Lines, Mississippi and Alabama, October 31: Proposed is the construction and operation of a 500 kV transmission line interconecting the TVA and Alabama Power Co. Systems in Mississippi and Alabama. The project will provide intersystem transmission capacity necessary to maintain adequate reliability margins, improve operating stability, reduce power losses, and on an intersystem basis facilitate reciprocal emergency assistance including short-term and diversity power and energy sales. The major adverse effect is clearing of 1,469 acres of woodland with the resulting loss of animal habitat and timber resources. Comments made by: HEW, DOI, EPA, FPC, COE, State and local agencies. (ELR Order No. 71332.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

State Road 3, Clear Creek to Poulsbo, Kitsap County, Wash., November 2: Proposed is the construction of a 7.86-mile section of State Route 3 on a route extending from the Clear Creek Road Interchange north of Silverdale to a point north of Poulsbo. Most of the proposed fully controlled access highway will have four lanes; six lanes are proposed between the Clear Creek Road Interchange and the Midway Avenue Interchange. Interchanges, grade separations, frontage roads, and crossroads are included to maintain local circulation patterns and to provide access to the Naval Submarine Base, Bangor. The proposed route is designated as the T-5 Corridor. (Region 10.)
(ELR Order No. 71343.)

Final

Arden Bar Park/C.M. Goethe Park Land Use, Sacramento County, Calif., November 4: Proposed is a land use plan for Goethe Park and Arden Bar Park in Sacramento's 5,400-acre America River Parkway, Calif. Project plans call for the construction of a trail system bridge to link the trails of the parks and to complete the 23-mile National Recreation Trail system. Recreation and support facilities will be upgraded in both parks and safety conditions will be improved. Short-term construction-related impacts will occur during implementation of the project. Comments made by: AHP, COE, DOI, EPA, DOC, USDA, State and local agencies, and concerned groups and individuals. (ELR Order No. 71356.)

I-255, St. Louis, Monroe, St. Clair, and Madison Counties, Ill., November 1: Proposed is the construction on new alignment of Interstate 255 from an interchange with FAP Route 410 north of Columbia to an interchange with Route 55 west of Collinsville, a distance of approximately 18 miles. The statement also covers the relocation of the weigh station on I-55. Approximately 406 residences will be destroyed and 30 businesses displaced. In addition, farms will be severed and approximately 800 acres of agricultural land will be acquired. Other adverse effects expected include increased highway generated noise levels in several locations. A 4(f) statement is included concerning Frank Holten State Park. Comments made by: AHP, EPA, USDA, DOC, DOD, HEW, HUD, DOI, DOT, State and local agencies, and concerned groups and individuals. (ELR Order No. 71337.)

Lee's Summit Rd. Improve, U.S. 24-I-70, Jackson County, Mo., November 3: Proposed is the improvement of Lee's Summit/Kiger Roads within the corporate boundary of the city of Independence Mo., from U.S. 24 Highway on the north to and including the proposed I-70 diamond interchange on the south. It is a north-south arterial street between Noland Road on the west and M-291 on the east. The existing roadway is two lanes to be improved to four lanes for a length of approximately 4 miles. Adverse effects include the acquisition of 25.4 acres of land for right-of-way and the relocation of 30 families. (Region 7.) Comments made by: HEW, USDA, DOT, EPA, DOI, State and local agencies. (ELR Order No. 71346.)

McCarran Blvd. (Ring Road), Reno and Sparks, Washoe County, Nev., October 31: The proposed project consists of the construction of the north and northwest lengths of McCarran Boulevard, also known as the Ring Road, which is planned to encompass the cities of Reno and Sparks, Nev., when completed. Each section will be designed as 4-lane divided major arterial. Total project length, excluding the completed section, is approximately 6.09 miles. Adverse effects include a permanent commitment of over 150 acres of land to highway purposes. Comments made by: EPA, USDA, DOD, HEW, DOI, DOT, State and local agencies, and concerned individuals. (ELR Order No. 71335.)

SR 525, Swamp Creek Interchange to SR 99, Snohomish County, Wash., November 3: Proposed is the construction of a 3.2-mile segment of the Swamp Creek Interchange (I-5, I-405) to SR 99 where it will connect with existing SR 525 westerly. The highway will be a 4-lane controlled-access facility and will have a significant impact on community growth. The project will displace 42 families. Comments made by: COE, EPA, DOI, HUD, DOC, and State and local agencies. (ELR Order No. 71348.)

Supplement

U.S. 101 (Green Timber Rd.), Ore. (S-2), Tillamook County, Oreg., November 3: This statement supplements a final EIS filed with CEQ in August of 1974. Proposed is the reconstruction of 6.1 miles of substandard two-lane rural, primary highway in southern Tillamook County, Oreg., on a selected alignment within the same corridor. The proposed facility, 5.3 miles in length on both alignments, would have 12-foot travel lanes, paved shoulders, and truck climbing lanes on steeper grades. Adverse effects include the disruption of two small aquatic ecosystems, disruption of terrestrial habitat and species mobility, severance of farm property, and disruption of adjacent unstable slopes and unconsolidated alluvial deposits. (Region 10.) (ELR Order No. 71347.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-32718 Filed 11-10-77;8:45 am]

[3125-01]

TSCA INTERAGENCY TESTING COMMITTEE

Corrections of Typographical Errors in Initial Report to the Administrator, Environmental Protection Agency

Several typographical errors occurred in the preparation of Appendixes A and B of the *Initial Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency* (FR Doc. 77-29727), as published in Part IV of the October 12, 1977 FEDERAL REGISTER 42 FR 55026-55080). Corrections of these typographical errors follow.

Dated: November 7, 1977.

WARREN R. MUIR,
Chairman TSCA Interagency Testing Committee.

In Appendix A (42 FR 55062) Source List 12 was omitted and should be added as follows:

12 SUSPECTED TERATOGENS; A SUBFILE OF THE NIOSH REGISTRY

This is a list of approximately 200 chemicals and categories which have been reported to have produced teratogenic effects in test animals. This list is included in Source List 13.

In Appendix B (42 FR 55065 through 42 FR 55068) a number of inequality signs and exponents were omitted. These pages are republished below with the omissions corrected.

FACTOR 2: QUANTITY RELEASED INTO THE ENVIRONMENT

The quantity of chemical released into the environment was scored on a scale from 0 to 3 as follows:

Score	Release rate (percent)	Estimate based on uses
3	More than 30	Mostly dispersive uses.
2	3 to 30	Some dispersive uses.
1	0.3 to 3	Few dispersive uses; or primarily industrial chemical with propensity for leaks.
0	Less than 0.3	Well contained industrial chemical.

Estimates of release rates for a number of chemicals are given in Source List 22 of Appendix A. For those chemicals for which no release rates were given, an estimate was made on the basis of the dispersive nature of the chemical's uses as indicated in the above table.

An estimate was also made of the chemical's persistence according to the following table:

Score	Lifetime	Examples
3	Infinite (years or greater).	Compounds of metals, freons, CC14, N20, SF6, many polymers.
2	Order of 1 yr	Tetrachloroethylene, flame retardants, phthalate esters, silicones.
1	Order of a few days.	SO_2.
0	Hours or less	Reactive compounds.

The sum of the scores of the two subfactors, release quantity and persistence, was taken as an indication of the environmental burden posed by the chemical.

FACTOR 3: OCCUPATIONAL EXPOSURE

The source of data on occupational exposure to chemicals was the National Occupational Hazard Survey (NOHS) conducted by the National Institute for Occupational Safety and Health. In this survey the approximately 7000 most common hazards occurring in the working place were rank ordered. To achieve an occupational exposure score with a range and direction similar to those of the other factors, the Factor 3 score assigned to a chemical was 3.8451 minus the common logarithim of its rank on the NOHS list. (3.8451 is the logarithm of 7000.) Chemicals which did not appear on the NOHS list were given a score of zero, equivalent to having been ranked number 7000 on the survey.

FACTOR 4: EXTENT TO WHICH THE GENERAL POPULATION IS EXPOSED

Four individual subfactors were scored and then summed to measure the general population exposure. The four subfactors were scored as follows:

Subfactor 1. Number of people exposed to the chemical (exclusive of a workplace environment).

Score	Number of people	Examples
3	More than 20×10^6.	Widely used household products (e.g., wearing apparel, shoe polish, certain surface coatings, common paints and their solvents, common plastics and their additives, detergents, furnishings and carpets, wood cleaning products, refrigerants, natural gas, nonfood packaging materials, flame proofers). General air, food, and water contaminants. Automotive products (e.g., gasoline and additives, rubber, surface coatings, plasticizers, flame proofers). Products used widely in commercial buildings (mostly same as household, including commercial cleaners, disinfectants).
2	2 to 20×10^6.	Less widely used household products (e.g., uncommon paints, specialty apparel such as baby wear, hobby uses, arts and crafts, tools). Regional air and water pollutants, farm chemicals (exclusive of pesticides).
1	0.2 to 2×10^6.	Specialty hobbies (e.g., photography), specialty products. Neighborhood air and water pollutants from local industries.
0	Less than 2×10^5.	Chemical intermediates rarely found outside the workplace.

Subfactor 2. Frequency of exposure (to the typical person in ranking number of people exposed under Subfactor 1).

Score	Frequency	Examples
3	Daily or more often.	General air, food, and water contaminants, household products in regular use, material used inside automobiles, clothing.
2	Weekly	Hobby crafts, household products used intermittently (e.g., certain cleaners), bleaches, gardening products.
1	Monthly	Dry cleaning, certain solvents, house maintenance (e.g., polishes, certain cleaning agents), automobile maintenance.
0	Yearly or less frequently.	Application of household paints, specialty products.

Subfactor 3. Exposure intensity. This is intended to reflect the total amount of material that comes into contact with the average or typical person whose exposure has been scored under subfactors 1 and 2. Scoring of this factor considered the number of grams of the material that makes contact with the average person in the course of one exposure (daily, weekly, monthly or yearly as scored in subfactor 2). Thus, for example, a trace pollutant may lead to exposure of a typical person of the order of micrograms per day every day; use of a specialty solvent might lead to exposure of a typical person of the order of grams per day once a year: these would be scored 3,0 and 0,3 respectively on subfactors 2 and 3.

Score	Intensity	Examples
3	High (10^{-1} or more grams per exposure).	Plastics, fabrics, surface coatings, volatile solvents in closed spaces, liquids contacting skin, high concentration gases.
2	Medium (10^{-1} to 10^{-3} g per exposure).	Fabric additives, solvents in open spaces or outdoors, dusts, solutes, transitory exposures to vapors or aerosols.
1	Low (10^{-3} to 10^{-4} g per exposure).	Low level indoor exposure, volatile substances from home furnishings and building materials (e.g., plasticizers, flame proofers), low volatility solvents, pigments.
0	Very low (less than 10^{-5} g per exposure).	Environmental contaminants (low level air, food, and water contaminants), monomers in polymers.

Subfactor 4. Penetrability. This is a measure of the material that comes into contact with a person (whether by dermal, inhalation, or ingestion exposure) and that is expected to be absorbed into the body (even transitorily) with potential for interaction with cells.

[FR Doc.77-32707 Filed 11-10-77;8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

OCTOBER 21, 1977.

The USAF Scientific Advisory Board meeting scheduled for November 29 and 30, 1977 as published in 42 F.R. 55837, dated October 19, 1977 should read: The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold meetings on November 29 and 30, 1977 in the Pentagon, from 8:30 a.m. to 5:00 p.m. each day.

For further information contact the USAF Scientific Advisory Board Secretariat at (202) 697-8404.

All other information remains the same.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-32708 Filed 11-10-77;8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 3, 1977.

The USAF Scientific Advisory Board Ad Hoc Committee on Imaging Infrared Guidance will hold a meeting on 28-29 November 1977 at the Pentagon, Washington, D.C. from 8:30 a.m. to 4:30 p.m. each day.

The Committee will receive classified briefings and conduct classified discussions concerning imaging infrared guidance technologies to support the MAVERICK program.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-32731 Filed 11-10-77;8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 7, 1977.

The USAF Scientific Advisory Board Information Processing Panel on Software Acquisition Management in the Air Force will hold a meeting in the Pentagon, Washington, D.C. on December 6, 1977 from 8:30 a.m. to 4:00 p.m.

The Panel will receive classified briefings and hold classified discussions on various Air Force software acquisition programs.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-32732 Filed 11-10-77;8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 1, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold closed meetings on December 7 and 8, 1977 from 8:30 a.m. to 5:00 p.m. each day at the Pentagon, Washington, D.C.

The Committee will receive classified briefings and hold classified discussions on the Air Force munitions research and development programs. The meetings will be closed to the public in accordance with

Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-32733 Filed 11-10-77;8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 7, 1977.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on December 1, 1977 from 8:30 a.m. to 5:00 p.m. and December 2, 1977 from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Mass. in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control and Communications Programs.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-32734 Filed 11-10-77;8:45 am]

[3810-71]

Department of the Navy

REGIONAL DISCHARGE REVIEW SYSTEM

Notice of Hearing Locations

In FEDERAL REGISTER Document 75-27207, published on October 9, 1975, 40 FR 47524, the Department of the Navy published notice that, beginning in November 1975, the Naval Discharge Review Board would convene and conduct hearings for a number of days each quarter in certain announced locations. In FEDERAL REGISTER Document 76-20384, published on July 15, 1976, 41 FR 29190, the Department of the Navy published notice that approval had been granted for the Naval Discharge Review Board (NDRB) to conduct hearings, within assigned resources, on a noncontinuing basis, in cities other than the announced locations when the concentration of petitioners in a geographical area so warrants. This expanded availability has facilitated the opportunity for personal appearances before the Board and the initially announced hearing schedule has been modified accordingly.

A. The following NDRB itinerary for November 1977 through April 1978 has been approved, but remains subject to modification if necessary:

November—Atlanta, GA; New Orleans, LA; Tampa, FL; Boston, MA.
January—Salt Lake City, UT; Denver, CO; Seattle, WA; San Francisco, CA; San Diego, CA.
February—Dallas, TX; Wichita, KS.
March—Atlanta, GA; New Orleans, LA; Tampa, FL.
April—Chicago, IL; Minneapolis-St. Paul, MN; Seattle WA; San Francisco, CA; San Diego, CA.

Any former member of the Navy or Marine Corps who desires to obtain a review of his or her discharge, either in Washington, D.C. or in one of the other cities in which the Board will conduct hearings, should file an application with the Board using DD Form 293. If a personal appearance is requested, the petitioner should indicate which scheduled location is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address:

Naval Discharge Review Board, Suite 905, 801 North Randolph Street, Arlington, Va. 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the petitioner's military records before a hearing may be scheduled, the receipt of an application by the Naval Discharge Review Board is not tantamount to scheduling such hearing. Petitioners and/or their representatives, if any, will be notified by mail of the date and place of their scheduled hearing when personal appearance is requested.

For further information concerning the NDRB, contact:

Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 905, 801 North Randolph Street, Arlington, Va. 22203, telephone number 202-692-4881.

B. The following itinerary for the Department of the Navy's DoD Special Discharge Review Program (SDRP) Traveling Board for the months of November and December 1977 has been approved, but remains subject to modification if necessary:

November—Los Angeles, CA; Boston, MA.
December—San Francisco, CA; Chicago, IL.

All hearings by the SDRP Traveling Board are prescheduled by the Board. The hearings are restricted to those former Navy and Marine Corps members discharged during the Viet Nam era who, having applied for discharge review, received a documentary review under the SDRP and whose discharges were not recharacterized to fully Honorable by the Board.

For further information concerning the SDRP, contact:

Captain Celia Barteau, U.S. Navy, Executive Secretary, DoD Special Discharge Review Program, Suite 722, 801 North Randolph Street, Arlington, Va. 22203, telephone number 202-692-4935.

Dated: November 4, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-32728 Filed 11-10-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATOR'S TOXIC SUBSTANCES ADVISORY COMMITTEE

Open Meeting

Under section 10(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act", notice is hereby given that the first meeting of the Administrator's Toxic Substances Advisory Committee will be held at 9:30 a.m. on November 30, 1977, and at 9:00 a.m., December 1, 1977, in Conference Room 3906, Mall area, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

A request for nomination of qualified individuals to serve on the Committee was published in the February 11, 1977 FEDERAL REGISTER. More than 200 names were received. The following members have been appointed by the Environmental Protection Agency Administrator to the Committee: Prof. Michael S. Baram (80), Bracken, Selig & Baram; Dr. Selina Bendix (79), City and County of San Francisco; Dr. Leonard H. Billups (78), Pathologist; Dr. Theodore L. Cairns (80), E. I. DuPont De Nemours and Co.; Mr. David D. Comey (80), Citizens for a Better Environment; Mr. Paul Danels (78), National Urban League, Inc.; Dr. J. Clarence Davies (80), The Conservation Foundation; Mr. David W. Gleeson (78), Hardwicke Chemical Co.; Mrs. Becky F. Moon (78), League of Women Voters; Dr. Beverly Paigen (80), Roswell Park Memorial Institute; Dr. Peter W. Preuss (78), New Jersey Department of Environmental Protection; Prof. Edward P. Radford (78), University of Pittsburgh; Mr. Sheldon W. Samuels (79), IUD/AFL-CIO; Dr. Irving J. Selikoff (79), Mount Sinai School of Medicine; Dr. Jannette B. Sherman (79), Detroit Medical Center Institute for Oncology and Allied Diseases; and Dr. William L. Sutton (79), Eastman Kodak Co. (All terms end June 30 on year indicated.)

The purpose of this meeting will be to discuss the implementation of the Toxic Substances Control Act (Pub. L. 94-469), including reporting and information gathering activities, testing, interagency coordination and setting priorities for chemicals.

Both days of the meeting will be open to the public. For further information, contact Harvey Lieber, Executive Secretary for the Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-778), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The telephone number is: 202-755-4863.

Dated: November 8, 1977.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc.77-32769 Filed 11-10-77;8:45 am]

[6560-01]

[OPP-42028B]

DELAWARE

Extension of Contingent Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Sherman W. Tribbitt, Governor of the State of Delaware, submitted a State plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for approval on a contingency basis, pending promulgation of implementing regulations. On November 9, 1976, the Regional Administrator, EPA Region III, approved the Plan on a contingency basis, allowing until October 21, 1977, for promulgation of implementing regulations. Notice of the approval was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52512).

Subsequently, on October 13, 1977, the State of Delaware requested an extension of the period of the contingent approval in order to allow additional time to promulgate implementing regulations required for full approval. The Agency finds that there is good cause for approving this request and as such has granted an extension until December 31, 1977.

Dated: October 21, 1977.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc.77-32770 Filed 11-10-77;8:45 am]

[6560-01]

[OPP-42027B]

DISTRICT OF COLUMBIA

Extension of Contingent Approval of District State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Walter E. Washington, Mayor of the District of Columbia, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for approval contingent upon promulgation of legislation and implementing regulations. On February 22, 1977, the Regional Administrator, EPA Region III, approved the Plan on a contingency basis, allowing until October 21, 1977, for enactment of the legislation and promulgation of the regulations. Notice of the approval was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13580).

Subsequently, on October 7, 1977, the District of Columbia requested an extension of the period of the contingent approval in order to allow additional time to enact the legislation and promulgate regulations required for full approval. The Agency finds that there is good cause for approving this request and as such has granted an extension until December 31, 1977.

Dated: October 21, 1977.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc.77-32771 Filed 11-10-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 883]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

NOVEMBER 7, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20116-CD-P-78 Charles L. Slocum (NEW) C.P. for a new station to operate on 454.275 MHz to be located at Coalbed Road, Elk Township, Six Miles Northeast of Warren, Pa.

20133-CD-P-(4)-78 Mobilfone Communications, Inc. (KKK714) C.P. for additional facilities to operate on 454.050, 454.100, 454.150 & 454.200 MHz at a new site described as Loc. No. 4: Austin National Bank Building, Austin, Tex.

20134-CD-P-78 Mobilfone Communications, Inc. (KKK714) C.P. for additional facilities to operate on 152.06 MHz at Loc. No. 4: Austin National Bank Building, 6th and Congress, Austin, Tex.

20135-CD-P-(3)-78 Mobilfone Communications, Inc. (KKK714) C.P. for additional facilities to operate on 152.03, 152.18 & 152.21 MHz at Loc. No. 4: Austin National Bank Bldg., 6th and Congress, Austin, Tex.

20136-CD-MP-(2)-78 Simon Rubinsky (KWU3623 C.P. to replace transmitter and change antenna system operating on 454.150 & 454.200 MHz located E. of Depot Rd. S and SR 1925, 3.1 miles NW of Edinburg, Tex.

20137-CD-MP-(4)-78 Simon Rubinsky (KWB382) C.P. to replace transmitter and change antenna system operating on 454.225 & 454.175 MHz at Loc. No. 1: New Hampshire Street, 0.5 miles West of U.S. No. 77 & No. 83, Harlingen, Tex.; and to change antenna system and replace transmitter operating on 454.275 & 454.350 MHz at Loc. No. 2: Brownsville Navigational District, 7 miles N.E. of Brownsville, Tex.

20138-CD-AL-78 Sigma Communications Corp. Consent to Assignment of License from Sigma Communications Corp., ASSIGNOR to DPRS, Inc. t/a Zip-Call, ASSIGNEE. Station: KCC484, W. Hartford, Conn.

20139-CD-P-78 Grand Forks Telephone Answering Service (KDN400) C.P. for additional facilities to operate on 152.09 MHz located at 101 N. 3rd Street, Grand Forks, N. Dak.

20140-CD-P-78 Morris Communications, Inc (KLF505) C.P. for additional facilities to operate on 454.200 MHz at a new site described as Loc. No. 2: Water Tank at Lone Oak Street, Spartanburg, S.C.

20141–CD–P–78 L&L Services, Inc. d/b/a Metro Communication Service (KUS276) C.P. to relocate facilities and change antenna system operating on 152.24 MHz located at Milk Springs, 4 miles south of Tuscumbia, Ala.

20142–CD–P–78 Intrastate Radio Telephone, Inc. of Los Angeles (KSV977) C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 4: Oat Mountain, Calif.

20143–CD–P–78 L&L Services, Inc. d/b/a Metro Communication Services (KIY519) C.P. for additional facilities to operate on 454.075 MHz at a new site described as Loc. No. 4: 910 North Pine Street, Florence, Ala.

20144–CD–P–(2)–78 Mobilfone Communications, Inc. (KKX714) C. P. for additional failities to operate on 454.250 & 454.350 MHz located at Loc. No. 4: Austin National Bank Building, Austin, Tex.

20145–CD–P–78 Business Communications, Inc. d/b/a New Orleans Mobilfone (KWU 380) C. P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2: 300′ N of U.S. Post Office W. of Highway 23, Venice, La.

20146–CD–P–(6)–78 Commercial Communications, Inc. (KUS258) C. P. for additional Control facilities to operate on 454.275 & 454.325 MHz at Loc. No. 1: Aspen Mtn., approximately 10 SSE of Rock Springs, Wyo.; additional facilities to operate on 152.03 & 152.15 MHz, Base and 459.275 & 459.325 MHz, Repeater at a new site described as Loc. No. 3: Medicine Butte, 6.4 miles NNE, Evanston, Wyo.

20147–CD–P–78 United Telephone Co. of Arkansas (KFL956) C. P. to relocate facilities and change antenna system operating on 152.72 MHz located at 216 Monroe Street, Clarendon, Ark.

20148–CD–P–78 The Lincoln Telephone and Telegraph Co. (KFL884) C. P. to relocate facilities operating on 152.72 MHz to be located 5½ miles Southwest of Nebraska City, Nebr.

20149–CD–P–78 Savannah Radio Mobile Telephone, Inc. (NEW) C. P. for a new 1-way signaling station to operate on 43.22 MHz to be located at 4701 Montgomery Street, Savannah, Ga.

20150–CD–P–(2)–78 Associated Telephone Answering Service (KKI452) C. P. for additional to operate on 454.225 454.325 MHz to be located at Loc. No. 1: Sandia Mountain, (Lot 40, Range 5 East, Township 11 North) N. Mex.

20151–CD–P–(1)–78 Industrial Communications Systems, Inc. (KSV926) C. P. for additional facilities to operate on 158.70 MHz at a new site described as Loc. No. 8 to be located at Oat Mountain, Los Angeles, Calif.

20152–CD–P–(2)–78 Fayetteville Communications, Inc. (New) C. P. for a new 2-Way station to operate on 152.03 152.06 MHz to be located at Mt. Sequoyah, Fayetteville, Ark.

20153–CD–P–(1)–78 Beep Communications Systems, Inc. (KAA283) C. P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 7: 38–42 S. Broadway, White Plains, N.Y.

20154–CD–P–(1)–78 Central Telephone Co. of Florida (KIN646) C. P. for additional facilities to operate on 152.69 MHz to be located at 1337 Blairstone Drive, Tallahassee, Fla.

20155–CD–P–(3)–78 David M. Crouch d/b as Cactus Communications, Inc. (KWU 472) C. P. for addiitonal facilities to operate on 454.050 454.150 454.200 MHz at a new site described as Loc. No. 2:7711 Louis Pasteur Drive, San Antonio, Tex.

20156–CD–MP–(1)–78 Burlington, Brighton & Wheatland Telephone Co. (KUO636) C. P. to change antenna system and replace transmitter operating on 158.10 MHz at loc. No. 3: 2.2 miles Northeast of Footville, Wis.

20157–CD–P–(1)–78 Central Communications, Inc. (New) C.P. for a new 2-Way station to operate on 152.03 MHz to be located at City of Owatonna Water Tower, Owatonna, Minn.

20158–CD–P–(5)–78 Tel-Page Corp. of Pennsylvania (New) C.P. for a new 1-Way station to operate on 43.22 MHz at Loc. No. 1: Atop Hill, 1 mile South of Canonsburg; 43.22 MHz at Loc. No. 2: 1 mile North of Monroeville; 43.22 MHz at Loc. No. 3: Busch Tower, near East St. and Ivory Ave., Pittsburgh; 43.22 MHz at Loc. No. 4: 1411 Grandview Ave., Pittsburgh; 43.22 MHz at Loc. No. 5: 1406 Beer School Road, Carapolis, Pa.

20159–CD–P–(1)–78 Telegraph-Herald, Inc. (KRS641) C.P. for additional facilities to operate on 454.175 MHz at Loc. No. 1: On Highway 35, 1.6 miles North of Illinois-Wisconsin border, Kieler, Wis.

20160–CD–P–(2)–78 Schaller Telephone Co. (KWU471) C.P. to change antenna system and replace transmitter operating on 152.51 MHz; additional facilities to operate on 152.66 MHz to be located 1.6 miles SE of Schaller, Iowa.

20161–CD–P–(1)–78 Radio Relay New York Corp. (KEC745) C.P. to relocate facilities operating on 43.22 MHz at Loc. No. 7: to be located 91 Strawberry Hill Ave., Stamford, Conn.

20162–CD–P–(9)–78 Radiotelephone Communicators of Puerto Rico, Inc. (WWA311) C.P. for additional facilities to operate on 152.03, 152.09, 152.12, 152.15, 152.21, 454.025, 454.050, 454.075, 454.100 MHz to be located at a new site described as Loc. No. 6: Monte del Estado, 2 miles south of Maricao, P.R.

20163–CD–P–(1)–78 Radiotelephone Communicators of Puerto Rico, Inc. (KQZ767) C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 5 to be located at Monte del Estado, 2 miles South of Maricao, P.R.

20164–CD–P–(1)–78 Associated Telephone Answering Services System, Inc. (KKI452) C.P. for additional facilities to operate on 454.150 MHz at a new site described as Loc. No. 5: 7.5 miles West of Albuquerque, N. Mex.

20165–CD–P–(1)–78 Associated Telephone Answering Service System, Inc. (KKI452) C.P. for additional facilities to operate on 454.075 MHz at Loc. No. 1: Sandia Mountain, (Lot 40, Range 5 East, Township 11 North) N. Mex.

20166–CD–P–(2)–78 Associated Telephone Answering Service System, Inc. (KKI452) C.P. for additional facilities to operate on 454.025, 454.175 MHz at Loc. No. 1: Sandia Mountain, (Lot 40, Range 5 East, Township 11 North) N. Mex.

20167–CD–AL–(2)–78 William J. Curtin d/b/a Curtin Call Communications, Consent to ASSIGNMENT of License from William J. Curtin d/b/a Curtin Call Communications, ASSIGNOR to WEAU, Inc., ASSIGNEE. Stations: KSV988, KTS232, Eau Claire, Wis.

CORRECTIONS:

20032–CD–P–(2)–78 Charles L. Slocum (New) Correct entry to delete request for 454.275 MHz 1-Way facility at Loc. No. 2 described at Coalbed Rd., Elk Township, Six Miles Northeast of Warren, Pa. All other particulars remain as reported on PN No. 880 datted October 17, 1977.

RURAL RADIO SERVICE:

60028–CR–P/L–78 Everett F. Tyrrel d/b as Havre Answering Service (New) C.P: for a new Rural Subscriber-Fixed station to operate on 158.67 MHz to be located at any temporary-fixed location within the territory of the Grantee.

POINT TO POINT MICROWAVE RADIO SERVICE

TX—186–CF–P–78 United WEHCO, Inc. (KEX75), Walkers Mill, 1.8 mile South of Walkers Mill, Tex. (Lat. 32°33′37″ N., Long. 94°33′20″ W.): Construction permit to add 6093.5V MHz toward Carthage, Tex., via power split.

DE—203–CF–P/ML–78 American Telephone & Telegraph Co. (KGP83), Wilmington, 901 Tatnall Street, Wilmington, Del. (Lat. 39°44′45″ N., Long. 75°33′04″ W.): Construction permit and modification of license to change polarization to Horizontal 3730H, 3810H, 3890H, 3970H, and 4130H MHz toward Quinton, N.J.

NJ—204–CF–P/ML–78 American Telephone & Telegraph Co. (KEM73), 2 miles SE of Quinton, N.J. (Lat. 39°31′49″ N., Long. 75°22′53″ W.): Construction permit and modification of license to change polarization to Horizontal 3770H, 3850H, 3930, 4010H, and 4170H MHz toward Wilmington, Del.

LA–205–CF–P–78 American Telephone & Telegraph Co. (KGP67), 2.2 miles SSW of Clarks, La. (Lat. 31°59′53″ N., Long. 92°09′13″ W.): Construction permit to add 4130V MHz toward Winnfield, La.

LA—206–CF–P–78 American Telephone & Telegraph Co. (KGP68), 4.4 miles SE of Winnfield, La. (Lat. 31°52′52″ N., Long. 92°35′00″ W.): Construction permit to add 4170V MHz toward Montgomery, La.

PA—207–CF–P–78 Eastern Microwave, Inc. (KZA86), Tyrone Mtn., Hoover Road, 6 miles NW of Tyrone, Pa. (Lat. 40°43′56″ N., Long. 78°19′33″ W.): Construction permit to increase transmitter output power and to add 6049V MHz toward Mt. Union, Pa., on azimuth 138.9°, via power split.

OH—208–CF–P–78 Eastern Microwave, Inc. (WCG313), Akron–1, off E. Tallmadge Avenue, Akron, Ohio (Lat. 41°05′48″ N., Long. 81°28′34″ W.): Construction permit to add 5974.8V MHz toward Massillon, Ohio, on azimuth 188.7°, via power split.

NY—209–CF–P–78 Eastern Microwave, Inc. (WQP99), Whaley Road, atop Quaker Hill, Stokes, N.Y. (Lat. 43°20′35″ N., Long. 75°25′36″ W.): Construction permit to add 6330.7V MHz toward Chittenango, N.Y., via power split.

PA—210–CF–P–78 Eastern Microwave, Inc. (WQR72), Hookstown, U.S. Route 30, 1.4 mile S.E. of Hookstown, Pa. (Lat. 40°34′37″ N., Long. 80°27′24″ W.): Construction permit to add 11135V MHz toward Rochester, Pa., on azimuth 45.8°, via power split.

POINT TO POINT MICROWAVE RADIO SERVICE

PR—170–CF–P–78 Puerto Rico Telephone Co. (WWY36), St. Road 460 2 miles W. of St. Rd. Aquadilla (Aguadilla), P.R. Lat. 18° 26′50″ N., Long. 067°09′10″ W. CP to change frequencies 6204.7H and 6264.0H MHz to 6205.0H MHz toward Monte Estado, P.R. and replace transmitters and antennas.

PR—171–CF–P–78 Same (WWT48), Monte Estado 2 miles S. of Maricao (Maricao), P.R. Lat. 18°09′05″ N., Long. 066°59′22″ W. CP to change 6011.4H and 5952.6H MHz to 5952.0H toward Aquadilla, P.R. and add 3890.0V MHz toward Miradero, P.R., replace transmitters and antennas.

PR—172–CF–P–78 Same (WWZ20), Miradero St. Road 108 0.5 mile N. of Mayaguey (Mayaguey), P.R. Lat. 18°13'13" N., Long. 067°08'26" W. CP to add frequency 4010V MHz toward Monte Estado, P.R.

GA—173–CF–P–78 Southern Bell Telephone and Telegraph Co. (KRW79), 3 miles SE. of Graves (Terrell), Ga. Lat. 31°44'05" N., Long. 084°30'06" W. CP to add frequency 3950.0V MHz toward Lumpkin, Ga.

GA—174–CF–MP–78 (KIO42), 3.5 miles SW. of Lumkin (Stewart), Ga. Lat. 32°01'26" N., Long. 084°50'50" W. CP to add frequency 3990.0V MHz toward Fort Mitchell, Ga.

NJ—175–CF–MP–78 American Telephone and Telegraph Co. (KJM73), Lat. 30°32'48" N., Long. 083°52'06" W. MP to change Polarization from V to H on frequencies 3750, 3830, 3910, 4070, 4150, and 4198 MHz and from H to V on frequencies 3810, 3890, and 3970 MHz toward Madison, N.J., move and replace antennas.

FL—176–CF–MP–78 Same (KJM72), Brookwood Ave. and State Road 10 Madison (Madison), N.J. Lat. 30°28'11" N., Long. 083°25'11" W. MP to change Polarization from V to H on 3710, 3790, 3870, 4110, and 4190 MHz and H to V on 3930, 4010, and 4090 MHz, move and replace antenna 3710 toward Monticello: move and replace antennas on 3710V change 3850H to 3810V change 3850H to 3810H, 3930H to 3890H, 4010 to 3970 MHz toward Jasper, Fla.

FL—177–CF–MP–78 Same (KJM71), 5.5 miles S. of Jasper (Hamilton), Fla. Lat. 30°26'17" N., Long. 082°56'17" W. MP to change frequencies 3890H, 3930H, and 3970H to 4010H and 4050H to 3970H to 4010H and 4050H to 4090H MHz toward Madison, Fla. Move and replace antennas on 3750V toward Madison and Lake City, Fla.

FL—181–CF–MP–78 Southern Bell Telephone Co. (KJC23), Pearl and Waukeenan Sts. Monticello (Jefferson), Fla. Lat. 30°-32'48" N., Long. 083°52'06" W. MP to change Polarization from H to V on 3730, 4050, 4130, and 3990 MHz, replace and move antennas on 6004.5H MHz toward Madison, Fla.

FL—182–CF–MP–78 Same (KJC22), Brookwood Ave. & St. Road 10 Madison (Madison), Fla. Lat. 30°28'11" N., Long. 083° 25'11" W., MP to change Polarization from H to V on frequencies 3770 3850 & 4170 MHz toward Monticello, Fla., move and replace antennas on 3730H 4050H 4130H 3950V and 6256.5H MHz toward Jasper, Fla.

FL—183–CF–MP–78 Same (KJC21), 5.5 miles South of Jasper (Hamilton), Fla. Lat. 30°26'17" N., Long. 082°56'17" W., MP to move and replace antennas on 3770H 3850H and 4170H MHz toward Madison, Fla., 3770V 3850V 3990H 4170V and 6004.5H MHz toward Lake City, Fla.

IL—8473–CF–P/ML–77 Illinois Bell Telephone Co. (WAN62), 3.3 miles NNE of Plano (Kendall), Ill. Lat. 41°42'24" N., Long. 088°30'26" W., CP and mode of license to change polarization from H to V on 11245 and 11605 MHz toward Aurora FAA, move and replace antennas.

IL—3474–CF–P/ML–77 Same (WDE25), 619 Indian Trail Road Aurora (Kane), Ill. Lat. 41°46'59" N., Long. 088°19'53" W., CP and mode of license to change polarization from H to V on 10795 to 11155 MHz toward Plano, Ill.

VA—214 CF–P–78 Continental Telephone Co. of Virginia (KIY33), Cooks Corner 1.7 miles East of Saludo (Middlesex), Va. Lat. 37°36'02" N., Long. 076°34'02" W., CP to change frequency 6056.4V MHz toward Warsaw, Va. add antennas and replace transmitters.

VA—215 CF–P–78 Same (KIK23), 8 Main street, Warsaw (Richmond), Va., Lat. 37° 57'35" N., Long. 076°45'25" W., CP to change frequency 6308.4V MHz toward Cooks Corner, Va., add antennas and replace transmitters.

AR—229–CF–P–78 Southwestern Bell Telephone Co. (WQP87), S. end of Kenilworth Ave. Fayetteville (Washington), Ark. Lat. 36°04'17" N., Long. 094°08'25" W., CP to add a new point of communication on 6286.2V MHz toward Fayetteville, Ark. on Azimuth 002.9 degrees.

AR—230–CF–P–78 Same (WCU222), 700 W. Walnut Rogers (Benton), Ark. Lat. 36°19' 58" N., Long. 094°07'27" W., CP for new station on frequency 6034.2H MHz toward Rogers, Ark. on Azimuth 182.9 degrees.

FL—231–CF–P–78 United Telephone Co. of Florida: (KJG59), 700 S. Access Road Port Charlotte (Charlotte), Fla. Lat. 26°58'48" N. Long. 082°05'53" W., CP to change polarization from V to H on 6226.9 and 6345.5 MHz toward Nokomis, Fla. replace antennas and transmitters.

[FR Doc.77-32681 Filed 11-10-77;8:45 am]

[6712-01]

FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 31, 1977.

Released: November 3, 1977.

Notice is hereby given pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules, that on December 16, 1977, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.519(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 15, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on December 15, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Acting Secretary.

BPTT–3378 (K72BM), Olympia, Montesano and Elma, Wash., Olympia School District No. 111. Req: Delete Olympia, Wash. from present principal community, change primary TV station to KCPQ–TV, Channel 13, Tacoma, Wash.

BPTT–3379 (K70DT), Longview, Wash., Vancouver School District No. 37. Req: Change primary TV station to KCPQ–TV, Channel 13, Tacoma, Wash.

BPTT–3380 (New), Wellton-Mohawk Valley, Wash., Wellton-Mohawk Irrigation and Drainage District. Req: Channel 61, 752–758 MHz, 100 watts. Primary: KAET–TV, Phoenix, Ariz.

BPTT–3381 (New), Wellton-Mohawk Valley, Ariz., Wellton-Mohawk Irrigation and Drainage District. Req: Channel 63, 764–770 MHz, 100 watts. Primary: KTAR–TV, Phoenix, Ariz.

BPTT–3382 (New), Wellton-Mohawk Valley, Ariz., Wellton-Mohawk Irrigation and Drainage District. Req: Channel 65, 776–782 MHz, 100 watts. Primary: KOOL–TV, Phoenix, Ariz.

BPTT–3383 (New), Wellton-Mohawk Valley, Ariz., Wellton-Mohawk Irrigation and Drainage District. Req: Channel 67, 788–794 MHz, 100 watts. Primary: KTVK–TV, Phoenix, Ariz.

BPTT–3384 (New), Wellton-Mohawk Valley, Ariz., Wellton-Mohawk Irrigation and Drainage District. Req: Chanel 69, 800–806 MHz, 100 watts. Primary: KPHO–TV, Phoenix, Ariz.

BPTT–3385 (K83AP), Centralia/Chehalis, Wash., Centralia School District No. 41. Req: Decrease output power to 20 watts and change primary TV station to KCPQ–TV, Channel 13, Tacoma, Wash.

BPTT–3386 (New), Skidoo Bay, Rollins and Dayton, Mont., Blacktail TV District. Req: Channel 58, 734–740 MHz, 20 watts. Primary: KXLY–TV, Spokane, Wash.

BPTT–3387 (new), Skidoo Bay, Rollins and Dayton, Mont., Blacktail TV District. Req: Channel 67, 788–794 MHz, 20 watts. Primary: KREM–TV, Spokane, Wash.

BPTT–3388 (new), Monitor, Cashmere and Surrounding Area, Washington. Apple Val-716–722 MHz, 20 watts. Primary: KREM–TV, Spokane, Wash.

BPTT–3389 (new), Rural Baker Flats Area, Washington. Apple Valley TV Association, Inc. Req: Channel 57, 728–734 MHz, 20 watts. Primary: KXLY–TV, Spokane, Wash.

BPTT–3390 (new), Rural Baker Flats Area, Washington. Apple Valley TV Association, Inc. Req: Channel 59, 740–746 MHz, 20 watts. Primary: KHQ–TV, Spokane, Wash.

BPTT–3391 (new), Rural Baker Flats Area, Washington. Apple Valley TV Association, Inc. Req: Channel 61, 752–758 MHz, 20 watts. Primary: KREM–TV, Spokane, Wash.

BPTT–3392 (new), Panaca, Nev., Lincoln County TV District No. 1. Req: Channel 61, 752–758 MHz, 100 watts. Primary: KVVU–TV, Las Vegas, Nev.

BPTT–3393 (new), Romeo, La Jara, Manassa, Antonito and Alamosa, Colo., San Luis Valley Television, Inc. Req: Channel 61, 752–758 MHz, 100 watts. Primary: KRDO–TV, Colorado Springs, Colo.

BPTT–3394 (K79CC), Romeo, La Jara, Manassa, Antonito and Alamosa, Colo., San Luis Valley Television, Inc. Req: Change frequency to Channel 59, 740–746 MHz.

BPTT–3397 (new), Clam Gulch Homesite Extending Alongside Sterling Highway, Alaska, Alaska Public Television, Inc. Req: Channel 42, 638–644 MHz, 10 watts. Primary: KAKM–TV, Anchorage, Alaska.

BPTT–3398 (new), Kasilof, Alaska, Alaska Public Television, Inc. Req: Channel 45, 656–662 MHz, 10 watts. Primary: KAKM–TV, Anchorage, Alaska.

BPTT–3399 (new), Anchor Point, Alaska, Alaska Public Television, Inc. Req: Channel 51, 692–698 MHz, 10 watts. Primary: KAKM–TV, Anchorage, Alaska.

BPTT–3404 (new), Monitor, Cashmere & Surrounding Area, Wash., Apple Valley TV Association, Inc. Req: Channel 51, 692–698 MHz, 20 watts. Primary: KXLY–TV, Spokane, Wash.

BPTT-3405 (new), Monitor, Cashmere & Surrounding Area, Wash., Apple Valley TV Association, Inc. Req: Channel 54, 704-710 MHz, 20 watts. Primary: KHQ-TV, Spokane, Wash.

BPTT-3406 (K70AM), Manson & Chelan, Wash., Manson Community TV Company, Inc. Req: Change frequency to Channel 55, 716-722 MHz, delete Chelan, Washington from present principal Community increase output power to 100 watts.

BPTT-3407 (new), Red Lake, Minn. Red Lake Band of Chippewa Indians. Req: Channel 67, 788-794 MHz, 100 watts. Primary: KNMT-TV, Walker, Minn.

BPTT-3408 (new), Red Lake, Minn., Red Lake Band of Chippewa Indians. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KTHI-TV, Fargo, N.Dak.

BPTT-3409 (new), Indian Village and Fort Wingate, N.Mex., Regents of the University of New Mexico and the Board of Education, city of Albuquerque, N. Mex. Req: Channel 61, 752-758 MHz, 100 watts. Primary: KNME-TV, Albuquerque, N.Mex.

BPTT-3410 (new), Pagosa Springs, Colo., Regents of the University of New Mexico and the Board of Education, city of Albuquerque, N.Mex. Req: Channel 62, 758-764 MHz, 20 watts. Primary: KNME-TV, Albuquerque, N.Mex.

BPTT-3411 (new), Eagle Nest and Morena Valley, N.Mex., Regents of the University of New Mexico and the Board of Education, city of Albuquerque, N.Mex. Req: Channel 63, 764-770 MHz, 20 watts. Primary: KNME-TV, Albuquerque, N.Mex.

BPTT-3412 (new), Sunetha, Colo., Regents of the University of New Mexico and the Board of Education, city of Albuquerque, N. Mex. Req: Channel 68, 794-800 MHz, 20 watts. Primary: KNME-TV, Albuquerque, N. Mex.

VHF TV Translator Applications

BPTTV-5935 (new), Luray, Kans., city of Luray. Req: Channel 11, 198-204 MHz, 1 watt. Primary: KLNE-TV, Lexington, Nebr.

BPTTV-5936 (new), Luray, Kans., city of Luray. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KSNB-TV, Superior, Nebr.

BPTTV-5937 (KO4EI), Vancouver, Wash., Vancouver School District No. 37. Req: Change primary TV station to KCPQ-TV, Channel 13, Tacoma, Wash.

BPTTV-5938 (new), Big Elk Meadows, Colo., Platte Valley Farm Supply Co., d.b.a. Translator TV. Req: Channel 8, 180-186 MHz, 1 watt. Primary: KOA-TV, Denver, Colo.

BPTTV-5939 (new), Big Elk Meadows, Colo., Platte Valley Farm Supply Co., d.b.a. Translator TV. Req: Channel 11, 198-204 MHz, 1 watt. Primary: KMGH-TV, Denver, Colo.

BPTTV-5940 (new), Big Elk Meadows, Colo., Platte Valley Farm Supply Co., d.b.a. Translator TV. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KBTV-TV, Denver, Colo.

BPTTV-5942 (new), Homer, Alaska, Alaska Public Television, Inc. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KAKM-TV, Anchorage, Alaska.

BPTTV-5943 (K12FM), Fort Stockton, Tex., Midessa Television Co., Inc. Req: Add Alpine, Texas to present principal community.

BPTTV-5946 (new), Community of Shelter Cove, Calif., Shelter Cove Pioneers, Inc. Req: Channel 8, 180-186 MHz, 1 watt. Primary: KIEM-TV, Eureka, Calif.

BPTTV-5947 (new), Thayne, Bedford Freedom, Etna, and Turnerville, Wyo. Lower Star Valley Community Non-Profit TV, Association. Req: Channel 5, 76-82 MHz, 10 watts. Primary: KIFI-TV Idaho Falls, Idaho.

BPTTV-5949 (new), Thayne, Bedford, Freedom, Etna, and Turnerville, Wyo. Lower Star Valley Community Non-Profit TV, Association. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KID-TV, Idaho Falls, Idaho.

BPTTV-5950 (new), Thayne, Bedford, Freedom, Etna, and Turnerville Wyo. Lower Star Valley Community Non-Profit TV, Association. Req: Channel 12, 204-210 MHz, 10 watts. Primary: KPVI-TV, Pocatello, Idaho.

FM Translator Applications

BMPFT-52 (K276 AM), Weaverville and Junction City, Calif., Northern California Communications Corp. Req: Change frequency to Channel 296, 107.1 MHz.

BMPFT-53 (K276 AK), Nubieber and McArthur, Calif., Northern California Communications Corp. Req: Change frequency to Channel 240, 95.9 MHz.

BPFT-462 (new), Thompson Falls and Thompson River area, Mont., Thompson Falls TV District. Req: Channel 280, 103.9 MHz, 1 watt. Primary: KXLY-FM, Spokane, Wash.

BPFT-463 (new), Ridgecrest, China Lake and Inyokern, Calif., Maranatha Christian Media, Inc. Req: Channel 276, 103.1 MHz, 1 watt. Primary: KQLH-FM, San Bernardino, Calif.

BPFT-464 (new), Paonia and Hotchkiss, Colo., Grand Mesa Television. Req: Channel 280, 103.9 MHz, 10 watts. Primary: KREX-FM, Grand Junction, Colo.

BFPT-465 (new), Ukiah, Lakeport, and Potter Valley, Calif., Western Translators, Inc. Req: Channel 296, 107.1 MMz, 1 watt. Primary: KEAR-FM, San Francisco, Calif.

BPFT-466 (new), Babbitt, Minn., Stereo Broadcasting, Inc. Req: Channel 269, 101.7 MHz, 10 watts. Primary: WAKX-FM, Duluth, Minn.

BPFT-467 (new), Willits and Longvale, Calif., Western Translators, Inc., Req: Channel 288, 105.1 MHz, 1 watt. Primary: KEAR-FM, San Francisco, Calif.

BPFT-468 (new), Marion, Ohio, Gap, Inc. Req: Channel 257, 99.3 MHz, 1 watt. Primary: WCVO-FM, Gahanna, Ohio.

[FR Doc.77-32682 Filed 11-10-77;8:45 am]

[6712-01]

ORANGE COUNTY CABLE TV

Application for Certificate of Compliance; Memorandum Opinion and Order and Order To Show Cause

Adopted: October 27, 1977.

Released: November 7, 1977.

In the matter of Orange County Cable TV, Silverado Canyon, Calif., Trabuco Canyon, Calif., Modjeska Canyon, Calif.: Petition for Order to Show Cause (Docket No. 21426, CSC-186, (CA0675), (CA0719), (CA0723)) Application for Certificate of Compliance CAC-8597.

1. Coast Television Broadcasters, Inc., licensee of Station KWHY-TV (Spec., Channel 22), Los Angeles, Calif., asks the Commission to issue an order directing Orange County Cable TV to show cause why it is not carrying the station's signal on Cable TV's cable system serving Silverado Canyon, Trabuco Canyon and Modjeska Canyon, Calif.

2. The three community units lie within the 35-mile specified zone of Corona, Calif., which is part of the Los Angeles-San Bernardino-Corona-Fontana major television market.[1] Section 76.61(a)(4) of the Commission's Rules requires Cable TV to carry the signal upon request.[2] KWHY-TV has submitted copies of two written requests for carriage: one dated March 28, 1977 and the other dated July 18, 1977. Cable TV responded to the July 18 letter, asking KWHY-TV to pay for equipment necessary to begin carriage. The system has filed no pleading in response to KWHY-TV's petition for an order to show cause.

3. Cable systems are generally required to assume the financial burden of carrying television stations possessing mandatory carriage rights. Cf. South Sausalito Cable TV (Sausalito, Calif.), FCC 77R-16, —— FCC 2d —— (1977). Therefore, since Cable TV has presented no arguments as to why it should not incur any expense that might be necessary to add KWHY-TV we will issue the requested order.

4. On July 26, 1977, the Commission issued its opinion in Orange County Cable TV (Trabuco Canyon, Calif.), FCC 77-475, —— FCC 2d —— (1977), in which we ordered the same cable operator to begin carrying in Trabuco Canyon the signal of Station KOCE-TV (Educ., Channel 50), Huntington Beach, Calif. Carriage was to commence by August 27, 1977. We warned that failure to begin carriage within the time specified would lead to issuance of an order to show cause. Cable TV wrote the Commission on August 9, 1977, saying it was unable to receive a signal of sufficient strength to make KOCE-TV's carriage feasible.

I have made several tests using a new Sony TV set, several different antennas, and a 30 dB gain pre-amp, and the picture and sound received is not useable, and it is my belief there is no way the signal can be improved to provide a useable signal for the cable. I have no meter to read the strength, but estimate it to be -40 to -50 dbm. To add KOCE, the existing system would require a new receiving location (headend) and/or a

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[1] The approximate distance from each cable community to Corona is as follows: Silverado Canyon, 10 miles; Trabuco Canyon, 15 miles; Modjeska Canyon, 12 miles.

[2] Section 76.61(a)(4) reads as follows: Where a system serves a community that is located in whole or in part within one of the first fifty major television markets listed in §.76.51(a) the community unit shall carry television broadcast signals only in accordance with the following provisions: (a) Any such community unit may carry, or on request of the relevant station licensee or permittee, shall carry the signals of: (4) Television broadcast stations license to other designated communities of the same major television market (Example: Cincinnati, Ohio-Newport, Kentucky television market). * * *

several hop microwave system. * * * The cost * * * would be prohibitive. * * *

The Commission requires considerably more proof of signal inferiority before granting waiver of our rules on this basis. Therefore, Cable TV's belated attempt to justify noncarriage of KOCE–TV is unavailing. At minimum, we require a set of field strength measurements to be taken over a two-day period at both the headend site and at several randomly selected points within the cable community. Moreover, we require the measurements to be reduced to db referenced to one microvolt per meter with disclosure of the conversion factor used to change the signal level meter reading into field strength. Finally, we must have a complete description of all equipment used. For an example of a case where the parties submitted such evidence, see Bee Line, Inc. (Skowhegan, Maine), FCC 77–594, —— FCC 2d —— (1977).

5. Cable TV has filed an application for certificate of compliance for its Silverado Canyon operations but, despite requests, has failed to begin carriage of KOCE–TV in this community.[3] Therefore, the station has filed an objection to the certificate of compliance application. Since KOCE–TV is entitled to carriage pursuant to Sections 76.61(a)(1) and 76.61 (a)(2) of the Commission's Rules,[4] we will issue an order to show cause against Cable TV for its apparent violation of our rules. However, because the remainder of the application for Certificate of Compliance is consistent with our rules and since KOCE–TV's request for carriage in Silverado Canyon will be handled in the show cause proceeding, a certificate of compliance will be issued. Cf. paragraph 8, TM Communications Company (Escondido, Calif.), FCC 76–967, 61 FCC 2d 559 (1976). However the grant of the certificate is expressly conditioned upon the outcome of the proceedings in this Docket.

In view of the foregoing, we believe that an order to show cause should be issued against Orange County Cable TV for failure to carry Station KOCE–TV in Trabuco Canyon and Silverado Canyon, and for failure to carry Station KWHY–TV in Trabuco Canyon, Silverado Canyon and Modjeska Canyon. Moreover, we believe that the public interest favor issuing a certificate of compliance for the Silverado Canyon operations consistent with paragraph 5 above.

Accordingly, *it is ordered*, That the "Application for Certificate of Compliance" filed by Orange County Cable TV to continue its existing operations at Silverado Canyon, Calif., (CAC–8597) is granted, to the extent indicated above.

It is further ordered, That the "Petition for Order to Show Cause" filed by Coast Television Broadcasters, Inc. (CSC–186) is granted, that an order to show cause pursuant to our Memorandum Opinion and Order in Orange County Cable TV, supra, for failure to cary KOCE–TV in Trabuco Canyon is issued and that an order to show cause for failure to carry KOCE–TV in Silverado Canyon is issued.

It is further ordered, That, pursuant to Sections 312 (b) and (c) and Section 409(a) of the Communications Act of 1934, as amended, Orange County Cable TV is directed to show cause why it should not be ordered to cease and desist from further violation of Section 76.61 of the Commission's Rules and Regulations on its cable system serving Silverado Canyon, Trabuco Canyon and Modjeska Canyon, Calif.

It is further ordered, That Orange County Cable TV is directed to appear and give evidence with respect to the matters described above at a hearing to be held at a time and place and before an Administrative Law Judge to be specified by subsequent order, unless hearing is waived, in which event a written statement may be submitted.

It is further ordered, That Coast Television Broadcasters, Inc., and Coast Community College Board of Trustees are made parties to the proceeding.

It is further ordered, That the Secretary of the Federal Communications Commission, shall send copies of this order by certified mail return receipt requested, to all parties.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICCARICO,
Acting Secretary.

[FR Doc.77–32680 Filed 11–10–77;8:45 am]

[3] KOCE–TV has submitted a copy of its letter dated March 11, 1977 requesting carriage in Silverado Canyon.

[4] Section 76.61(a)(1) requires carriage, upon request, of all television stations within whose 35-mile specified zone the cable community is located. (Silverado Canyon is 26 miles from Huntington Beach). Section 76.61 (a)(2) requires carriage, upon request, of all educational television stations whose predicted Grade B contour encompasses the cable community, and KOCE–TV has submitted a map showing its Grade B contour encompasses Silverado Canyon.

[6210–01]

FEDERAL RESERVE SYSTEM

COMMUNITY BANKS, INC.

Formation of Bank Holding Company

Community Banks, Inc., Middleton, Wis., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Middleton, Middleton, Wisconsin, and Bank of Shorewood Hills, Madison, Wisconsin, a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 7, 1977.

Board of Governors of the Federal Reserve System, November 4, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–32720 Filed 11–10–77;8:45 am]

[6210–01]

GOLDFIELD STATE BANCSHARES, INC.

Formation of Bank Holding Company

Goldfield State Bancshares, Inc., Goldfield, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of the Goldfield State Bank, Goldfield, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1977.

Board of Governors of the Federal Reserve System, November 4, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–32721 Filed 11–10–77;8:45 am]

[6210–01]

NORTHWEST ARKANSAS BANCSHARES, INC.

Formation of Bank Holding Company

Northwest Arkansas Bancshares, Inc., Bentonville, Ark., has applied for the Boards approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of First National Bank, Rogers, Arkansas. The factors that are considered in acting on the application are set forth in § 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 2, 1977.

Board of Governors of the Federal Reserve System, November 4, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–32722 Filed 11–10–77;8:45 am]

[4110–03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77–0313; DESI 6146]

DIPHENHYDRAMINE HYDROCHLORIDE FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing the parenteral form of diphenhydramine hydrochloride for the indications for which it continues to be regarded as effective and offers an opportunity for a hearing concerning those indications regarded as lacking substantial evidence of effectiveness.

DATES: Hearing requests due on or before December 12, 1977; supplements to approved NDA's due on or before January 10, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6146, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD–160), Room 18B–08, Bureau of Drugs.

Abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Room 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Room 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 6146; Docket No. FDC–D–308 (now Docket No. 77N–0313)) published in the FEDERAL REGISTER of June 22, 1971 (36 FR 11871), the Food and Drug Administration announced its conclusions that diphenhydramine hydrochloride for parenteral use is effective in the treatment of motion sickness, parkinsonism, and allergic reactions. The drug product was also classified as less than effective (possibly effective, probably effective, and lacking substantial evidence of effectiveness) for certain other indications. The notice provided an opportunity for hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. No person submitted data in support of the possibly or probably effective indications. This notice offers an opportunity for hearing concerning those indications, which are now reclassified to lacking substantial evidence of effectiveness, and states the conditions for marketing the drug for the indications which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before December 12, 1977. Other drug products included in the June 22, 1977 notice are not affected by this notice.

The notice that follows does not pertain to the indications stated in the June 22, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

NDA 9–486 and NDA 6–146; Benodryl Ampoules and Steri-Vials containing diphenhydramine hydrochloride; Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, the notice applies to all persons who manufacture or distribute a drug product that is not the subject of an approved new drug application and that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug named above is effective for the indications listed in the labeling conditions below. The effective indication that read "Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions" in the June 22, 1971 notice is now revised and described below to read "Amelioration of allergic reactions to blood or plasma." The drug now lacks substantial evidence of effectiveness for the indications evaluated as possibly and probably effective in the June 22, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement. Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For use in the following conditions when use of the oral form of the drug is impractical:

Amelioration of allergic reactions to blood or plasma.

In an anaphylaxis as an adjunct to epinephrine and other standard measures after the acute symptoms have been controlled.

For other uncomplicated allergic conditions of the immediate type when oral therapy is impossible or contraindicated.

For the active treatment of motion sickness.

Parkinsonism in the elderly who are unable to tolerate more potent agents.

Mild cases of parkinsonism in other age groups.

In other cases of parkinsonism in combination with centrally acting anticholinergic agents.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before January 10, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before December 12, 1971, a written notice of appearance and request for hearing, and (2) on or before January 10, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication (s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 24, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-32401 Filed 11-10-77;8:45 am]

[4110-03]

[Docket No. 77N-0212]

LABELING REQUIREMENTS

Rescission of Certain Trade Correspondences

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice rescinds certain Trade Correspondences (TC's) that permitted deviations from the requirement that the label of a food fabricated from two or more ingredients bear the common or usual name of each ingredient. Rescission of the TC's affirms the requirement that the ingredients of tomato sauce, mayonnaise, chili sauce, mincemeat, peanut butter and cheese-flavored crackers must be named on the label in accordance with existing regulations when these foods are used as ingredients in making other finished foods.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Between 1940 and 1955 the Food and Drug Administration responded by advisory letters (Trade Correspondences) to inquiries regarding specific applications of the requirement for ingredient labeling under section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(i)(2)). The Commissioner of Food and Drugs issued final regulations in the FEDERAL REGISTER of January 6, 1976 concerning label declaration of ingredients in foods under § 101.4 (21 CFR 101.4) (formerly 21 CFR 1.10 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). Section 101.4 requires the names of all ingredients, with certain exceptions, to be listed by a specific common or usual name. Certain previously issued TC's, Numbers 134, 212, 216 and 248, are inconsistent with these regulations, and the Commissioner is concerned that manufacturers may infer continuance of the policy expressed in these TC's in the absence of a public notice that they no longer reflect agency policy.

Rescission of these TC's has the effect of affirming the present regulatory requirements for label declaration of ingredients as follows:

1. Rescission of TC-134 affirms the requirement that the ingredients from

which tomato sauce is fabricated be declared on the label of the finished food in which tomato sauce is used.

2. Rescission of TC–212 affirms the requirement for (a) label declaration of all ingredients of chili sauce when chili sauce is included in finished food, and (b) label declaration of ingredients of mayonnaise in accordance with the standard of identity and policy concerning labeling declaration of ingredients in standardized foods when mayonnaise is included in a finished food.

3. Rescission of TC–216 affirms the requirement that all ingredients of mincemeat used in making mincemeat pie be declared on the label.

4. Rescission of TC–248 affirms the requirement for label declaration of the ingredients of "peanut butter" and "cheese flavored crackers" when these foods are used to make a "peanut butter sandwich." In the case of peanut butter, ingredients are required to be labeled in accordance with the standard of identity and policy concerning label declaration of ingredients in standardized foods.

Each of the TC's was issued with the understanding that it would be subject to reconsideration if it developed that consumers were being denied information to which they are entitled. In the past few years, consumers have demanded full ingredient labeling, listing all ingredients in foods.

With certain exceptions, label declaration of all ingredients in fabricated food must now be declared by their specific common or usual name in accordance with the provisions of § 101.4, which becomes effective on January 1, 1978 except for those provisions of § 101.4 which become effective on July 1, 1978 as announced elsewhere in this issue of the FEDERAL REGISTER. The Commissioner advises that the declaration of ingredients for fabricated foods containing the ingredients affected by this rescission may be made in accordance with § 101.4 (b)(2). That provision allows the declaration of ingredients for standardized foods containing two or more ingredients, e.g., mayonnaise and peanut butter, to be made either by declaring each component in its order of predominance in the finished food, or by declaring the ingredient by its standardized name followed by a parenthetical listing of the components required to be declared by the standard of identity. The other foods affected by the rescission are not standardized foods, but the Commissioner advises that he considers the names of these foods to be established common or usual names. Thus, the declaration of ingredients for these foods, when they are used in a fabricated food, may be made in accordance with the alternatives provided in § 101.4(b)(2) for nonstandardized foods.

The Commissioner is delaying until July 1, 1979 the effective date of recision of these TC's because manufacturers may be relying on the stated policies for labeling foods currently being marketed. This effective date is the new uniform effective date that was established in the FEDERAL REGISTER of April 12, 1977 (42 FR 19234) for all final regulations affecting the labeling of food that publish in the FEDERAL REGISTER after April 1, 1977.

Accordingly, under authority delegated to the Commissioner (21 CFR 5.1), the following TC's are hereby rescinded:

1. TC–134, dated March 7, 1940.
2. TC–212, dated March 21, 1940.
3. TC–216, dated March 21, 1940.
4. TC–248, dated April 25, 1940.

Effective date: July 1, 1979.

Dated: November 5, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 77–32689 Filed 11–10–77; 8:45 am]

[4110–03]

Food and Drug Administration

NATIONAL DRUG CODE DIRECTORY

Availability

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This document announces the availability of the 1976 edition of the National Drug Code (NDC) Directory. The Directory contains descriptions of approximately 50,000 human prescription drug products and selected over-the-counter drug products.

FOR FURTHER INFORMATION CONTACT:

Walter W. Crawley, Jr., Bureau of Drugs (HFD–315), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–427–7384.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration announces the availability of the 1976 edition (fifth) of the National Drug Code (NDC) Directory. The Directory contains descriptions of approximately 50,000 human prescription drug products and selected over-the-counter drug products that physicians often prescribe. The descriptive information includes: the product trade name or catalog name, the National Drug Code (NDC) number, dosage form, route of administration, active ingredients, strength, package size, and major drug group.

The Directory, a 2-volume publication, is composed of 4 sections: an alphabetical index by product trade name, numeric index of products by national drug code, numeric index of products by major drug group, and an alphabetic index by short name (of the labeler).

Copies of the 2-volume Directory, Stock No. 017–012–00242–1, may be purchased for $18.75 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.

Dated: November 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–32691 Filed 11–10–77;8:45 am]

[4110–03]

PANEL ON REVIEW OF ALLERGENIC EXTRACTS

Renewal

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Allergenic Extracts by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on February 24, 1979, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: November 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–32692 Filed 11–10–77;8:45 am]

[4110–03]

[Docket No. 77P–0328]

PETITION FOR RECLASSIFICATION

Panel Recommendation

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: The agency is issuing for public comment the recommendation of the Physical Medicine Device Classification Panel that AC-powered finger exercisers be reclassified from class III (Premarket Approval) to class II (Performance Standards). This recommendation was made after review of a reclassification petition filed by C. R. Bard, Inc., under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). After reviewing the panel recommendation and the public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. If the device is reclassified, the reclassification will be announced in the FEDERAL REGISTER.

DATES: Comments by December 12, 1977.

ADDRESS: Comments to the Hearing Clerk (HFC–20), Food and Drug Administration, room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Johnsie Bailey, Food and Drug Administration, Bureau of Medical Devices (HFK–410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION: On December 2, 1976, C. R. Bard, Inc., submitted to FDA a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) stating that it intended to market a device the manufacturer calls the Ketchum Dynamic Hand Exerciser. After reviewing the information in the premarket notification, the Commissioner determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Upon this determination, the device is automatically classified in class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act, before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act.

On May 17, 1977, C. R. Bard, Inc., submitted a reclassification petition for the device under section 513(f)(2) of the act. On May 24, 1977, the Physical Medicine Device Classification Panel (panel) reviewed the petition and recommended that the device be reclassified into class II.

To determine the proper classification of the device, the panel considered the criteria in section 513(a)(1) of the act.

For the purposes of classification, the panel assigned to the device the name "AC-powered finger exerciser" and described the device as a powered exerciser for increasing flexion and extension of range of the metacarpophalangeal (MP), proximal interphalangeal (PIP), and distal interphalangeal (DIP) joints of the second to fifth digits of the hand. The panel recommended that all devices meeting this description and substantially equivalent to the Ketchum Dynamic Hand Exerciser be classified into class II.

Summary of the Reasons for the Recommendation

The panel made the following determinations in support of its recommendation:

1. The device is not an implant, nor is it life sustaining or life supporting.

2. The device is not potentially hazardous to life or good health when properly used.

3. The device is powered by a nonmanual external source.

4. Use of the device or failure of power or of the device power source will not present a potential hazard to the patient.

5. The device injects energy into the body.

6. The energy levels used have been shown to be acceptable.

7. Malfunction of the device would result in energy levels that are safe.

8. The material used for contact with the body is biocompatible.

9. The device has performance characteristics that should be maintained at a satisfactory level (discussed further under "Risks to Health" below).

Summary of the Data on Which the Recommendation Is Based

To determine the initial effectiveness of the device, the manufacturer sponsored tests in which the device was used on 6 patients who had a limited range of motion in 74 joints. All these patients had stiff hands and had reached a plateau in range of motion for at least 6 weeks before the device was used. The patients ranged in age from 30 to 65 years. Measurements were made by the same person before treatment with the device and after 60 minutes on the device. The average degrees of gain after 60 minutes on the device were:

MP joint, plus 12.9 degrees flexion and plus 4.7 degrees extension.

PIP joint, 7.2 degrees flexion and plus 5.55 degrees extension.

DIP joint, plus 6.9 degrees flexion and plus 6.3 degrees extension.

Reference

Ketchum, L. D., D. W. Robinson, E. W. Masters, and L. Clark, "A New Electrically Driven Hand Splint," The Journal of Hand Surgery, Vol. 23, March 13, 1972.

Risks to Health

The panel noted a danger of shock to the patient if electrical leakage from the device occurs, and there is a danger of trauma to the joint associated with the control of tension of the device.

The panel recommended that, to reduce the danger of shock, the device be classified into class II and made subject to a performance standard to limit electrical leakage. The panel also recommended that the development of a standard for the device be a low priority. The panel noted that existing Underwriters Laboratory Standard 544 could apply to the device. This standard provides for a 100-microamp chassis leakage limit. The panel also recommended that the device be restricted to use by or on the order of a physician, to assure proper selection of patients on whom the device is to be used and adequate supervision of its use.

The petition and transcript of the panel meeting are on file in the office of the Hearing Clerk, address noted above.

Dated November 4, 1977.

Joseph P. Hile,
Associate Commissioner for Compliance.

[FR Doc.77-32693 Filed 11-10-77;8:45 am]

[4110-03]

[Docket Nos. 75N-0256 and 75P-0331]

POSTPONEMENT OF EFFECTIVE DATES FOR RESCISSION OF CERTAIN TRADE CORRESPONDENCE, PORTIONS OF A REVISED FOOD LABELING REGULATION, AND NEW LABELING REQUIREMENTS FOR STANDARDIZED BAKERY PRODUCTS

Postponement of Effective Dates

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice postpones from January 1, 1978 until July 1, 1978, the effective date for rescission of Trade Correspondence (TC) Nos. 62, 94, and 209 and for portions of a revised food labeling regulation, which published in the Federal Register of January 6, 1976 (41 FR 1156). This notice also postpones from January 1, 1978 until July 1, 1978 the requirement for declaring optional ingredients included in the revised standards for bakery products, which published in the Federal Register of February 12, 1976 (41 FR 6242).

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Taylor M. Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 6, 1976 (41 FR 1156), the Food and Drug Administration (FDA) amended regulations concerning ingredient labeling that were to become effective for food products shipped in interstate commerce on or after January 1, 1978. These amendments to § 101.4 *Food; designation of ingredients* (21 CFR 101.4) included both new provisions in § 101.4(b)(14) that required the source declaration of fats and oils, and provisions in § 101.4(b)(2) that set forth requirements for declaring ingredients in foods which are then used as ingredients in other foods, including nutrients and other ingredients added to flour.

The preamble to the January 6, 1976 amendments contained a notice rescinding the advisory opinions expressed in Trade Correspondence Nos. 62, 94, and 209. TC-62 has allowed hardened fat or oil to be declared in ingredient statements as such without identifying the individual oil beyond its vegetable, animal, or marine origin. TC-94 has allowed various shortenings in fabricated foods to be declared in ingredient statements solely as "shortening" without naming each specific fat or oil when the use of a particular shortening could not always be predicted in advance, and has allowed ingredients used for leavening or as yeast nutrients and dough conditioners to be declared as "leavening," "yeast nutrient," and "dough conditioner" on labels of bakery products. TC-209 has allowed vegetable oil used for frying potato chips to be declared in ingredient statements as "cooked or fried in vegetable oil." With the promulgation of these regulations, food labels must bear the common or usual name of the fats and/or oils, leavening, yeast nutrients, and dough conditioners used as ingredients in food in accordance with § 101.4.

In the Federal Register of February 12, 1976 (41 FR 6242), the Commissioner issued amendments to the definitions and standards of identity for standardized bakery products (21 CFR 136.3, 136.110, 136.115, 136.130, 136.160, and 136.180).

Included is a requirement in § 136.110(f) that all optional ingredients in bread, rolls, and buns be declared in the ingredient statement. This requirement was also to become effective on or after January 1, 1978; however, other portions of the bakery products standards were stayed in the FEDERAL REGISTER of October 15, 1976 (41 FR 45540).

In January 1977, the American Bakers Association (ABA) submitted two petitions seeking relief from the January 6, 1976 final regulation regarding the new labeling requirements for "leavening," "yeast nutrients," and "dough conditioners." In response to the ABA petition, the Commissioner issued a proposal in the FEDERAL REGISTER of August 26, 1977 (42 FR 43095) to provide more flexible ingredient labeling requirements for those ingredients while retaining the requirement for complete ingredient disclosure to consumers.

Realizing that the effective date for compliance with the new ingredient labeling requirements of § 101.4 was to be January 1, 1978, the Commissioner advised in the August 26, 1977 proposal he would not initiate regulatory action against any food product on the basis of improper ingredient declaration of dough conditioners, yeast nutrients, and leavening agents, if those ingredient declarations were in accordance with the proposal.

Recently, the Commissioner has received letters from the Independent Bakers Association, American Bakers Association, Federated Foods, Inc., Institute of Shortening and Edible Oils, Inc., Glidden-Durkee Co., and an attorney, pointing out a need for additional time for label changes in order to avoid unnecessary economic hardships due to large labeling inventories that industry would not be able to use by the end of 1977. It appears that some of the affected parties, especially smaller companies, either did not understand the new requirements or did not learn of them until it was too late to avoid a large inventory of unusable labels. These letters have also requested other forms of relief. While all requests for additional time have been considered in this notice, other issues will be treated in separate letters and/or notices when they have been fully evaluated.

The Independent Bakers Association (IBA), in a letter dated September 22, 1977, requested, among other things, a 9-month stay of the effective date of the new FDA labeling regulations for bakery products. IBA requested that the effective date of the rescission of TC Nos. 62, 94, and 209 and the enforcement of § 136.110(f) be rolled back on a totally "unrestricted" basis from January 1, 1978 to September 30, 1978. IBA stated that many bakeries have substantial inventories of bags and wrappers on slow-moving, low volume items which cannot be used up by December 31, 1977. The American Bakers Association submitted a similar request for an additional 120 to 180 days. An attorney, in a letter dated September 2, 1977, requested a 6-month "no-action letter" stating that all companies using existing labeling that complies with the August 26, 1977 proposal "will not have food seized until July 1, 1978."

The Commissioner recognizes the problems facing the bakery industry and is therefore granting a 6-month postponement of the effective date both for the requirement of § 136.110(f) and for the descission of TC Nos. 62, 94, 209, from January 1, 1978 to July 1, 1978. However, the Commissioner is also concerned with the consumer's right to complete ingredient disclosure and has therefore concluded that a 9-month extension of the effective date would not be in the best interest of the consumer. He recognizes that there still may be some labels which will have to be destroyed after July 1, 1978, but he believes that a 6-month postponement provides adequate additional time for label changes and better serves the interest of the consumer than a longer delay. Additionally, the Commissioner is willing to consider individual requests for more time but only if special hardship can be clearly demonstrated. However, he wants it clearly understood that he does not intend to grant any additional postponements to the entire industry because the new effective date of July 1, 1978 is nearly 2½ years after the labeling requirements were established.

In a letter dated July 22, 1977, Federated Foods, Inc., requested an extention of time to June 30, 1978 to implement the declaration of ingredients added to flour. More specifically, they want, in effect, a postponement of § 101.4(b)(2), which states the requirements for declaring ingredients in foods which are then used as ingredients in other foods, insofar as that requirement applies to ingredients (including nutrients) that are added to flour.

The Commissioner, for reasons stated above, is granting a 6-month postponement of the effective date from January 1, 1978, to July 1, 1978 of § 102.4(b)(2) as it applies to ingredients (including nutrients) added to flour.

In a letter dated September 14, 1977, the Institute of Shortening and Edible Oils, Inc., requested that the January 6, 1976 amendment to § 101.4 as it pertains to fats and oils (§ 101.4(1)) be changed to apply to products that are labeled on or after January 1, 1978, with such exceptions as may be justified by individual company presentations based on unique circumstances. In a letter dated September 27, 1977, Glidden-Durkee Co., requested a 6-month extension past the effective date of January 1, 1978, for the new amendments of § 101.4 for specific product labels which fail to reveal the source of vegetable oils.

The Commissioner is granting a postponement of the effective date for § 101.4(b)(14) which requires source declaration for fats and oils from January 1, 1978 until July 1, 1978. He believes that this postponement will provide the relief sought. As to additional extension, as stated above, the Commissioner wants it clearly understood that he is not likely to grant such a request unless an extension is clearly justified.

Therefore, to summarize, the Commissioner is postponing the effective dates from January 1, 1978 until July 1, 1978 for:

1. The changes in labeling required by the rescission of TC Nos. 62, 94, and 209 concerning the labeling of fats, oils, leavening ingredients, yeast nutrients, and dough conditioners.

2. Section 101.4(b)(14), which requires source declaration for fats and oils.

3. Section 136.110(f) which requires the declaring of all optional ingredients for white bread, rolls, and buns. By cross-reference this extension also applies for all other standardized breads, rolls, and buns.

4. The provisions of § 101.4(b)(2) to the extent that they require that all optional ingredients in flour or enriched flour, including nutrients, used as an ingredient in another food be declared on the label of the finished food. (It should be noted that though the requirement for addition of nutrients is mandatory for any enriched flour used as an ingredient, the specific chemical substances used to enrich flour are optional and must therefore be declared on the label in the ingredient statement by their specific common or usual name in accordance with § 101.4(b)(2) on or after July 1, 1978.)

The Commissioner emphasizes that the effectiveness of all portions of Parts 101 and 136 not specifically postponed to July 1, 1978 remains unchanged.

Dated: November 5, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-32690 Filed 11-10-77;8:45 am]

[4110-83]

Health Resources Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. Law 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1977:

Name: National Council on Health Planning and Development

Date and Time: December 9-10, 1977, 8:30 a.m.

Place: 1st Floor Auditorium, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Public Law 93-641, (2) the implementation and administration of Title XV and XVI of Public Law 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the

preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: Agenda items include: (1) discussion and development of recommendations on the National Guidelines for Health Planning, and (2) consideration of progress and problems in the administration of the Health Planning and Health Facilities Construction Programs.

The meeting is open to the public for observation. A portion of the meeting will be available for comments and public participation. Anyone wishing to participate, obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10-22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7270.

Agenda items are subject to change as priorities dictate.

Dated: October 28, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Do.77-32709 Filed 11-10-77;8:45 am]

[4110-02]

Office of Education

ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

Meeting

Notice of Public Meeting of the Advisory Council on Developing Institutions.

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Developing Institutions will be held November 29 and 30, 1977, from 9:00 a.m. to 4:00 p.m. in Room 3044, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92-463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Conucil shall be open to the public.

The Proposed agenda includes:

(1) Participation in the National Advisory Committee on Black Higher Education and Black Colleges.
(2) Reports of Program Officers on Title III Developing Institutions Programs.
(3) Schedule for Future Meetings.
(4) Special Reports.
(5) Induction of new members on the Advisory Council on Developing Institutions.
(6) Other Administrative Matters and Related Business.

Records shall be kept in the form of the Council's Annuel Report. Copies of the Annual Report will be available at a later date to the public at the Office of the Director of the College and University Unit, BHCE, located in room 3036, ROB-3., 7th and D Streets, S.W.

Signed at Washington, D.C. on November 7, 1977.

PRESTON VALIEN,
OE Delegate to the Council.

[FR Doc.77-32577 Filed 11-10-77;8:45 am]

[4110-89]

BILINGUAL EDUCATION; SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Initial Awards; Corrections and Extended Closing Date

AGENCY: Office of Education, HEW.

ACTION: Notice of corrections and extended closing date.

SUMMARY: In FEDERAL REGISTER Vol. 42, No. 179, Thursday, September 13, 1977, on page 46411 and Vol. 42, No. 197, Wednesday, October 12, 1977, on page 54989, section (7) should be corrected to read:

(7) Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a non-competitive basis in FY 1978, in accordance with § 123.04 of the regulation (45 CFR 123.04).

With respect to the training resource center activity, service areas 5 and 7 (45 CFR 123.22(a)(1-8)), have training resource centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the materials development center activity, service areas 2 and 7 (45 CFR 123.22(b)(1-7)), have materials development centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the dissemination/assessment center activity, service area 2 (45 CFR 123.22(c)(1-3)), has a dissemination/assessment center in operation which will be reviewed for refunding on a non-competitive basis.

EXTENDED CLOSING DATE: December 2, 1977.

Registered or certified mail postmark date not later than November 28, 1977.

The original publications referred to service areas 1 and 7 for the materials development activities. In the light of the correction, the closing date has been extended for all centers under this part.

FOR FURTHER INFORMATION CONTACT:

Dr. John C. Molina, Director, Office of Bilingual Education, 400 Maryland Avenue, SW., Reporter's Building, Room 421, Washington, D.C. 20202, 202-245-2600.

(Catalog of Federal Domestic Assistance No. 14.403, Bilingual Education Program.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

NOVEMBER 9, 1977.

[FR Doc.77-32865 Filed 11-10-77;8:45 am]

[4110-02]

HANDICAPPED RESEARCH AND DEMONSTRATION

Notice of Closing Date for Receipt of Non-Competing Continuation Applications

Pursuant to the authority contained in Sections 641 and 642 of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), the U.S. Commissioner of Education has established a closing date of February 2, 1978 for receipt of non-competing continuation applications under the Handicapped Research and Demonstration program.

This announcement is limited to the consideration of applications for the support of non-competing continuation projects previously approved for multi-year support. This includes two groups of projects: (a) projects currently suported under the research program, and (b) projects initiated under the Learning Disabilities, Child Service Demonstration Center (CSDC) program. Inclusion of CSDC activities under this announcement is consistent with the intent of the Congress as evidenced by section 4 of Pub. L. 95-49.

Applications should be received by the U.S. Office of Education, Application Control Center on or before the closing date of February 2, 1978 in order to be assured of consideration for funding.

A. *Availability of funds and estimated number and amount of awards.* Availability of funds for continuation of research projects and CSDCs will be considered separately.

(1) Preliminary estimates indicate that a total of approximately $6,500,000 will be required in connection with connection with continuation of 50 research projects. Individual requests should not exceed estimates submitted previously.

(2) The amount of funds expected to be available for non-competing continuation CSDC projects is approximately $5,000,000. There is no fixed level of funding. However, approximately forty-four continuation projects are expected

to be funded for an average of approximately $115,000 per project.

Continuation of funding will depend upon satisfactory performance by the grantee as determined by the funding agency and upon the availability of funds. The funding level and distribution of project funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during fiscal year 1978.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.443C (Research) or 13.443D (CSDC), Washington, D.C. 20202. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 30, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

D. *Program information and forms.* Information and applications will be sent from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3100 Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202 by November 15, 1977.

E. *Applicable regulations.* The regulations application to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the applicable program regulations (45 CFR Parts 121, 121h).

(20 U.S.C. 1441, 1442)

Dated. November 7, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance No. 13.443 Handicapped Research and Demonstration)

[FR Doc.77-32719 Filed 11-10-77;8:45 am]

[4110-08]

National Institutes of Health

BIOASSAY OF LINDANE FOR POSSIBLE CARCINOGENICITY

Availability of Report

Lindane has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of lindane was conducted by administering the test chemical in the diet to Osborne-Mendel rats and B6C3F1 mice.

Groups of 50 rats of each sex were administered lindane at one of two doses for 80 weeks, then observed for 29–30 weeks. Time-weighted average doses for males were 236 or 472 ppm; those for females were 135 or 270 ppm. Matched controls consisted of groups of 10 untreated rats of each sex; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with 45 untreated male and 45 untreated female rats from similar bioassays of four other test chemicals. All surviving rats were killed at 108–110 weeks.

Groups of 50 mice of each sex were administered lindane at one of two doses, either 80 or 160 ppm, for 80 weeks, then observed for an additional 10–11 weeks. Matched controls consisted of groups of 10 untreated mice of each sex; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with 40 untreated male and 40 untreated female mice from similar bioassays of four other test chemicals. All surviving mice were killed at 90–91 weeks.

Neither the mean body weights of rats nor those of mice showed consistent effects from the administration of lindane. The physical condition of the surviving treated mice deteriorated during the final 6 weeks on study. Except for the female matched-control group of rats, survival of all groups of rats and mice was adequate for meaningful statistical analyses of the incidence of tumors.

In rats, no tumor occurred at a statistically significant incidence in the treated groups of either sex.

In mice, the incidence of hepatocellular carcinoma in low-dose males was significant when compared with that in the pooled controls (controls 5/49, low-dose 19/49, $P=0.001$). This finding, by itself, is insufficient to establish the carcinogenicity of lindane. The incidence of hepatocellular carcinoma in high-dose male mice (0/46) was not significantly different from that in the matched (2/10) or pooled controls.

It is concluded that under the conditions of this bioassay, lindane was not carcinogenic for Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 2, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-32277 Filed 11-10-77;8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-816]

TASK FORCE ON HOUSING COSTS ADVISORY COMMITTEES

Meetings

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of meetings of Committees established by the Task Force on Housing Costs, whose functions were published at 42 FR 42383.

SUMMARY: Meetings of the Task Force on Housing Costs' Committees on (1) Financing, Money Markets and Marketing, (2) Land Supply, Acquisition and Development, and (3) Building and Technology: Each of these three committees will meet in the New Communities Conference Room, Seventh Floor (Room 7106), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, on the following dates and times: The Committee on Financing, Money Markets and Marketing will convene at 9:30 a.m. on November 28, 1977, and at 9 a.m. on November 29, 1977. The Committee on Land Supply, Acquisition and Development will convene at 9:30 a.m. on December 1, 1977, and at 9 a.m. on December 2, 1977. The Committee on Building and Technology will convene at 9:30 a.m. on December 8, 1977, and at 9 a.m. on December 9, 1977.

SUPPLEMENTARY INFORMATION: The purpose of and agendas for each of these meetings may include, but are not limited to, the following:

1. Review of the minutes of the initial committee meeting held on October 6, 1977;

2. Review of the Scope Statement for the Task Force and Committees;

3. Review of the statements of Areas for Committee Inquiry;

4. Discussion of organizational concerns;

5. Consideration of cost-reducing ideas contained in the Task Force's Interim Report to the Secretary;

6. Consideration of cost-reducing ideas contained in the Summary of Field Comments;

7. Testimony from members of the general public;

8. Discussion of other issues and ideas not previously considered; and

9. Consideration of other committee business.

ADDRESS: Committee Management Officer Douglas C. Brooks, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Douglas C. Brooks, 202–755–9086, or Donald K. McLain, 202–755–5333.

These committee meetings will be open to the public.

Issued at Washington, D.C., November 9, 1977.

WILLIAM J. WHITE,
Chairman, Task Force on Housing Costs.

[FR Doc.77–32873 Filed 11–10–77;8:45 am]

[4310–70]

DEPARTMENT OF THE INTERIOR

National Park Service

CANAVERAL NATIONAL SEASHORE, FLORIDA

Availability of Environmental Assessment on General Management Plan and Wilderness Plan

An Environmental Assessment considering alternatives formulated for management and use of Canaveral National Seashore is available for inspection at the Southeast Regional Office of the National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349 (just west of Riverdale Road off I–285), or the Office of the Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, Fla. 32780 (7 miles east of Titusville on State Road 402).

In addition to the alternatives, the assessment considers the nature of the resource, impacts of the various alternatives, mitigating measures to soften the effects of an alternative on the human environment and adverse effects that cannot be avoided should an alternative be implemented. Public comments on the assesment and its alternatives are solicited. Written comments will be received at the offices listed above for a period of 30 days.

Dated: October 25, 1977.

IRA E. MITCHELL,
Acting Regional Director, Southeast Region.

[FR Doc.77–32702 Filed 11–10–77;8:45 am]

[4310–70]

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

Meeting

Notice is hereby given that a public meeting will be held on Tuesday, November 15, 1977, at 7:30 p.m., in the social hall of the St. Francis Episcopal Church, 10033 River Road, Potomac, Md. 20854. The church is on the corner of Councilman Street and River Road across from the Potomac Shopping Center.

The purpose of the meeting is to discuss alternatives for maintaining towpath continuity through the Widewater area of the canal from Anglers Inn to Great Falls Tavern. The Widewater area is an old river channel which the C&O Canal Company used for canal purposes. Frequent floods over the years have washed away the towpath in many places leaving the natural rock exposed. This problem can be observed by walking a short distance down stream from the Great Falls Tavern.

An environmental assessment of this problem has been prepared. Copies of the text of the assessment can be obtained from park headquarters, P.O. Box 4, Sharpsburg, Md. 21782, 301–432–2231, or it may be seen at the park's Palisades District office in the Great Falls Tavern, Great Falls, Md. Maps and pictures can be seen at either office in advance or at the meeting.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C. & O. Canal National Historical Park, P.O. Box 4, Sharpsburg, Md. 21782, telephone area code 301–432–2231. A local telephone number from the Washington, D.C. area is 948–5641.

MANUS J. FISH, Jr.,
Regional Director, National Capital Region.

OCTOBER 26, 1977.

[FR Doc.77–32704 Filed 11–10–77;8:45 am]

[4310–70]

GRAND CANYON NATIONAL PARK, ARIZ.

Task Force Directive for Grand Canyon Adjacent Land Study; Workshops

Notice is hereby given that four public workshops will be held in Arizona and Utah in mid-December, 1977, on the Task Directive for Grand Canyon National Park Adjacent Land Study.

All four workshops will begin at 7:30 p.m., MST, on the days, dates and the locations as follows:

Monday, December 12, 1977, at the Arizona Sonora Desert Museum, Educator Building, Kinney Road, Tucson Mountain Park, Tucson, Ariz.

Tuesday, December 13, 1977, at the University of Northern Arizona, Liberal Arts Building, Room 108, Flagstaff, Ariz.

Wednesday, December 14, 1977, at the National Park Service's Southern Arizona Group Office, 1115 N. First St., Phoenix, Ariz.

Thursday, December 15, 1977, in the Washington County Courthouse Auditorium, 200 W. Tabernacle, St. George, Utah.

When the Grand Canyon Enlargement Act, Pub. L. 93–620, was passed, the Conference Committee recognized that not all lands considered with potential park values were included in the Act. Therefore, the Committee directed that these lands be studied to determine if any part of them would qualify as additions to Grand Canyon National Park and that the Secretary of the Interior send the study to the Congress with recommendations.

The lands specified for study include Parshant, Andrus, Whitmore and Kanab Canyons and Shivwits Plateau.

The National Park Service was designated the lead agency for the study with participation by the Bureau of Land Management and the U.S. Forest Service.

The Task Directive which is to be considered at the workshops describes the scope of work for the study and the procedures and time schedule which will be followed.

Since the Task Directive outlines a study which involves public lands and long-range decisions as to how these lands will be managed, the public is encouraged to comment on the study project. Citizens may participate by attending the workshops and/or by submitting written comments. The public record will remain open until January 15, 1978.

Comments, inquiries and requests for copies of the Task Directive may be addressed to:

Superintendent, Grand Canyon National Park, Grand Canyon, Ariz. 86023.

Bureau of Land Management, Attention: Kenneth Reiner, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

Supervisor, Kiabab National Forest, Attention: Dennis Lund, 800 So. 6th St., Williams, Ariz. 86046.

Dated: October 18, 1977.

JOHN H. DAVIS,
Acting Regional Director, Western Region, National Park Service.

[FR Doc.77–32703 Filed 11–10–77;8:45 am]

[7020–02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–37]

CERTAIN SKATEBOARDS AND PLATFORMS THEREFOR

Notice of Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on October 6, 1977, and an amendment thereto was filed on October 25, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Richard L. Stevenson d.b.a. Makaha International, Los Angeles, Calif., alleging that unfair methods of competition exist in the importation of certain skateboards each with an inclinded foot-depressible lever into the Untied States, or in their sale, by reason of the alleged coverage of such articles by claims 1, 2, 7, and 8 of U.S. Letters Patent 3,565,454. The amended complaint further alleges that the effect or tendency of the unfair methods of competition is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complaint requests a per-

manent exclusion from entry into the United States of the imports in question.

Having considered the amended complaint, the United States International Trade Commission, on November 4, 1977, Ordered:

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the amended complaint and the evidence adduced in this proceeding, there is a violation of subsection (a) of this section in the unauthorized importation of—

(i) skateboards each with an inclined foot-depressible lever, or

(ii) skateboard platforms each with an inclined foot-depressible lever

into the United States, or in their unauthorized sale, by reason of such skateboards and platforms allegedly being covered by claims 1, 2, 7, and 8 of U.S. Letters Patent 3,565,454, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the amended complaint and this notice are to be served:

FOREIGN MANUFACTURERS AND EXPORTERS

New Zeal Enterprises Co., Ltd., 6 fl., No. 163, Chang-An E. Rd., Section 2, Taipei, Taiwan.
Prophet International Co., Ltd., China plastics Building, Section 4, Taipei, Taiwan.
Amapala Marine, 4A Avenue No. 611, Tegucigalpa, Honduras.
Lido Trading Co., Ltd., P.O. Box 7-341, Taipei, Taiwan.
Hardy Enterprise Corp., 3-F74, Omei Street, Taipei 100, Taiwan.

IMPORTERS

Sportsmaster Inc., P.O. Box 2073, Cincinnati, Ohio 45201.
National Sporting Goods Corp., 1107 Broadway, New York, N.Y. 10010.
Woodline Products Co., 260 22-H Cape Drive, Laguna Niguel, Calif. 92677.
Marco Polo Co., 12800 South Broadway, Gardena, Calif. 90061.
Dixie Trading Co., P.O. Box 903-96, Atlanta, Ga. 30364.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer;

(4) That, for the purpose of the investigation so instituted, Donald R. Dinan, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, April 27, 1976). Pursuant to sections 210.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The amended complaint is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

By Order of the Commission.

KENNETH R. MASON,
Secretary.

Issued: November 7, 1977.

[FR Doc.77-32753 Filed 11-10-77;8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this fourth day of November 1977.

ERNEST G. GREEN,
Assistant Secretary, Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING NOVEMBER 4, 1977

Name of application and location of enterprise	*Principal product or activity*
Lake Placid Co., Essex County, New York	Resort hotel and conference center.
Compton Meat Processing, Inc., Jourdanton, Tex.	Slaughter and processing of livestock and game animals.
Milliken Brick Co., Cheswick, Pa.	Manufacturing of building brick for residential, commercial, and institutional construction.
De Lorean Motor Co., Municipality of Aguadilla, Puerto Rico.	Sales of DMC-12 sports cars.
Hyland Convalescent Home, Inc., Iron Mountain, Mich.	Nursing home.

APPLICATIONS RECEIVED—Continued

Name of application and location of enterprise	*Principal product or activity*
Chabert Enterprises, Inc., Houma, La	Marine transportation services.
Alan House Motel and Restaurant, Osseo, Wis	Motel and restraurant.
Vermont Law School, Inc., So. Royalton, Vt	Legal education.
Continental Yarn Corp., Floyd, Ga	Carpet yarn twisting.
Coil Coaters, Inc., Mercer County, Pa	Coating, engraving and allied services.
Circle Firestone, Dothan, Ala	Automotive service center.
Perdue Inc., Georgetown, Del	Feed mill for prepared poultry feed and hatchery.
Wisconsin Marine, Inc., Lake Mills, Wis	Manufacturing of snow throwers and professional rotary mowers.
Wentco Houghton, Inc., Houghton, Mich	Motel and restaurant.
Lawson Area Nursing Home Assoc., Inc., Lawson, Mo.	Nursing home.

[FR Doc.77-32585 Filed 11-10-77;8:45 am]

[4510-30]

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP, SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY

Meeting

Pursuant to section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.1) of October 6, 1972, notice is hereby given of a meeting of the Subcommittee on Equal Apprenticeship Opportunity to be held on November 30, 1977, at the Department of Labor Building, room N-4437, 200 Constitution Avenue, NW., Washington, D.C. The meeting will be in session from 10:30 a.m. until 4:00 p.m., approximately.

The agenda for the meeting includes:

1. Review and discussion of the status of the issue of "Women in Apprenticeship" as formulated by the Secretary of Labor and his staff for the purpose of preparing a final report to the Federal Committee on Apprenticeship.

2. Review proposed agenda items previously initiated regarding modification of new language of affirmative action procedures in 29 CFR 30, Equal Employment in Apprenticeship Programs.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

If time permits, members may be permitted to address the Subcommittee on the above issues.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street, NW. (room 5434), Washington, D.C. 20213.

Signed at Washington, D.C., this 9th day of November 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-32894 Filed 11-10-77;8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at Junior Village, Washington, D.C., Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Junior Village, Washington, D.C., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the Junior Village location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Potomac Job Corps Center will be a training center with residential, nonresidential and educational facilities for 525 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 150 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility. The site is located in the southernmost portion of the District of Columbia in a triangle formed by the Anacostia Freeway on the west side, Martin Luther King Highway on the east, and the Prince George's County line on the south.

Proposed utilization of the site was requested to provide for a Job Corps center for 525 resident corpsmembers, with provisions for housing, food service, recreation, administration, medical-dental and for academic and vocational training.

The site consists of 24 buildings, an outdoor swimming pool, recreation and play areas, and approximately 60 acres of land complete with access roads and parking. It is part of a 150 acre site containing D.C. Village, a home for the aged, and is adjacent to the Metropolitan Police Training Academy and the Metropolitan Fire Department Training Center. Two additional buildings to be used for training will be located at the District of Columbia Blue Plains Sewage Treatment Plant.

The buildings are connected to the Washington, D.C., municipal sewage system by means of gravity sewers.

The site is drained by a combination of surface drainage ditches and storm sewers. Street drainage and curb inlets are adequate.

The buildings are supplied with water service by connections from the Washington, D.C., municipal water system. Some buildings are individually metered, and others are not metered. The site is provided with an adequate number of fire hydrants and some buildings are sprinkled, with separate water services from the street mains.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 25th day of October, 1977.

RAYMOND E. YOUNG,
Acting Director, Job Corps.

[FR Doc.77-32781 Filed 11-10-77;8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at Westover Air Force Base, Chicopee, Massachusetts; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Westover Air Force Base, Chicopee, Mass., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the Westover Air Force Base location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Westover Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 500 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 190 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

The center will be a self-contained facility. The site consists of 11 buildings on approximately 24 acres near the western boundary of the base, fronting on Johnson Drive and near the main entrance on Central Avenue.

Water service to the site is now provided by the city of Chicopee.

The base sewer system has been acquired by the city of Chicopee and is maintained by them.

The site has fire hydrants connected to the domestic water system.

The only natural gas to the site is a small supply to the Mess Hall serving line.

The existing oil fired central boiler plant is no longer usable and new oil fired boiler plant will be constructed at this site.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 25th day of October, 1977.

RAYMOND E. YOUNG,
Acting Director, Job Corps.

[FR Doc.77-32782 Filed 11-10-77;8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at the Joliet Army Ammunition Plant in Joliet, Ill., Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Joilet Army Ammunition Plant in Illinois does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the Joliet Army Ammunition Plant location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of his Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Joliet Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 400 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 150 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

The center will be a self-contained facility. The Group 60 area and one building from Group 70 have been selected for Job Corps use and consists of approximately 150 acres of land with 18 buildings.

All utilities would be provided by Uniroyal under a contract with Job Corps. Water is supplied by wells for the entire plant, and is filtered and stored on site. Sewage treatment is provided by a two-stage plus chlorination sewage treatment facility serving the entire plant. Electricity is supplied to the plant by Commonwealth Edison and is distributed by Uniroyal. The Group 60 heating plant is equipped to burn either No. 2 or No. 6 fuel oil.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with ap-

plicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 25th day of October, 1977.

RAYMOND E. YOUNG,
Acting Director, Job Corps.

[FR Doc.77-32783 Filed 11-10-77;8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at Maple Glen, (A Portion of D.C. Children's Center), Fort Meade, Maryland; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Maple Glen, near Laurel, Maryland, and Fort Meade, Md., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION, CONTACT:

Raymond E. Young, Acting Director, Job Corps, room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the Maple Glen location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Maple Glen Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 300 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 100 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically residential living and education.

The center will be a self-contained facility. The Maple Glen facility surveyed for Job Corps use occupies approximately 33 acres, and includes 10 buildings. Access to the facility is through the Forest Haven School for handicapped children.

All utilities, including water, sewer and electric power are provided to the site. Water and sewer service are supplied by Fort Meade. Fire hydrants are located throughout the site.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 25th day of October, 1977.

RAYMOND E. YOUNG,
Acting Director, Job Corps.

[FR Doc.77-32784 Filed 11-10-77;8:45 am]

[4510-26]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday, November 29, and Wednesday, November 30, 1977, at the Coast Ball Room, Holiday Inn at the Embarcadero, 1355 Harbor Drive, San Diego, Calif. The meeting is open to the public and will begin at 9 a.m.

The purpose of this meeting is to review and develop recommendations on Subpart M (Floor and Wall Openings, and Stairways) and Subpart L (Ladders and Scaffolds) of Part 1926—Construction Standards.

Written data, views, or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits. Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210; phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., this 8th day of November 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-32842 Filed 11-10-77;8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2091]

AILEEN, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2091: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 24, 1977 in response to a worker petition received on May 23, 1977 which was filed on behalf of workers and former workers producing ladies' and girls' knitwear at Aileen, Inc.'s South Hill, Va. Sewing Plant. During the course of the investigation, it was determined that Aileen, Incorporated produces women's, misses' and children's sportswear, which includes blouses and shirts, slacks, sweaters and skirts.

The notice of investigation was published in the Federal Register on June 3,

1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aileen, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic producton; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average total company employment of hourly workers (maintenance, clerical and production) declined 3 percent from 1974 to 1975 and declined 11 percent from 1975 to 1976. Average employment declined 28 percent in the five month period from January through May 1977 compared to the same period in 1976.

The average number of workers at the South Hill Sewing Plant increased 12 percent from 1974 to 1975 and 6 percent from 1975 to 1976. Employment declined 10 percent in the last half of 1976 compared to the last half of 1975. Employment declined 15 percent in the five month period from January through May 1977, compared to the same period in 1976.

Sales or Production, or Both, Have Decreased Absolutely

Aileen operates on a fiscal year ending October 31. Company sales (in value) increased 5 percent from FY 1974 to FY 1975 and then declined 8 percent from FY 1975 to FY 1976. Sales declined 22 percent in the six month period ending April 1977 compared to the same period ending April 1976.

Total company production (in quantity) for all plants combined increased 2 percent from FY 1974 to FY 1975 and then declined 10 percent from FY 1975 to FY 1976. Production declined 30 percent in the six month period ending April 1977 compared to the same period ending April 1976.

Increased Imports

Imports of women's, misses' and children's blouses and shirts increased in absolute terms, in each year from 1972 through 1976. Imports increased 16 percent from 1975 to 1976 and decreased 14 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 70.4 percent and 41.3 percent, respectively, in 1975 to 76.0 percent and 43.2 percent, respectively in 1976.

Imports of women's, misses' and children's slacks and shorts decreased in absolute terms, from 1972 to 1973, and from 1973 to 1974 and increased from 1974 to 1975. Imports increased 10 percent from 1975 to 1976 and decreased 4 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 33.0 percent and 24.8 percent, respectively, in 1975 to 39.0 percent and 28.0 percent, respectively in 1976.

Imports of womens, misses' and children's sweater decreased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and from 1974 to 1975. Imports increased 7 percent from 1975 to 1976 and decreased 33 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 115.1 percent and 53.5 percent, respectively, in 1975 to 122.3 percent and 55.0 percent, respectively in 1976.

Imports of women's, misses' and children's skirts decreased in absolute terms, from 1972 to 1973 and from 1973 to 1974, and increased from 1974 to 1975. Imports increased 54 percent from 1975 to 1976 and decreased 61 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 10.6 percent and 9.6 percent, respectively, in 1975 to 12.2 percent and 10.9 percent, respectively in 1976.

Contributed Importantly

Aileen, Incorporated experienced declining sales in 1976 and 1977. Decisions were made to close three of the Virginia plants and the Victoria Cutting, McKenney Sewing, and Altavista Sewing plants were closed in April and May 1977. Original plans to close the South Hill Sewing plant were discarded, in anticipation of growth in years ahead. Consolidation and domestic transfers occurred, while the plant closures resulted in a significant reduction in company wide employment.

Customers who decreased purchases from Aileen indicated that they increased purchases of women's and children's sportswear from imported sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and children's sportswear produced at Aileen, Inc. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at the South Hill, Va. Sewing plant of Aileen, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at Aileen, Incorporated, South Hill, Virginia Sewing plant who became totally or partially separated from employment on or after May 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of October 1977.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-32789 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-2092]

AILEEN, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2092: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 24, 1977 in response to a worker petition received on May 23, 1977 which was filed on behalf of workers and former workers producing ladies' and girls' knitwear at Aileen, Inc.'s Altavista, Virginia Sewing Plant. During the course of the investigation, it was determined that Aileen, Inc. produces women's, misses' and children's sportswear, which includes blouses and shirts, slacks, sweaters and skirts.

The notice of investigation was published in the Federal Register on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aileen, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Ameriman Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average total company employment of hourly workers (maintenance, clerical and production) declined 3 percent from 1974 to 1975 and declined 11 percent from 1975 to 1976. Average employment declined 28 percent in the five month period from January through May 1977 compared to the same period in 1976.

The average number of workers at the Altavista Sewing plant increased 7 percent from 1974 to 1975 and then declined 5 percent from 1975 to 1976. Employment declined 32 percent in the four month period from January through April 1977, compared to the same period in 1976. Most workers were laid off by May 13, 1977, when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Aileen operates on a fiscal year ending October 31. Company sales (in value) increased 5 percent from FY 1974 to FY 1975 and then declined 8 percent from FY 1975 to FY 1976. Sales declined 22 percent in the six month period ending April 1977 compared to the same period ending April 1976.

Total company production (in quantity) for all plants combined increased 2 percent from FY 1974 to FY 1975 and then declined 10 percent from FY 1975 to FY 1976. Production declined 30 percent in the six month period ending April 1977 compared to the same period ending April 1976.

The Altavista Sewing plant closed on May 13, 1977.

INCREASED IMPORTS

Imports of women's, misses' and children's blouses and shirts increased in absolute terms, in each year from 1972 through 1976. Imports increased 16 percent from 1975 to 1976 and decreased 14 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 70.4 percent and 41.3 percent, respectively, in 1975 to 76.0 percent and 43.2 percent, respectively in 1976.

Imports of women's, misses' and children's slacks and shorts decreased in absolute terms, from 1972 to 1973, and from 1973 to 1974 and increased from 1974 to 1975. Imports increased 10 percent from 1975 to 1976 and decreased 4 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 33.0 percent and 24.8 percent, respectively, in 1975 to 39.0 percent and 28.0 percent, respectively in 1976.

Imports of women's, misses' and children's sweaters decreased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and from 1974 to 1975. Imports increased 7 percent from 1975 to 1976 and decreased 33 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 115.1 percent and 53.5 percent, respectively, in 1975 to 122.3 percent and 55.0 percent, respectively in 1976.

Imports of women's, misses' and children's skirts decreased in absolute terms, from 1972 to 1973 and from 1973 to 1974, and increased from 1974 to 1975. Imports increased 54 percent from 1975 to 1976 and decreased 61 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 10.6 percent and 9.6 percent, respectively, in 1975 to 12.2 percent and 10.9 percent, respectively in 1976.

CONTRIBUTED IMPORTANTLY

Aileen, Incorporated experienced declining sales in 1976 and 1977. Decisions were made to close three of the Virginia plants and the Victoria Cutting, McKenney Sewing, and Altavista Sewing plants were closed in April and May 1977. Original plans to close the South Hill Sewing plant were discarded, in anticipation of growth in years ahead. Consolidation and domestic transfers occurred, while the plant closures resulted in a significant reduction in company wide employment.

Customers who decreased purchases from Aileen indicated that they increased purchases of women's and children's sportswear from imported sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and children's sportswear produced at Aileen, Incorporated contributed importantly to the decline in sales or production and to the total or partial separations of the workers at Altavista, Virginia Sewing plant of Aileen, incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers at Aileen, Inc., Altavista, Virginia Sewing plant who became totally or partially separated from employment on or after May 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-32790 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-2275]

AVALON DYEING AND FINISHING CO., INC

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2275: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 18, 1977 in response to a worker petition received on August 15, 1977, which was filed by three workers on behalf of workers and former workers engaged in the dyeing and finishing of fabrics at the Haledon, N.J. plant of Avalon Dyeing and Finishing Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44299). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Avalon Dyeing and Finishing Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must met.

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the second criterion has not been met.

Avalon's production equals sales. Plant production, adjusted for price changes, increased 25.7 percent in value in 1976 compared to 1975 and 17.7 percent in the first eight months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that sales or production at the Haledon, N.J. plant of Avalon Dyeing and Finishing Co., Inc., have not decreased absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C this 31st day of October 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-32791 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-2305]

BETHLEHEM STEEL CORP.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 30, 1977 in response to a worker petition received on August 29, 1977 which was filed by three workers on behalf of former workers engaged in the sales of concrete reinforcing bar at the San Francisco, Calif. sales office of Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers engaged in employment related to the production of rebars at the Seattle, Wash. plant of the Bethlehem Steel Corp. were previously certified eligible to apply for adjustment assistance on July 27, 1977 (see TA-W-1500). The petitioning workers were employed in a sales office that sold reinforcing bar which was principally produced at Bethlehem Steel Corp.'s Seattle plant and are covered under the existing certification for the Seattle plant, TA-W-1500.

The existing certification will expire on July 27, 1979 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (November 15, 1975) and before the certification expiration date (July 27, 1979), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 26th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32792 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-1682]

J. G. KNITS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1682: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977 in response to a worker petition received on February 9, 1977 which was filed by workers on behalf of workers and former workers producing ladies' knit suits and dress and knit fabrics at J. G. Knits, Inc., Ridgefield, N.J.

The Notice of investigation was published in the FEDERAL REGISTER on March 8, 1977, (42 FR 13087). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J. G. Knits, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL

Average total employment at J. G. Knits decreased 27.6 percent in 1975 compared to 1975 and decreased 11.9 percent in 1976 compared to 1975. All production workers were laid off in December 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

J. G. Knits' production of ladies knit suits and dresses decreased 13.1 percent in 1976 compared to 1975.

Production of knit fabrics decreased 18.5 percent in 1976 compared to 1975. J. G. Knits' production of fabrics is an integrated operation since a major part of the fabric production used in the manufacture of ladies knit suits and dresses.

INCREASED IMPORTS

Imports of women's, misses' and children's suits increased absolutely in each year from 1972 through 1975. Imports increased from 206 thousand dozen in 1972 to 245 thousand dozen in 1973, increased to 387 thousand dozen in 1974 and increased to 412 thousand dozen in 1975. Imports declined less than 1 percent to 408 thousand dozen in 1976. The ratios of imports to domestic production and consumption declined from 12.2 percent and 10.9 percent, respectively, in 1975 to 11.6 percent and 10.4 percent, respectively, in 1976.

Imports of women's and misses' dresses decreased absolutely from 963 thousand dozen in 1972 to 596 thousand dozen in 1973. Imports increased in each from 1973 through 1976. Imports increased to 613 thousand dozen in 1974, increased to 645 thousand dozen in 1975 and increased to 659 thousand dozen in 1976. The ratios of imports to domestic production and consumption remained stable at 4.5 percent and 4.3 percent, respectively, in 1975 and in 1976.

CONTRIBUTED IMPORTANTLY

In recent years, in the women's apparel industry there has been a style trend away from suits toward the purchase of the individual "mix or match" articles which make up the suit. Consistent with this is that imports of ladies' blouses, shirts, vests, slacks, and clothes all increased in 1976.

J.G. Knits produced ladies knit suits and dresses for distribution through retail stores. A Department survey of retail customers of J.G. Knits' sole customer revealed that retail customers have increased purchases of imports of ladies knit clothing.

Findings of a Department of Commerce investigation regarding firm adjustment assistance revealed the sole customer of J.G. Knits experienced a decline in sales in 1976 due to the adverse impact of imports. As a result, that customer decreased purchases from domestic suppliers.

The Department of Labor contacted this customer's retail customers which confirmed that they had increased purchases of imported ladies clothing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' knit suits and dresses produced at J.G. Knits, Inc., contributed importantly to the total or partial separations of workers at J.G. Knits, Inc. In accordance with the provisions

of the Act, I make the following certification:

"All workers at J.G. Knits, Inc., Ridgefield, N.J. who became totally or partially separated from employment on or after February 4, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 31st day of October 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-32793 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-157T]

RICHLINE KNITTING MILLS INC.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d), a termination investigation was initiated on July 28, 1976 to determine, with respect to the certification issued on November 22, 1975 whether total or partial separations from the Philadelphia, Pa. plant of Richline Knitting Mills Inc. are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33597). No public hearing was requested and none was held.

The existing certification will expire on November 22, 1977. Since workers newly separated, totally or partially, after November 22, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 13th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32794 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-2297]

ROBERT HALL CLOTHES

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 29, 1977 in response to a worker petition received on August 25, 1977 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Robert Hall Clothes, a subsidiary of United Merchants and Manufacturing, Inc., 43-01 22nd Street, Long Island City, N.Y. During the course of the investigation it was determined that this location was a warehouse.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

During the course of the investigation, it was established that all employment at the warehouse located at 43-01 22nd Street, Long Island City, N.Y. was terminated in the Autumn of 1975 when the warehouse was closed. Section 223 b(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of the filing under Title II, Chapter 2 of the Trade Act of 1974.

The signature date of the petition in this case is August 17, 1977 and, thus, workers terminated prior to August 17, 1976 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32795 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-158T]

SURREY KNITTING MILLS

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d), a termination investigation was initiated on July 28, 1976, to determine, with respect to the certification issued on November 16, 1975 whether total or partial separations from Surrey Knitting Mills, Philadelphia, Pa. are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33598). No public hearing was requested and none was held.

The existing certification will expire on November 16, 1977. Since workers newly separated, totally or partially, after November 16, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 13th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32796 Filed 11-10-77;8:45 am]

[4510-28]

[TA-W-159T]

WEXLER KNITTING MILLS, INC.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d), a termination investigation was initiated on July 28, 1976 to determine, with respect to the certification issued on November 16, 1975 whether total or partial separations from the Philadelphia, Pa. plant of Wexler Knitting Mills, Inc. are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33600). No public hearing was requested and none was held.

The existing certification will expire on November 16, 1977. Since workers newly separated, totally or partially, after November 16, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 13th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32797 Filed 11-10-77;8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-77]

CATHOLIC UNIVERSITY OF AMERICA

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R-31 issued to the Catholic University of America (the licensee) for operation of its AGN-201 research reactor located on the licensee's campus in Washington, D.C., and used for educational training. The facility has been operated by the licensee since 1957 and is currently licensed to operate at 0.1 watt.

The renewal would extend the expiration date of Facility Operating License No. R-31 to November 15, 1997, in accordance with the licensee's timely application for renewal dated October 12, 1977.

Prior to renewal of Facility Operating License No. R-31, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commision's rules and regulations.

By December 12, 1977, the licensee may file a request for a hearing and any per-

son whose interest may be affected by this proceeding may file a request for a hearing in the form a petition for leave to intervene with respect to renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for license renewal dated October 12, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 4th day of November, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-32802 Filed 11-10-77;8:45 am]

[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Proposed Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-2 issued to the Commonwealth Edison Company (the licensee) for operation of the Dresden Nuclear Power Station Unit No. 1 (the facility), a boiling water reactor located in Grundy County, Illinois, and currently authorized for operation at power levels up to 700 MWt.

The amendment would extend from December 31, 1977 to December 31, 1978 the time provided for the licensee to modify the Reactor Protection System and Fire Protection System which was required by the Commission's Order for Modification of License dated June 23, 1976. The extension would allow the licensee to operate the facility during 1978 while the modifications required by the June 23, 1976 Order are being made. This notice applies only to that portion of the licensee's request dated July 8, 1977 relating to the Commission's June 23, 1976 Order.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By December 12, 1977 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petition's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John W. Rowe, Esquire of Isham, Lincoln & Beale, One First National Plaza, Chicago, Ill. 60670, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely Petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see (1) the licensee's application for amendment dated July 8, 1977, and (2) the Commission's Order for Modification of License dated June 23, 1976, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland this seventh day of November, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-32696 Filed 11-10-77;8:45 am]

[7590-01]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DRR-61, issued to Connecticut Yankee Atomic Power Co., for operation of the Haddam Neck Plant, located in Middlesex County, Conn. The amendment is effective as of the date of issuance.

This amendment revises the Haddam Neck Appendix A Technical Specifications to modify the limiting Linear Heat Generation Rate (LHGR) to account for a higher upper head fluid temperature than was assumed in the Emergency Core Cooling System analysis and to incorporate the modified LHGR into the

Power Level versus the Axial Offset Curve for Cycle 7.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 2, 1977, (2) Amendment No. 21 to License No. DPR-61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Conn. 06457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 2055, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22d day of October 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77 32697 Filed 11-10-77;8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Provisional Operating License No. DPR-20 issued for Consumers Power Co., which revised Technical Specifications to operation of the Palisades Plant, located in Covert Township, Van Buren County, Mich. The amendment is effective as of the date of issuance.

This amendment authorizes operation of the Palisades Plant at power levels up to 2530 megawatts thermal.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Receipt of Application for Full Term License, which includes a request for a power increase, was published in the FEDERAL REGISTER on December 18, 1974 (39 FR 43753). No request for a hearing or petition for leave to intervene was filed.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated August 12, 1977, as supplemented September 26, 1977, (2) Amendment No. 31 to License No. DPR-20, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of November 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-32699 Filed 11-10-77;8:45 am]

[7590-01]

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Establishment of Atomic Safety and Licensing Board for Special Proceeding

Pursuant to 10 CFR § 2.721, as amended, an Atomic Safety and Licensing Board is being established for the above special proceeding.

The Chairman of this Board and his address is as follows:

Valentine B. Deale, Esq., 1001 Connecticut Avenue NW., Washington, D.C. 20036.

The other members of this Board and their addresses are as follows:

Margaret M. Laurence, Esq., 5007 King Richard Drive, Annandale, Va. 22003.

Gary L. Milhollin, Esq., 1815 Jefferson Street, Madison, Wis. 53711.

Dated at Bethesda, Md., this 7th day of November 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-32698 Filed 11-10-77;8:45 am]

[7590-01]

[Docket No. P-564A]

PACIFIC GAS & ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Order Regarding Conference With Counsel

NOVEMBER 4, 1977.

In their written progress reports concerning the status of discovery, counsel have indicated that a conference with the Board to consider certain objections might be helpful. Counsel have been conferring with each other in a commendable effort to clarify issues and reduce the burden of discovery requests. This has resulted in amendments to the first document production request and the second set of interrogatories directed to the Applicant, and a stipulation containing certain agreements is to be filed shortly. The Applicant has indicated that there are some unresolved requests as to which it intends to file objections and a motion for a protective order, and time has been extended to it for that purpose. The Intervenors and the Staff are hereby requested to reply to these objections and motions promptly, in accordance with the procedures outlined by the Board on September 9, 1977.

It appears that a conference with counsel to consider all pending matters related to discovery would be advisable. Accordingly, such a conference will be held at 9:30 a.m. on Wednesday, November 30, 1977, at the Nuclear Regulatory Commission Hearing Room, 5th floor, East-West Towers Building, located at 4350 East-West Highway, Bethesda, Md. 20014.

It is so ordered.

Dated at Bethesda, Md., this 4th day of November 1977.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc.77-32700 Filed 11-10-77;8:45 am]

[7590-01]

[Docket Nos. 50-226 and 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 29 and 33 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2,

located in the town of Two Creeks, Manitowoc County, Wis. The amendments are effective as of the date of issuance.

These amendments to the Environmental Technical Specifications allow temporary suspension of the nonradiological environmental monitoring program, required by Specification 16.5, upon completion of the fifth year of monitoring (October 1977).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1972.

For further details with respect to this action, see (1) the application for amendment dated June 1, 1977, (2) Amendments Nos. 29 and 33 to Licenses Nos. DPR-24 and DPR-27, (3) the Commission's related letter dated November 4, 1974, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attention: Mr. Arthur M. Fish, Stevens Point, Wis. 54481. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of November 1977.

For the Nuclear Regulatory Commission.

STANLEY J. NOWICKI,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-32701 Filed 11-10-77;8:45 am]

[7590-01]

UNION OF CONCERNED SCIENTISTS

Petition for Emergency and Remedial Action; Order

Commissioners: Joseph M. Hendrie, Chairman; Victor Gilinsky; Richard T. Kennedy; Peter A. Bradford.

On November 4, 1977, the Union of Concerned Scientists filed a "Petition for Emergency and Remedial Action" with the Commission. The requested actions relate to cable fire protection and environmental qualification of electrical connectors. The specific actions requested consist of accelerating certain test programs, independently verifying the environmental qualifications of safety-related equipment, suspending issuance of licenses until compliance with applicable regulations can be demonstrated, ceasing construction activities involving defective electrical connectors and cables, and shutting down operating reactors until compliance with applicable regulations can be demonstrated.

The bases for this petition are certain test results from the Commission's Fire Protection Research Program and Qualifications Testing Evaluation Program, both of which are being conducted by Sandia Laboratories.

The Commission has requested that the staff evaluate the petition and provide its views on all questions raised therein. The Commission is also hereby soliciting the views of licensees and the public and will consider those views in determining what action to take on the petition.[1] All comments on the petition should be received by the Commission two weeks from the date this Order is published in the FEDERAL REGISTER. Copies of the petition are available in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Any comments on this petition should be received in the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by November 25, 1977.

It is so ordered.

By the Commission.

Dated at Washington, D.C., this 9th day of November 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-32917 Filed 11-10-77;10:01 am]

[1] On November 7, 1977, the Commission directed the Executive Director for Operations to report by November 9, 1977, on any matters of safety significance raised by the petition which, in his opinion, require immediate Commission action. In particular, the Commission asked the Executive Director to address petitioner's three requests for immediate action (petition, para. 28d., e. and f.) in light of information contained in the petition and any other relevant information and to provide recommendations on the need for immediate Commission action thereon. If upon receipt and evaluation of the staff report the Commission determines that some emergency action is necessary, it will take such action without awaiting licensee or public comment. The staff report will be placed in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[812-4206; Rel. No. 9995]

KEYSTONE CUSTODIAN FUNDS, INC., ET AL.

Filing of Application

NOVEMBER 7, 1977.

Notice is hereby given that Keystone Custodian Funds, Inc. ("Keystone"), as trustee of the Keystone Custodian Funds, Series B-1, B-2, B-4, K-1, K-2, S-1, S-3 and S-4 (the "Funds"), each of which is registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 (the "Act"), The Keystone Co. of Boston ("Keystone-Boston") and Cornerstone Financial Services, Inc. ("Cornerstone"), 99 High Street, Boston, Mass. 02110, (collectively referred to with the Funds as "Applicants"), filed an application on October 14, 1977, for an order of the Commission (1) pursuant to section 11(a) of the Act to permit offers to exchange shares of the Funds on a basis other than their relative net asset values, and (2) pursuant to section 6(c) of the Act granting an exemption from section 22(d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that Keystone-Boston and Cornerstone, as principal underwriters for the Funds, maintain a continuous public offering of shares of each of the Funds at its respective net asset value plus a sales charge. Shares of the Funds are sold with a sales charge of 8.5 percent except shares of B-1 Fund which are sold with a sales charge of 4.25 percent. The sales charge for each of the Funds is reduced on purchases of $15,000 or more.

Applicants state that on May 22, 1947, an order ("1947 Order") requested by the Funds and Keystone-Boston (Investment Company Act Release No. 1061) was granted by the Commission pursuant to Section 11 of the Act. The application states that the 1947 Order permitted the Funds to offer to exchange shares in one Fund for shares in another Fund ("conversion") at net asset value plus one-half the sales charge described in the prospectus of the Fund shares being acquired. Until October 13, 1977, conversions were made pursuant to the terms of the 1947 Order except for exchanges between the K-1 and K-2 Funds which were subject to a $5 service fee but no sales charge.

Applicants state that on October 13, 1977, all of the Funds except B-1 Fund began permitting conversions at net asset value plus a $5 service fee. The maximum sales charge for all the Funds other

than B–1 Fund is 8½ percent; the maximum sales charge for B–1 Fund is 4½ percent. Applicants propose to impose an additional sales charge on conversions of B–1 Fund shares acquired for cash after October 13, 1977. The additional sales charge will be an amount equal to the difference between the sales charge on a purchase of shares in B–1 Fund and the sales charge on a purchase in the other Funds. As a result, the shareholder who converts from B–1 Fund into another Fund will have paid the same sales charge as if he had initially purchased shares in that other Fund. Applicant states that this arrangement is necessary to prevent investors from circumventing the higher sales charge of the Funds other than B–1 Fund through the purchase of shares of B–1 Fund and subsequent conversion to the other Funds.

However, the application states that conversions from B–1 Fund at net asset value and a $5 service fee will be permitted in two situations. Shares of B–1 Fund acquired after October 13, 1977, by conversion from another Fund may be exchanged without a sales charge since the higher initial sales charge was paid when these shares were purchased in one of the other Funds. Shares of B–1 Fund held as of October 13, 1977, also will be permitted to convert without a sales charge from B–1 Fund regardless whether the B–1 Fund shares were acquired by conversion from another Fund or by initial purchase in the B–1 Fund. Applicant represents that this is appropriate since none of these shareholders acquired B–1 Fund shares with an intent to circumvent the higher sales charge of the other Funds and it would be administratively burdensome to determine whether shares were acquired by purchase or conversion. Shares in B–1 Fund acquired by reinvestment of capital gains or investment income dividends assume the conversion status of the shares on which they were paid.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or any prinicipal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicant asserts that some of the foregoing transactions may be deemed to violate sections 11(a) and 22(d) of the Act and thereby request that the Commission exempt the Funds and the principal underwriters from the provisions of sections 11(a) and 22(d) of the Act to the extent necessary to permit the foregoing transactions.

Applicants state that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act in that they prevent circumvention of the uniform offering price and provide for the equal treatment of similarly situated shareholders.

Applicants further request that the order sought be made effective as of the date the application was filed with the Commission in order to treat all shareholders in the Funds as much alike as possible at all times. Applicants state that it arguably would be improper to conduct the conversions described in the application prior to the issuance of an order unless the order is made retroactive as requested. Applicants also state that they will no longer avail themselves of the exemptions granted under the 1947 Order.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 30, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive 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 Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–32736 Filed 11–10–77;8:45 am]

[8010–01]

[812–4166; 811–707; Rel. No. 9993]

D. H. BALDWIN CO. ET AL.

Filing of Application

NOVEMBER 4, 1977.

In the matter of D. H. Baldwin Co. (Ohio), D. H. Baldwin Co. (Delaware), 1801 Gilbert Avenue, Cincinnati, Ohio 45202, and The United Corp., 250 Park Avenue, New York, N.Y. 10017.

Notice is hereby given that D. H. Baldwin Co. (Ohio), D. H. Baldwin Co. (Delaware), and The United Corp. (collectively, "Applicants") filed an application on August 1, 1977, and amendments thereto on August 23, September 15, and September 28, 1977, for an order, pursuant to Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act"), exempting a proposed transaction from the provisions of Sections 17(a), and pursuant to Sections 6(c) and 17(d) of the Act and Rule 17d–1 thereunder, permitting such transaction, and, pursuant to Section 8(f) of the Act, declaring that The United Corp. will have ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

D. H. Baldwin Co. (Ohio) ("Baldwin (Ohio)") is primarily a financial services holding company, engaged through subsidiaries in the banking, savings and loan and insurance businesses; it is also engaged in the manufacture and sale of musical instruments. D. H. Baldwin Co. (Delaware) ("Baldwin (Delaware)") was recently organized by Baldwin (Ohio) for the purpose of becoming the corporate parent of Baldwin (Ohio) and thereafter merging with The United Corp. ("United") is a closed-end, nondiversified management company registered under the Act. On June 30, 1977, United had net assets of approximately $148,000,000 and about 23,000 shareholders. United is listed on the New York and Philadelphia Stock Exchanges.

Applicants represent that Baldwin (Ohio) presently holds a major investment in an insurance holding company which, through its subsidiaries, owns about 4.9 percent of the outstanding stock of United. In addition, Baldwin (Ohio) has an option to buy approximately 2 percent of United's outstanding stock. Applicants further represent that United owns approximately 4.85 percent of the outstanding common stock of Baldwin (Ohio). Applicants state that in general there is a close relationship between the management of United and that of Baldwin (Ohio). Specifically, William M. Hickey is chairman of United's board of directors, and a director of Baldwin (Ohio) and Baldwin (Delaware). Morley P. Thompson is president and a director of United, Baldwin (Ohio) and Baldwin (Delaware). Accordingly, Applicants state that Baldwin (Ohio) and Baldwin (Delaware) may be deemed to be affiliated persons of United within the meaning of Section

2(a)(3) of the Act, which defines affiliated person of another person to include any person, directly or indirectly, owning or controlling 5 percent or more of the outstanding voting securities of such other person, any person 5 percent or more of whose outstanding voting securities are owned by such other person, and any person, directly or indirectly, under common control with such other person.

THE PROPOSED TRANSACTION

Applicants state that proposed transaction, as provided for in the Agreement and Plan of Reorganization and Merger signed by Applicants on July 29, 1977, involves two steps. First, Baldwin (Delaware), in a corporation reorganization, will become the corporate parent of Baldwin (Ohio) ("Baldwin Reorganization"). Second, United will merge with and into Baldwin (Delaware) ("Merger") which will be the surviving corporation and will change its name to The Baldwin-United Corp. ("Baldwin-United"). Both the Baldwin Reorganization and the Merger are intended to qualify as tax-free reorganizations under the Internal Revenue Code of 1954, as amended.

Baldwin (Ohio) presently has the following authorized and outstanding classes of shares: (1) common shares, $1 par value ("Common Shares"); (2) Series A 5 percent preferred, par value $108 ("Series A Shares"); (3) Series B 8 percent preferred, par value $100 ("Series B Shares"); (4) Class C 4 percent preferred, par value $100 (Series C–2 and C–3) ("Class C Shares"); and (5) Class D 8 percent preferred, par value $100 ("Class D Shares"). With respect to dividends and rights upon liquidation, the Series A and Series B Shares are jointly senior, and the Class C and Class D Shares are jointly second in priority. The Series A and Class C Shares are convertible into either Baldwin (Ohio) Common Shares or the companion class of non-convertible preferred shares (Series A into Series B Shares and Class C into Class D Shares).

Upon effectuation of the Baldwin Reorganization, former holders of Baldwin (Ohio) Common Shares, Series A Shares and Class C Shares, will receive, respectively, Baldwin (Delaware) Common Shares and preferred shares of Baldwin (Delaware) virtually identical to their former Baldin (Ohio) preferred shares (referred to as "Baldwin (Delaware) Series A Shares" and "Baldwin (Delaware) Class C Shares"). The Series B and Class D Shares will remain outstanding preferred shares of Baldwin (Ohio). This will result in changes in the priorities between the Baldwin (Delaware) Series A and Class C Shares and the Baldwin (Ohio) Series B and Class D Shares.

Pursuant to the Merger, Baldwin (Delaware) will acquire all of the assets and assume all the liabilities of United. The holders of Baldwin (Delaware) stock will have the option of electing cash (up to certain limits, as described hereinafter) rather than retaining their investments in Baldwin-United.

United shareholders, if they approve the Merger proposal and a proposal to cease being an investment company, will have the option of receiving in exchange for each share of United stock either (1) cash equal to the adjusted net asset value of such share in a taxable transaction, or (2) a package of Baldwin (Delaware) stock consisting of 0.23 of a share of Baldwin (Delaware) Class U $25 par preferred stock ("Class U Shares"), a newly created class of preferred, and a fraction of a Baldwin (Delaware) Common Share computed by subtracting $5.75 (i.e., 0.23 of the $25 par value of a Class U Share) from the adjusted net asset value per share of United stock and dividing the remainder by $14.02 (i.e., the value that has been assigned to each Baldwin (Delaware) Common Share for purposes of the Merger) in a tax-free transaction. The "Adjusted Net Asset Value" of United will be its per share net asset value, as adjusted to reflect tax liabilities on the unrealized capital gains in United's portfolio, reserves for Merger expenses and a fixed value assigned to certain assets of United, including Baldwin (Delaware) Common Shares, the stock of Canadian International Power Company Limited ("CI Power") in which United owns approximately a 49-percent interest and which is in the process of liquidation, and the stock of Univenture Corporation, a wholly-owned subsidiary of United which has substantial unrealized losses. The Adjusted Net Asset Value will be determined about four days prior to the Merger closing date.

Applicants state that the package of Baldwin (Delaware) Common and Class U shares will be equivalent in value to the Adjusted Net Asset Value of each United share given in exchange. Baldwin (Delaware) Common Stock will be valued at $14.02 per share, and the Class U Shares at $25 per share.

United shareholders electing to receive cash will be paid an amount equal to the Adjusted Net Asset Value of each share tendered. The United cash option will be limited to 49.6 percent of the number of United shares outstanding. If more shares are tendered, each share tendered will be exchanged for pro rata amounts of cash and Baldwin (Delaware) stock. If the holders of more than two-thirds of United shares outstanding elect the cash option, the Merger will be abandoned. United shareholders must make the cash election prior to the shareholder meeting on the Merger proposal, and such election is revocable only until that date.

Applicants state that Baldwin (Delaware) stockholders will have the option to surrender for cash up to approximately 16.6 percent of the shares outstanding at $14.02 per common share, $135.07 per Series A Share, and $100 per Class C Share. If more than approximately 16.6 percent of the outstanding shares are tendered, cash will be distributed on a pro rata basis for the additional shares tendered, but electing holders of Series A and Class C Shares will be paid in cash for all of their shares. If more than approximately 22.1 percent of Baldwin (Delaware) shares outstanding are tendered for cash, the Merger will be abandoned. Applicants state that Baldwin (Delaware) stockholders must exercise their cash option on or before the date of the meeting at which they will vote on the Merger proposal, and their election to receive cash will be revocable only until that date.

Applicants state that approval of the Merger by United requires the affirmative vote of holders of a majority of the outstanding shares of United stock; and it further requires the affirmative vote of a majority of the outstanding shares of United stock on a separate proposal that United cease to be a closed-end company. Approval of the Merger by Baldwin (Delaware) requires the affirmative vote of holders of two-thirds of its outstanding common and Series A and Class C Shares voting as a single class, and two-thirds of the Series A and Class C shares voting as a single class.

Applicants state that each party will pay the costs and expenses incident to its participation in the Merger. Applicants will bear expenses which are incurred jointly on an equal basis, including the cost of printing the joint proxy statement and the fee required for filing this application.

ORDERS REQUESTED

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, knowingly to sell any security or other property to, or knowingly to purchase any security or other property from, such registered company. Section 17(b) of the Act provides, however, that the Commission, upon application, shall exempt a transaction from such prohibition if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that the proposed transaction may involve the purchase or sale of securities or other property between a registered investment company and an affiliated person of such company. Accordingly, Applicants request an order of the Commission, pursuant to Section 17(b) of the Act, exempting the proposed transaction from Section 17(a) of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder provide, in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person to participate in or effect any transaction in connection with any joint enterprise or arrangement in which

any such registered investment company is a participant, unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission will consider whether the participation of such registered investment company is on a basis different from, or less advantageous than, that of the other participants. Applicants request an order of the Commission, pursuant to Section 17(d) and Rule 17d–1 thereunder, permitting, to the extent necessary, Applicants' participation in the proposed transaction together with certain individuals associated with Applicants.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application may conditionally or unconditionally exempt any person, security, or transaction from any provision or provisions of the Act, or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

REPRESENTATIONS IN SUPPORT OF REQUESTED ORDERS

Applicants submit that the standards of Sections 6(c), 17(b), and 17(d) of the Act and Rule 17d–1 thereunder are satisfied. Applicants state that the standards of Sections 6(c) and 17(d) and Rule 17d–1 are met primarily for the same reasons asserted in support of the order requested pursuant to Section 17(b).

United represents that the proposed transaction will enable it to transform itself into an operating company and that such transformation is a natural and logical extension of its past policies. United further represents that the Merger will be on a tax-free basis and will permit United shareholders to acquire an investment in an established and successful financial services company. The exchange will be made on the basis of United's Adjusted Net Asset Value. Such value significantly exceeds the market price of United stock, which has customarily traded at a substantial discount from net asset value. United further states that the values assigned to the Baldwin (Delaware) Common and Class U stock are fair and reasonable. United states that dividends on such securities to be received by United shareholders are expected to be approximately equal to amounts paid by United in dividends from income during recent years. United further states that those United shareholders who do not wish to participate in the surviving company will be given the option, subject to aggregate limits, of exchanging their shares for cash equal to the Adjusted Net Asset Value of those shares.

Applicants represent that the Merger provides a unique opportunity for Baldwin (Ohio) to meet its present capital requirements by acquiring a large amount of capital essentially at a cost of $14 per Baldwin (Delaware) common share and $25 per Baldwin (Delaware) preferred share. Baldwin states that the capital obtained through the Merger will be used to develop its financial services businesses and to replace equity that would be lost in the planned divestiture of its banking business. This divestiture is required pursuant to Baldwin (Ohio)'s declaration to the Federal Reserve Board that it would divest its banks by the end of 1980. Baldwin further represents that its board of directors has considered the terms of the proposed transaction and determined that any disadvantages or uncertainties will be offset by the benefits that the acquisition of a large amount of equity capital will provide.

Baldwin (Ohio) represents that any loss of dividend or asset coverage experienced by holders of Baldwin (Delaware) Series A and Class C Shares as a result of the reorganization and Merger will be offset because such preferred shareholders will subsequently hold preferred shares in a company with substantially greater capital with which to meet their respective dividend and liquidation preferences on an absolute basis, and with dividend asset coverage at acceptable, albeit reduced, levels.

Applicants finally state that United retained Morgan Stanley & Co. Inc., and Baldwin retained Goldman Sachs & Co. and Kidder, Peabody & Co. Inc. as financial advisers. It is represented that the opinions of the financial advisers support the values assigned to the securities involved in the Merger.

ORDER REQUESTED PURSUANT TO SECTION 8(f)

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect. United represents that upon consummation of the proposed Merger, United will be merged with and into Baldwin (Delaware), and the separate existence of United will cease. Applicants also request, upon the filing of an amendment reporting that the Merger has been consummated, an order of the Commission pursuant to Section 8(f) of the Act declaring that United has ceased to be an investment company.

Notice is further given that any interested person may, not later than November 29, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32735 Filed 11-10-77;8:45 am]

[8010-01]

[70-6076; Rel. No. 20244]

METROPOLITAN EDISON CO.

Proposed Transactions Related to Financing Construction of Pollution Control Facilities; Request for Exemption From Competitive Bidding

NOVEMBER 4, 1977.

Notice is hereby given that Metropolitan Edison Co. ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pa. 19605, an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9(a), 10, and 12(d) of the Act and Rules 44(b)(3) and 50 promulgated thereunder as applicable to the proposed transactions.

Met-Ed proposes to enter into a Pollution Control Facilities Agreement ("Agreement") with the Dauphin County Industrial Development Authority ("Authority"), a public instrumentality organized under the Pennsylvania Industrial and Commercial Development Authority Law, concerning the financing of certain pollution control facilities ("Facilities") constructed and/or being constructed in connection with its undivided ownership interest in the Three Mile Island nuclear generating station. It is estimated that Met-Ed's share of the aggregate cost of the Facilities, upon which construction has begun, will be about $12,000,000 (excluding allowance for funds used during construction), and that substantially all of the cost has been expended to date. Under the Agreement, the Authority will issue and sell to underwriters at competitive bidding its pollution control revenue bonds ("Authority Bonds") in an aggregate amount of Met-Ed's share of the approximate cost (excluding allowance for funds used during construction) of the Facilities ($12,000,000). It is anticipated that interest on the Authority Bonds will be exempt from federal income taxation, and that conse-

quently the interest rate will be substantially less than the rate Met-Ed would otherwise have to pay on a bond issue to finance the Facilities. The Authority Bonds will be issued under a trust indenture between the Authority and a corporate trustee to be approved by Met-Ed. Met-Ed will not be a party to the underwriting arrangements, but the Agreement provides that the terms of the Authority Bonds shall be approved by Met-Ed. The proceeds from the sale of the Authority Bonds will be deposited in a construction fund and will be applied, from time to time, to pay the costs of the Facilities.

Under the Agreement, Met-Ed will issue an aggregate amount of up to $12,000,000 principal amount of its first mortgage bonds ("New Bonds"), to be issued under Met-Ed's indenture to Guaranty Trust Co. of New York (now Morgan Guaranty Trust Co. of New York), as trustee, as previously amended and supplemented by various supplemental indentures, and as to be further amended and supplemented by a supplemental indenture creating the New Bonds. The New Bonds will be delivered to the Authority by Met-Ed in satisfaction of its obligation to pay the purchase price of the Facilities. The interest rate or rates on, maturity date or dates of, and redemption or prepayment provision with respect to the New Bonds will correspond to the interest rate or rates, maturity date or dates, and redemption or prepayment provisions with respect to the Authority Bonds. Under the Agreement, Met-Ed will transfer to the Authority subject to the lien of its first mortgage indenture, its interest in the Facilities, and will reacquire such interest, from time to time, as they are completed in consideration for the contemporaneous or prior delivery to the Authority of the New Bonds. The principal and interest on the Authortiy Bonds will be payable solely from payments made by Met-Ed on the New Bonds, and the credit of the Authority will not be pledged to the payment of principal and interest on the Authority Bonds. The terms of the Authority Bonds and the New Bonds will include a mandatory redemption provision designed to retire, from time to time beginning after the fifteenth year following the date of issuance, not less than 25 percent of the aggregate principal amounts prior to maturity.

Met-Ed requests that the issuance of the New Bonds be exempted from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) on the ground that competitive bidding would be inappropriate to the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 30, 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.77-32737 Filed 11-10-77;8:45 am]

[8010-01]

[SR-MSE-77-33; Rel. No. 14133]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

NOVEMBER 3, 1977.

On September 6, 1977, the Midwest Stock Exchange, Inc., 120 South La Salle Street, Chicago, Ill., 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 to clarify existing Exchange procedures regarding the execution of odd-lot orders in dually traded and exclusive MSE listed issues.

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. 13940 (September 8, 1977)) and by publication in the FEDERAL REGISTER (42 FR 46966 (September 19, 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 national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 6, 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.77-32738 Filed 11-10-77;8:45 am]

[8010-01]

[70-6071; Rel. No. 20247]

NORTHEAST UTILITIES

Notice of Proposed Financing of Nuclear Fuel Cores and Related Transactions

NOVEMBER 7, 1977.

Notice is hereby given that Northeast Utilities ("Northeast"), P.O. Box 270, Hartford, Conn. 06101, a registered holding company, and Northeast Nuclear Energy Co. ("NNEC"), P.O. Box 270, Hartford, Conn. 06101, a subsidiary company of Northeast formerly known as The Millstone Point Co., have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 12(b), and 12(c) thereof and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The Connecticut Light & Power Co. ("CL & P"), The Hartford Electric Light Co. ("HELCO"), and Western Massachusetts Electric Co. ("WMECO"), each an electric utility subsidiary of Northeast, are the owners as tenants-in-common (the "Owners") of the nuclear generating units known as Millstone Unit Nos. 1 and 2 located at the Millstone Nuclear Power Station with 53 percent, 28 percent, and 19 percent interests ("Ownership Interests"), respectively. Millstone Unit No. 1 with a capacity of approximately 660,000 kilowatts was placed in operation in late 1970, and Millstone Unit No. 2 with a capacity of approximately 830,000 kilowatts was placed in operation in late 1975. NNEC is acting as the agent of the Owners with respect to the operation of these units pursuant to an Operating Agreement ("Millstone Operating Agreement") between the Owners and NNEC (as described in File No. 70-4447).

By Order dated November 30, 1972, the Commission permitted to become effective the program for the financing of the investment in the nuclear fuel for Millstone Unit Nos. 1 and 2 (as described in

File No. 70–5260). Pursuant to that program, NNEC, as the owner of the fuel for Millstone Unit Nos. 1 and 2, supplies the fuel to C.L. & P., HELCO and WMECO for use in the Unit Nos. 1 and 2 reactors under a Fuel Supply Contract, as amended ("Fuel Supply Contract"). As part of its overall nuclear fuel financing program NNEC issued in 1972 secured notes ("Series A Secured Notes") under the Trust Indenture dated as of December 1, 1972 ("Indenture") between NNEC and The Connecticut Bank & Trust Co., Trustee. In October 1975, and January 1976, NNEC issued Secured Notes ("Series B Secured Notes") under a Second Supplemental Indenture (Second Indenture") to the Indenture. (File No. 70–5734.)

In furtherance of this financing program, NNEC now proposes to issue, at 100 percent of the principal amount to The Connecticut Bank & Trust Co. ("CBT") and to Bankers Trust Co. ("Bankers") (collectively, "Lenders") an aggregate of $11,000,000 principal amount of its 8⅛ percent Secured Notes, Series C, due December 1, 1982: ("Series C Secured Notes"), of which $6,000,000 will be issued to CBT and $5,000,000 to Bankers. The terms of such issue were negotiated directly with Lenders by Applicants. Applicants have agreed to pay Lenders, subject to authorization of this Commission, a commitment fee on the principal amount loaned by such Lenders at a rate of one-half of one percent (½ of 1 percent) per annum from July 1, 1977 (the approximate commitment date) to the closing date. No finder's fee or other fee, commission or expenses will be paid to any third person (other than the expenses of Applicants' associate company, Northeast Utilities Service Co.) for negotiating the transaction. The Series C Secured Notes will be issued under a Third Supplemental Indenture ("Third Indenture") dated as of December 1, 1977, supplementing the Indenture. The Third Indenture will set forth the terms of the Series C Secured Notes. The terms will include a provision that no Series C Secured Note shall be redeemed at the applicable general redemption price, if such redemption is for the purpose of or in anticipation of refunding such Series C Secured Note through the use, directly or indirectly, of funds borrowed by NNEC at an effective interest cost to NNEC (computed in accordance with generally accepted financial principles) of less than 8⅛ percent. The Series C Secured Notes, like the Series A and Series B Secured Notes, will contain no provision for a sinking fund. Northeast will enter into an agreement with the Lenders guaranteeing NNEC's payment of the principal, premium, if any, and interest on the Series C Secured Notes. The proposed terms of the guaranty will be similar to those presently applicable to the Series A and Series B Secured Notes.

Applicants state that the net proceeds from the issue and sale of the Series C Secured Notes will be used by NNEC to pay obligations incurred in connection with the purchase of nuclear fuel for Millstone Unit Nos. 1 and 2. Such obligations may include both short term borrowings and amounts owed to vendors. Nuclear core elements now on site and to be delivered on or about November 1, 1977, will be used as the basis for the issuance of the Series C Secured Notes pursuant to the Indenture.

A statement as to the amount of bondable property (nuclear core elements) available for the issuance of the Series C Secured Notes will be filed by amendment after delivery of such property is completed.

It is stated that in furtherance of this financing program and in order for NNEC to continue to meet the equity capital ratio requirements of the Indenture, Northeast will make a capital contribution of $2,050,000 to NNEC before the issue of the Series C Secured Notes. Commission authorization for such a contribution was granted in File No. 70–6016 by Order dated June 29, 1977.

It is also stated no change is contemplated in the Fuel Supply Contract in connection with this issue, although certain proposed amendments to the Fuel Supply Contract are currently under consideration by this Commission in File No. 70–5734.

NNEC as part of its permanent financing program, referred to above, contemplates that certain bank borowings will be issued, renewed, repaid and/or reissued from time to time to meet the financing program. At the present time, this Commission has authorized NNEC to issue notes in the maximum aggregate amount of $25,000,000 outstanding at any one time to certain banks through March 31, 1978. (File No. 70–5734.) As described in detail in File No. 70–5260, it will be necessary for NNEC, as part of its general financing program, to continue to provide financing for its fuel through bank borowings. Although no formal commitments for NNEC's bank borrowings to be effected in continuance of the financing program have been made with any bank, NNEC states it expects that such borrowings will be effected from the following banks in the following maximum amounts:

Bank:	*Maximum amount*
The First National Bank of Boston, Boston, Mass	$22,000,000
Bankers Trust Co., New York, N.Y	10,000,000
The Connecticut Bank & Trust Co., Hartford, Conn	10,000,000
Hartford National Bank & Trust Co., Hartford, Conn	7,000,000
The Colonial Bank & Trust Co., Waterbury, Conn	3,000,000
Connecticut National Bank, Bridgeport, Conn	2,500,000

NNEC presently contemplates that its projected capital requirements will necessitate the borrowing of up to $30,000,000 from the above banks. However, the maximum aggregate amount of such borrowings outstanding at any time will not exceed $30,000,000. Any bank borrowings to be effected from additional banks or in larger maximum amounts will be subject to filing post-effective amendments and further orders of this Commission.

The proposed bank borrowings (the "Bank Notes") will each be dated the date of issue, will have a maximum maturity date of nine months with right of renewal, will bear interest at the prime rate in effect from time to time at the lending bank adjusted as of the date of any change in such rate, will be subject to prepayment at any time at NNEC's option without premium and will be subordinated to any Secured Notes issued by NNEC. Although NNEC's permanent financing program contemplates that the Bank Notes will be issued, renewed, repaid and/or re-issued from time to time through December 1, 1982, to meet the proposed financing program at this time NNEC is requesting Commission authorization to issue Bank Notes to the banks specified above in an aggregate amount not to exceed $30,000,000 at any time outstanding only for the period through March 31, 1979. Compensating balances of 10 percent of the credit line plus up to 10 percent of the average borrowings are required by the above banks. The effective interest rate for the borrowings would be 9.375 percent based on a 7.5 percent prime rate. No minimum interest rate is specified by any bank.

Except as set forth herein, it is stated that the terms of the Series C Secured Notes and of the Third Indenture will in substance be the same as the terms of the Series B Secured Notes and of the Second Indenture, respectively, and applicants propose in all respects to continue the nuclear fuel financing program in the manner described in detail in File No. 70–5260.

Other than as set forth herein, no associate company or affiliate company of Northeast or NNEC or any affiliate of any such associate company has any material interest, directly or indirectly, in the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that none of such fees, commissions, or expenses are to be paid to any associate company or affiliate of Northeast or NNEC, except for financial and other services to be performed at cost by Northeast Utilities Service Co. an associate service company. It is further stated that the approval of the Connecticut Public Utilities Control Authority will be required for the issue by NNEC of its Series C Secured Notes. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Rule 24 notification regarding the nuclear fuel financing is to be filed quarterly.

Notice is further given that any interested person may, not later than December 2, 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 the filing 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 applicants-declarants at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further 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 or 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.77-32739 Filed 11-10-77;8:45 am]

[8010-01]

[SR-PSE-77-23; Rel. No. 14135]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

NOVEMBER 3, 1977.

On September 2, 1977, the Pacific Stock Exchange, Inc., 301 Pine Street, San Francisco, Calif. 94104, 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 proposed rule change would amend current Exchange procedures concerning confirmation of orders by requiring specialists to submit a list of "good 'til cancelled" orders to members for confirmation at the close of business on such day(s) of the month(s) as designated by the Floor Trading Committee. On October 25, 1977, the Exchange submitted an amendment to SR-PSE-77-23 which reflects the designation by the Floor Trading Committee of a quarterly confirmation schedule.

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. 13937 (September 8, 1977)) and by publication in the FEDERAL REGISTER (42 FR 46448 (September 15, 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 national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 2, 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.77-32740 Filed 11-10-77;8:45 am]

[8010-01]

[70-6077; Rel. No. 20245]

PENNSYLVANIA ELECTRIC CO.

Proposed Transactions Related to Financing Construction of Pollution Control Facilities; Request For Exemption From Competitive Bidding

NOVEMBER 4, 1977.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9(a), 10 and 12(d) of the Act and Rules 44(b)(3) and 50 promulgated thereunder as applicable to the proposed transactions.

Penelec proposes to enter into a Pollution Control Facilities Agreement ("Cambria Agreement") with the Cambria County Industrial Development Authority ("Cambria Authority"), a public instrumentality organized under the Pennsylvania Industrial and Commercial Development Authority Law, concerning the financing of certain pollution control facilities (the Cambria Facilities") constructed and/or being constructed in connection with its Shawville, Seward, Williamsburg, Warren and Front Street generating stations. It is estimated that the aggregate cost of the Cambria Facilities, upon which construction has begun, will be about $17,000,000 (excluding allowance for funds used during construction), approximately $7,000,000 of which has been expended to date. Under the Cambria Agreement, the Cambria Authority will issue and sell to underwriters at competitive bidding its pollution control revenue bonds ("Cambria Authority Bonds") in an aggregate principal amount of the approximate cost (excluding allowance for funds used during construction) of the Cambria Facilities ($17,000,000). It is anticipated that the interest on the Cambria Authority Bonds will be exempt from federal income taxation, and that consequently the interest rate will be substantially less than the rate Penelec would otherwise have to pay on a bond issue to finance the Cambria Facilities. The Cambria Authority Bonds will be issued under a trust indenture between the Cambria Authority and a corporate trustee to be approved by Penelec. Penelec will not be a party to the underwriting arrangements, but the Cambria Agreement provides that the terms of the Cambria Authority Bonds shall be approved by Penelec. The proceeds from the sale of the Cambria Authority Bonds will be deposited in a construction fund and will be applied, from time to time, to pay the costs of the Cambria Facilities.

Under the Cambria Agreement, Penelec will issue an aggregate of up to $17,000,000 principal amount of its first mortgage bonds ("New Cambria Bonds"), to be isued under Penelec's Mortgage and Deed of Trust to Bankers Trust Company, Trustee, dated as of January 1, 1942, as previously amended and supplemented by various supplemental indentures, and as to be furher amended and supplemented by a supplemental indenture creating the New Cambria Bonds. The New Cambria Bonds will be delivered to the Cambria Authority by Penelec in satisfaction of its obligation to pay the purchase price of the Cambria Facilities. The interest rate or rates on, maturity date or dates of, and redemption or prepayment provisions with respect to the New Cambria Bonds will correspond to the interest rate or rates, maturity date or dates, and redemption or prepayment provisions with the respect to the Cambria Authority Bonds. Under the Cambria Agreement, Penelec will transfer to the Cambria Authority, subject to the lien of its first mortgage bond indenture, its interest in the Cambria Facilities, and will reacquire such interest, from time to time, as they are completed in consideration for the contemporaneous or prior delivery to the Cambria Authority of the New Cambria Bonds. The principal and interest on the Cambria Authority Bonds will be payable solely from payments made by Penelec on the New Cambria Bonds, and the credit of the Cambria Authority will not be pledged to the payment of principal and interest on the Cambria Authority Bonds. The terms of the Cambria Authority Bonds and the New Cambria Bonds will include a mandatory redemption provision designed to retire, from time to time, beginning after the fifteenth year following the date of issuance, not less than 25 percent of the aggregate principal amounts prior to maturity.

Penelec also proposes to enter into a Pollution Control Facilities Agreement ("Dauphin Agreement") with the Dauphin County Industrial Development Authority ("Dauphin Authority"), a public instrumentality organized under the Pennsylvania Industrial and Commercial Development Authority Law, concerning the financing of certain pollution control facilities (the "Dauphin Facilities") constructed and/or being constructed in connection with its undivided ownership interest in the Three Mile Island nuclear generating station. It is estimated that Penelec's share of the aggregate cost of the Dauphin Facilities, upon which construction has begun, will be about $6,000,000 (excluding allow-

ance for funds used during construction), and that substantially all of the cost has been expended to date. Under the Dauphin Agreement, the Dauphin Authority will issue and sell to underwriters at competitive bidding its pollution control revenue bonds ("Dauphin Authority Bonds") in an aggregate principal amount of Penelec's share of the approximate cost (excluding allowance for funds used during construction) of the Dauphin Facilities ($6,000,000). It is anticipated that the interest on the Dauphin Authority Bonds will be exempt from federal income taxation, and that consequently the interest rate will be substantially less than the rate Penelec would otherwise have to pay on a bond issue to finance the Dauphin Facilities. The Dauphin Authority Bonds will be issued under a trust indenture between the Dauphin Authority and corporate trustee to be approved by Penelec. Penelec will not be a party to the underwriting arrangements, but the Dauphin Agreement provides that the terms of the Dauphin Authority Bonds shall be approved by Penelec. The proceeds from the sale of the Dauphin Authority Bonds will be deposited in a construction fund and will be applied, from time to time, to pay the costs of the Dauphin Facilities.

Under the Dauphin Agreement, Penelec will issue an aggregate of up to $6,000,000 principal amount of its first mortage bonds ("New Dauphin Bonds"), to be issued under Penelec's Mortgage and Deed of Trust to Bankers Trust Company, Trustee, dated as of January 1, 1942, as previously amended and supplemented by various supplemental indentures, and as to be further amended and supplemented by a supplemental indenture creating the New Dauphin Bonds. The New Dauphin Bonds will be delivered to the Dauphin Authority by Penelec in satisfaction of its obligation to pay the purchase price of the Dauphin Facilities. The interest rate or rates on, maturity date or dates of, and redemption or prepayment provisions with respect to the New Dauphin Bonds will correspond to the interest rate or rates, maturity date or dates, and redemption or prepayment provisions with respect to the Dauphin Authority Bonds. Under the Dauphin Agreement, Penelec will transfer to the Dauphin Authority, subject to the lien of its first mortgage bond indenture, its interest in the Dauphin Facilities, and will reacquire such interest, from time to time, as they are completed in consideration for the contemporaneous or prior delivery to the Dauphin Authority of the New Dauphin Bonds. The principal and interest on the Dauphin Authority Bonds will be payable solely from payments made by Penelec on the New Dauphin Bonds, and the credit of the Dauphin Authority will not be pledged to the payment of principal and interest on the Dauphin Authority Bonds. The terms of the Dauphin Authority Bonds and the New Dauphin Bonds will include a mandatory redemption provision designed to retire, from time to time, beginning after the fifteenth year following the date of issuance, not less than 25 percent of the aggregate principal amounts prior to maturity.

Penelec requests that the issuance of the New Cambria Bonds and the New Dauphin Bond be exempted from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) on the grounds that competitive bidding would be inappropriate to the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions and that no other state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 30, 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.77-32741 Filed 11-10-77;8:45 am]

[8010-01]

[70-5825; Rel. No. 20243]

PENNSYLVANIA POWER CO.

Proposed Transaction Related to Financing Pollution Control Facilities; Request For Exemption From Competitive Bidding

NOVEMBER 4, 1977.

Notice is hereby given that Pennsylvania Power Company ("Penn Power"), 1 East Washington Street, New Castle, Pennsylvania 16103, an electric utility subsidiary company of Ohio Edison Company, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed and amended in this matter, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9, 10 and 12(d) of the Act and Rules 44(b)(3) and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as further amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By orders dated May 27, 1976, and June 15, 1976 (HCAR Nos. 19545 and 19573), issued in this proceeding, Penn Power was authorized to enter into a Pollution Control Facilities Agreement ("Agreement") with the Lawrence County Industrial Development Authority ("Authority") concerning the financing of certain air pollution control facilities, including additional precipitator equipment and a tall stack (the "Project"), at its generating station located in Lawrence County, Pennsylvania. Under the Agreement, the Authority is to issue and sell to the public its tax-exempt Pollution Control Revenue Bonds ("Bonds"), in one or more series, the proceeds of which will finance the cost of the Project. The proceeds from the sale of the Bonds are to be placed in one or more construction funds administered by a trustee ("Trustee") and are thereafter to be disbursed to pay the cost of constructing the Project, or to reimburse Penn Power for such construction costs incurred by it prior to the execution of the Agreement and delivery of the Bonds.

Under the Agreement, Penn Power transferred to the Authority its interest in the completed portion of the Project, together with its interest in the real property upon which the Project was situated, all subject to the lien of its first mortgage indenture, upon the issuance and delivery of the first series of Bonds. The Agreement provides that such interests, together with any other ownership interest of the Authority in the Project, will be reconveyed by the Authority to Penn Power in stages as and when Penn Power certifies that a major portion of the Project has been completed. Penn Power was also authorized, concurrently with the issuance and delivery by the Authority of its first series of Bonds, to execute and deliver its pollution control obligations, in the form of notes secured by a second lien on the Project, payable to the Trustee. The installments of principal and interest due and payable on each of the pollution control obligations corresponded in date and amount to the stated maturities, mandatory sinking fund payments, interest rates and interest payable dates of the Bonds to which they related. An aggregate principal amount

of $15,000,000 of the first series of Bonds, together with an aggregate principal amount of $1,000,000 Bonds under the small-issue exemption of the Internal Revenue Code, were issued by the Authority.

By post-effective amendment filed in this proceeding it is stated that the estimated cost of the Project has been revised from $61,000,000 to $45,000,000 and that the Authority now proposes to issue an additional series of Bonds ("Series B Bonds") in an aggregate principal amount not to exceed $15,000,000. The Series B Bonds will be issued as provided in the Agreement, such issuance to be under the Trust Indenture Between the Authority and the First National Bank of Lawrence, Trustee, and a first supplemental indenture thereto. The maturities, interest rates and provisions for redemption by sinking fund or otherwise of the Series B Bonds, which will be marketed through arrangements between the Authority and Goldman, Sachs & Co. and Salomon Brothers, have yet to be determined.

It is proposed that, concurrently with the issuance and delivery by the Authority of the Series B Bonds, Penn Power execute and deliver its pollution control obligation ("Series B Obligation"), in the form of a note secured by a second lien on the Project, payable to the Trustee. The installments of principal and interest due and payable on the Series B Obligation will correspond in date and amount to the stated maturities, mandatory sinking fund payments, interest rates and interest payment dates of the Series B Bonds. The Series B Obligation will provide, among other things, that the amounts due thereunder must be paid whether or not the Project is completed or performs satisfactorily and whether or not is is damaged or destroyed.

Penn Power requests that the issuance of the Series B Obligation be exempted from the competitive bidding requirements of Rule 50 pursuant to Rule 50 (a)(5) on the ground that competitive bidding would be inappropriate to the proposed transaction.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issuance of the Series B Obligation and that no other 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 November 29, 1977, request in writing that a hearing to 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, as further amended by said post-effective amendment, 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 further amended by said post-effective amendment, or as it may be further 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.77-32742 Filed 11-10-77;8:45 am]

[8010-01]

[File No. 1-6642]

PLANTRONICS, INC.

Application to Withdraw from Listing and Registration

NOVEMBER 2, 1977.

In the matter of Plantronics, Inc. Common stock, no par value.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Plantronics, Inc. has been listed for trading on the Amex and the Pacific Stock Exchange Inc. ("PSE") since June 7, 1971. The New York Stock Exchange, Inc. ("NYSE") approved the Company's application for listing of its common stock on June 29, 1977. Trading in the Company's common stock on the NYSE commenced on August 9, 1977 and concurrently the stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses of maintaining the dual listing of its common stock on the NYSE and Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

This application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE and on the PSE.

Any interested person may, on or before November 30, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32743 Filed 11-10-77;8:45 am]

[8010-01]

[812-4200; Rel. No. 9992]

SCUDDER CASH INVESTMENT TRUST

Filing of Application

NOVEMBER 4, 1977.

Notice is hereby given that Scudder Cash Investment Trust ("Applicant"), 175 Federal Street, Boston, Massachusetts 02110, a diversified, open-end management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 4, 1977, and an amendment thereto on October 25, 1977, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets in the manner set forth in the application, which generally would be the "amortized cost" method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund" designed as an investment vehicle for institutional investors requiring a constant net asset value per share, and that its objectives are to maintain stability of capital and provide current income. Applicant further states that in pursuit of its objectives, the following are its policies: (A) investments are made only in instruments having a remaining maturity of six months or less (Applicant states that its present intention is to change this policy to allow investment in instruments having a remaining maturity of one year or less); (B) Portfolio instruments are not nor-

mally sold prior to maturity; (C) instruments in the portfolio are valued at "amortized cost".

Applicant maintains that many of its shareholders would choose another investment vehicle if the Applicant were unable to maintain a constant net asset value per share, and, conversely, if the Applicant were forced to invest substantially only in securities with a remaining maturity of 60 days or less it may be at a competitive disadvantage. The application also asserts that the institutional investors for which the Applicant was organized value their own direct money-market investments by the amortized cost method. Moreover, Applicant believes that the differences that may result from the use of the amortized cost method of valuation compared with the mark-to-market method would be regarded as immaterial to such investors with respect to an entire portfolio of money market instruments with an average maturity of no more than 120 days.

According to the application, Applicant's portfolio may consist of United States Treasury bills, notes and bonds; obligations of agencies and instrumentalities of the United States; and commercial paper, certificates of deposit and bankers acceptances and repurchase agreements. As of August 31, 1977 Applicant had approximately $39,155,000 in net assets; approximately 88.5 percent of its shares were held by bank trust departments; approximately 91.8 percent of its shares were held by bank trust departments, corporations, and individual trustees; other individuals held 8.1 percent of its shares.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities, fair value as determined in good faith by the board of directors.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflect scalculations made substantially in accordance with the provisions of that Rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities for which market quotations are readily available shall be valued at current market value, and other securities shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has requested an order of the Commision pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's assets to continue to be valued by the amortized cost method, whether or not market quotations are readily available.

Applicant states that its request for exemption is made based upon its existing management policies, and has agreed that the order it seeks may be conditioned upon the following:

1. That it will adopt an investment policy that investments will be made only in instruments having a remaining maturity of one year or less, and that its portfolio will be managed so that (1) average maturity of all instruments in the portfolio (on a dollar-weighted basis) will be 120 days or less, and (2) so that redemptions of Applicant's shares in the largest forseeable volume may be made by Applicant without the necessity of disposing of portfolio instruments. In accomplishing these policies, Applicant will technically maintain overnight liquidity of a portion of its portfolio through investments in instruments such as repurchase agreements, and schedule maturity dates of the instruments which it purchases in consideration of sufficient regular and systematic cash availability from its existing portfolio instruments.

2. That it will not sell instruments in its portfolio prior to maturity unless such sale or other disposition is mandated by redemption requirements, unfavorable changes in creditworthiness of users or other extraordinary circumstances not presently foreseen or not foreseen at the time of purchase, and that it will disclose such policies in its prospectus.

3. That it henceforth will offer its shares only to present shareholders and to institutional investors, with a required minimum initial purchase of $50,000.

4. That it will describe in its prospectus the policies and practices set forth in the application and the concept and impact upon reported yield and net asset value of valuation of instruments using the amortized cost method as compared to mark-to-market.

5. That Applicant's Valuation Committee shall continuously review this method of valuation and recommend changes to its Trustees which may be necessary to assure that its portfolio is valued at its fair value as determined by the Trustees in good faith. In its review, the Valuation Committee shall consider the relevant factors which may affect the value of portfolio instruments. These shall include such things as maturity, yield, stability, special circumstances of trading markets, the creditworthiness of the issuers whose instruments are owned (as indicated by dissemination of unfavorable financial data, change in their rating by the leading agencies, suspension of trading in securities or default in the payment of principal or interest), and economic, social and political factors which may cause unusually large precipitous changes in prevailing levels of short-term market interest rates. Any one or more of these factors may indicate the need to change the method of valuation of a portfolio instrument. If such a change is indicated, the Trustees will revise the method of valuation in order to approximate more closely its market value.

6. That it will limit investments in commercial paper to investment grade issues rated A-1 or A-2 by Standard & Poor's Corporation, Prime 1 or Prime 2 by Moody's Investors Service, Inc. or F-1 or F-2 by Fitch Investors Service, and to the extent that it invests in instruments of banks and savings and loan associations, it will limit its investments to those institutions which at the date of investment have total assets as of the date of their most recently published financial statements in excess of $1 billion.

7. That the fund will undertake to institute as soon as practicable a redemption policy pursuant to Rule 18f-1 under the Act which will enable it to redeem its securities in kind, and that such policy will be implemented if Applicant's management determines that a material adverse effect would be experienced by its remaining investors if a redemption request were satisfied wholly or partly in cash (other than cash required by an election filed under Rule 18f-1).

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 25, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon

request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive 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 Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32744 Filed 11-10-77;8:45 am]

[8010-01]

[File No. 500-1]

UNITED MERCHANTS & MANUFACTURERS, INC.

Suspension of Trading

NOVEMBER 2, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of United Merchants & Manufacturers, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. (EST) on November 2, 1977, through November 11, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32745 Filed 11-10-77;8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 76-9]

BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE AND OUTERBRIDGE CROSSING TOLLS

Final Decision and Order of the Federal Highway Administrator

NOVEMBER 7, 1977.

On August 9, 1977, the Administrator issued a decision and order in the instant proceeding, which was initiated to determine whether the tool increase instituted in May 1975 by the Port Authority of New York and New Jersey (Port Authority) on the four New York area bridges is reasonable and just under section 4 of the General Bridge Act of 1906, 33 U.S.C. § 494 (1970 ed.). The subject bridges are the Bayonne, Goethals, and George Washington Bridges, and the Outerbridge Crossing.

The Administrator determined that the existing toll schedules on the subject bridges are reasonable and just, pending recommendations of a further Port Authority study and the comments thereon, required to be submitted within 1 year of the final order.

The Automobile Club of New York, Inc., and the AAA Clubs of New Jersey (AAA), United States Representative Benjamin A. Gilman, New Jersey State Senator Matthew Feldman, New Jersey State Assemblymen Albert Burstein and Byron Baer, and Public Counsel have duly filed exceptions and petitions for recommendation. Several of the points pressed by these parties have been disposed of in the original order.

The Administrator does comment on the following points:

1. The AAA contends that the Bridge and Tunnel Unification Act of 1931 (Laws of 1931, N.J., c. 4; Laws of 1931, N.Y., c. 47) prohibits the Port Authority from fixing toll rates on the basis of a rate base any broader than that consisting of all of its bridges and tunnels combined as a single unit. Sections 4 and 11 of the statute are cited in support of this position.

The plain language of the provisions on which AAA relies shows that they establish a statutory floor, not a ceiling, for bridge and tunnel toll revenues. Section 4 provides in pertinent part:

> The Port Authority shall, *so far as* it deems it practicable, treat as a single unified operation * * *, and establishing and levying such tolls * * * *as it may deem necessary* to secure from all of such bridges and tunnels as a group, *at least sufficient* revenues to meet the expenses of the construction, maintenance, and operation of such bridges and tunnels as a group * * *. (emphasis supplied)

Similarly, section 11 provides in pertinent part:

> The Port Authority is hereby authorized * * * to establish levy and collect such tolls * * * in connection with any vehicular bridges and tunnels which it may now or hereafter be authorized to own, construct, operate or control * * * *as it may deem necessary, proper, or desirable,* which said tolls * * * shall be *at least sufficient* to meet the expenses of the construction, operation, and maintenance thereof * * *. (emphasis supplied)

Thus tolls on Port Authority bridges and tunnels must, at a minimum, provide for the costs of construction, operation, and maintenance of all such crossings considered as a group. Both statutes confer on the Port Authority adequate discretion to establish tolls in excess of these minimum levels, and neither in any event restricts the number or type of facilities that may be included in the investment base used by the Administrator in assessing the reasonableness and justness of the tolls.

2. The AAA also contends that *City of Burlington* v. *Turner*, 336 F. Supp. 594 (S.D. Iowa 1972), *aff'd as modified*, 471 F.2d 120 (8th Cir. 1973), requires a contrary determination in the instant proceeding. Specifically, AAA construes this case to mean that a method of setting tolls which is based upon the financial needs of the bridge owner extrinsic to bridge activities is not reasonable and just under the General Bridge Act of 1906.

Burlington involved a trans-Mississippi crossing between the States of Iowa and Illinois which is owned and operated by the City of Burlington, Iowa. In 1968, the City increased tolls on the facility, leading to complaints alleging that the reasonable and just standard of section 4 of the General Bridge Act of 1906 was being violated by the City's practice of defraying the cost of municipal services with bridge toll revenues. The Administrator agreed with these allegations but was reversed on judicial review.

The AAA's view that *Burlington* controls this proceeding is drawn entirely from the following language (471 F.2d at 123):

> The method Burlington used was based primarily on its financial needs unrelated to the bridge, and is no more reasonable or just than the determination made by the Administrator. * * *

But this language indicates only that to establish tolls on the exclusive basis of the bridge owner's overall financial needs is unreasonable and unjust. It does not support the broader proposition that financial needs of the bridge owner specifically related to the bridge should not be considered, since the Court of Appeals remanded this case to the Administrator for this specific purpose. As for the application by the bridge owner of tolls to activities extrinsic but related to the bridge in question, the Court of Appeals affirmed the district court's observation that (336 F. Supp. at 607, quoted in 471 F.2d at 122-23):

> [I]t is a violation of congressional intent and statutory spirit [of the 1906 Act] to conclude that use of bridge revenues for non-bridge purposes is *per se* unreasonable and unjust, to look solely at revenue uses, and to limit bridge toll revenues to bridge costs. * * *

The Administrator emphasizes that the nature of bridge toll determinations pursuant to section 4 of the General Bridge Act of 1906 requires consideration of a variety of factors. In the instant proceeding, the Administrator has carefully assessed financial need as but one of a number of major factors, such as fairness to the user, history of tolls on the subject crossings, and comparability with tolls on similar crossings in the area. It is worth stressing that the final decision and order are based on the entire constellation of major factors.

Dissimilarities between the situation in *Burlington* and that involved in the instant proceeding confirm that the two decisions are consistent with each other. In the former proceeding, the bridge operator was a small municipality lacking any authorization to defray the cost of municipal services with toll revenues derived from an interstate bridge. In this proceeding, the operator is a metropolitan public authority created by interstate compact in part to coordinate interstate transportation facilities (Pre-

amble, Section 6, Joint Resolution Granting Consent of Congress to Port of New York Authority Interstate Compact, 42 Stat. 173, 7 (1921)), which is authorized by State statute to pool terminal and transportation revenues (N.Y. Unconsol. Laws § 7002 (McKinney; 1970); N.J. Stat. Ann. 32:1–142).

3. With respect to the exception of Congressman Gilman, the Administrator rejects the contention that *Burlington* limits the investment base to the bridges alone. Neither the district court nor the Court of Appeals' decision in *Burlington* addressed this issue, and the dissimilarities between the situation in *Burlington* and the instant proceeding would make any holding on the investment base in that case inapplicable here.

4. Public Counsel seeks clarification of the role of the Port Authority's 1.3 percent debt service coverage agreement with its bondholders in the Administrator's decision. Public Counsel objects to the simultaneous utilization of a supposed test of reasonableness based on debt coverage computed on the Port Authority's total activities and a test of reasonableness based on rate of return computed on the investment in related facilities only.

The 1.3 percent debt service coverage test was not an independent factor in the Administrator's decision, but was a consideration bearing on the element of financial need.[1] Because financial need alone cannot support a determination that a particular bridge toll increase is reasonable and just, this aspect of the Port Authority's financial need is not in any sense determinative of the Administrator's ultimate finding that the Port Authority's toll increase should be sustained.

5. Public Counsel also seeks clarification of the "used and useful" standard referred to in the Administrator's decision that the Port Authority's investment in the subject bridges, the Holland Lincoln tunnels, PATH, and the bus terminals should form the rate base on which to assess the rate of return.

Unlike the public utility context in which the "used and useful" standard evolved, the determination of what Port Authority facilities should be grouped together to form an investment base is a complex task requiring the exercise of informed judgment and discretion. In this situation, the administrator selected those particular facilities that the record indicates comprise an integrated, interdependent transportation system. This conclusion is based upon the demonstrated interrelationship among these facilities.

One such interrelationship is the nature of the service provided. All included facilities provide interstate, crosswater movements in the New York-New Jersey port district. They provide the same basic service in the geographic area for which the Port Authority bears the responsibility for coordinating transportation facilities.

Another interrelationship is the fact that the Port Authority has managed these facilities as an integrated system for providing crosswater access to and from Manhattan. The toll increases on the subject bridges are consistent with past management practices of treating the included facilities as a unit. PA–7 at 5–7, 22–23, 25–27. The Administrator regards these increases as securing the Port Authority's legitimate objectives of raising needed revenues and reducing congestion and environmental degradation in the Port Authority area by encouraging the use of mass transportation facilities.[2]

The final interrelationship that supports the finding of an integrated, interdependent system is that all included facilities complement each other in reducing congestion. The existence of each facility serves to reduce congestion on other included facilities. PATH is a good case in point. The record amply demonstrates that, by providing nonvehicular trans-Hudson mass transportation, it reduces congestion on the trans-Hudson vehicular crossings. Similarly, the record indicates that the New Jersey-Staten Island crossings, in combination with the Verrazano Narrows Bridge, reduce congestion on the trans-Hudson crossings by allowing traffic not bound for the central business district to avoid it entirely.

In this connection, Public Counsel has correctly pointed out that the Administrator inadvertently cited to page 111 of the transcript for November 4 in support of his findings on interdependence. Nevertheless, there is substantial evidence on the record to support inclusion of the Staten Island bridges in the integrated transportation system, both in terms of functional interrelation and reduction of congestion, e.g., TR 11/4 at 15–16, 36–37, 69–70, 82–83; PC–2 at 9, 11; PC–6 at 12, 13; PA–7 at 4, 20; PA Hearing Brief at 28–38, 47–48. Given the weight of the evidence supporting these findings there is no basis for their reconsideration.

6. The Administrator must reject Public Counsel's proposed test (exceptions at 6) that only those facilities providing "substantial benefit" to each other should be included in the investment base. In essence, Public Counsel challenges the extent to which the interrelationship of these facilities is established on the record. But determining the exact relationship among the facilities in necessarily an inexact task. In this case, as long as each facility serves to reduce congestion on the other facilities, and as long as the facilities, taken together, form an integrated, interdependent transportation system, adequate justification exists for the Adimnistrator to view them as a whole. The record establishes both these propositions to the Administrator's satisfaction.

7. Public Counsel claims that tollpayers have not been adequately protected. To avoid discrimination against this class and in favor of mass transit users, Public Counsel recommends the establishment of comprehensive criteria to limit the amount of PATH subsidy that may be derived from tolls on the subject bridges.

In support of its position, Public Counsel cites *Federal Power Commission* v. *Conway Corp.* 426 U.S. 271 (1976). But *Conway* dealt only with the statutory jurisdiction of another Federal agency and not with the issue presented here, which is whether the Administrator should instruct the Port Authority as to what use it should make of revenues produced by tolls. It is not necessary to reach the question of the Administrator's jurisdiction to impose the requirement sought by Public Counsel, because the Administrator believes that as a matter of policy the Federal Government should not intrude upon the discretion of local agencies in matters of financial management if the reasonable and just test of the General Bridge Act is otherwise satisfied, as it is here.

In the particular circumstances of this case, the Administrator has decided that the Port Authority's tolls are reasonable and just even though they exceed the revenues necessary to operate the subject bridges. Because any future toll increase must be passed upon by the Administrator, adequate safeguards exist to prevent discrimination against bridge users in favor of mass transportation users.

In this regard, it should be repeated that, while a fair rate of return is an important element of financial need in a bridge toll proceeding such as this, the burden of maintaining such a rate cannot be allowed to fall exclusively on users of the subject bridges. Financial need is only one of several major factors supporting retention of the existing toll rates.

8. Public Counsel objects to the absence of an environmental assessment in the decision of August 9. The Administrator concurs in the need for such an assessment and hereby adopts the nega-

[1] Substantial and uncontradicted evidence on the record indicates that if all other revenues remain constant, the Port Authority would in the near future be unable to meet this test in the absence of the subject toll increase. PA–8, Table F. By the terms of the bond convenant, failure to meet this test would result in the Port Authority being barred from initiating new bond issues and, in effect, from undertaking new transportation improvements.

[2] Only recently the Supreme Court upheld the securing of similar objectives in, *Arlington County Board* v. *Richards*, 46 U.S. L.W. 3276 (No. 76–1418, decided October 11, 1977), where it said (slip opinion at 2). To reduce air pollution and other environmental effects of automobile commuting, a community reasonably may restrict on-street parking available to commuters, thus encouraging reliance on car pools and mass transit. While *Arlington County Board* was decided on a constitutional basis, and this case is governed by a specific statute, there is a certain analogy: if it is reasonable for a community to restrict parking to secure environmental goals, it is also reasonable and just under the General Bridge Act for a bridge operator to achieve these same objectives by a toll-pricing strategy that equally encourages reliance upon carpools and mass transit.

tive environmental declaration (PC–4, 4a) prepared by Mr. Robert H. Gausman of the Office of Environmental Policy, Federal Highway Administration.

Finally, line 2 on page 18 of the decision of August 9 should read as follows: "on its unamortized investment * * *"

Wherefore, the Administrator finds that the petitions for reconsideration should be, and they are hereby, denied, and the decision of August 9 should be, and hereby is, modified to adopt the negative environmental declaration.

Issued in Washington, D.C. this 7th day of November 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-32694 Filed 11-10-77;8:45 am]

[7035–01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 525]

ASSIGNMENT OF HEARINGS

NOVEMBER 8, 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 142258 (Sub-No. 2), Dale Bland Trucking, Inc. now assigned December 14, 1977 at Indianapolis, Ind. and will be held in room 288, Tax Court, Federal Building & Courthouse, 46 East Ohio Street.

MC 129994 (Sub-No. 23), Ray Bethers Trucking, Inc. now assigned December 14, 1977 at Salt Lake City, Utah and will be held in Room 479, US Post Office and Federal Courthouse, 350 South Main Street.

MC 133689 (Sub-No. 126), Overland Express, Inc., now being assigned January 19, 1978 (1 day) for hearing at Chicago, Ill., in a hearing room to be later designated.

MC 133777 (Sub-No. 9), Texas Metal Carriers, Inc. now being assigned January 31, 1978 (4 days), at Dallas, Tex. in a hearing room to be later designated.

AB 12 (Sub-No. 53), Southern Pacific Transportation Co., Abandonment Bonita Junction and Seagonville in Nacogdoches, Rusk, Cherokee, Anderson, Henderson, Kaufman, and Dallas Counties, Tex., now being assigned February 6, 1978 (1 week) at Jacksonville, Tex. in a hearing room to be later designated.

MC 107678 (Sub-No. 61), Hill & Hill Truck Line, Inc., MC 5623 (Sub-No. 29), Arrow Trucking Co., MC 19227 (Sub-No. 232), Leonard Bros. Trucking Co., Inc., MC 13250 (Sub-No. 136), J. H. Rose Truck Line, Inc., MC 14743 (Sub-No. 28), E. L. Powell & Sons Trucking Co., Inc., MC 19416 (Sub-No. 14), Dunn Bros., Inc., MC 23618 (Sub-No. 24), McAlister Trucking Co. DBA Matco, MZC 42011 (Sub-No. 31), D. Q. Wise & Co., Inc., MC 43867 (Sub-No. 32), A. Leander McAlister Trucking Co., MC 54847 (Sub-No. 12), Intracoastal Truck Line, Inc., MC 60157 (Sub-No. 25), C. A. White Trucking Co., MC 63792 (Sub-No. 27), Toms Hicks Transfer Co., Inc., MC 66886 (Sub-No. 53), Belger Cartage Service, Inc., MC 68100 (Sub-No. 18), D. P. Bonham Transfer, Inc., MC 74321 (Sub-No. 127), B. F. Walker, Inc., MC 83835 (Sub-No. 136), Wales Transportation, Inc., MC 93318 (Sub-No. 18), Joe D. Hughes, Inc., MC 99214 (Sub-No. 6), Patterson Truck Line, Inc., MC 102181 (Sub-No. 8), O. H. & F., Inc., MC 103926 (Sub-No. 56), W. T. Mayfield Sons Trucking Co., MCZ 105984 (Sub-No. 17), John B. Barbour Trucking Co., MC 106407 (Sub-No. 31), T. E. Mercer Trucking Co., MC 106775 (Sub-No. 42), Atlas Truck Line, Inc., MC 107993 (Sub-No. 51), J. J. Willis Trucking Co., MC 108341 (Sub-No. 59), Moss Trucking Co., Inc., MCZ 109064 (Sub-No. 32), Tex-Q-KA-N Transportation Co., Inc., MC 110817 (Sub-No. 22), E. L. Farmer & Co., MC 112304 (Sub-No. 115), Ace Doran Hauling & Rigging Co., MC 113459 (Sub-No. 108), H. J. Jeffries Truck Line, Inc., MC 115603 (Sub-No. 13), Turner Bros. Trucking Co., Inc., MC 117574 (Sub-No. 282), Daily Express, Inc., MC 119176 (Sub-No. 14), The Squaw Transit Co., MC 119774 (Sub-No. 91), Eagle Trucking Co., MC 120257 (Sub-No. 33), K. L. Breeden & Sons, Inc., MC 120675 (Sub-No. 3), Acme Truck Lines, Inc., MC 120761 (Sub-No. 19), Newman Bros. Trucking Co., MC 124947 (Sub-No. 57), Machinery Transports, Inc., MC 138322 (Sub-No. 4), Bhy Trucking, Inc., now assigned December 6, 1977 at New Orleans, La., will be held in the Monteleone Hotel, 214 Royal Street.

MC 133689 (Sub-No. 132), Overland Express, Inc. now being assigned January 4, 1978 (1 day) at Boston, Mass. in a hearing room to be later designated.

MC 118159 (Sub-No. 216), National Refrigerated Transport, Inc. now being assigned January 5, 1978 (1 day) at Boston, Mass. in a hearing room to be later designated.

MC 106274 (Sub-No. 25), Raeford Trucking Co. now being assigned January 6, 1978 (1 day) at Boston, Mass. in a hearing room to be later designated.

MC 60014 (Sub-No. 50), Aero Trucking, Inc. now assigned January 9, 1978 at Washington, D.C. is cancelled and reassigned to January 31, 1978 (9 days) at Houston, Tex. in a hearing room to be later designated.

MC 140389 (Sub-No. 13), Osborn Transportation, Inc. now assigned January 30, 1978 at Denver, Colo. is now being canceled.

MC 136817 (Sub-No. 2), Hunter Brokerage, Inc., now being assigned January 17, 1978 (1 day) for hearing in New Orleans, La., in a hearing room to be later designated.

MC 120646 (Sub-No. 19), Bradley Freight Lines, Inc., now being assigned January 18, 1978 (1 day) for hearing in New Orleans, La., in a hearing room to be later designated.

MC 94350 (Sub-No. 389), Transit Homes, Inc., now being assigned January 19, 1978 (2 days) for hearing in New Orleans, La., in a hearing room to be later designated.

MC 119792 (Sub-No. 64), Chicago Southern Transportation Co. now being assigned January 23, 1978 (1 day) for hearing in New Orleans, La., in a hearing room to be later designated.

MC 114552 (Sub-No. 130), Senn Trucking Co., now being assigned January 24, 1978 (2 days) for hearing in New Orleans, La., in a hearing room to be later designated.

MC–C 9757 *Glen Denham* v. *Feddie Joe Taylor*, et al., now being assigned January 26, 1978 (2 days) for hearing in New Orleans, La., in a hearing room to be later designated.

MC 141804 (Sub-No. 44), Western Express now being assigned February 6, 1978 (1 week) for continued hearing at San Francisco, Calif. in a hearing room to be later desginated.

MC–F 13163, R.C. Van Lines, Inc.—Purchase—Trans-World Movers, Inc., Transport Clearing of Colorado, Inc., Successor of Interest and MC 128155 (Sub-No. 5), R.C. Van Lines, Inc. now being assigned February 13, 1978 (1 week) at Denver, Colo. In a hearing room to be later designated.

MC 58035 (Sub-No. 13), Trans-Western Express, Ltd. now being assigned February 8, 1978 (3 days) at Denver, Colo. in a hearing room to be later designated.

FD 28591, The Chief Freight Lines Co. now being assigned February 6, 1978 (2 weeks) at Dallas, Tex. in a hearing room to be later designated.

AB 1 (Sub-No. 40), Chicago and North Western Transportation Co. Abandonment Between Gillett, Oconto County, Wis. and Scott Lake, Iron County, Mich. now being assigned February 13, 1978 (1 week) at Rhinelander, Wis. in a hearing room to be later designated.

MC–F 13200, Overland Express, Inc.—Purchase (Portion)—C.G. Potter, d.b.a. Maumee Express and MC 133689 (Sub-No. 123), Overland Express, Inc. now being assigned February 8, 1978 (3 days) at St. Paul, Minn. in a hearing room to be later designated.

MC 25798 (Sub-No. 295), Clay Hyder Trucking Lines, Inc. now being assigned February 7, 1978 (1 day) at St. Paul, Minn. in a hearing room to be later designated.

MC 103066 (Sub-No 58), Stone Trucking Co., now being assigned January 18, 1978 (1 day) for hearing in Columbus, Ohio, in a hearing room to be later designated.

MC 114312 (Sub-No. 30), Abbott Trucking, Inc., now being assigned January 19, 1978 (2 days) for hearing in Columbus, Ohio, in a hearing room to be later designated.

MC 25798 (Sub-No. 292), Clay Hyder Trucking Lines, Inc., MC 28088 (Sub-No. 29), North & South Lines, Inc., MC 82492 (Sub-No. 147), Michigan & Nebraska Transit Co., Inc., MC 112822 (Sub-No. 418), Bray Lines, Inc., MC 113678 (Sub-No. 687), Curtis, Inc., MC 119619 (Sub-No. 111), Distributors Service Co., MC 133566 (Sub-No. 85), Gangloff & Downham Trucking Co., Inc., and MC 135732 (Sub-No. 26), Aubrey Freight Lines, Inc., now being assigned January 23, 1978 (2 days) for hearing in Columbus, Ohio, in a hearing room to be later designated.

General Cartage Co., now being assigned

MC–F 13232 Jack Gray Transport—Purchase—Jack McFeely, d.b.a. McFeely Trucking, Inc., and MC 125777 (Sub-No. 190), Jack Transport, Inc., now being assigned January 25, 1978 (3 days) for hearing in Columbus, Ohio, in a hearing room to be later designated.

MC–C 9848, *Allied Express, Inc., et al.* v. *General Cartage Co.*, now being assigned January 17, 1978 (1 day) at Madison, Wis. in a hearing room to be later designated.

MC 124887 (Sub-No. 34), Shelton Trucking Service, Inc. now being assigned January 10, 1978 (2 days) at Tallahassee, Fla. in a hearing room to be later designated.

MC 141487 (Sub-No. 1), J & K K, Inc. now being assigned January 31, 1978 (3 days) at Olympia, Wash. in a hearing room to be later designated.

MC 142466 (Sub-No. 1), Timber Products Transport, Inc., now being assigned January 23, 1978 (1 week) at Salem, Oreg., in a hearing room to be later designated.

MC 1515 (Sub-No. 222), Greyhound Lines, Inc., now being assigned February 6, 1978 (1 week) at Atlantic City, N.J. and continued to February 13, 1978 (1 week) at New York, N.Y. and February 21, 1978 at the Offices of the Interstate Commerce Commission in Washington, D.C., in hearing rooms to be later designated.

FD 26115, Boston and Maine Corp. Trustees' Plan of Reorganization now being assigned November 17, 1977 (3 days) at Boston, Mass. and will be held in Courtroom 4, 12th Floor, John F. McCormack Post Office and Courthouse.

MC 142895 (Sub-No. 2), Eighty Eight Enterprises, Inc., now assigned November 10, 1977 in Salt Lake City, Utah is canceled and application dismissed.

No. 36460, Goodpasture, Inc., Petition for Declaratory Order Dumurrage Charges and No. 36129, *Goodpasture, Inc.* v. *The Atchison, Topeka and Santa Fe Railway Co., et al.*, now being assigned pre-hearing conference on January 17, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 36514, *Florida East Co. St. Railway Co.* v. *Seaboard Coast Line Railroad Co.*, now being assigned pre-hearing Conference on January 10, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 36719, *Arkansas Power & Light Co. System Fuels, Inc.* v. *Burlington Northern, Inc., et al.*, now being assigned pre-hearing conference on December 19, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 82492 (Sub-No. 153), Michigan & Nebraska Transit Co., Inc., now assigned November 17, 1977, at Columbus, Ohio is postponed indefinitely.

AB 43 (Sub-No. 26), Illinois Central Gulf Railroad Co. Abandonment Near Hardwood, La., and Woodville, Miss., in West Feliciana Parish, La. and Wilkinson County, Miss. now being assigned January 18, 1978 (3 days) for hearing in Woodville, Miss., in a hearing room to be later designated.

MC 143185 Lorenz Transport & Ship Lines, Inc., now being assigned January 23, 1978 (1 day) for hearing in Birmingham, Ala., in a hearing room to be later designated.

MC 94201 (Sub-No. 147), Bowman Transportation, Inc., now being assigned January 24, 1978 (2 days) for hearing at Birmingham, Ala., in a hearing room to be later designated.

MC 94350 (Sub-No. 384), Transit Homes, Inc., now being assigned January 26, 1978 (2 days) for hearing at Birmingham, Ala., in a hearing room to be later designated.

MC 121489 (Sub-No. 12), Nebraska-Iowa Express, Inc. now assigned November 28, 1977 at Denver, Colo. is cancelled and reassigned for February 28, 1978 (14 days) at Omaha, Nebr. in a hearing room to be later designated.

MC 133937 (Sub-No. 20), Carolina Cartage Co., Inc. now being assigned January 23, 1978 (1 week) at Columbia, S.C. in a hearing room to be later designated.

MC 127810 (Sub-No. 3), Sherman and Boddie, Inc. now being assigned January 18, 1978 (3 days) at Charlotte, N.C. in a hearing room to be later designated.

MC 60014 (Sub-No. 49), Aero Trucking, Inc. now being assigned January 12, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 98864 (Sub-No. 2), Edward Sitar Trucking Co., Inc. now being assigned January 24, 1978 (2 days) for continued hearing at Chicago, Ill. in a hearing room to be later designated.

MC 143394, Genie Trucking Line now being assigned January 25, 1978 for hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 128592 (Sub-No. 8), KLM, Inc., now being assigned January 26, 1978 for hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 141033 (Sub-No. 26), Continental Contract Carrier Corp., now being assigned February 8, 1978 for hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 142693 (Sub-No. 1), Custom Deliveries, Inc., now being assigned January 26, 1978 for hearing at the Office of the Interstate Commerce Commission in Washington, D.C.

MC 107012 (Sub-No. 238), North American Van Lines, Inc. now being assigned February 7, 1978 (9 days) at Chicago, Ill. in a hearing room to be later designated.

MC 102567 (Sub-No. 194), McNair Transport, Inc., MC 116077 (Sub-No. 382), Robertson Tank Lines, Inc. and MC 121496 (Sub-No. 3), Cargo Corp., now assigned January 17, 1978 will be held at the Whitehall Hotel, 1700 Smith Street, Houston, Tex. and continued to January 23, 1978 at the Sheraton-Houston Hotel, 777 Polk Street, Houston, Tex.

MC 116004 (Sub-No. 42), Texas Oklahoma Express, Inc., now assigned January 17, 1978, at Dallas, Tex. will be held in Room 5A15-17, New Federal Building, 1100 Commerce Street, and continued to January 23, 1978, at Lawton, Okla. in room 105, Comanche County Court House.

MC-F-13067, Roadway Express, Inc.—Control and Merger Western Gillette, Inc., MC-F-13156, Arkansas-Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13157, Campbell Sixty-Six Express, Inc.,—Purchase (Portion)—Western Gillette, Inc., MC-F-13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc., MC-F-13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13160, Gordons Transport, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc. and F.D. 28591, The Chief Freight Lines, Co., now assigned February 6, 1978, at Dallas, Tex., will be held at the Holiday Inn—Downtown, 1015 Elm Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-32748 Filed 11-10-77;8:45 am]

[7035-01]

[Notice No. 144TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50935 (Sub-No. 13TA), filed October 18, 1977. Applicant: WOLVERINE TRUCKING CO., 949 Ladd Rd., Walled Lake, Mich. 48088. Applicant's representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J., to Detroit, Mich., and points in its Commercial Zone; and empty containers from Detroit and its commercial zone to Newark, N.J. for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. J. Van Hollenbeck Distributors, Rose St. Mt. Clemens, Mich. 48043. City Beverage Company, Inc., 1020 Doris Rd. Pontiac, Mich. 48057. Pabst Brewing Company 1010 Juneau Ave. Milwaukee, Wis. 53233. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 63417 (Sub-No. 116TA), filed October 18, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Incandescent bulbs*, from Lexington, Ky., to Newark, N.J., (2) *packaging material* for commodities in (1) above on return for 180 days. Supporting shipper: General Electric Co., Nela Park, Noble Rd., Cleveland, Ohio 44112. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 113651 (Sub-No. 229TA), (correction), filed September 8, 1977, published in the FR issue of October 13, 1977, and republished this issue. Appli-

cant: INDIANA REFRIGERATOR LINES, INC., Box 552, Riggin Rd., Muncie, Ind. 47305. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carirer*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of foodstuffs, in mechanically refrigerated trailers (except commodities in bulk), from the plantsite and storage facilities of or utilized by The Nestle Company, Inc., at or near Fulton, Oswego, and Syracuse, N.Y. to Franklin Park and Elk Grove Village, Ill., Dearborn, Mich.; Columbus and Springfield, Ohio; Hazlewood, Mo., and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Nestle Company, Inc. 100 Bloomingdale Rd., White Plains, N.Y. 10605. Send protests to: Ennis, William S., TS, 429 Federal Building and U.S. Court House, 46 East Ohio St. The purpose of this correction is to add protests which was previously omitted in error.

No. MC 113651 (Sub-No. 233TA), filed October 17, 1977. Applicant: INDIANA REFRIGERTOR LINES, INC., P.O. Box 552, Riggin, Rd., Muncie, Ind. 47305 Applicant's representative: Paul R. Bergant, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products, and foodstuffs*, when in shipments with candy and/or confectionery products in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Standard Brands, confectionery division of Standard Brands, Inc., at or near Chicago, Ill., to New Orleans, La.; Jacksonville, Fla.; Morrow and Atlanta, Ga. for 180 days. Supporting shipper: Standard Brands Confectionery, Division of Standard Brands, Inc., 3401 Mt. Prospect Rd. Franklin Park, Ill. 60131. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 115162 (Sub-No. 385TA), filed October 11, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors with vehicle beds, or fifth wheels), agricultural machinery and implements and parts, attachments and accessories moving in mixed shipments with the above-named commodities, from the facilities of Massey Ferguson, Inc., located in the Detroit, Mich., Metropolitan Area, to points in the States of Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, and Mississippi, the authority sought will not be restricted against export traffic in foreign commerce, for 180 days. Supporting shipper: Massey Ferguson, Inc., 1901 Bell Ave., Des Moines, Iowa 50320. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, Ala. 36203.

No. MC 115703 (Sub-No. 10TA), filed October 18, 1977. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Rd. North, Wyomissing, Pa. 19610. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe* on specially designed equipment, from Colfax, N.C., to Gaffney, S.C., for 180 days. Supporting shipper: Reco of North Carolina, Inc., P.O. Box 87, Colfax, N.C. 27235. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., room 3238, Philadelphia, Pa. 19106.

No. MC 116145 (Sub-No. 10TA), filed October 18, 1977. Applicant: G. G. PARSONS TRUCKING CO., P.O. Box 1085, North Wilkesboro, N.C. 28659. Applicant's representative: James E. Savitz, Suite 145, 4 Professional Dr., Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from the facilities of Cochrane Furniture Company, Inc., located at or near Lincolnton, N.C. to points in Arizona, California, Idaho, Colorado, Nevada, New Mexico, Oregon, Utah, Washington and Montana, under a continuing contract with Cochrane Furniture Co., Inc., West Harvard Furniture Co. Cochrane Furinture Co., Inc. for 180 days. Supporting shipper(s): Cochrane Furniture Co., Inc. Box 220 Lincolnton, N.C. 28092, Cochrane Furniture Co. Inc. 628 West Kenwood Ave. Roseburg, Oreg. 97470, West Harvard Furniture Co., 2558 West Harvard Blvd., Roseburg, Oreg. 97470.

No. MC 117686 (Sub-No. 187TA), filed October 13, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cannned goods* (except frozen and bulk), from the plantsite of the Joan of Arc facilities at or near Belledeau and St. Francisville, La. to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joan of Arc Company, Inc., Douglas H. Wiggins, Corporate Traffic Manager, 2231 West Altorfer Dr., Peoria, Ill. 61514. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 520, 110 North 14th St. Omaha, Nebr. 68102.

No. MC 119726 (Sub-No. 107TA), filed October 7, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, containers, woodpulp articles, dishes, plates and trays*, (1) from the facilities of Huntsman Container Corp., located at or near Troy and Dayton, Ohio, to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Florida, and Tennessee, commodities named in (2) above, and *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points and places in the states named in (1) above, to the facilities of Huntsman Container Corp., at or near Troy and Dayton, Ohio, restricted against the transportation of commodities in bulk, and further restricted to traffic originating at and destined to the facilities of Huntsman Container Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huntsman Container Corp., Keyes Fibre Company, Waterville, Maine 04901. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., room 429, Indianapolis, Ind. 46204.

No. MC 127049 (Sub-No. 15TA), filed October 4, 1977. Applicant: KRUPEKE TRUCKING, INC., 4881 Highway 45, Jackson, Wis. 53037. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Fans, heaters, heat recyclers, vacuum cleaners, household compactors, door chimes, range hoods, and range splash plates, roof cappings, and parts and accessories and exhibition booths* for the foregoing commodities, from (a) Hartford, Wis., to Clearwater and Tampa, Fla.; Atlanta, Ga.; Wilkseboro, N.C., Chattanooga and Nashville, Tenn., and Dallas, Tex., and (b) between Hartford, Wis., and Old Forge, Pa., and (2) *Parts* used in the manufacture of the commodities in (1), from (a) Jacksonville and Jonesboro, Ark., Gainesville, Ga.; Chicago, Ill.; Ft. Wayne, Ind., Detroit and Owosso, Michigan and Columbus and West Lafayette, Ohio to Hartford, Wis., and (b) between Old Forge, Pa., and Hartford, Wis., under a continuing contract with Broan Manufacturing Co., Inc. Hartford, Wis. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of oper-

ating authority. Supporting shipper: Broan Manufacturing Co., Inc., 926 West State St., Hartford, Wis. 53027. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave. room 619, Milwaukee, Wis. 53202.

No. MC 127739 (Sub-No. 4TA), filed October 14, 1977. Applicant: BOYCE BRUCE, 517 North Metts St., Louisville, Miss. 39339. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and structural tile*, (1) (a) between the plant and facilities of Delta-Shuqualak Brick & Tile Co., Inc., at or near Shuqualak, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas (1) (b) from points in Indiana to the plant and facilities of Delta-Shuqualak Brick & Tile Company, Inc., at or near Shuqualak, Miss., with no transportation for compensation on return except as otherwise authorized. (2) (a) between the plant and facilities of Delta Brick & Tile Company, Inc., at or near Indianola, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas, (2) (b) from points in Indiana to the plant and facilities of Delta Brick & Tile Company, Inc., at or near Indianola, Miss., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Delta Brick & Tile Company, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delta Brick & Tile Company, P.O. Box 539, Indianola, Miss. 38751. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 129191 (Sub-No. 7TA), filed October 17, 1977. Applicant: RICHARD T. PLATTNER d.b.a. JANS MOTOR SERVICE, 4640 W. 120th St., Alsip, Ill. 60658. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials, including shingles, roll roofing, saturated paper, roof coatings, roof cements, floor coverings, and adhesives, and materials and supplies used in the distribution or installation of building and roofing materials* (except in bulk), from the facilities of The Flintkote Co. at or near Chicago Heights, Ill. to Wisconsin, Iowa, Missouri, Michigan, Kentucky, Ohio and those points in Indiana south of the counties of Fountain, Montgomery, Boone, Hamilton, Madison, Delaware, and Randolph for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Flintkote Co., George E. Daly, Assistant Director of Traffic, 480 Central Ave., East Rutherford, N.J. 07073. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129301 (Sub-No. 8TA), filed October 17, 1977. Applicant: ENGLISH AND SONS CORP., 412 Kings Highway, Thorofare, N.J. 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from facilities of Liqui-Box Corp. at Auburn, Mass., to the facilities of Liqui-Box Corp. at Thorofare, N.J., under a continuing contract with Liqui-Box Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Liqui-Box Corp., P.O. Box 66, Thorofare, N.J. 08086. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 135078 (Sub-No. 18TA), filed October 11, 1977. Applicant: AMERICAN TRANSPORT, INC., 7850 F St., Omaha, Nebr. 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251 Ten Main Center, Kansas City, Mo. 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* (including precious jewels and jewelry featuring precious gems) as are dealt in, sold and utilized by retail department and catalogue stores in the conduct of their business (except foodstuffs, plumbing fixtures and supplies, and commodities in bulk), and (2) *piece goods* (in one piece) and commodities used in the manufacture of clothing, from points in Connecticut, Maine, Massachusetts, Ohio and the respective commercial zones of Haverhill, N.H.; Bayonne and Jersey City, N.J.; East Aurora, Medina, and New York, N.Y.; Philadelphia and Wilkes-Barre, Pa.; East Warren, R.I., and St. Louis, Mo.; (on shipments having a prior interstate movement) to the respective commercial zones of Eldorado Springs, Kansas City, Lexington, and St. Louis, Mo. Restricted to traffic originating at and destined to the named origins and destinations (except St. Louis, Mo.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kanmo Shippers, Inc., Victor L. de Liniere, President, 9419 East 63rd St., Kansas City, Mo. 64133. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 135684 (Sub-No. 57TA), filed October 17, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Ronald L. Knorowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, from the facilities of E. J. Brach and Sons, Chicago and Carol Stream, Ill., to points in North Carolina, South Carolina, Virginia, Maryland, and Washington, D.C. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. J. Brach and Sons, Inc., 4656 West Kinzie St., Chicago, Ill. 60644. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State St., room 204, Trenton, N.J. 08608.

No. MC 138824 (Sub-No. 8TA), filed October 18, 1977. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, Wis. 53140. Applicant's representative: Paul J. Maton, 10 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) from Byhalia, Miss., and Pinckneyville, Ill., to the plantsites and warehouses of RJR Foods, Inc., at or near Plymouth, Ind., under a continuing contract with RJR Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: RJR Foods, Inc., P.O. Box 30307, Winston Salem, N.C. 27102. Send protests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., room 619, Milwaukee, Wis. 53202.

No. MC 143820 (Sub-No. 1TA), filed October 11, 1977. Applicant: COSMO BALIO, 131 East Broad St., Frankfort, N.Y. 13340. Applicant's representative: Roy D. Pinsky, 345 S. Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel plates, sheet and coils:* From suppliers' mills and warehouses at Gerard, Youngstown, Warren, Steubenville, and Cleveland, Ohio, to plant of Bossert Manufacturing Corp., Utica, N.Y., (2) *Steel stampings:* From plant of Bossert Manufacturing Corp., Utica, N.Y., to shippers' customers at Ashtabula, Newark, Kenton, and Marysville, Ohio and Winchester, Ky., (3) *returned Pallets and Palletainers*, (knocked down) From: Ashtabula, Newark, Kenton, and Marysville, Ohio and Winchester, Ky., to plant of Bossert Manufacturing Corp., Utica, N.Y. Restricted to shipments under a continuous contract with Bossert Manufacturing Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bossert Manufacturing Corp., 1002 Oswego St. Utica, N.Y. 13503. Send protests to: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S.

Courthouse and Federal Building, 100 South Clinton St. room 1259 Syracuse, N.Y. 13202.

No. MC 143859 TA, filed October 17, 1977. Applicant: FOLTZ TRUCK LINE, INC., P.O. Box 38, Princeton, Kans. 66078. Applicant's representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose fiber insulation*, from Ottawa, Kans., to the states of Nebraska, Missouri, Colorado, Oklahoma, Arkansas, Iowa, Kansas, Illinois, Texas, and South Dakota, (2) *wastepaper* (newsprint) and *aluminium sulfate*, each used in the manufacture of cellulose fiber from the states of Nebraska, Missouri, Colorado, Oklahoma, Arkansas, Iowa, Kansas, Illinois, Texas, and South Dakota to Ottawa, Kans. under a continuing contract with National Insulation Manufacturing, Inc. for 180 days. Supporting shipper: National Insulation Manufacturing, Inc., P.O. Box 652 Lot 6, Ottawa Industrial Park, Ottawa, Kans. 66067. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Bldg. and U.S. Courthouse, 444 S.E. Quincy, Topeka, Kans. 66683.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-32749 Filed 11-10-77;8:45 am]

[7035-01]

[Notice No. 145TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 7, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 531 (Sub-No. 354 TA), filed October 6, 1977. Applicant: YOUNGER BROTHERS. INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's Representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed supplements*, in bulk, in tank vehicles, from Westwego, La., to Center, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064. Send protests to: Mensing District Supervisor, Interstate Commerce Commisison, 515 Rusk, Room 8610 Federal Building, Houston, Tex. 77002.

No. MC 2962 (Sub-No. 65TA), filed October 11, 1977. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, Ind. 47717. Applicant's representative: Robert H. Kinker, P.O. Box 464, Frankfort, Ky. 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Evansville, Ind., and Mt. Vernon, Ind.: From Evansville over Indiana Highway 62 to Mt. Vernon, and return over the same route, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 14 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, Ind. 46204.

No. MC 19311 (Sub-No. 36TA), filed October 17, 1977. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Walter N. Beineman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in bulk, from General Motors plant sites at Lansing, Flint, Grand Blanc, Pontiac, Saginaw, Willow Run, and Detroit, Mich., and from Cleveland, Dayton, Moraine, and Toledo, Ohio, and Lockport, N.Y., to Bedford, Needmore, and Wabash, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): GM Logistics Operations, General Motors Corp., 30007 Van Dye Avenue, Warren, Mich. 48090. E. R. Wiseman Director Transportation Economics. Send protests to: Erma W. Gray Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 53841 (Sub-No. 5TA), filed October 7, 1977. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, Pa. 16232. Applicant's representative: John A. Pillar, 205 Ross Street, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned evaporated milk*, from Cambridge Springs, Pa., to Port Elizabeth and Weehawken, N.J., and New York, N.Y., restricted to traffic having a subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carnation Corp., 5045 Wilshire Boulevard, Los Angeles, Calif. 90036. Send protests to: Richard C. Gobbell District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 109772 (Sub-No. 30TA), filed October 14, 1977. Applicant: ROBERTSON TRUCK-A-WAYS, INC., 7101 East Slauson Avenue, Los Angeles, Calif. 90022. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except those which have been repossessed, embezzled, stolen, or wrecked and except trailers and self-propelled motor vehicles weighing less than 1,000 pounds), in secondary movements, in truckaway service, between points in California, on the one hand, and, on the other, points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nissan Motor Corp. in U.S.A., 18501 South Figueroa Street, Carson, Calif. 90745; Mercedes-Benz of North America, Inc., 851 Watson Center Road, Carson, Calif. 90745; Toyota Motor Sales, U.S.A., Inc., 2055 West 190th Street, Torrance, Calif. 90509; Mazda Motors of America, Inc., 3040 East Ana Street, Compton, Calif. 90221; American Honda Motor Co., Inc., P.O. Box 50, Gardena, Calif. 90247. Send protests to: Edward P. Henry, District Supervisor, Interstate Commerce Commission, Room

1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 111170 (Sub-No. 243TA), filed October 5, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 North West Avenue, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, P.O. Box 1718, El Dorado, Ark. 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake*, in bulk, from East Camden, Ark., to Wichita Falls, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, Okla. 73125. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 115730 (Sub-No. 39TA), filed October 17, 1977. Applicant: THE MICKOW CORP., 531 SW. Sixth Street, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in the Chicago, Ill., commercial zone, Putnam County, Ill., and Porter County, Ind., to Fremont, Neb., restricted to traffic destined to the plantsite of Stormor, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stormor, Inc., P.O. Box 198, Fremont, Nebr. 68025. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 118130 (Sub-No. 81TA), filed October 17, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9083, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising materials*, from the facilities of Falstaff Brewing Corp., at Galveston, Tex., to Albuquerque, Las Cruces, Roswell, and Santa Fe, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): New Mexico Beverage Co., P.O. Box 25945, 2112 Second Street SW., Albuquerque, N. Mex. 87125 or 87103. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 123048 (Sub-No. 373TA), filed October 13, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Industrial and agricultural mixers, blenders and storage bin panels*; and (2) *materials, equipment, and supplies* used in the distribution, sale, and manufacture of the commodities named in (1) above (except commodities in bulk), from New Prague, Minn., to points in the United States, and to the ports of entry located on the United States-Canada boundary line in the States of Washington, Idaho, Montana, North Dakota, Minnesota, and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Scott Equipment Co., 605 Fourth Avenue NW., New Prague, Minn. 56071 (Richard R. Zaun Shipping Purchasing). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 128527 (Sub-No. 92TA), filed October 17, 1977. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, Idaho 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar furnaces, solar collectors, and solar apparatus*, from the plantsite of Champion Home Builders Co., Solar Division, at or near Weiser, Idaho, to points in Arizona, Colorado, California, Idaho, Montana, Oregon, Utah, Washington, Wyoming, and Nevada, for 180 days. Carrier does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion Home Builders Co., P.O. Box 190, Weiser, Idaho 83672. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 133318 (Sub-No. 8TA), filed October 18, 1977. Applicant: VAN DE HOGEN CARTAGE LTD., 2590 Dougall Avenue, Windsor, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and dressed lumber and waferboard*, from ports of entry on the International Boundary line between the United States and Canada, located in Michigan and New York, to points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and Ohio, and returned shipments in the reverse direction, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire Wholesale Lumber Co., Inc., Miami and Gault Street, Akron, Ohio 44311. Peter Carroll, vice president, McParland Lumber Co., 701 Evans Avenue, Suite 807, Etobicoke, Ontario, Canada. John Almand, Traffic Manager. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 135861 (Sub-No. 17TA), filed October 17, 1977. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chewing gum and candy*, from the plantsite of Topps Chewing Gum, Inc., at or near Duryea and Scranton, Pa., to points in Arkansas, Arizona, California, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, under a continuing contract, or contracts, with Topps Chewing Gum, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Topps Chewing Gum, Inc., 401 York Avenue, Duryea, Pa. 18642. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Forth Worth, Tex. 76102.

No. MC 135861 (Sub-No. 18TA), filed October 17, 1977. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and medicines, and related advertising materials and display racks*, from the facilities of E. R. Squibb & Sons, Inc., at New Brunswick, Somerset, and South Plainfield, N.J., to Houston, Tex., under a continuing contract, or contracts, with E. R. Squibb & Sons, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. R. Squibb & Sons, Inc., P.O. Box 191, New Brunswick, N.J. 08903. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 136008 (Sub-No. 87TA), filed October 7, 1977. Applicant: JOE BROWN CO., INC., 8005 South I-35, Suite 102, Oklahoma City, Okla. 73149. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke* (in bulk, in dump vehicles), from El Dorado, Kans., to the facilities of Midwest Carbide Corp., near Pryor, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Lakes Carbon Corp., 299 Park Avenue, New York, N.Y. 10017. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office and

Court House Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 136220 (Sub-No. 46TA), filed October 12, 1977. Applicant: ROY SULLIVAN, d.b.a., SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke*, in bulk, in dump vehicles, from El Dorado, Kans., to the facilities of Midwest Carbide Corp., near Pryor, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Lakes Carbon Corp., 299 Park Avenue, New York, N.Y. 10017. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office & Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 136605 (Sub-No. 33TA), filed October 17, 1977. Applicant: DAVIS BROS. DIST., INC., 2024 Trade Street, P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, flue liner and clay products*, from the port of entry on the International Boundary line between the United States and Canada, located at or near Sweetgrass, Mont., to points in Montana, restricted to traffic originating in the Province of Alberta, Canada, for 180 days. Applicant intends to tack with authority issued to it by the Province of Alberta, Canada. Supporting shipper(s): Joe Forzley President, Forzley Sales, Inc., P.O. Box 2870, Great Falls, Mont. 59403. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 136650 (Sub-No. 1TA), filed October 7, 1977. Applicant: FOOTE & DAVIES TRANSPORT CO., 3101 McCall Drive, Doraville, Ga. 30340. Applicant's representative: Guy H. Postell, 3384 Peachtree Road NE., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and insulation materials* (except in bulk), from the plantsite of Rollins-Patton Insulation Companies, Inc., near Atlanta, Ga., to all points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used or dealt in by insulation manufacturing plants (except in bulk), from all points in the United States (except Alaska and Hawaii), to the plantsite of Rollins-Patton Insulation Companies, Inc., near Atlanta, Ga., under a continuing contract, or contracts, with Rollins-Patton Insulation Companies, Inc., for 180 days. Supporting shipper(s): Rollins-Patton Insulation Companies, Inc., 38 Old Ivy Road NE., Atlanta, Ga. 30342. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., room 300, Atlanta, Ga. 30309.

No. MC 136818 (Sub-No. 19TA), filed October 5, 1977. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, Phoenix, Ariz. 85301. Applicant's representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Albuquergue, N. Mex., to points in Maricopa County, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cadle Dry Wall Construction Co., or Sunnyslope Dry Wall Supply Co., 927 West Hatcher, Phoenix, Ariz. 85021. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 138627 (Sub-No. 23TA), filed October 14, 1977. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard joint system, joint compound, tape, texturing compounds, and articles*, used in the manufacture thereof, from Matteson, Ill., to Iowa, Kansas, Minnesota, Nebraska, North Dakota, and South Dakota, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gold Bond Building Products, Division of National Gypsum Company, 325 Delaware Avenue, Buffalo, N.Y. 14202. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg, Des Moines, Iowa 50309.

No. MC 140612 (Sub-No. 37TA), filed October 17, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour, 1200 Norwood Drive SE., Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Rossville, Bells and Memphis, Tenn., to Chariton and Cherokee, Iowa, restricted to the transportation of traffic originating at the facilities of Winter Garden, Inc., at or near Rossville, Bells and Memphis, Tenn., and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Winter Garden, Inc., P.O. Box 119, Bells, Tenn. 38006. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg, Des Moines, Iowa 50309.

No. MC 142672 (Sub-No. 7TA), filed October 12, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, Ark. 72747. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yarn, wool and synthetic fiber yarn*, and (2) *textile machinery, parts and supplies* used in the manufacture of the commodities in (1) above, from Beulaville, Warsaw, Washington, and Whiteville, N.C., to Long Beach, Calif., for 180 days. Supporting shipper(s): National Spinning Co., Inc., P.O. Box 191, Washington, N.C. 27889. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143195 (Sub-No. 1TA), filed October 3, 1977. Applicant: JOHNSTON TRUCKING CO., 9419 East 63rd Street, Kansas City, Mo. 64141. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, Mo. 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and sold or utilized by retail discount department stores in the conduct of their business, between the Brenton warehouse of Wal Mart Stores, Inc., located in Kansas City, Mo., on the one hand, and, on the other, the warehouses of Wal Mart Stores, Inc., located at St. Louis, Mo., Memphis, Tenn.; Dallas, Tex.; Little Rock, Ark., and Tulsa, Okla., and from the warehouse of Wal Mart Stores, Inc., located in Kansas City, Mo., to Wal Mart Stores in Kansas, Mo., and Okla., under a continuing contract, or contracts, with Wal Mart Stores, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wal Mart Stores, Inc., P.O. Box 1116, Bentonville, Ark. 72712. Send protests to: John V. Barry District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64105.

No. MC 143786 (Sub-No. 1TA), filed October 7, 1977. Applicant: HAL MAST TRUCKING CO., INC., Rt. 1, Sugar Grove, N.C. 28679. Applicant's representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, N.C. 28204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wicker baskets*, from Boone, N.C., to Greencastle, Pa., and to Buffalo, N.Y., and their commercial zones, under a continuing contract, or contracts, with American Wicker, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper(s): American Wicker, Inc., Rt. 3, Boone, N.C. 28607. Send protests to: Terrell Price District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Building, Room CC516, Charlotte, N.C. 28205.

No. MC 143823 TA, filed October 5, 1977. Applicant: LOREN W. HURTIG, Paullina, Iowa 51046. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Paullina Beef Processors, Inc., at or near Paullina, Iowa, to points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed, under a continuing contract, or contracts, with Paullina Beef Processors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marline VerStreeg President, Paullina Beef Processors, Inc., County Road L 48, Paullina, Iowa 51046. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 143848 TA, filed October 11, 1977. Applicant: J & B TRUCKING, INC., 201 Frisco, Clinton, Okla. 73601. Applicant's representative: C. L. Phillips, 1411 N. Classen, Room 248, Classen Terrace Bldg., Oklahoma City, Okla. 73106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in containers (except in bulk, in tank vehicles), from the Congo Refinery in Hancock County, W. Va., to Morrison Wholesale, Inc., Clinton, Okla., and (2) *pneumatic rubber tires and tubes*, from Texarkana, Ark., to Morrison Wholesale, Inc., Clinton, Okla., under a continuing contract, or contracts, with Morrison Wholesale, Inc., for 180 days. Supporting shipper(s): Morrison Wholesale, Inc., 201 Frisco Avenue, P.O. Box 117, Clinton, Okla. 73601. Send protests to: Haskell E. Ballard District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 143855 TA, filed October 11, 1977. Applicant: GENERAL OVERLAND AUTO TRANSPORT, 73 Benicia Industrial Park, Benicia, Calif. 94510. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles and trucks*, in secondary movement, under a continuing contract, or contracts, with Nissan Motor Corp. in U.S.A., between Benicia, Calif., on the one hand, and, on the other hand, Carson City, Carlin and Reno, Nev., for 180 day. Supporting shipper(s): Nissan Motor Corporation in U.S.A., 18501 South Figueroa Street, Carson, Calif. 90248. Send protests to: A. J. Rodriguez District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 143856 TA, filed October 11, 1977. Applicant: C. L. FEATHER, INC., R. D. No. 5, Box 434, Altoona, Pa. 16601. Applicant's representative: Thomas M. Mulroy, 800 Lawyers Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Fairport, Ohio, to points in Centre, Fulton, Mifflin, Juniata and Huntingdon Counties, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 143862 TA, filed October 18, 1977. Applicant: HOME DELIVERY, INC., 1959 N. Halsted Street, Chicago, Ill. 60614. Applicant's representative: James R. Madler, 120 W. Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household appliances and new household articles*, for the account of J. C. Penney Co., Inc., from Elk Grove Village, Ill., to points in Jasper, Lake, La Porte, Porter, Stark, and St. Joseph Counties, Ind., Berrien County, Mich., and Kenosha and Walworth Counties, Wis., under a continuing contract, or contracts, with J. C. Penney Co., Inc., for 180 days. Supporting shipper(s): J. C. Penney Co., Inc., Ralph Austin Distribution Center Manager, 851 Devon Avenue, Elk Grove Village, Ill. 60007. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-32750 Filed 11-10-77;8:45 am]

[7035-01]

[Notice No. 146TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 8, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 1263 (Sub-No. 26TA), filed September 21, 1977. Applicant: McCARTY TRUCK LINES, INC., 17th & Harris Avenue, Trenton, Mo. 64683. Applicant's representative: Jack L. Shultz, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and covers*, (a) from St. Joseph, Mo., to West Point and Moorhead, Mo., LaPorte, Ind.; Sebring, Ohio; Jackson, Tenn.; Mansfield, Tex.; Jefferson, Waupun, Oconomowoc and Menomonee Falls, Wis.; and (b) from Mansfield, Tex., to St. Joseph, Trenton and Mount Vernon, Mo.; and (c) from Waupun, Oconomowoc and Menomonee Falls, Wis., to St. Joseph, Trenton and Mount Vernon, Mo.; Jacksonville, Ill., and Fort Dodge, Iowa; and (d) from Mount Vernon, Mo., to Jefferson, Waupun, Oconomowoc, and Menomonee Falls, Wis.; Sebring, Ohio; and Mansfield, Tex.; and (2) *materials, supplies and equipment* utilized in the manufacturing of metal containers and covers, from St. Joseph, Mo., to Mansfield, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carnation Company, 39526 Marks Road, P.O. Box 87, Oconomowoc, Wis. 53066. Send protests to: Vernon V. Cable, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 51146 (Sub-No. 529TA), filed September 26, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661

South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transpoting: (1) *Aluminum foil and stretch wrap holders*, from the plantsite and warehouse facilities of Presto Products, Inc., at Appleton and Weyauwega, Wis., to points in the United States (except Arkansas and Hawaii), and from Lewiston and Clearfield, Utah, to points in the United States (except Arkansas, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of aluminum foil and stretch wrap holders, from points in the United States (except Arkansas and Hawaii), to the plantsite and warehouse facilities of Presto Products, Inc., at Appleton and Weyauwega, Wis., and from points in the United States (except Arkansas, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming; to Lewiston and Clearfield, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Presto Products Inc., P.O. Box 2399, Appleton, Wis. (James K. Spanbauer). Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 535TA), filed October 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from the plantsite and warehouse of Amoco Plastic Products Co., at or near Seymour, Ind., to points in Alabama, Florida, Georgia, Maryland, Michigan, North Carolina, Ohio, South Carolina, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Chemicals Corp., 200 E. Randolph Drive, Chicago, Ill. 60601. (John J. Maher). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 52858 (Sub-No. 119TA), filed October 18, 1977. Applicant: CONVOY CO., 3900 NW. Yeon Ave., P.O. Box 10185, Portland, Oreg. 97210. Applicant's representative: William C. Parks, 3900 NW. Yeon Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks in truckaway service in secondary movements*, between points and places in Colorado, on the one hand, and, points and places in Washington on the other hand, for 180 days. Supporting shipper(s): Colorado Auto Auction, 6955 E. 50th Ave., Denver, Colo. 80216, Meyer and Sons Auctions and Warehousing, 6443 Dowing St., Denver, Colo. 80216, Denver Auto Auction, 4285 S. Sante Fe Drive, Englewood, Colo. 80110. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 56640 (Sub-No. 40TA), filed October 18, 1977. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, Calif. 94621. Applicant's representative: Andrew J. Skaff, 600 Montgomery Street—46th floor, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium nitrate in bags and ferro silicone* in bags having a prior interstate movement by rail, between Desert Center, Calif. and Eagle Mountain, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hercules, Incorporated, 1 Maritime Plaza, San Francisco, Calif. 94111. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main—Suite 500, San Francisco, Calif. 94105.

No. MC 99213 (Sub-No. 22TA), filed October 20, 1977. Applicant: VIRGINIA FREIGHT LINES, P.O. Box 327, North Main Street, Kilmarnock, Va. 22482. Applicant's representative: James W. Lawson, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish oils*, in bulk, in tank vehicles, from Southport, N.C., to Bayway, N.J., for 180 days. Application has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Products Company, Inc., P.O. Box 389, Kilmarnock, Va. 22482. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Rm 10–502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

No. MC 107496 (Sub-No. 1113TA), filed October 11, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: Earl Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Marseilles, Ill., to points in Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Wisconsin and Iowa, for 180 days. Supporting shipper(s): Chemical Interchange Co., Suite 1104, 11 South Meramec, St. Louis, Mo. 63105. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 114301 (Sub-No. 92TA), filed October 17, 1977. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material*, dry, in bulk, from Leominster, Mass., to points in Connecticut, Georgia, New Jersey, New York, Pennsylvania, Rhode Island and Virginia. Supporting shipper: Richard L. Roundhouse, Distribution Manager, Borden Chemical, Division of Borden, Inc., 180 E. Broad Street, Columbus, Ohio 43215. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 115181 (Sub-No. 36TA), filed October 19, 1977. Applicant: HAROLD M. FELTY, INC., R.D. No. 1—Box 148, Pine Grove, Pa. 17963. Applicant's representative: John W. Dry, 541 Penn Street, Reading, Pa. 19601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay products*, from Phoenixville (Montgomery County), Pa., to New Jersey, New York, Connecticut, Delaware, Maryland, and the District of Columbia, for 180 days. Supporting shipper: McAvoy Vitrified Brick Co., P.O. Box 468, Phoenixville, Pa. 19460. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 117119 (Sub-No. 659TA), filed October 17, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: Martin M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products* (except in bulk), from the facilities of R. M. Palmer Company at or near West Reading, Pa., to points in California and Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. M. Palmer Co., 77 2nd Avenue, West Reading, Pa. 19611. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 133119 (Sub-No. 124TA), filed October 18, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood pulp*, from the ports of entry on the International Boundary, between the United States and Canada located at or near Portal and Pembina, N. Dak., to points in Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of

operating authority. Supporting shipper: Prince Albert Pulp Co., John Edgar, Vice President, 1020 Place du Canada, Montreal, Quebec H3B ZN2. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC. 133689 (Sub-No. 147TA), filed October 21, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from Schuyler, Nebr., to Atlanta, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Spencer Foods, Inc., Spencer, Iowa. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 134922 (Sub-No. 244TA), filed October 20, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Paint brushes, paint rollers, paint sprayers and plastic and rubber articles* (except in bulk), from Wooster, Ohio to points in Texas, for 180 days. Supporting shipper: The Wooster Brush Company, 604 Madison Avenue, Wooster, Ohio 44691. Send protests to: District Supervisor, William H. Land, Jr., 3188 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135082 (Sub-No. 55TA), filed October 17, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., Post Office Box 26748, Albuquerque, N. Mex. 87125. Applicant's representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in sacks, from El Paso, Tex., to Colorado and New Mexico, restricted to traffic originating in the Republic of Mexico, for 180 days. Aplicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lath and Paster Supply Co., Inc., Post Office Box 6247, Albuquerque, N. Mex. 87107, Robin S. Knight, Sales Manager. Send protests to: Darrell W. Hammons, District Supervisor, 1106 Federal Office Buliding, 517 Gold Avenue, SW., Interstate Commerce Commission, Bureau of Operations, Albuquerque, N. Mex. 87101.

No. MC 136848 (Sub-No. 16TA), filed October 5, 1977. Applicant: JAMES BRUCE LEE AND STANLEY LEE, d/b/a LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, Illinois 61764. Applicant's representative: Edward F. Stanula, 837 East 162nd Street, South Holland, Illinois 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain bins, storage tanks, fans, heaters, augers, dryers, preengineered steel buildings, greenhouses, all related parts and accessories*, From Mattoon, Illinois to points in Arkansas, California, Colorado, Connecticut, Delaware, Florida, Illinois; Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Washington, West Virginia, and Wisconsin, and Louisiana; (2) *Materials, equipment, and supplies* used in the manufacture, construction, and distribution of the commodities named in (1) above, except commodities in bulk, From St. Louis, Missouri; Detroit and Grand Rapids, Michigan; Alton, Marengo, Madison, Hennepin, Chicago, Granite City, and Chicago Heights, Illinois; Houston, Texas; Scottsburg, and Sheffield, Iowa; Cleveland, Tennessee; Redwing, Minnesota; Valley, Nebraska; Indianapolis, Gary, Elwood, and East Chicago, Indiana; Sharon, Pennsylvania; Fort Smith, Arkansas; and Dodge City, Kansas to Mattoon, Illinois, for 180 days. Supporting shipper: Superior Equipment Manufacturing Co., Joseph C. Green, Director of Materials, 1321 South Nineteenth, Matoon, Ill. 61938. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 143821TA, filed October 3, 1977. Applicant: KRIS'S TRUCK TRANSPORT, INC., 2840 Waverly Way, Livemore, Calif. 94550. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, between San Gabriel, Calif., on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Restriction: The operations authorized are restricted to traffic originating at or destined to the plantsite of Pathfinder Equipment Co., Inc. in San Gabriel, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pathfinder Equipment Company, Inc., 5126 Walnut Grove Avenue, San Gabriel, Calif. 91776. Sent Protests to: District Supervisor A. J. Rodriguez, 211 Main—Suite 500, San Francisco, Calif. 94105.

No. MC 143824TA, filed October 6, 1977. Applicant: G & S TRUCKING, INC., Box 5A, Fenwick W. Va. 26202. Applicant's representative: Dan Callaghan, 48 E Main Street, Richwood, W. Va. 26261. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Big Bull Mining Company site in Greenbrier County near Richwood, W. Va., to Covington, W. Va., under a continuing contract, or contracts, with Big Bull Mining Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Jerry Hatley Vice President, Big Bull Mining Company, Inc., Box 58, Richwood, W. Va. 26261. Send protest to: H. R. White District Supervisor Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 143845TA, filed October 13, 1977. Applicant: TANK'S ENTERPRISES, INC., 101 White Road, Austell, Ga. 30001. Applicant's representative: William N. Robinson, 231 Washington Avenue, N.E., Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles by use of wrecker equipment only, and replacement vehicles for wrecked and disabled motor vehicles*, between points in Ga., on the one hand, and, on the other, points in Alabama, Florida, Missouri, North Carolina, South Carolina and Tenn., for 180 days. Supporting shipper(s): Star Paper Tube, Inc., Washington Street, Austell, Ga. 30001. Austell Box Board Corp., Washington Street, Austell, Ga. 30001. Douglasville Truck & Auto Service, 4204 Bankhead Highway, Douglasville, Ga. 30134. Send protests to: Sara K. Davis Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, Ga. 30309.

No. MC 143847TA, filed October 11, 1977. Applicant: HOLIDAY MOVING & STORAGE CO., 1111 Vista De Oro, El Paso, Tex. 79935. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C., 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in the city and county of El Paso, Tex., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper(s): Mitchell Overseas Movers, Inc., P.O. Box 88728, Seattle, Wash. 98168. Inter-Intra Forwarding, Inc., 7192 Kalanianole Highway, Honolulu, Hawaii. Send protests to: Haskell E. Ballard District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 143849TA, filed October 7, 1977. Applicant: CLYNE SPARKS WRECKER SERVICE, INC., 3404 Cazassa, Memphis, Tenn. 38116. Applicant's

representative: Charles E. Maness, 5050 Poplar Avenue, Suite 917, Memphis, Tenn. 38157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disabled vehicles and trailers* (except trailers designed to be drawn by passenger vehicles and replacement vehicles and trailers), (except trailers to be drawn by passenger vehicles), between points in Shelby County, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Texas, Missouri and Tenn., for 180 days. Supporting shipper(s): Ace Freight Line, Inc., 3359 Cazassa Rd., Memphis, Tenn., 38116. Merchants Truck Lines, Inc., 3344 Cazassa, Memphis, Tenn. 38116. General Truck Sales and Service, 1973 Brooks Rd., Memphis, Tenn. 38116. Memphis White Trucks, Inc., 949 Channel Ave., Memphis, Tenn. 38113. Tom Bell Chevrolet, Inc., 2200 Lamar Ave., Memphis, Tenn. 38114. Motor Exchanges of America, 1930 Lynnbrook, Memphis, Tenn. 38116. John Ellis Chevrolet Co., Inc., 3441 Airways Blvd., Memphis, Tenn. 38131. Send protests to: Floyd A. Johnson District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 143854TA, filed October 14, 1977. Applicant: PIKE TRANSIT, INC., R.R. No. 3, Pittsfield, Ill. 62363. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry feed*, from Pittsfield, Ill., to points in Indiana, Iowa and Mo., for the account of Webel Feeds, Inc., Pittsfield, Ill.; and (2) *dry feed ingredients*, from points in Arkansas, Iowa, Kansas, Missouri, Minnesota, Mississippi, Nebraska, Ohio, South Dakota, Tennessee and Wis., to Pittsfield, Ill., for the account of Webel Feeds, Inc., Pitsfield, Ill., under a continuing contract, or contracts with Webel, Feeds, Inc., for 180 days. Supporting shipper(s): George Webel President, Webel Feeds, Inc., R.R. No. 3, Pittsfield, Ill. 62363. Send protests to: District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 E. Capitol Avenue, Springfield, Ill. 62701.

No. MC 143860TA, filed October 17, 1977. Applicant: RAYNOR'S TRUCKING, INC., 750 Waterliet Shaker Road, Albany, N.Y. 12211. Applicant's representative: Michael Shepard, 28 North Street, Pittsfield, Mass. 01201. Authority sought to perate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts and accessories, including tires and batteries*, from Latham, N.Y., to points in Vermont, points in Berkshire County, Mass., and points in Litchfield County, Conn., under a continuing contract, or contracts, with Genuine Parts Company, d.b.a. NAPA, for 180 days. Supporting shipper: Mr. Henry D. Miller, Eastern Division Manager, Genuine Parts Company, d.b.a. NAPA, Newfield Street, Middletown, Conn. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 143861TA, filed October 12, 1977. Applicant: FOY D. RIGDON, 401 N. 9th Street, Quincy, Fla. 32351. Applicant's representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Tallahassee, Fla. 32301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, sawdust, block ends and shavings*, from Gadsden County, Fla., to Cook, Lowndes, and Early Counties, Ga., under a continuing contract, or contracts, with Coastal Lumber Company, for 180 days. Supporting shipper: Coastal Lumber Company, P.O. Box 736, Havana, Fla. 32333. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-32751 Filed 11-10-77;8:45 am]

[7035-01]

[Notice No. 147TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 8, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar days after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 37490 (Sub-No. 6TA), filed October 5, 1977. Applicant: DUNCAN TRUCK SERVICE, INC., 100 East Park, Flandreau, S. Dak. 57028. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation material, bagged cellulose fiber* and (2) *scrap paper and materials* used in the manufacturing of this product from the plantsite and/or storage facilities of J. J. Carbon Manufacturing Co., Inc., located at Flandreau, S. Dak., to points within the states of Iowa, Minnesota, Nebraska, North Dakota, and Wisconsin; and (2) from points within the state of Iowa, Minnesota, Nebraska, North Dakota, and Wisconsin, to the plantsite of J. J. Carbon Manufacturing Co., Inc., at Flandreau, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J.J. Carbon Manufacturing Co., Inc., Box 112, Flandreau, S. Dak. 57028, John Hertzfeld, President. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 113678 (Sub-No. 706TA), filed October 22, 1977. Applicant: CURTIS, INC., P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: Roger M. Shaner, P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen insulated wire* (except in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, Calif., to points in Alabama, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Kentucky, Maine, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Energy Sealants, 1161 Borel Place, Suite 230, San Mateo, Calif. 94402. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 114569 (Sub-No. 195TA), filed October 14, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products,*

meat by-products, and articles distributed by meat packinghouses (except hides, animal foods, animal food ingredients, and commodities in bulk), from the plantsite and storage facilities of Spencer Foods, Inc., located at or near Schuyler, Nebr., and the storage facilities used by Spencer Foods, Inc., located at or near Fremont, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spencer Foods, Inc., Box 1228, Spencer, Iowa. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. 869, Federal Square Station, 228 Walnut Street, Harrisburg, Pa. 17108.

No. MC 115162 (Sub-No. 387TA), filed October 11, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, P.O. Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bags, plastic can liners, plastic containers, and plastic articles*, from the facilities utilized by Bes-Pak & Co., Inc., in Montgomery County, Ala., to all points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. and (2) *materials and supplies* used in the manufacture of plastic bags, plastic can liners, plastic containers, and plastic articles (except commodities in bulk, in tank vehicles), from all points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to the facilities utilized by Bes-Pak & Co., Inc., in Montgomery County, Ala., for 180 days. Supporting shipper(s): Bes-Pak & Co., Inc., P.O. Drawer 2190, Montgomery, Ala. 36103. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 115491 (Sub-No. 135TA), filed October 18, 1977. Applicant: COMMERCIAL CARRIER CORP., P.O. Drawer 67, 502 East Bridgers Avenue, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, P.O. Drawer 67, 502 East Bridgers Avenue, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction material and such material, equipment, and supplies* as are used in the manufacture, packaging, distribution, or installation of building and construction material, between Mobile, Ala., on the one hand, and, on the other, points in Florida on east and south of Interstate Highway 75 beginning at the Florida-Georgia State Boundary Line and south to its intersection with State Road 24 near Gainesville, Fla., thence west on State Road 24 to Cedar Key, Fla., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): GAF Corp., 5138 Madison Avenue, Tampa, Fla. 33619. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53d Terrace, Miami, Fla. 44166.

No. MC 118779 (Sub-No. 10TA), filed September 28, 1977. Applicant: PENNSYLVANIA TRUCK LINES, INC., P.O. Box 7116, 49th Street and Parkside Avenue, Philadelphia, Pa. 19131. Applicant's representative: S. Bernie Smith, Robert H. Griswold, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, supplies, and other commodities* used in the business of Consolidated Rail Corporation, between points in the States of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia, and the District of Columbia, on the one hand, and, on the other, the properties and facilities of Consolidated Rail Corporation located in said States and District. Restrictions: The service authorized herein is subject to the following conditions: The operations authorized herein are limited to transportation service to be performed, under a continuing contract ,or contracts, with Consolidated Rail Corporation, Philadelphia, Pa., for 180 days. The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find it necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. Supporting shipper(s): Consolidated Rail Corporation, Six Penn Center Plaza, Philadelphia, Pa. 19102. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 119726 (Sub-No. 108TA), filed October 17, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Porcelain and enameled sinks and basins, cartoned enameled sinks, sink tops, and skids, plate or sheet steel without legs* (not nested), from the plantsite of Ingram-Richardson at or near Frankfort, Ind., and the plantsite of Lawndale Products at or near Aurora, Ill., to the plantsite of Alabama Metal Products Co., at or near Rosedale, Miss., for 180 days. Supporting shipper(s): Alabama Metal Products Co., Inc., P.O. Box 608, Rosedale, Miss. 38769. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 125129 (Sub-No. 4TA), filed October 14, 1977. Applicant: INDEPENDENT FREIGHT, INC., Route 44, R.F.D. No. 1, Box 150, Putnam, Conn. 06260. Applicant's representative: Richard B. Greene, Maple Street, Danielson, Conn. 06239. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, bottles, demijohns or jars, caps, covers, stoppers or tops, fiber board boxes*, knocked down or folded in packages, between Dayville, Conn., on the one hand, and, on the other, to Lincoln, R.I., between Lincoln, R.I., on the one hand, and, on the other, to Cranston, R.I., and points in Massachusetts, on and east of Interstate Highway 91, between Framingham, Mass., on the one hand, and, on the other, to Cranston, R.I., and points in Massachusetts, on and east of Interstate Highway 91, between Holyoke, Mass., on the one hand, and, on the other, to Worcester, Mass., and points in Massachusetts, on and east of Interstate Highway 91, under a continuing contract, or contracts, with Glass Containers Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Glass Containers Corp., Route 101, Dayville, Conn. Send protests to: J. D. Perry Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, Conn. 06101.

No. MC 133566 (Sub-No. 92TA), filed October 12, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pizza and pizza ingredients*, in vehicles equipped with mechanical refrigeration, and *equipment* used in the preparation of pizza, from the plantsite and warehouse facilities of Baltimore Pizza Crust Co., Inc., at or near Baltimore, Md., to Montgomery, Ala., restricted to traffic originating at the above named facilities and destined to the named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Baltimore Pizza Crust Co., Inc., 3215 Lohrs Lane, Baltimore, Md. 21229. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 133796 (Sub-No. 43TA), filed October 11, 1977. Applicant: GEORGE

APPEL, 249 Carverton Road, Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail grocery stores; and (2) *Commodities* exempt from economic regulations pursuant to Section 203(b)(6) of the Act when transported in mixed loads with such commodities as are dealt in by retail grocery stores, from points in the United States (except Alaska and Hawaii), to Sunbury and Northumberland, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weis Markets, Inc., 1000 S. Second Street, Sunbury, Pa. 17801. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134676 (Sub-No. 6TA), filed October 12, 1977. Applicant: H. H. MOORE, JR., P.O. Box 477, Appomattox, Va. 24522. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kyanite, kyanite ore, mullite, mullite ore, and materials, supplies and equipment used in the manufacture, distribution and sales of kyanite, kyanite ore, mullite, mullite ore* (except in bulk), between the facilities of Kyanite Mining Corp., in Appomattox, Buckingham and Prince Edward Counties, Va., on the one hand, and, on the other, points in Maryland, New York, New Jersey, Pennsylvania, West Virginia and Ky. (2) *Ground level steel reservoirs and materials, supplies and equipment used in the manufacture of ground level steel reservoirs*, restricted against the use of special transportation equipment, between the plantsite of Flippo's and Company at or near Powhatan, Va., on the one hand, and, on the other, points in New Jersey, Tennessee, Ohio, New York, Maryland, Delaware, Indiana and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kyanite Mining Corporation, Dillwyn, Va. 23936. Flippo's And Company, P.O. Box 3305, Richmond, Va. 23235. Send protests to: Danny R. Beeler District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 136214 (Sub-No. 4TA), filed October 14, 1977. Applicant: ROGER L. JACOBSON, d/b/a, COLUMBIA MATERIALS, 120 South Gollob Road, Tucson, Ariz. 86710. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and feed ingredients* (except commodities in bulk, moving in tank vehicles), from points in Arizona, and Tex., to points in Arizona, New Mexico, Colorado, Texas, Kansas, Nebraska, South Dakota, Wyoming, Idaho, Montana and Utah, under a continuing contract, or contracts, with or for the accounts of Allmendinger Commodities, Colorado Springs, Colo., Anderson-Clayton Co., Inc., Phoenix, Ariz., and Wilbur-Ellis Co., Ogden, Utah, for 180 days. Supporting shipper(s): Anderson-Clayton Company, Inc., P.O. Box 2988, Phoenix, Ariz. 85062. Wilbur-Ellis Co., Box 332, Ogden, Utah. 84402, and Allmendinger Commodities, P.O. Box 151, Lytle Star Route, Colorado Springs, Colo. 80906. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 138882 (Sub-No. 16TA), filed October 11, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 621, Henderson Road, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition board, insulation materials, urethane, and urethane products, and materials, supplies and accessories* (except commodities in bulk), from the plant and warehouse facilities of the Celotex Corporation, located in Wayne County, N.C., to points in Virginia, West Virginia, South Carolina, Tennessee and Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Celotex Corporation, P.O. Box 22602, Tampa, Fla. 33622. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Bldg., Birmingham, Ala. 35203.

No. MC 139495 (Sub-No. 271TA), filed September 21, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dublin, Sullivan, Dublin & Kingsley, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Health, hygienic, medical, and surgical care products*, from the facilities of Parke, Davis & Company located at or near Greenwood, S.C., to points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, North Dakota, and South Dakota, for 180 days. Supporting shipper(s): Parke, Davis & Company, P.O. Box 118, Detroit, Mich. 48232. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 139584 (Sub-No. 10TA), filed September 28, 1977. Applicant: JOHN BUSCH, P.O. Box 211, Conyngham, Pa. 18219. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood flooring and wooden furniture parts*, from Nescopeck, Pa., to points in the United States lying on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, Arkansas, Texas, and Calif., for 180 days. Supporting shipper(s): Rad Woodwork Co., Inc., P.O. Box 288, Nescopeck, Pa. 18635. Send protests to: Paul J. Kenworthy District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 141320 (Sub-No. 8TA), filed October 5, 1977. Applicant: UNITED STATES PRIORITY TRANSPORT CORPORATION, 6 Ray Court, Melville, N.Y. 11746. Applicant's representative: Martin D. Friedman (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, medical isotopes, medical test kits and related medical apparatus*, between South Plainfield, N.J., and the New York City Commercial Zone, as defined by the Commission, on the one hand, and, on the other, all points in the counties of Lehigh, Northampton, Bucks, Montgomery, Delaware and Philadelphia, Pa., the counties of Nassau, Westchester and Rockland, N.Y.; the counties of Fairfield, New Haven, Hartford, Middlesex and New London, Conn.; the counties of Harford, and Baltimore, Md., and all points in the State of Delaware, under a continuing contract, or contracts, with Medi-Physics, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Medi-Physics, Inc., 900 Durham Ave., South Plainfield, N.J. 07080. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 141804 (Sub-No. 83TA), filed October 12, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except meats, meat products, and meat by-products, fresh, frozen or preserved dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, fresh or

frozen footstuffs, commodities in bulk, those requiring specialized equipment for their loading, unloading, or transportation and except explosives), restricted to those commodities which are at the time moving under the provisions of bills of lading of freight forwarders of Part IV of the Interstate Commerce Act, from Atlanta, Ga., and its Commercial Zone to Los Angeles, San Diego, San Jose, Oakland, San Francisco, South Gate, Van Nuys and Fremont, California, Phoenix, Ariz.; Portland, Oreg., and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westransco Freight Company, 1041 Richmond Street, Los Angeles, Calif. 90033. Send protests to: Joe J. Tate District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141804 (Sub-No. 84TA), filed October 12, 1977. Applicant: WESTERN EXPRESS, Div. of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except meats, meat products, and meat by-products, fresh, frozen or preserved dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, fresh or frozen foodstuffs, commodities in bulk, those requiring specialized equipment for their loading, unloading, or transportation and except explosives), restricted to those commodities which are at the time moving under the provisions of bills of lading of freight forwarders of Part IV of the Interstate Commerce Act, from Phoenix, Ariz., to Edison, N.J., and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westransco Freight Company, 60 Kellogg Street, Jersey City N.J. 07305. Send protests to: Joe J. Tate District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37221.

No. MC 142268 (Sub-No. 26TA), filed September 12, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada. Applicant's representative: Bernard S. Gorski, 843 Central Avenue, Windsor, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and wine*, in bulk, in tank vehicles as per shipper's support Appendix, parts 1 and 2 Alcoholic liquors, in bulk, in tank vehicles; part 3 and alcoholic liquors and wines in bulk, in tank vehicles, from the U.S. Mexican border at Laredo, Tex., and Calexico, Calif.; to Pekin, Ill., Colonial Heights, Va., and Union City, Calif., and (2) between Pekin, Ill., Colonial Heights, Va., Elizabeth, N.J., and Hartford, Conn.; and (3) between Pekin, Ill., and California, for 180 days. Supporting shipper(s): American Distilling Company, Inc., South Front Street, Pekin, Ill. 61554. A. L. Monti General Traffic Manager. Send protests to: Erma W. Gray Secretary of Detroit Office, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 142519 (Sub-No. 1TA), filed October 12, 1977. Applicant: DELIVERY SERVICE CORPORATION, 4815 Cabot Avenue, Detroit, Mich. 48210. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Window glass, plate glass, laminated glass, automobile glass, appliance door windows, framed and unframed*, from Detroit, Mich., to points in Arkansas, Connecticut, Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and (2) *materials and supplies* used in connection with the manufacture and distribution of the commodities in (1) above, from the destination area described in (1) above, to Detroit, Mich., under a continuing contract, or contracts, with Shatterproof Glass Corporation of Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shatterproof Glass Corporation, 4815 Cabot Avenue, Detroit, Mich. 48210. E. E. DeFobio Vice Chairman of the Board and Assistant Chief Operating Officer. Send protests to: Erma W. Gray Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 143720 (Sub-No. 1TA), filed October 13, 1977. Applicant: AIR-FREIGHT SERVICES, INC., 466 Spring Street, Windsor Locks, Conn. 06096. Applicant's representative: John E. Fay, 630 Oakwood Avenue, West Hartford, Conn. 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, having a prior movement by air and subsequent movement by air, not in bulk; not in tank vehicles, between Bradley International Airport, Windsor Locks, Conn., on the one hand, and, on the other, all points in the State of Connecticut, Rhode Island and Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shulman Air Freight, 55 Newberry Road, Warehouee Point, Conn. 06088. WTC Air Freight, P.O. Box 252, Windsor Locks, Conn. Trans World Airlines, Bradley International Airport, Windsor Locks, Conn. 06096. The Flying Tiger Lines, Inc., Bradley International Airport, Windsor Locks, Conn. 06096. Associated Air Freight, 315 Turnpike Road, Windsor Locks, Conn. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, Conn. 06101.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-32752 Filed 11-10-77;8:45 a.m.]

[1505-01]

[Volume No. 40]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Railroad Abandonments, Alternate Route Deviations, and Intrastate Applications

Correction

In FR Doc. 77-31142 appearing at page 56675 in the issue for Thursday, October 27, 1977, on page 56687, in the third column, "No. MC 43709" should have read "No. MC 143709".

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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[6320–01]

1

CIVIL AERONAUTICS BOARD.

NOTICE OF DELETIONS AND ADDITION OF ITEMS IN THE NOVEMBER 10, 1977 MEETING AGENDA

TIME AND DATE: 10:00 a.m.–November 10, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: (deletion) 7. Docket 31131, Cimarron Industries, Ltd.—application for exemption to use 75-seat jet aircraft in air taxi charter service (Memo # 7556, BOR, OGC); (deletion) 17. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding, Petition for discretionary review (OGC, OEA); (addition) 30. Revisions to various rules governing the acceptance of shipments of live animals proposed by various carriers, effective November 17, 1977 (BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION:

Member West has expressed an interest in Items 7 and 17 and he will not be able to attend the November 10 meeting. In order that these items may be discussed at a time when he is present, these items must be deleted from the November 10 meeting.

There are no meetings now scheduled for the week of November 14 through November 18. If the Board desires to suspend the tariff pending investigation, it must consider Item 30 before November 17, 1977 or lose the authority to do so under section 1002(g) of the Federal Aviation Act.

Accordingly, the following Members have voted that agency business requires the deletion of Items 7 and 17 and the addition of Item 30 in the November 10, 1977 agenda and that no earlier announcement of these changes was possible:

CHAIRMAN ALFRED E. KAHN
VICE CHAIRMAN RICHARD J. O'MELIA
MEMBER LEE R. WEST
MEMBER ELIZABETH E. BAILEY

[S–1813–77 Filed 11–9–77;8:42 am]

[6320–01]

2

CIVIL AERONAUTICS BOARD

NOTICE OF CHANGE OF TIME OF THE NOVEMBER 11, 1977 MEETING TO NOVEMBER 23, 1977.

TIME AND DATE: 10:00 a.m., November 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 1. Route Priorities: The pending rulemaking proceeding (Memo No. 5971–H, BOR, OGC, BLJ, OEA).

2. Docket 30123, Hearing priorities rulemaking (Memo No. 5971–E, 5971–F, 5971–G, BOR, OGC, BLJ, OEA).

3. Dockets 30550, 30937, 30942, 30548, 30630, and 31074, Twin Cities (Minneapolis-St. Paul)-Las Vegas/Phoenix-Burbank/Orange County (Santa Ana), Motions of Airwest and North Central and Related Pleadings (Memo No. 7472, BOR, OGC, BLJ, OEA).

4. Dockets 30547 and 31278 and 31385. Northwest's Motion for Hearing of its Minneapolis-Dallas/Houston Application; Consolidation Motions of Texas International and the City and Chamber of Commerce of San Antonio (Memo No. 7481, BOR, OGC, BLJ, OEA).

5. Docket 28475, Ozark's petition for reconsideration of Order 77–4–16 (Memo No. 5708–B, BOR, OGC, BLJ, OEA).

6. Dockets 29958 and 30019; 30120 and 26927. Motions for Hearing of Continental and Texas International on applications for authority between Houston and Tampa Bay Area/Orlando and related motions to consolidate Delta and Braniff (Memo No. 7281, BOR, OGC, BLJ, OEA).

7. Docket 30387, TWA's Application for San Diego-Kansas City/St. Louis nonstop authority (Memo No. 7374, BOR, OGC, BLJ, OEA).

8. Docket 30910, Eastern's Motion for Hearing on Nonstop Dallas-Tucson Authority (Memo No. 7509, BOR, OGC, BLJ, OEA).

9. Docket 30809, North Central's Application for Chicago-Syracuse/Albany-Boston Authority (Memo No. 7516, BOR, BLJ, OGC, OEA).

10. Docket 30915, Application of Frontier for new authority between Boise and Denver (BOR, OGC, BLJ, OEA).

11. Docket 30646, North Central's Subpart M Application for Authority to Provide Bismarck-Fargo-Minneapolis-Chicago Service (Memo No. 6960–A, BOR, OGC, BLJ, OEA).

12. Dockets 29827 and 30034. Motion of Allegheny Airlines for Hearing on its application to extend its system to various Florida cities; Motion of United for Hearing on its application to add Orlando to its Route 51 between the Great Lakes and Florida (Memo No. 7156, BOR, OGC, BLJ, OEA).

13. Docket 29554, Airwest's Application for Authority between Las Vegas-Albuquerque-El Paso-Midland/Odessa-San Antonio-Corpus Christi and Houston between Phoenix/Tucson-San Antonio-Houston and New Orleans and motion for immediate hearing (Memo No. 7314, BOR, BLJ, OGC, OEA).

14. Docket 29706, Motion of Allegheny Airlines for hearing on its application for Philadelphia-Bermuda nonstop authority (Memo No. 7541, BOR, BIA, BLJ, OGC, OEA).

15. Docket 28981 and 29015, Subpart M Application of Hughes Airwest for Phoenix-Sacramento; Fresno-Portland, and Sacramento-Seattle Nonstop Authority and Motion of Western for consolidation of the Sacramento-Seattle Nonstop Portion (Memo No. 5968–B, BOR, BLJ, OGC, OEA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: After Meeting Announcement M–81 was issued, it was learned that all of the Board Members would not be available for the meeting scheduled for November 11, 1977. In order that all the Members could attend this meeting, it is being rescheduled for November 23, 1977.

[S–1814–77 Filed 11–9–77;8:42 am]

[1505–01]

3

NOTE.—As originally published at page 58006 in the FEDERAL REGISTER for Monday, November 7, 1977 this document was incomplete.

COMMISSION ON CIVIL RIGHTS.

TIME AND DATE: November 14, 1977, 9:00 a.m. to 5:00 p.m.; November 15, 1977, 9:00 a.m. to 5:00 p.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: November 14, 1977, 9:00 a.m. to 3:00 p.m., open to the public; all other portions of the meeting closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public 9:00 a.m. to 3:00 p.m., November 14, 1977.

I. Approval of Agenda.
II. Approval of Minutes From Last Meeting.
III. Staff Director's Report: A. Status of Funds; B. Personnel Report; C. Correspondence:
1. Letter from Howard Glickstein, President's Task Force, re Volume V Update;
2. Letter from HEW Secretary Joseph Califano re Colorado SAC Report;
3. Letter from Lewis Taylor, LEAA, re Colorado SAC Report;
4. Letter from David Tatel, OCR, re Fort Wayne Report;
5. Selected letters re Affirmative Action Statement: Robert Lipshutz, Counselor to the President; Douglas Huron, Associate Counsel to the President; Chief Justice Burger's Secretary; Justice William Brennan; Solicitor General Wade McCree, Jr., Judge William Doyle; Judge Shirley Hufstodler; Judge Elbert Tuttle; Judge Harry Wellford;
6. Memorandum from Commissioner Ruiz re Secretary of Energy. D. Office Director's Reports.
IV. Civil Rights Developments in the Northeastern Region.
V. Decision on Design for Sex Discrimination in Athletics Study.
VI. Decision on Design for National Immigration Study.
VII. Decision on Design for Unemployment and Underemployment Study.
VIII. Discussion of Comments on Civil Rights Act of 1977.
IX. Discussion of Comments on Reorganization Task Force Proposal.
X. Discussion of Comments on Civil Service Commission Affirmative Action Proposal.
XI. Decision on Request for Update of Volume II, Federal Civil Rights Enforcement Effort.
XII. Discussion of Proposed Response to Comments on Textbook Study.
XIII. Presentation on Police Abuse in Chicago.

MATTERS TO BE CONSIDERED: Portion closed to the public, 3:00 p.m. to 5:00 p.m., November 14, 1977; 9:00 a.m. to 5:00 p.m., November 15, 1977.

I. Review of Revision of Volume V of Federal Civil Rights Enforcement Report.

II. Review of the Age Discrimination Study Report.

FOR FURTHER INFORMATION CONTACT:

Barbara Brooks, Public Affairs Unit, 202–254–6697.

[S–1774–77 Filed 11–3–77;3:27 pm]

[6351–01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., November 15, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: Standards for exchange directors and control committees; Review of Proposed December Calendar.

Portions closed to the public: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1816–77 Filed 11–9–77;11:14 am]

[6715–01]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, November 16, 1977 at 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance.

* * * * *

DATE AND TIME: Thursday, November 17, 1977 at 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:
I. Future meetings.
II. Correction and aproval of minutes.
III. Advisory opinions: AO 1977–18 and AO 1977–60. Reconsideration of 1976–106.
IV. Appropriations and budget.
V. Computer contract.
VI. F.O.I.A. regulations.
VII. R.N.C. request for extension of time to make repayment.
VIII. Non-filers (if not concluded on November 10).
IX. Draft regulation amendments: Sponsorship and Funding of Candidate Debates.
X. Pending legislation.
XI. Pending litigation.
XII. Liaison with other Federal agencies.
XIII. Classification actions.
XIV. Routine administrative matters.

Portions closed to the public: (Executive session). Audit matters, compliance, personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, Telephone: 202–523–4065.

MARJORIE W. EMMONS.

[6740–02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. November 7, 1977 42 FR 58004).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 9, 1977, 10.00 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No. and Company

G–37 CP77–538, Transcontinental Gas Pipe Line Corporation, Michingan Wisconsin Pipe Line Co., Natural Gas Pipeline Co. of America, Consolidated Gas Supply Corporation and Trunkline Gas Co.

KENNETH F. PLUMB,
Secretary.

[S–1817–77 Filed 11–9–77;1:19 pm]

[6740–02]

7

NOVEMBER 9, 1977.

FEDERAL ENERGY REGULATORY COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

TIME AND DATE: 10:00 a.m., November 16, 1977.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone: 202–275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

G–1.—Docket No. RP78–1, East Tennessee Natural Gas Co.

G–2.—Docket Nos. RP73–14 and RP76–50 (PGA77–3 and DCA77–1), Michigan Wisconsin Pipe Line Co.

G–3—Docket Nos. RP71–130, RP72–58 and RP75–111, Texas Eastern Transmission Corp.

G–4.—Docket No. RP73–97, Kentucky West Virginia Gas Co.

G–5.—Docket No. RP72–89, Columbia Gas Transmission Corp.

G–6.—Docket Nos. RP76–52, et al., Northern Natural Gas Co.

G–7.—Docket No. RP75–79, *Lehigh Portland Cement Co. v. Florida Gas Transmission Co.*

G–8.—Docket Nos. AR61–2 and AR69–1, et al., area rate proceeding, et al., (Southern Louisiana area).

G–9.—Docket No. CI77–412, Phillips Petroleum Co.

G–10.—Docket Nos. CP77–216, et al., Distrigas of Massachusetts Corp., et al.

G–11.—Docket Nos. CP70–196 and CP74–227, Distrigas Corp., Docket Nos. CP73–135 and CP74–137, Distrigas of Massachusetts Corp.

G-12.—Docket No. CP77-363, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp.

G-13.—Docket No. CP77-38, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and National Fuel Gas Supply Corp.

G-14.—Docket No. CI76-432, Cabot Corp., Docket No. CP76-19, Columbia Gas Transmission Corp., and the Sylvania Corp., Docket No. CP76-361, Columbia Gas Transmission Corp.

G-15.—Docket No. CP77-525, United Gas Pipeline Co., Docket No. CP77-529, Delhi Gas Pipeline Co.

G-16.—Docket No. CP77-347, Western Gas Interstate Co.

G-17.—Docket No. CP76-185, Transcontinental Gas Pipe Line Corp., Docket No. CP76-193, United Gas Pipe Line Co.

GAS AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

CG-1.—The Superior Oil Co., Gas Rate Schedule No. 7.

CG-2.—Docket Nos. CS66-96, et al., Sabine Production Co., et al.

CG-3.—Docket No. CI72-857, Gulf Oil Corp.

CG-4.—Docket No. CP74-33, Transcontinental Gas Pipe Line Corp.

CG-5.—Docket No. CP74-404, Colorado Interstate Gas Co.

CG-6.—Docket No. CP77-606, Sea Robin Pipeline Co.

CG-7.—Docket No. CP77-595, Northern Natural Gas Co.

CG-8.—Docket Nos. CP73-289 and CP77-602, Natural Gas Pipeline Co. of America.

CG-9.—Docket No. CP73-297, Texas Eastern Transmission Corp.

CG-10.—Docket No. CP77-576, Natural Gas Pipeline Co. of America.

CG-11.—Docket No. CI77-394, Hugh A. Hawthorne and Hawthorne Oil & Gas Corp.

CG-12.—Docket No. CP75-17, Transwestern Pipeline Co.

CG-13.—Docket No. CP77-614, South Texas Natural Gas Gathering Co.

CG-14.—Docket No. CP77-640, Colorado Interstate Gas Co.

CG-15.—Docket No. CP77-615, Colorado Interstate Gas Co.

CG-16.—Docket Nos. G-9854, et al., Getty Oil Co. (Skelly Oil Co.).

MISCELLANEOUS AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

M-1.—Docket No. RM78-1. Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission.

M-2.—Docket No. RM-1. Proposal by the Federal Power Commission Relating to the Incorporation of Compensation Provisions in Curtailment Plans.

MISCELLANEOUS AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

CM-1.—Commission Minutes.

CM-2.—Community Public Service Co.

POWER AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

P-1.—Docket No. ER77-576, Washington Water Power Co.

P-2.—Docket No. ER78-25, Kansas City Power & Light Co.

P-3.—Docket No. ER77-511, New York Power Pool.

P-4.—Docket No. ER77-319, New England, Power Pool Agreement.

P-5.—Docket No. ER76-629, Tampa Electric Co.

P-7.—Docket No. ER-8176, Southern California Edison Co.

P-8.—Docket No. ER77-532, Gulf Power Co.

P-9.—Docket No. ER77-530, Ohio Edison Co.

P-10.—Docket No. ER77-59, Superior Water, Light and Power Co.

P-11.—Project No. 2593, Latex Fiber Industries, Inc., and Beaver Falls Power Co.

P-12.—Project Nos. 137, 175, 1962, 2019, 2105, 2107, 2130, 2155 and 2310, California, Pacific Gas and Electric Co.

P-13.—Project No. 2179, California, Merced Irrigation District.

POWER AGENDA, 9TH MEETING, NOVEMBER 16, 1977, REGULAR MEETING

CP-1.—Docket No. ER78-26, Public Service Co. of Indiana, Inc.

CP-2.—Docket No. ES78-4, Iowa Public Service Co.

CP-3.—Docket No. ES77-61, Iowa Electric Light & Power Co.

CP-4.—Docket No. E-9259, Long Island Lighting Co.

CP-5A.—Project No. 2389, Economic Development Corp. of Augusta and Augusta Development Corp.

CP-5B.—Project No. 2613, Bates Manufacturing Co. and Augusta Development Corp.

CP-6.—Project No. 2640, Flambeau Paper Co. and Capital Cities Media, Inc.

CP-7.—Project No. 271—Arkansas; Arkansas Power and Light Co.

CP-8.—Docket No. ER77-452, Monongahela Power Co., The Potomac Edison Co., and West Penn Power Co.

CP-9.—Docket No. ER77-514, Tampa Electric Co., Docket No. ER77-550, Florida Power & Light Co., Docket No. ER77-516, Florida Power Corp.

CP-10.—Docket No. E-7734, Mid-Continent Area Power Pool Agreement.

CP-11A.—Docket No. ES77-54, Iowa Southern Utilities Co.

CP-11B.—Docket No. ID-1773, Rufus C. Barkley, Jr.

KENNETH F. PLUMB,
Secretary.

[S-1820-77 Filed 11-9-77;4:02 pm]

[6710-01]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Wednesday, November 16, 1977—Closed Portion. 12:00 noon, Wednesday, November 16, 1977—Open Portion.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Closed portion:

1. Proposed statement to be presented to the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding H.R. 9465, a bill to reinstate the FOMC minutes, and H.R. 9589, a bill to require Federal Reserve Banks to keep verbatim transcripts of all meetings of their Boards of Directors.

2. Any agenda items carried forward from a previously announced meeting.

Open Portion:

1. Proposed survey of the costs and experiences of creditors associated with certain provisions of Regulation B (Equal Credit Opportunity) and Regulation Z (fair credit billing provisions).

2. Possible amendments to the Board's Rules Regarding Delegation of Authority to delegate the authority to approve a State member bank's proposed subordinated debt issue as an addition to the bank's capital.

3. Request by Philadelphia International Investment Corporation, Philadelphia, Pennsylvania, for an extension of time in which to comply with divestiture requirements imposed by the Board.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 8, 1977.

GRIFFITH L. OAKWOOD,
Deputy Secretary of the Board.

[S-1812-77 Filed 11-9-77;8:42 am]

[7035-01]

9

NOVEMBER 8, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 15, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED:

1. Consideration of application of 4 R Act provisions affecting rail rate burueau to motor carrier rate bureaus, per Commission testimony of October 28, 1977 and other matters pertaining to motor carrier rate bureaus. (Staff Briefing and Discussion)

2. Proposal (to be circulated) to institute rulemaking to amend leasing regulations (Ex Parte No. MC-43, Sub-No. 7). (Discussion and Voting)

3. Briefing on Status of Task Force on motor carrier regulation recommendations. (Discussion)

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, Telephone: 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.

[S-1815-77 Filed 11-9-77;8:42 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of November 7, 1977 (Changes).

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Thursday, November 10, 3 p.m.—Briefing by Executive Branch on Pending Nonproliferation and Export Issues (Closed—Exemption 1) (Postponed from Wednesday, November 9).

Friday, November 11, 2 p.m.—Staff Briefing on Immediate Issues Raised in UCS Petition (Public Meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202/634–1410.

Dated at Washington, D.C., this 9th day of November 1977.

WALTER MAGEE,
Chief, Operations Branch.

[S–1819–77 Filed 11–9–77;4:02 pm]

federal register

FRIDAY, NOVEMBER 11, 1977
PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CERTAIN COMMUNITIES

[4210–01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI–3597]

TOWNSHIP OF GRANVILLE, MIFFLIN COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Granville, Mifflin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Granville Township, 1 Helen Street, Louistown, Pa. Send comments to: Mr. William Page, Chairman of the Board of Supervisors of Granville, 1 Helen Street, Louistown, Pa. 17044.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Granville, Mifflin County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Juniata River	Downstream corporate limits.	463
	5,000 ft upstream of corporate limits.	467
	10,000 ft upstream of corporate limits.	470
	15,000 ft upstream of corporate limits.	473
	Downstream borough limits of Lewistown.	475
	1st Con Rail bridge	478
	2d Con Rail bridge	480
	3d Con Rail bridge	485
	Upstream corporate limits.	491

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32132 Filed 11–10–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3598]

TOWNSHIP OF UPPER DUBLIN, MONTGOMERY COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Upper Dublin, Montgomery County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, 801 Loch Alsh Avenue, Fort Washington, Pa. 19034. Send comments to: Mr. Marvin S. Feller, Township Manager of Upper Dublin, Township Building, 801 Loch Alsh Avenue, Fort Washington, Pa. 19034.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Upper Dublin, Montgomery County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Run	State Route 309	175
	At Pennsylvania Turnpike ramp.	178
	Delaware Ave	179
	Confluence of Rapp Run.	179
Rapp Run	Confluence with Pine Run.	179
	Virginia Dr.	179
	Highland Ave	179
	Susquehanna Rd	206
	Mundock Rd. spur	226
	Limekiln Rd. at the dam.	254
	Jarrettown Rd	255
	Arthur Ave	349
Sandy Run	Corporate limits	187
	Dam No. 1	187
	Dam No. 2	189
	Limekiln Rd	209
	Fitzwatertown Rd	219
Wissahickon Creek	Corporate limit	165
	Butler Pike	179

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation

of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32133 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3599]

CITY OF FOREST HILL, TARRANT COUNTY, TEX.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Forest Hill, Tarrant County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 6800 Forest Hill Drive, Fort Worth, Tex. Send comments to: Honorable Jackie Larson, Mayor of Forest Hill, 3809 Alhambra, Fort Worth, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Forest Hill, Tarrant County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
South Creek	Upstream corporate limits (Wichita St.).	649
	Windy Hill Rd. (extended).	639
	Stonewall Dr.	636
	Independance Lane	631
	Forest Hill Dr.	623
	Wagon Dr. (extenced).	615
	Alma St. (extended).	605
	Anglin Rd.	593
North fork of South Creek.	Upstream corporate limits (Wichita St.).	650
	Private Dr.	641
	Stonewall Dr. (extended).	637
	Jamestown Dr. (extended).	625
	Forest Hill Dr.	623
	Confluence with South Creek.	618
North branch of North Fork.	Wichita St.	649
	I-820	643
	Forest Hill Cir.	639

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32134 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3600]

CITY OF LA VILLA, HIDALGO COUNTY, TEX.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43722 of the FEDERAL REGISTER of August 30, 1977 (42 FR 43722).

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following corrections are made: The location of the base flood elevation "at the intersection of Tully and Jill Streets," should be corrected to read "at the intersection of Parker and George Streets."

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32135 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3601]

CITY OF WINOOSKI, CHITTENDEN COUNTY, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Winooski, Chittenden County, Vt. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, Winooski, Vt. Send comments to: Mayor Donald R. Brunelle, Municipal Building, 27 West Allen Street, Winooski, Vt. 05404.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Winooski, Chittenden County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National

Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winooski River	Upstream of Central Vermont Railroad Bridge.	115
	Upstream of U.S. Routes 2 and 7.	153
	Interstate Route 89 northbound.	168

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32136 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3602]

APPOMATTOX COUNTY, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Appomattox County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Bulletin Board on the steps of the Courthouse, Court Street, Appomattox, Va. Send comments to: Mr. J. M. Cobb, Chairman of the Board of Supervisors of Appomattox, P.O. Box 672, Appomattox, Va. 24522.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Appomattox County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James River	U.S. Route 60	408
	Confluence of Wreck Island Creek.	441
	Confluence of Stonewall Creek.	466
Bent Creek	Confluence with James River.	408
	State Route 605.	408
Falling River	Confluence with Caldwells Creek.	657
	State Route 691.	704
	Dam structure No. 21 (upstream).	741
Caldwells Creek	State Route 719 (upstream).	682
	Dam structure No. 15 (upstream).	713
Purdums Branch	Confluence with Caldwells Creek.	712
	Upstream corporate limits.	751

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32137 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3603]

COUNTY OF CUMBERLAND, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the County of Cumberland, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Clerk's Office of Cumberland, Cumberland, Va. Send comments to: Mr. E. W. Sanderson, Chairman of the Board of Supervisors of Cumberland County, Cumberland, Va. 23040.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the County of Cumberland, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regu-

lations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James River	Downstream corporate limits.	198
	State Route 45	200
	State Route 603	210
	State Route 690	215
	Upstream corporate limits.	224

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32138 Filed 11-10-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3604]

TOWN OF ENDICOTT, WHITMAN COUNTY, WASH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Endicott, Whitman County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall of Endicott, Endicott, Wash. 99125.

Send comments to: Honorable Richard Culter, Mayor of Endicott, City Hall of Endicott, Endicott, Wash. 99125.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free-line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Endicott, Whitman County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4 (a).

These elevations, together with the flood plain management measures required § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rebel Flat Creek	County Rd. 6140	1,708
	3d St	1,707
	Downstream corporate limits.	1,695

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32139 Filed 11-10-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3605]

TOWN OF GARFIELD, WHITMAN COUNTY, WASH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Garfield, Whitman County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Whitman County Library, South 102 Main Street, Garfield, Wash. 99111.

Send comments to: Honorable Ray McCowan, Mayor of Garfield, P.O. Box 147, Garfield, Wash. 99130.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Garfield, Whitman County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established

by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek	Highway 27	2,478
	Railroad bridge	2,476
	Corporate limits	2,476
	Railroad bridge	2,474
	3d Street Bridge	2,469
	Abandoned railroad grade.	2,463
	Corporate limits	2,463

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32140 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3606]

CITY OF WAPATO, YAKIMA COUNTY, WASH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Wapato, Yakima County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 205 East 3rd Street, Wapato, Wash. 98951.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Ted Theroux, Mayor of Wapato, City Hall, 205 East 3rd Street, Wapato, Wash. 98951.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Wapato, Yakima County, Wash. in accordance with Section 110 of the Flood Disaster Protection 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yakima River	Donald Rd	856

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32141 Filed 11-10-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3607]

CITY OF WHITE SULPHUR SPRINGS, GREENBRIAR COUNTY, W. VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of White Sulphur Springs, Greenbriar County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the White Sulphur Springs City Building, 1 West Main Street, White Sulphur Springs, W. Va.

Send comments to: Honorable John Bowling, Jr., Mayor of White Sulphur Springs, 1 West Main Street, White Sulphur Springs, W. Va. 24986.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of White Sulphur Springs, Greenbriar County, W. Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more strin-

gent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Howard Creek	Downstream corporate limit.	1,840
	Greenbriar Ave. branch.	1,843
	Big Draft Rd. branch.	1,853
	Green St. branch	1,858
	Upstream corporate limit.	1,873
Dry Creek	Mouth (confluence with Howard Creek).	1,855
	Main Street Bridge	1,856
	Gum St. branch	1,869
	Interstate 64 overpass.	1,872
	Upstream corporate limit.	1,890

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

Issued: September 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32142 Filed 11-10-77;8:45 am]

federal register

FRIDAY, NOVEMBER 11, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

INTRAOCULAR LENSES

Investigational Device Exemption Requirements

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 76N-0324]

INTRAOCULAR LENSES

Investigational Device Exemption Requirements

AGENCY: Food and Drug Administration, HUD.

ACTION: Final rule.

SUMMARY: This document establishes requirements for the distribution, investigation, and use of intraocular lenses. Intraocular lenses are used to replace the natural lens of the human eye after surgical removal, generally as a result of a cataract. The requirements are needed because intraocular lenses have not been adequately tested and pose questions of safety. Serious injuries, including eye loss, have been reported after implantation of intraocular lenses. The regulations apply to manufacturers and importers of the lenses, institutional review committees that monitor clinical investigations, and investigators (physicians) who implant them. The regulations will apply to ongoing investigations and to investigations that have not yet begun. After the requirements become effective, intraocular lenses may not be distributed or used unless the manufacturer or importer who ships them, or the investigator who receives them, has an effective investigational device exemption. After November 28, 1977, intraocular lenses that are within the jurisdiction of the Federal Food, Drug, and Cosmetic Act (the act) and are not the subject of an approved premarket approval application under section 515 of the act (21 U.S.C. 360e) or an effective investigational device exemption under these regulations shall be subject to regulatory action. Use of lenses distributed and stockpiled before the effective date of this regulation is subject to the same investigational controls as use of those lenses distributed after the effective date of this regulation.

EFFECTIVE DATE: February 9, 1978. However, sponsors of ongoing investigations who wish to assure that implantations of lenses can continue without interruption during the 30-day period for FDA review of applications should submit applications by January 10, 1978.

ADDRESSES: Applications for investigational device exemptions should be submitted to Document Control Center (HFK-20), Food and Drug Administration, Bureau of Medical Devices, 8757 Georgia Ave., Silver Spring, Md. 20910. Copies of guidelines that cover manufacturing, sterilization, and preclinical and clinical testing of intraocular lenses were developed by FDA in cooperation with its Ophthalmic Device Classification Panel and are available at the above-named address.

FOR FURTHER INFORMATION CONTACT:

James G. Dillon, Bureau of Medical Devices (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued proposed investigational device regulations in the FEDERAL REGISTER of August 20, 1976 (41 FR 35282). As proposed, the regulations would have applied to investigations of all medical devices. This regulation governing investigational studies of intraocular lenses is based on the proposed regulation published in the FEDERAL REGISTER of August 20, 1976, modified to reflect the comments received. Because of the safety questions posed by intraocular lenses, which are described below, the Commissioner believes that immediate action is needed to assure that these lenses are shipped and used only in accordance with appropriate investigational controls. Therefore, these regulations are being issued in final for intraocular lenses. The Commissioner intends to issue soon a reproposal in the form of a tenative final regulation on investigational use of devices other than intraocular lenses.

The Commissioner believes that to assure adequate protection of patients, these regulations must apply to all intraocular lenses implanted after the effective date of these regulations, including those manufactured or distributed before that date. The Commissioner believes that it is not desirable to confine regulatory controls to studies begun after the effective date of the regulations because the serious risks presented by these devices require that some form of control over ongoing investigations be established immediately.

AUTHORITY TO RESTRICT INTRAOCULAR LENSES TO INVESTIGATIONAL USE

This regulation restricts intraocular lenses to investigational use in accordance with requirements applicable to investigational use of devices under section 520(g) of the act (21 U.S.C. 360j(g)). In addition, specific authority to restrict intraocular lenses to investigational use under section 520(g) is found in section 520(1) of the Act (21 U.S.C. 360j(1)). Under 21 CFR 5.1, authority of the Secretary of Health, Education, and Welfare under the act has been redelegated to the Commissioner of Food and Drugs.

Section 520(g) has two major purposes: (1) to encourage the discovery and development of useful devices for human use, and (2) to protect the public health by requiring safeguards for human subjects of investigations and by maintaining sound ethical standards and procedures to assure development of reliable scientific data.

Section 520(g) authorizes the Commissioner to exempt devices from otherwise applicable provisions of the act to permit devices to be shipped for investigational use for determining their safety and effectiveness. Under section 520(g), any regulations permitting exemptions for investigational use must include requirements necessary for the protection of the public health and safety. Persons seeking an exemption must submit an application to FDA, maintain records of the investigation, and make reports concerning the investigation to FDA. A number of requirements to assure that the rights and safety of human subjects are adequately protected are imposed on the person applying for the exemption: investigations must be reviewed by a qualified institutional review committee (if one exists); each investigator must agree that any testing of the product involving human subjects will be under his supervision; and informed consent must be obtained from the subjects or their representatives. Section 520(g) of the act permits variations in the procedures and conditions governing investigational device exemptions depending on the nature, scope, and purpose of the study.

Under section 520(g), an application for an investigational device exemption that meets the requirements of FDA regulations will be deemed approved 30 days after it is submitted to FDA. The Commissioner may, however, disapprove an application for an investigational device exemption within the 30-day period if he finds that the application does not conform to procedures and conditions prescribed in the regulations. In addition, FDA may withdraw an exemption for failure to comply with any of the conditions for exemptions for investigational use of devices.

Section 520(l) of the act prescribes special provisions for certain devices that were regarded by FDA as new drugs or antibiotic drugs at the time the Medical Device Amendments of 1976 (the amendments) were enacted into law on May 28, 1976 (Pub. L. 94-295). Specifically, section 520(l)(1)(E) of the act provides that a device which the Commissioner, prior to the enactment of the amendments, has declared to be a new drug subject to section 505 of the act (21 U.S.C. 355), is automatically classified into class III unless the Commissioner classifies it into class I or II pursuant to a petition by the manufacturer or importer.

Section 520(l)(3)(D)(iii) of the act applies three additional provisions only to intraocular lenses, which the Commissioner had on April 6, 1976, declared to be new drugs, for reasons discussed in detail below in the summary of injuries associated with intraocular lenses. First, the requirement that devices formerly regarded as new drugs have in effect an application for premarket approval does not take effect until 18 months after the date of enactment of the amendments. On that date, November 24, 1977, the device is subject to regulatory action unless it has either an approved application for premarket approval or an effective exemption for investigational use under

section 520(g) of the act (and these regulation). Second, section 520(l) authorizes the Commissioner, during the period beginning 180 days after the date of enactment of the amendments and ending 18 months after that date, to restrict the device to investigational use. Third, if the Commissioner does restrict the device to investigational use, the investigational requirements shall apply in such a manner that the device shall be made reasonably available to physicians meeting appropriate qualifications established by the Commissioner. The legislative history shows that Congress intended the Commissioner to establish experience and training requirements such that all qualified opthalmologists who meet these requirements and agree to adhere to investigational requirements would be eligible to participate in their investigational use (Conference Report, Medical Device Amendments of 1976, H. Rept. No. 94-1090, p. 63). In establishing these requirements, Congress intended the Commissioner to consult with appropriate organizations representing opthalmologists and manufacturers of intraocular lenses as well as qualified scientific experts who do not have an interest in the device.

Congress had received testimony documenting injuries with intraocular lenses (as well as other devices) and documenting that many such incidents could have been avoided had the devices undergone adequate scientific testing (House Report on the Medical Device Amendments of 1976, H. Rept. No. 94-853, p. 38).

Restriction of Intraocular Lenses to Investigational Use

Because of the risks involved with intraocular lenses and their implantation, the Commissioner believes that the requirements for an investigational device exemption must be applied to all intraocular lens implantations after the effective date of these regulations.

Manufacturers of intraocular lenses are likely to want to conduct clinical studies to assure that they will have sufficient safety and effectiveness information when the lenses are required, after November 24, 1977, to have in effect approved applications for premarket approval as a condition to commercial distribution. The Commissioner believes that restricting intraocular lenses to investigational use is appropriate to encourage intraocular lens manufacturers to develop safety and effectiveness data before the application of these premarket approval requirements. Although its primary interest in promulgating these regulations is protection of subjects, FDA also has an interest in assuring that clinical investigations are conducted in a way that assures the reliability of data—both because this will ease the agency's eventual review of any resulting application for premarket approval and because poorly conducted studies expose subjects to unnecessary risks.

Under section 501(f)(1)(C) (21 U.S.C. 351(f)(1)(C)), a device is deemed adulterated if it is a class III device under 520(l) and is required to have an approved application under section 515 and does not have such an approved application. Section 520(l)(3)(D)(iii) provides that an intraocular lens must either have a premarket approval application in effect under section 515 or be exempt under section 520(g). Accordingly, investigational studies of intraocular lenses may continue beyond the 18-month deadline for having an approved premarket application if the study is designed to continue after that date and the sponsor has not yet developed data adequate to support premarket approval, and thus commercial distribution, of the lenses. However, the Commissioner is concerned that investigational exemptions not be used as a subterfuge for commercial distribution of the lenses and that investigational studies not be unduly prolonged. Thus, he has required in § 813.46(d) of the regulation that a sponsor curtail studies and submit a premarket approval application when data are available to support such an application. In addition, the Commissioner cautions that he is seriously concerned about the incidence of adverse reactions associated with intraocular lens use and may find it necessary to impose additional restrictions or take regulatory actions beyond those in these regulations.

Injuries Associated With Intraocular Lenses

In a notice published in the Federal Register of April 6, 1976 (41 FR 14570), the Commissioner described in detail the safety problems associated with intraocular lenses, declared the lenses to be new drugs, and announced the policy that FDA intended to follow in applying the requirements applicable to new drugs, including investigational drug controls, to the lenses. The reasons for declaring intraocular lenses new drugs are summarized below, with additional information not available at that time.

Intraocular lenses have been available for experimental use since 1949. In 1953, the Panel for Cataract Surgery, appointed by the American Academy of Ophthalmology, reviewed the use of the lenses in cataract surgery. The panel concluded that the use of intraocular lenses produced results inferior to those of conventional cataract surgery techniques. The panel also recommeded that further investigational work be discontinued until a longer followup study of eyes already implanted with the lenses showed that delayed complications were exceptional. Thereafter, intraocular lenses were seldom used in the United States. In Europe, however, experimentation continued with a variety of intraocular lens designs. There was renewed interest in intraocular lens implantation in the United States beginning in 1967.

Subsequently, clinical experience and data have been developed concerning a variety of intraocular lenses, and the data raise additional questions as to the safety and effectiveness of such lenses. Complications arising as a result of intraocular lens implantation include the following:

Endothelial corneal dystrophy (clouding of the "eye's window"), which is virtually negligible after ordinary cataract surgery, was a major problem with early types of intraocular lenses. It is more likely to occur after intraocular lens surgery than conventional cataract surgery and frequently becomes manifest years after implantation. It is not clear that endothelial corneal dystrophy has been reduced to an acceptable incidence with modern lenses. The Commissioner is concerned that endothelial corneal dystrophy may occur long after implant surgery and may not be diagnosed, since the average observation period for implant surgery, as reported in published studies, covers only a fraction of the time that an intraocular lens normally remains implanted in the eye.

Dislocation, i.e., forward or backward displacement of the lens, is a complication unique to intraocular lenses. The incidence varies and appears to be related to lens design. Although a dislocated lens can usually be repositioned by an ophthalmologist without elaborate surgical procedures, it may result in blurred vision, discomfort, glaucoma, or endothelial corneal dystrophy.

Decentration of the lens, i.e., movement of the lens to the side, was found. A lens that is not properly centered may cause astigmatism or threaten visual acuity due to contact of the lens with the cornea.

Sutures are required for the fixation of some modern intraocular lenses. If sutures fail, there is a greater likelihood that the lens will dislocate.

Retrolental membranes (membranes that grow behind the lens with the effect of drawing a curtain across the back of the eye) may occur after implantation of intraocular lenses following extracapsular cataract extraction. These membranes may interfere with vision and decrease visual acuity. Their removal requires surgery.

Cystoid macular edema (degenerative changes of the macula), which causes a loss of central vision without which one cannot clearly distinguish fine detail or read, is a relatively uncommon complication of conventional cataract surgery, but has occurred months to years after intraocular lens implantation. It is uncertain, at present, whether this is a consequence of the intraocular lens or a normal but hitherto undescribed occurrence. There is cause for serious concern that the incidence of cystoid macular edema following intraocular lens insertion is much higher than that which was previously considered to be normal after conventional cataract surgery.

Uveitis (an irritation or inflammation of the inside of the eye) is associated with the implantation of intraocular lenses. Uveitis may result from an adverse reaction to the chemical constituents of the lenses, a response to a foreign body, or the surgical procedure.

Control of uveitis may require the use of corticosteroids, which in turn may increase the likelihood of steroid-induced glaucoma. The question whether chronic uveitis can cause glaucoma has been raised. Other consequences of long-term uveitis remain undecided.

"Iridocapsular" lenses (lenses whose attachment loops are held in place by inserting them into the bag remaining after the removal of the natural lens) require the formation of natural adhesions around the loops that are inserted into the fornices of the capsular sac. If adhesions do not form, other methods of fixation such as sutures or administration of miotics (agents that cause the pupil to contract) must be used to prevent lens dislocation.

Prolonged use of the miotic agent, pilocarpine, to prevent lens dislocation after intraccular lens implantation, may result in atrophy of the iris and sphincter oculi (iris muscle).

Surgical complications, including flat anterior chamber, transient corneal edema, striate keratitis, pupillary block, iridocyclitis, corneal dystrophy due to temporary flat chamber, and transient glaucoma, may be more likely to occur following insertion of intraocular lenses.

It appears difficult to fit patients with intraocular lenses so that normal vision (emmetropia) is restored, and the majority of patients must use other corrective articles, such as spectacles or contact lenses, as well.

Many intraocular lenses are manufactured from polymethylmethacrylate, which has been reported to degrade in vivo. This degradation may cause changes in the refractive properties of the lens. The Commissioner is not aware of studes of visual acuity or of changes in the refractive property of lenses as a function of time.

Some manufacturers sterilize intraocular lenses by treatment with caustic solutions, e.g., sodium hydroxide, maintaining and shipping the lenses in weaker caustc solutions, and directing that the lenses be neutralized in sodium bicarbonate and rinsed before use. The Commissioner questions the adequacy of this sterilization and neutralization process in assuring a safe and effective product under production-line conditions. Some manufacturers use an ethylene oxide method of sterilization, which presents safety concerns if the lenses are not completely degassed.

During the months of October and November 1975, physicians in 4 States reported 11 cases that were investigated by FDA of unusual ocular infection in patients who had had an intraocular lens implanted in the eye after cataract extraction. Ocular cultures from 8 of the 11 patients had grown a fungus, Paecilomyces. Vision was seriously impaired in all patients, and removal of the eye was required in 5 of the 11 patents.

Since publication of the notice in the FEDERAL REGISTER of April 6, 1976 (41 FR 14570) about the above-described safety problems, the Commissioner has received additional reports of injuries from intraocular lenses. In November 1976, an outbreak of Pseudomonas-induced infections, found to be directly related to the solutions in which the intraocular lenses were packed, was reported (Ref. 3). In early 1977, several cases of hypopyon (an accumulation of pus in the anterior chamber of the eye) were reported, involving two major designs of lenses(Ref. 4, 5). In May 1977, numerous cases of severe complications were reported by one manufacturer. Reported complications include: early and late uveitis, uncontrolled high intraocular pressure, recurrent sputtering hyphemas (hemorrhage into the anterior chamber of the eye), and late massive hyphemas, as late as 8 months postoperative (Ref. 6).

OTHER FEDERAL REGISTER NOTICES ABOUT INTRAOCULAR LENSES

After the Commissioner issued the FEDERAL REGISTER notice declaring intraocular lenses to be new drugs, the Medical Device Amendments became law on May 28, 1976. Thereafter, FDA published two additional notices relating to intraocular lenses.

First, on August 20, 1976, the Commissioner proposed regulations prescribing procedures and conditions for investigations of devices generally. In the preamble to this proposal, the Commissioner clearly stated that the proposed regulations would apply to any clinical use in humans of devices that were regarded as new drugs before May 28, 1976, and are class III devices under section 520(l) of the act, and for which no approved application for premarket approval under section 515 of the act is in effect. This proposal therefore was applicable to intraocular lenses, except those for which premarket approval applications had been approved. As yet, the Commissioner has not received or approved any premarket approval application from any intraocular lens manufacturer.

Second, the Commissioner explained the regulatory status of intraocular lenses under the amendments in a notice to manufacturers, published in the FEDERAL REGISTER of September 13, 1976 (41 FR 38802). This notice explained that the amendments defined as a device any medical product, including intraocular lenses, which does not depend on chemical action within or on the body or upon being metabolized to achieve any of its principal intended purposes. The notice stated that, effective May 28, 1976, the date of enactment of the amendments, intraocular lenses are regulated as devices under the act and are classified in class III, premarket approval. The September 13, 1976 notice further announced that the new drug controls announced in the FEDERAL REGISTER of April 6, 1976 were no longer applicable to intraocular lenses since, as of May 28, 1976, they have been replaced by similar new controls applicable to class III devices. Accordingly, the portion of the April 6, 1976 notice that pertains to new drug controls was rescinded. Finally, in the September 13, 1976 notice the Commissioner announced that he had concluded that it is necessary to restrict the use of intraocular lenses to investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of such devices. The Commissioner also announced his intention to apply restrictions on the use of intraocular lenses so that they will be reasonably available to physicians meeting appropriate qualifications, which are being prescribed in this regulation.

The September 13, 1976 notice also invited public comment on guidelines for investigational studies of these products, developed by the agency's Bureau of Medical Devices in cooperation with its Ophthalmic Device Classification Panel. The notice also announced that the date by which applications for investigational device exemptions for intraocular lenses shall be filed would be the effective date of the final regulations on investigational device exemptions applicable to devices generally, i.e., 90 days after publication of such regulations.

At that time, FDA had planned to publish final investigational device regulations by the end of 1976. These plans were revised after FDA decided to provide for additional public involvement in the development of these regulations by publishing for comment a reproposal in the form of a tentative final regulation. Since these procedures will require several months, and public health protection requires immediate action to control the use of intraocular lenses, the Commissioner has decided to publish final investigational device regulations applicable only to these lenses while completing work on the general regulations. When the general investigational device regulations are published in final form and become effective, the Commissioner will rescind those portions of these regulations applicable to investigational studies of intraocular lenses that are adequately covered by the general regulations.

The Commissioner believes that the regulations published on August 20, 1976, as proposed Part 812, are generally appropriate for investigational control of intraocular lenses. He has adapted proposed Part 812 to intraocular lenses, with changes based on comments, as discussed below. The regulations are effective 90 days after publication in the FEDERAL REGISTER, except that applications should be filed 30 days earlier if sponsors wish to prevent interruption of ongoing studies, and the regulations are designated as Part 813.

ENFORCEMENT OF INVESTIGATIONAL DEVICE CONTROLS

The Food and Drug Administration may enforce the investigational device provisions in section 520(g) of the act through several provisions in section 301 of the act (21 U.S.C. 331) enumerating prohibited acts. Most importantly, new section 301(q)(1) makes it a prohibited act to fail or refuse to comply with any

requirement prescribed under section 520(g) of the act. In addition, under new section 301(q)(2) of the act, it is a prohibited act to submit, with respect to any device, any report required by or under the act that is false or misleading in any material respect. The latter prohibition applies to all reporting requirements under the act concerning devices, including reporting under these investigational device regulations, and supplements the penalties provided by the False Reports to the Government Act (18 U.S.C. 1001). In addition, section 301(l) of the act as amended makes it a prohibited act to represent or suggest in the labeling or advertising of any device that FDA has approved an application for an exemption under section 520(g).

Other enforcement provisions are found in amendments to section 501 of the act, defining conditions under which devices are considered adulterated and thus unlawful. New section 501(f)(1)(C) of the act deems as adulterated any class III device that was classified under section 520(l) into class III, which is required to have an approved premarket approval application in effect under section 515, and which does not have such an application in effect. This section applies to intraocular lenses and other devices formerly regarded as new drugs. Also, under new section 501(i), an investigational device is considered adulterated if either the person granted the exemption or an investigator using the device fails to comply with a requirement under section 520(g) of the act, i.e., these regulations. Adulterated or misbranded devices may be seized wherever they are found, under section 304(a)(2) of the act as amended, and are subject to other regulatory action under the act.

The amended act also includes provisions to protect trade secrets acquired by FDA under the investigational device regulations (section 301(j) of the act, as amended), to facilitate FDA inspection of required records (section 704 of the act, as amended), and to require that export of investigational devices be approved by the foreign government and by FDA (section 801(d) of the act, as amended).

General Provisions

SCOPE

Section 813.1 implements sections 520 (g) and (l) of the act by providing that intraocular lenses may be exempted from otherwise applicable sections of the act (e.g., misbranding, registration, premarket notification, performance standards, premarket approval and records and reports, restricted devices, good manufacturing practices and color additive controls, sections 502, 510, 514, 515, 519, 520(e), 520(f), and 706 of the act respectively) to permit investigational studies by qualified experts to determine the safety and effectiveness of the lenses.

Section 813.1 provides that an application may be approved subject to conditions specifically retaining the applicability of certain provisions of the act. In short, the extent of the exemption from provisions of the act may be varied.

The requirement in proposed § 812.1(c) that a device is not exempt when a sponsor indicates that an exemption is not requested for a provision of the act was eliminated because the Commissioner believes that sponsors will invariably request an exemption from all provisions. Also, the provision providing an exemption from the banned device authority in section 516 of the act was deleted as unnecessary in the context of the specific treatment in this regulation of intraocular lenses.

Numerous comments were received on proposed § 812.1. Many comments expressed the view that, in the proposal, the objective of encouraging discovery and development of devices seemed to be subordinated to the objective of protecting the public health to such a degree that development of new devices would be effectively stifled. One comment suggested adding the objective of maintaining optimum scientific freedom for investigators.

The Commissioner believes that changes made in the regulations in response to other comments maintain in proper balance the goals of encouraging the discovery and development of useful devices and at the same time the protection of the public health through the protection of the rights of human subjects.

APPLICABILITY

Section 813.2 makes this part applicable to all implantations of intraocular lenses in humans. This requirement is needed because of the injuries that have been associated with use of intraocular lenses, as discussed above. The incidence of injuries, and their association with various individual lens products, indicates the need for additional testing of these lenses, under controlled investigations, before they may again be made commercially available.

Section 813.2 omits the discussion of other transitional products in the proposal since it is not applicable to these regulations.

Comments received on the August 20 proposal recommended that the regulation be structured according to the risk involved in the investigational use of the device. Elaborate and constructive proposals were submitted for restructuring the applicability of the regulation. Although the Commissioner is unable to adopt specifically any of the proposals in its entirety, he agrees that appplicability of the regulation should reflect the risk presented in a specific study. Proposed § 812.2 will be revised extensively in the tentative final investigational device exemption regulations to provide differing regulatory controls that reflect the criticalness of the investigational device and the relative risks presented by the study. The tentative final regulations also will exempt certain custom devices from investigational device controls.

The Commissioner regards all intraocular lenses as critical investigational devices and all implantations of intraocular lenses in humans as presenting a substantial risk. Accordingly, all implantations of intraocular lenses are regarded as studies that fall into that category for which all requirements of the investigational device exemption regulations must be met. Because the Commissioner believes that any implantations of an intraocular lens is a substantial risk procedure involving a critical investigational device whose safety and effectiveness have not been established, any use of the lens necessarily involves safety and effectiveness testing that is subject to the requirements of Part 813. Although there is no custom device exemption in these regulations, a sponsor of a custom intraocular lens designed for an individual patient can petition for waiver of requirements that cannot practically apply to the manufacture and implantation of that lens.

Because § 813.2 deals with only one class of products, intraocular lenses, which are classified by statute in class III, the discussion in the proposal regarding device classification, found in § 812.2 (b), (c), and (d)(1), is inapplicable to this regulation.

DEFINITIONS

Section 813.3 lists definitions used in this regulation.

An intraocular lens is defined in § 813.-3(a) as a lens designed to replace surgically the natural lens of the human eye. For purposes of this regulation an intraocular lens is by definition an investigational device because it may only be used in investigational studies for the purpose of testing its safety and effectiveness. The term intraocular lens is used interchangeably with "investigational device," "lens," and "lenses" (when the plural is intended).

Section 813.3(b) provides a revised definition of investigational device, which means a device used in investigational study involving human subjects where the purpose of the study is to determine whether the device is safe and effective. Similarly, the definition of investigational plan in § 813.3(c) is revised and means a plan or protocol for using an investigational device in an investigational study. An investigational plan must meet the requirements of § 813.25. Also revised is the definition of an investigational study in § 813.3(d), which means one involving human subjects and which is for the purpose of determining whether a device is safe or effective. The definition of investigator in § 813.3(e) is revised to clarify that someone other than the investigator may participate in the study if that person participates in the study under the supervision of the investigator and is identified as an investigator in the application for an investigational device exemption.

The definition of sponsor in § 813.3(g) was revised in response to comments that government agencies sponsoring research by means of grants would not in all instances wish to become a sponsor within the meaning of the proposal. Accordingly, language in the original pro-

posal which made any person who supported a study by financial or other resources a sponsor, was eliminated and language was added to indicate that a sponsor is any person who initiates an investigation but who does not actually conduct the investigation. This change of language does not reflect any change in the requirement that someone must assume the responsibilities of a sponsor in an application. The Commissioner does not intend to require that any particular individual perform these functions. Thus, a government agency that supports an investigational device study by means of a grant would not necessarily be a sponsor unless it identified itself as a sponsor by submitting an application for an investigational device exemption. However, the recipient of the grant or someone else must assume the responsibilities of a sponsor and submit an application for an exemption.

The definitions of investigator, sponsor, sponsor-investigator also were modified to conform to definitions that will appear in other agency documents that will apply to all investigational articles. An investigator and a sponsor-investigator are defined to refer only to a living individual. The definition of sponsor now contemplates that the employees of a corporate sponsor may be considered investigators, not sponsor-investigators, when they undertake clinical investigations for the sponsor. A definition of the term monitor when used either as a noun or verb is added for clarity.

One comment noted that the term "institution" should not include a manufacturer because by so doing, the manufacturer might be required to institute an in-house institutional review committee. The Commissioner believes that it is inappropriate to remove the term manufacturer from the definition. However, the Commissioner points out that a manufacturer of a device need not have an in-house institutional review committee unless a study using its employees as subjects is being conducted.

A new definition of institutional review committee appears in § 813.3(l). An institutional review committee is defined as a committee appointed by an institution to review and monitor investigations in which human subjects participate, having the primary responsibility of protecting human subjects from risk to health, safety or dignity in accordance with current professional standards and the requirements of Part 813. The emphasis is on protection of human subjects, which is accomplished by review and monitoring of an investigation conducted in an institution. The term "current professional standards" is intended to encompass the standards in effect in the medical profession at any given time and would include the Helsinki Convention, the American Medical Association Standards, and such other professional standards that may be developed in the future. The term is not intended to freeze professional standards. As professional standards change, it is anticipated that the standards applied by institutional review committees will reflect changes in medical community ethics. The committee also must provide human protection in accordance with the requirements of this part in Subpart D and F. Section 813.3(l) notes that an institutional review committee may be known by any name, such as an institutional review board, and still function as an institutional review committee under this definition.

General Qualifications for an Exemption

Section 813.5 enumerates the conditions that must be met for intraocular lenses to be exempted from otherwise applicable requirements of the act. Section 813.5(a) requires the label to bear the name and place of business of the manufacturer, packer or distributor; the quantity of the contents; the sterility shelf life of the lens; and a cautionary statement that the device is limited to investigational use.

The Commissioner has added the requirement that the label bear the sterility shelf life of intraocular lenses because this is a critical factor in the safety of these products.

Petitions for Waiver of Requirements

The Commissioner received a number of comments on proposed § 812.10 suggesting that the Commissioner be required to act on a petition on a waiver of a requirement under the investigational device regulations in the same 30-day period in which he is required to act on the application for exemption. One comment argued that the petition for waiver should be incorporated into the application form for an investigational device exemption since this would require the Commissioner to respond within the 30 days.

The Commissioner does not believe that in extending this privilege of requesting a waiver, which is not required by statute, he must be governed by the statutory 30-day response period prescribed for action on an application for an investigational device exemption. Such a time limitation in which to respond to waiver petitions may not be realistic if the waiver is requested for many requirements and the evaluation of the petition requires extended discussion and review. The Commissioner assures all interested parties that the petition for waiver will be acted upon as expeditiously as possible, within 30 days in many cases, and that there is no intent to delay action on a petition for a waiver any longer than is necessary to evaluate it.

Another comment relating to waivers was that fulfillment of requirements imposed by other government agencies under a grant or contract should result in an automatic waiver. The Commissioner believes that although fulfillment of requirements imposed by other agencies would certainly be a major factor in determining whether to grant a petition for waiver, the ultimate determination must depend on whether the requirements imposed by that agency sufficiently protect the public health and safety to permit the granting of the petition for waiver. The Commissioner notes that it is not the practice to waive compliance for investigational drug requirements even though a study is conducted under a grant from another government agency.

A final comment suggested that any final regulation should specify that confidential information contained in a petition for waiver would be protected from public disclosure. The Commissioner responds that information contained in a petition for waiver is subject to the same protection as information contained in an application for exemption as prescribed by § 813.20 and is disclosable to the public upon request under the same conditions as information contained in an application for exemption can be disclosed.

Requirements Applicable to Importers and Exporters of Intraocular Lenses

Section 813.19 sets forth requirements applicable to persons who import or export intraocular lenses.

Section 813.19(b), describing the requirements for the export of intraocular lenses, is abbreviated from the proposal and simply follows section 801(d) of the act. The Commissioner will require compliance with Part 813 as a condition to export where this is appropriate to assure adequate protection of public health and safety.

The provisions of § 813.19(b), proposed as § 812.19(b), received numerous comments. Comments argued that this section was unconstitutional, did not follow the act, and exhibited an attempt to "legislate the health of the entire world."

The Commissioner believes that the statement in § 813.19 parallels closely the intent of section 801(d) of the amendments and accurately reflects congressional intent. The Commissioner disclaims any desire, as charged by such comments, "to legislate for the entire world"; however, he believes that the concept of public health is a universal concept and that the agency must consider events occurring in foreign countries in determining whether exportation of a device is contrary to the public health and safety. The Commissioner rejects the comments to the effect that he lacks the authority to regulate the conduct of manufacturers or exporters where the primary impact of their conduct will occur outside the boundaries of the United States and its possessions and points out that exports of investigational new drugs are controlled. In some cases, the mere existence of an approved investigational device exemption for domestic studies is not sufficient by itself to warrant the export of the device unless the Commissioner is assured that there is satisfactory provision within the importing country to control the device after import. The Commissioner's preference is that the importing country have suf-

ficient regulatory controls and organizational apparatus to assure that the device is investigated under conditions equivalent to those under which it is being investigated or could be investigated within the United States. Where this is not the case, the Commissioner reserves the right to refuse to permit the export of intraocular lenses if he believes that the conditions under which the lenses will be tested in the importing country are such that an approved investigational device exemption would no longer be subject to adequate control.

The Commissioner recognizes that in dealing with foreign governments, unique and unusual situations may occur, e.g., it may be difficult to determine which foreign government agency should approve the importation of the device. Rather than rewrite the requirements of this regulation in terms of the unusual, the Commissioner prefers to deal with unusual situations as they are presented, on a case-by-case basis. If an exporter discovers that there is no foreign official who can grant clearance to the proposed import of the device as is required by this section, the manufacturer, or exporter, or sponsor can request a waiver. The Commissioner will respond to such situations as he deems appropriate after investigating the facts and, where necessary, consulting with the Department of State or other Federal agencies.

APPLICATIONS FOR EXEMPTIONS FOR INVESTIGATIONAL STUDIES OF INTRAOCULAR LENSES

Proposed Subpart B sets forth the requirements for information that must be contained in applications for exemption needed to conduct investigational studies of intraocular lenses. This subpart prompted numerous comments. Several comments proposed that the chairman of the institutional review committee rather than the individual members sign the application. Other comments related to the time period for notifications required in the event of unforeseen, adverse reactions. Several comments requested that the time period for reporting adverse reactions be extended. Other comments objected to the detail required in describing the components and principles of operation of the device. Most comments said that a complete description of device components was not feasible and that a list of critical parts would be more appropriate.

Similarly, with respect to the contents of the report of prior investigations, comments said that complete information about preclinical testing would be so voluminous as to be impossible of fulfillment, especially in the case of devices that had long been on the market.

Several comments focused on the sections dealing with disapproval and withdrawal of the application and requested that action not be taken except in those instances where the resulting failure to conform to the requirements of Subpart B resulted in harm to the patients or subjacts involved. These comments suggested that disapproval or withdrawal of the application be limited to serious violation of the regulations.

As suggested by other comments, the Commissioner has revised the procedure for filing an application to permit hand delivery as well as mailing. Furthermore, only three copies of the application now are required.

Paragraph (b)(2) of § 813.20(b) requires for intraocular lenses a description of all components and ingredients of the device. Despite the comments suggesting that only important components need be described in the application, the Commissioner believes that, with respect to intraocular lenses, a complete statement of components and ingredients is necessary for FDA evaluation. The Commissioner also believes that for a product, such as an intraocular lens, which is made up of relatively few components and ingredients, the requirement to submit all components and ingredients is not burdensome. All information furnished must be in sufficient detail so that a scientist or physician familiar with the lens but not necessarily expert with regard to the specific lens can make a knowledgeable judgment as to the anticipated safety and effectiveness of the device in the study. A qualified person need not be an expert with respect to the lens in order to make a knowledgeable judgment.

Section 813.20(b)(3) was modified to delete the requirement of including a complete statement of methods, facilities and controls used in the manufacture, processing, packing, and storage of the lens. The Commissioner is requiring instead a description of those methods, facilities, and controls used for manufacture, processing, packing, and storage in enough detail so that a person informed in that general area can make a knowledgeable judgment about the anticipated safety and effectiveness of the lens.

Proposed § 812.20(b)(4) was omitted since it is unlikely that a sponsor will seek less than a complete exemption for intraocular lenses.

New § 813.20(b)(4) requires the sponsor to identify the location(s) of the study and whether an institutional review committee(s) will review and monitor the study. The Commissioner believes that a study of an intraocular lens should be reviewed and monitored by an institutional review committee whenever one exists or can be created. For this reason, FDA will carefully review applications for investigational device exemptions where there is no provision for monitoring by institutional review committees because the Commissioner does not believe that alternative measures exist that can adequately protect human subjects. Therefore, the lack of a participating committee may justify disapproval of an otherwise meritorious application. Thus, every effort should be made to conduct investigational studies of intraocular lenses at facilities that have, or will establish, an institutional review committee.

FDA has made it known for some time that an institutional review committee requirement would generally apply to investigational studies of intraocular lenses: an institutional review provision was contained in FDA's guidelines for intraocular lens testing, on which public comment was invited in the notice in the FEDERAL REGISTER of September 13, 1976, and has been discussed at meetings of the Ophthalmic Device Classification Panel and other meetings attended both by FDA representatives and by representatives of intraocular lens manufacturers and users.

Section 813.20(b)(7) was revised to require only the committee chairman rather than each member of the committee to sign the review of the investigational plan. The Commissioner agrees with comments that the requirement for all members to sign, taken together with the quorum requirements, could effectively give a minority member a veto over the project regardless of the views of the remaining committee members.

Section 813.20(b)(8) was revised in response to a comment that FDA should require submission of all informational materials to be given to human subjects, including all forms to be used to obtain informed consent.

The Commissioner received a comment on § 813.20(b)(8), proposed as § 812.20(b)(7), from the Intraocular Lens Manufacturers' Association recommending that language be added stipulating that the sole purpose of requiring submission of a copy of all informed consent forms to be used in the study is to assure compliance with the informed consent requirements in proposed §§ 812.120 and 812.130. The comment suggested that this language state that no single type of informed consent is mandatory and it is the responsibility of each individual investigator to obtain and use an informed consent best suited to his needs, providing compliance with the regulations is achieved. The Association explained that the purpose of the suggested change is to clarify to sponsors and investigators that, where informed consent forms must be changed so as to be in compliance with the regulations, sponsor and investigator mutually understand and accept that no responsibility is assumed by FDA or the sponsor for professional liability protection as a result of such changes, or for the lack of professional liability protection as a result of such changes.

The Commissioner is not adopting this suggestion. The proposal did not contain inflexible provisions as to the type of informed consent required, and none are required in Part 813. The Commissioner expresses no opinion on the professional liability of investigators or the responsibility of sponsors to investigators when changes must be made in consent forms to meet FDA requirements.

Section 813.20(b)(10) requires the sponsor to submit a description of the scientific training and experience the sponsor considers appropriate to qualify individuals to be investigators. In com-

plying with this requirement, sponsors should indicate how they meet FDA requirements under § 813.66 and the sponsor's additional criteria as to training, experience, and expertise needed to become an investigator of that sponsor's product. The Commissioner expects sponsors of intraocular lens studies, in selecting investigators, to consider factors in addition to FDA requirements under § 813.66. Among these factors are the number of lenses an investigator has implanted; experience with lenses the investigator has implanted; whether the investigator has taken courses on intraocular lens implantation and has been trained in the actual implantation of the lenses under the supervision of an experienced investigator; and the nature of the lens and what is known about it.

The Intraocular Lens Manufacturers Association suggested that no statement of prior institutional review committee disapprovals, required by proposed § 812.20(b)(12), should be required if the device was not previously subject to a requirement to obtain an investigational exemption or available for study.

The Commissioner sees no reason to adopt this suggestion. If the comment means that an institutional review committee might have turned the study down because there was no provision for obtaining an FDA approved exemption, including such a statement in the application will in no way prejudice approval. Failure to mention a prior disapproval may lead to additional questions at a future time. The Commissioner believes it is better for all parties concerned for any problems encountered in obtaining institutional review committee approval to be described in the application.

The Intraocular Lens Manufacturers' Association also submitted comments objecting to any FDA attempt to control lens prices. Revised § 813.20(b)(15) (proposed § 812.20(b)(14)) takes this comment into account and only requires that FDA be notified of a sponsor's intent to charge for the lens.

Proposed § 812.20(b)(17) was renumbered as § 813.20(b)(18), and provisions are added in response to comments that FDA could effectively prevent a sponsor from obtaining review of FDA administrative action simply by making repeated requests for information without ever approving or disapproving the application. Other comments objected that the information that can be requested by FDA is not restricted to relevant information.

The Commissioner agrees that only information relevant to the review of the application need be submitted. He also agrees and clarifies that the sponsor may refuse to provide the requested information and treat FDA's request as a final disapproval for purposes of requesting a regulatory hearing. However, the Commissioner has also provided that if his request for information does not receive a response within the time stated in the request, he will treat the application as withdrawn to prevent a sponsor from simply not responding to requests for information and arguing that he is still in technical compliance with the regulation because his application is pending.

Investigational Plan

Section 813.25 states the requirements for an investigational plan.

Paragraph (a)(2) of § 813.25 has been revised to delete the requirement that FDA be notified of all changes in the plan, in response to comments that only foreseeable changes should be reported. Only anticipated or foreseeable changes must be cited in the investigational plan.

A new paragraph (a)(13) was added to § 813.25 requiring the investigational plan to include a description of the scientific training and experience the sponsor considers appropriate to qualify individuals as suitable agents to investigate the safety and effectiveness of the device. This provision was added to enable the institutional review committee to determine whether a particular investigator meets criteria for investigators established by the sponsor under § 813.43(a).

Report of Prior Investigations

Section 813.27 sets forth the requirements for reports of prior investigations and experience with the lens that must be submitted.

Section 813.27(b)(1) was revised in response to comments that the report of prior investigations should not include complete information about preclinical investigations since the requirement may be difficult or impossible to meet if the device has a long market history. The Commissioner has revised § 813.27(b)(1) so that the sponsor need only provide a bibliography of publications relevant to the study, which could be fewer in number than those relevant to the particular device, and provide copies of significant publications—both adverse and supporting. By eliminating the provision that the bibliography submitted be complete and providing instead that listed publications be relevant to the clinical study, the Commissioner intends to avoid imposing a burden of exhaustive and unnecessary research. The requirement will be satisfied if the bibliography is relevant to the investigational study proposed with the lens, thereby excluding studies not bearing on the specific test to which the lens is to be subjected. Insofar as possible, all relevant material submitted should be complete.

Section 813.27(b)(2) now requires that unpublished information regarding the device, both adverse and supporting, shall be provided (if available to the sponsor) in sufficient detail so that a scientist or physician not necessarily an expert with respect to a specific lens could make a knowledgeable judgment regarding its anticipated safety and effectiveness in the proposed study.

Section 813.27(b)(2), as revised, limits the requirement to provide details on prior tests to that detail necessary to permit scientific evaluation. The Commissioner agrees with comments that it is unnecessary to know, in every instance, the place where the tests were conducted. Where scientific evaluation would necessitate identifying the qualifications of the person performing the test or including other precise information, such information must be submitted.

FDA Review of and Action on an Application

Section 813.30 describes the procedures for FDA's review of applications for exemptions and prescribes criteria for acting on such applications.

Section 813.30(b) was modified by revising the last sentence to permit the Commissioner when rejecting a resubmitted application to suggest that it be further revised and resubmitted, while authorizing the sponsor to treat the suggestion as a final disapproval for purposes of requesting a regulatory hearing. This change responds to comments and conforms to changes in § 813.20(b).

There is no requirement in the act for review of exemption applications by classification panels that recommend to FDA the proper classification of devices. The Commissioner intends, however, to seek the advance of the Ophthalmic Device Classification Panel on a case-by-case basis, where appropriate.

In response to comments, § 813.30(c), setting forth criteria for disapproving applications, was changed to give the Commissioner discretion to decide whether to disapprove an application where grounds for disapproval exist. Thus, the words "shall disapprove" were replaced by the words "may by order disapprove." Similarly, new § 813.30(e) was added authorizing the Commissioner to disregard minor violations that do not result in a conclusion that the risks outweigh the benefits to the subjects. Failure of an application to conform with this part would often be cured by a request for additional data rather than disapproval of an application.

Withdrawal of an Investigational Device Exemption

Section 813.35 prescribes the criteria and procedures for withdrawal of an exemption.

The Commissioner has added new § 813.35(a)(11) expressly enabling an exemption to be withdrawn if the Commissioner finds inadequate the process of review or monitoring by an institutional review committee that is monitoring the study subject to the exemption. This provision is added as an alternative to the proposal for disqualifying a committee found to have an inadequate review or monitoring process. As discussed in greater detail below in the preamble concerning Subpart D, the proposal for disqualifying such committees has been deleted.

The Commissioner received a comment on proposed § 812.35 from the Intraocular Lens Manufacturers' Association agreeing that the Commissioner shall have power to withdraw an exemption when reports subsequent to the application contain an untrue statement of a material fact or omit material in-

formation required by § 812.39 or § 812.55, but not when the application contains untrue statements or omits material facts. The comment argued that it is the agency's responsibility to evaluate for acceptability the report of prior investigations and the investigational plan, submitted by a sponsor, during the 30-day period following receipt of an application and that the sponsor should not be placed in a position of potential jeopardy of withdrawal of approval based on a reevaluation of his report of prior investigations and/or investigational plan after his clinical study is in process. The Association also urged deletion of paragraph (a)(2) in § 812.35 for the same reason and urged FDA also to assure, through the regulations, that approval of a sponsor's report of prior investigations for his application for an investigational device exemption also provides approval of the report of prior investigations required for his premarket approval application. Regarding § 812.35 (b) and (c), the Association urged that withdrawal of approval of an exemption should occur only after the sponsor has been allowed a regulatory hearing, held within 5 days in severe cases. The Association argued that such an order could otherwise result in significant damage to a sponsor's reputation, perhaps totally without cause and without the sponsor being afforded due process of law.

The Commissioner does not agree with these comments. The public health could be jeopardized if the sponsor had submitted false or misleading data in his original application and if FDA, because it has failed to perceive the misstatement in its review of the application, was forever powerless to correct the mistake. All data submitted to FDA are subject to continual evaluation in order to protect the public health. The Commissioner would be remiss in his duty were he to allow himself to be bound by a prior mistake. A sponsor can protect himself by assuring that all data submitted to FDA are accurate.

For similar reasons, the Commissioner is unprepared to guarantee to sponsors that the report of prior investigations of a device submitted under Part 813 will satisfy requirements for such a report in a premarket approval application. The Commissioner advises that he is not now in a position to know whether the reports that sponsors submit under Part 813 will be of adequate quality and comprehensiveness to satisfy requirements for such reports in premarket approval applications.

In response to comments, language was added in § 813.35(b) to clarify that the Commissioner may, in his discretion, not withdraw an investigational exemption where the violation does not result in the Commissioner's concluding that the risks to the subject outweigh the benefits.

The Commissioner is retaining in § 813.35(c) the proposed requirements that an order withdrawing an exemption include a complete statement of the reasons for the Commissioner's action and be issued in most cases only after the sponsor has been afforded an opportunity for a regulatory hearing. The Commissioner also is retaining the proposed provision for an order of withdrawal to be issued before providing an opportunity for a hearing if the Commissioner determines that continuation of testing under the exemption will result in an unreasonable risk to the public health. This emergency withdrawal authority is based directly on the statute. The Commissioner believes these procedures provide adequate safeguards to sponsors and comply with requirements for due process of law. Although FDA will attempt to hold regulatory hearings on withdrawals of exemptions promptly, the Commissioner believes it unwise to require that such hearings be held within 5 days of the withdrawal order.

The Commissioner also has rejected comments suggesting a prehearing conference procedure before withdrawal of an exemption. Such a procedure has proved cumbersome under the investigational new drug procedures and unduly restricts the power of the Commissioner to take swift action to protect the public health. Obviously, informal meetings with FDA staff can occur without a specific provision in the regulation.

Confidentiality of Data and Information in an Application

Section 813.38 (§ 812.38 of the proposal) was not changed. This section prescribes the rules governing confidentiality of information contained in an application for an investigational device exemption and is comparable to § 312.5 (21 CFR 312.5) of the investigational new drug (IND) regulations. The preambles to the final regulations promulgating § 312.5, published in the Federal Registers of December 24, 1974 (39 FR 44602) and January 14, 1977 (42 FR 3094), contain useful guidance concerning the interpretation of this section.

The Commissioner received a comment from the Intraocular Lens Manufacturers' Association on proposed § 812.38, urging that FDA only disclose adverse reactions to investigators directly involved, arguing that such investigators have the training and experience to make proper evaluations of such reports, while patients, with rare exception, would not be able to interpret such reports correctly and could be unnecessarily concerned about information that is not understood. The Association also expressed concern that, with the increasing focus on professional liability, confidentiality must be assured to prevent misuse of documentation in a manner unfairly adverse to the investigation, the investigator, the device, and the sponsor.

The Commissioner disagrees with the comment. It is not the duty of FDA to protect sponsors or investigators from lawsuits by subjects. It is reasonable to provide subjects access to data of adverse reactions. Such disclosure enhances the autonomy of the subject and provides him with information that permits him to take whatever action he believes is necessary in his own best interest. Moreover, disclosure of adverse reaction reports to subjects is required by the Freedom of Information Act and consistent with the objectives of the Privacy Act.

As to whether adverse reaction reports required under this regulation will be subject to release to the public under the Freedom of Information Act, the Commissioner observes that if the existence of the investigational device exemption is publicly known, reports of adverse reactions occurring during the study are available to the public after deletion of the names of subjects.

Supplemental Applications

Section 813.39 describes the situations in which a supplemental application is required to update an application submitted under § 813.20.

Sponsor Responsibilities

The Commissioner has included in Subpart C only those provisions in the proposal that apply directly to sponsors of investigational studies of intraocular lenses. The tentative final investigational device exemption regulations and future agency-wide regulations relating to responsibilities of sponsors for clinical monitoring may propose requirements in addition to those in this regulation. Thus, unless otherwise stated, omissions of requirements which appeared in the proposal do not reflect a determination by the Commissioner that these requirements should not be imposed on sponsors.

For ease of reference, the Commissioner has consolidated most inspection, reporting, and records requirements applicable to sponsors, institutional review committees, and investigators in Subpart G of this part.

Review of the Study by FDA and the Institutional Review Committee

Section 813.42(a) requires the sponsor to submit an application as defined in Subpart B of Part 813 for FDA review and approval.

Section 813.42(b) prohibits the sponsor from permitting human subjects to participate in the study until the institutional review committee has approved the protocol and FDA has approved the application for exemption. The Commissioner advises that the sponsor may conduct patient surveys to determine if a patient population will be available to justify the study, but the sponsor may not solicit or attempt to obtain the informed consent of subjects until after FDA and the institutional review committee have approved the proposed study.

Section 813.42(c) requires the sponsor to cooperate with both FDA and the institutional review committee by providing information necessary for their review and monitoring of the study.

Section 813.42(d) provides that the sponsor must obtain a statement from the chairman of the committee stating that the committee has reviewed the in-

vestigational plan and will monitor the study in accordance with Subpart D. This represents a change from the proposal, which required the sponsor to obtain the signature of all members of the committee, and which prompted comments that the requirement was burdensome and inappropriate. This change is discussed more fully in the preamble concerning § 813.20(b).

SELECTION OF INVESTIGATORS

Section 813.43(a) requires sponsors to select as investigators only individuals who, because of their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the lens. Section 813.43(b) requires the sponsor to obtain an agreement from the investigator that include pertinent data about the investigator's qualifications and a promise to comply with this regulation when investigating the device.

The Intraocular Lens Manufacturers' Association suggested that specific experience relating to the device to be investigated would be appropriate. The Commissioner agrees and has incorporated the suggested change.

CONTROL OVER THE LENS

Section 813.45 requires the sponsor to permit the lens to be shipped only to investigators who have signed statements under § 813.43(b) and to require the investigator to dispose of the lens in accordance with his instructions if the study is suspended or otherwise discontinued.

Section 813.45(c) has been revised to require only those sponsors who are manufacturers, distributors, or importers of a lens to assure that the methods, facilities, and controls used for the manufacturing, processing, and storage of the lens adequately assure its safety and effectiveness in the investigational study. All sponsors must assure the adequacy of methods, facilities, and controls for investigating and implanting the lens.

Requirements relating to records found in § 812.43(c) of the proposal have been combined with other recordkeeping requirements in a new Subpart G of Part 813.

MONITORING THE INVESTIGATIONAL STUDY

Section 813.46 requires the sponsor or his monitor to monitor the study at appropriate intervals to assure that the requirements of Part 813 are met and to evaluate data received from investigators relating to the study. Section 813.46(a) requires the sponsor to designate an individual who is appropriately trained to monitor the study and to assure that the individual in fact monitors the study. The intent of this section is to identify within the sponsor's organization a monitoring agent.

Section 813.46(c) requires the sponsor to take affirmative action in the event he discovers that the investigator was not complying with his agreement to conduct the study in accordance with this regulation. The sponsor must secure the investigator's compliance or discontinue shipments of the device and suspend or terminate any study then being performed by the investigator for the sponsor. This requirement differs somewhat from the proposal and is adopted on the Commissioner's initiative rather than in response to comments. No specific action was required of the sponsor by the proposal. The Commissioner wishes to stress that while a sponsor can, in good faith, rely on an investigator's agreement to comply with regulations once he discovers in any manner (either by monitoring or otherwise) that the investigator is no longer in compliance, the sponsor must act to secure compliance or suspend the study.

Section 813.46(d) requires the sponsor to complete the investigation as soon as possible. Once data have been developed that would support a submission for premarket approval under section 515 of the act, the sponsor must conclude the study or submit the application for premarket approval. The Commissioner agrees with comments received on proposed § 812.46(g), now § 813.46(d), that it is appropriate for the sponsor to terminate the study if he does not wish to submit the data for premarket approval. The decision to submit a premarket approval application is properly made by a sponsor.

Section 813.46(e) (§ 812.46(f) of the proposal) requires the sponsor to discontinue a study within 5 days of learning of any serious adverse effect. The agency may request the sponsor to discontinue the study when FDA learns of an adverse effect that it regards as serious. A special investigation is required by Subpart G whenever an adverse reaction is descovered.

The Intraocular Lens Manufacturers' Association commented that an effect should not be required to be reported and a study should not be required to be discontinued unless the adverse effect is device-related.

The Commissioner agrees in principle, provided that it is understood that any reaction related to the entire lens system, including the packaging, is device-related. Appropriate changes are made in Subpart G.

The Intraocular Lens Manufacturers' Association also commented that the time period within which reports must be made should be 5 working days instead of 5 calendar days. Other comments suggested lengthening the reporting period.

The Commissioner declines to change the 5-calendar-day requirement. The 5-day requirement is sufficient to act on the investigator's report or on the sponsor's own completed investigation when a serious adverse effect occurs. To change the calendar day requirement to a working day requirement would also introduce imprecision in the reporting period that is undesirable for this important reporting requirement. The Commissioner believes there is no justification for the requested change.

SUBMITTING INFORMATION TO INVESTIGATORS

Section 813.47 requires the sponsor to supply investigators with certain information concerning the lens.

Section 813.47(a) requires the sponsor to supply investigators with copies of the investigational plan and the report of prior investigations and all labeling accompanying the lens. The labeling must describe all relevant hazards, contraindications, and precautions for use.

Section 813.47(b) (§ 812.47(c) of the proposal) requires the sponsor to notify the investigator within 5 days of the completion or discontinuance of the study or the withdrawal of the investigation.

Proposed § 812.47(b) required the sponsor to notify investigators of any adverse effect. This requirement has been consolidated with other reporting requirements in Subpart G.

Section 813.47(c) (§ 812.47(c) of the proposal) requires the sponsor to notify the investigator if an application for premarket approval of the device has been approved.

PROMOTION AND SALE OF INTRAOCULAR LENSES

Section 813.50(a) prohibits the sponsor or his representative from promoting the lens as safe and effective while it remains under investigation.

Section 813.50(b) permits the sponsor to sell the device so long as the sponsor has an approved exemption application for all lenses to be distributed and all patients that receive a lens are included in an investigational study.

Proposed § 812.50(c) was deleted in response to comments that FDA has no right to determine whether the compensation demanded for the device was reasonable. The Commissioner believes that other means exist to prevent commercial ization of the device while still in the investigational stage.

The Intraocular Lens Manufacturers' Association commented on proposed § 812.50, that manufacturers should be permitted to continue to market lenses and distribute promotional material since the device has a long market history and the indications for use are generally accepted in the ophthalmic professional community. The comment further stated that FDA should only prohibit absolute claims for safety and effectiveness and attempts to use the investigation to obtain a marketing advantage. It was suggested that FDA bear the burden of proof to show due cause for eliminating existing safety claims.

The Commissioner disagrees. The Commissioner believes that intraocular lenses became widely used before they were adequately tested and that claims and promotion of these lenses must be restricted. The Commissioner believes that § 813.50 is consistent with congressional intent in the amendments authorizing FDA to restrict intraocular lenses to investigational use. Section 520(1)(3)(D)(iii) of the act, which applies only to

intraocular lenses, permits FDA to impose the same controls on intraocular lenses as are imposed on other investigational devices. Although Congress provided that these lenses should be made reasonably available to qualified persons, i.e., physicians meeting appropriate qualifications prescribed by FDA, is clearly contemplated that the Commissioner might confine these devices to investigational use, thus barring commercial distribution and unproven claims.

REPORTING TO FDA

Proposed § 812.55 has been moved to Subpart G.

INSTITUTIONAL REVIEW COMMITTEES

Subpart D establishes requirements prescribing when institutional review and monitoring are required.

REQUIREMENT OF AN INSTITUTIONAL REVIEW COMMITTEE

Section 813.60 describes the situation in which an institutional review committee is required. The requirement is broader than that in proposed § 812.60 in that institutional review is required whenever a committee can be established, as well as where one already is available. If an institutional review committee does not exist and cannot be established, the sponsor may submit the application containing the full plan to FDA pursuant to § 813.20(b). Although FDA will review an application for a study that will not be subject to institutional review, the Commissioner cautions that the absence of review and monitoring by an institutional review committee may be grounds for disapproving an exemption for an otherwise meritorious investigational study if the circumstances justify a conclusion that lack of institutional review and monitoring will expose subjects to undue risks.

The Intraocular Lens Manufacturers' Association commented on proposed § 812.60 that institutional review committees should not be required to be used with respect to intraocular lens implantations. The comment estimated that 1,500 hospitals throughout the country are involved in intraocular lens implantations, and the number of hospitals with qualified committees is not known. Moreover, committee involvement would vary because of differences in length of hospital stays and because outpatient implantation is also practiced. The institutional review requirement in the proposal would not have applied to a subject who remains in a hospital for less than 24 hours. Further, the comment advanced the proposition that the basic investigational device regulatory scheme involving investigators, sponsors, and FDA does not require the additional activity of an institutional review committee as part of its formal structure. The comment also noted that FDA review and institutional review committee review were duplicative and objected that the sponsor might be obliged to bear the cost of a committee review.

The Commissioner disagrees with the proposition that an institutional review committee should not be required for intraocular lens implantation, where a committee exists or can be formed. The skill of the investigator is frequently the most critical safety factor in these implantations, as in many device investigations. Certain hazards associated with implantations of intraocular lenses (e.g., decentration) vary considerably depending on the skill of the investigator. The best judge of the investigator's skills, competence, and reliability is a committee of his peers who are familiar with his qualifications and his work. Except in infrequent instances, neither FDA nor the sponsor is likely to have personal knowledge of the investigator's skills that would adequately substitute for the judgment of a local committee at an institution where the investigator practices. In the case of investigators who have practiced primarily in a single institution, the history of contacts with peers is likely to be far more extensive than the occasional contact between the investigator and the sponsor. Although the sponsor's experience with the investigator obviously is relevant and sponsors are expected to select only persons they consider qualified, the Commissioner believes that institutional review is consistent with Congressional intent and is an added guarantee of patient protection that cannot be eliminated.

The Commissioner does agree that it would be illogical to permit institutional review to depend on the length of hospitalization since an intraocular lens implantation seldom requires hospitalization exceeding 2 days, or whether the implantation is performed on an outpatient basis. Accordingly, the Commissioner has eliminated the length of hospitalization as a criterion for determining whether a patient is a subject for purposes of Part 813. The Commissioner intends that there be institutional review of all implantations of intraocular lenses regardless of the period of hospitalization or whether hospitalization occurs at all, where a committee exists or can be formed.

The Commissioner notes that some duplication between IRC and FDA review may occur, but this review is desirable since it provides an additional safeguard to subjects.

About the Association's comment that the sponsor might be obliged to bear the cost of the committee review the Commissioner points out that the regulations do not address this issue, but they do not prohibit sponsors from bearing all or part of the costs of a committee. Nor do they require sponsors to bear such costs. When the Commissioner publishes proposed agency-wide regulations about institutional review committees, he will invite comment on whether a need exists for committees to receive financial assistance from sponsors and, if a need exists, ways to permit it while minimizing any conflicts of interests.

MEMBERSHIP OF AN INSTITUTIONAL REVIEW COMMITTEE

Section 813.62 establishes general requirements for the composition of a committee. It differs slightly from proposed § 812.62 in that paragraph (e) now places on the committee the responsibility to determine if a member has a conflict of interest, and paragraph (f) expressly permits the committee to seek the advice of nonvoting consultants.

PROCEDURES FOR REVIEW AND MONITORING

Section 813.65 imposes general procedures to be followed by institutional review committees in monitoring and reviewing investigational studies. Section 813.65 was revised in response to comments on proposed § 812.65, to permit the written procedures that a committee must follow to be adopted by either the institution or the committee.

PROCEDURES AND CRITERIA FOR APPROVING, DISAPPROVING, AND SUSPENDING OR TERMINATING A STUDY

Section 813.66 establishes specific criteria to be followed by the committee in approving, disapproving, suspending or terminating a study. This section has been revised considerably from the proposal and tailored to intraocular lens implantations.

Section 813.66(a) requires the committee to review the investigator's qualifications to determine that he has successfully completed a residence in ophthalmology or its documented equivalent and is licensed to practice medicine where the investigation is to take place. This provision is unique to intraocular lenses. The Committee shall also assure that the investigator meets any additional qualifications imposed by the sponsor.

The committee is also required to review the protocol to determine that there is a benefit to the proposed subjects such that the risks presented to them are justified.

Section 813.66(c) permits the committee to approve a study with modifications. "Conditional approval", the term used in the proposal, is replaced with the more precise term, "approval with modifications."

Section 813.66(d) sets forth mandatory grounds for disapproving the study. The Commissioner believes that since the institutional review committee is assisting the Commissioner in discharging a regulatory function, its discretion to approve studies where these grounds exist must be limited.

The Commissioner recognizes that special situations may arise where factors that would be of great concern to a committee might be insufficient for action by FDA, e.g., where the study is at odds with local ethical and moral standards or where the committee's responsibility extends beyond questions of safety and scientific validity and into such areas as allocating funds within an institution. To build flexibility into the committee's decisionmaking process as it functions in these and other situations, a committee may refuse to approve a

study for reasons other than those enumerated in § 813.66(d).

Section 813.66(e) permits the committee to suspend or terminate a study after it has begun for any reason that it might disapprove a study and for eight enumerated reasons such as investigator disregard of committee recommendations, a change in investigators, or the lack of adequate institutional support. The committee may also suspend the study for any other reason it considers appropriate. The committee must notify the FDA and the sponsor as expeditiously as possible of any suspension or termination of an in-progress study, stating its reasons for the suspension, the duration of the suspension, the conditions, if any, under which the study may be resumed, and its recommendations for the proper care of subjects. The Commissioner believes that FDA must be advised whenever a suspension or termination occurs in order to determine if similar studies should be terminated. The sponsor must be informed to enable him to take appropriate action regarding the investigation and to determine if other studies under his sponsorship must be changed, modified, or discontinued. The requirement that the committee inform the sponsor and FDA of its recommendations for the further care of subjects was not found in the proposal, but is included here as a necessary protection of subjects since the committee is in a good position to recommend further followup care for patients involved in the study.

Inspection of Institutional Review Committees

Proposed § 812.77 has been moved to Subpart G.

Actions Where Review by an Institutional Review Committee Is Inadequate

Section 813.79 lists actions that will be taken by FDA where review by an institutional review committee is inadequate. The procedure for disqualifying institutional review committees in the proposal provoked numerous comments. Although it would be desirable for implementation of these regulations that FDA have a procedure for disqualifying committees, this procedure is omitted because it will appear in future agency-wide regulations governing institutional review committees. Accordingly, the comments on this section of the proposal will be discussed in the preamble of the agency-wide proposal when it is published.

In the interim, § 813.79 provides that if the Commissioner determines that a committee has failed to follow the procedures in Subparts D and G, he may find the procedures of the committee to be inadequate. If he finds the committee procedures to be inadequate, he may request the committee to change its process of review or monitoring, require the sponsor to obtain review by a committee whose process of review or monitoring is adequate, require that the application be reviewed by FDA, or disapprove the application or withdraw the exemption.

Investigator Responsibilities

Subpart E defines responsibilities or investigators when conducting investigational studies of intraocular lenses.

Review of Investigational Studies by the FDA

Section 813.101 prohibits investigators from allowing human subjects to participate in an investigational study until an exemption for the study has been obtained from FDA pursuant to Subpart B of this part.

Review of the Study by an Institutional Review Committee

Section 813.103 establishes general requirements that the investigator must fulfill in dealing with institutional review committees.

Section 813.103(a) prohibits the investigator from allowing human subjects to participate in an investigation until such time as the study has been reviewed and approved by a committee. The Commissioner advises, in response to comments, that this provision does not prohibit the investigator from interviewing prospective subjects to determine their willingness to participate in the study. It does, however, forbid any attempt on the part of the investigator to obtain the subject's informed consent to the study before institutional review committee approval. The same rule applies to taking the subject's consent before FDA approval under § 813.101.

Conformity to the Investigational Plan

Section 813.105 provides that the investigator must notify the committee of any proposed change that may reasonably be expected to present an increased risk to the rights or safety of subjects or to affect the scientific validity of the study. In the event such a change may reasonably be anticipated to add to the risks or threaten the validity of the study, the investigator must obtain the sponsor's assent and submit the change to the committee for approval. A supplemental application must also be submitted to FDA in accordance with proposed § 813.29(b), and FDA approval of the change is required before the change can be implemented. In a situation in which a change may increase the risks to the subjects or threatens the validity of the study, the investigator must obtain the assent of the sponsor, the committee, and the FDA, generally in that order.

In situations in which the change cannot reasonably be anticipated to increase risks to subjects or affect the scientific validity of the study, the investigator may implement the change, but must notify the sponsor and the committee. The change must be reflected in both sponsor, investigator, and IRC records and in the sponsor's periodic reports to FDA. The change shall be reviewed by the IRC in the regular course of business.

The Intraocular Lens Manufacturers' Association commented on proposed § 812.103 that the section as proposed permitted the investigator to change the plan by going directly to an IRC or to FDA. The Intraocular Lens Manufacturers' Association expressed the view that the sponsor must be included in any proposed study changes and that the sponsor should have the first opportunity to evaluate and approve any change.

The Commissioner agrees and has required the investigator to obtain the sponsor's approval first, before seeking IRC and subsequent FDA approval. The sponsor, if he approves, should submit a supplemental application to FDA.

When an apparent immediate hazard to subjects exists, to reduce the hazard the investigator may act without prior approval, but shall subsequently notify the committee and the sponsor of the change immediately. The sponsor in turn must notify FDA not later than 5 days after the change is implemented.

Control Over Intraocular Lenses

The Intraocular Lens Manufacturers' Association objected to proposed § 812.107(b), which required that unused supplies of the lens must be returned to the manfuacturer on completion of the study. It expressed the view that since sponsors will frequently be small manufacturers, the destruction or return of thousands of lenses would be financially catastrophic. The Association argued that there is no logical reason why such lenses in the possession of investigators cannot continue to be used after the successful completion of a study.

The Commissioner advises that sponsors may continue to have in effect an investigational device exemption, if not withdrawn by FDA or the study has not otherwise ended, while a premarket approval application is being reviewed by FDA. However, if the study is suspended, terminated, completed, or discontinued, or the exemption is withdrawn, the requirements in § 813.107(b) for return or other disposition of lenses shall be met. Section 803.107(b) does not prevent private contractual arrangements among interested parties concerning the distribution of economic loss when return or other disposition of lenses must occur.

Retention of Records and Inspection of Facilities

Proposed §§ 812.111 and 812.112 have been consolidated with similar sponsor and IRC reporting and recordkeeping requirements and now appear in Subpart G of Part 813.

Disqualification of a Clinical Investigator

Section 813.119 represents a revision of proposed § 812.119. Most of the revisions consist of rearrangements rather than substantive changes.

Section 813.119(a) describes the purposes disqualification will serve, which are to preclude the investigator from conducting further clinical investigations until it becomes likely that he will abide by the regulations and to exclude from consideration any clinical investigation conducted by such an investigator in support of an application for exemption or a premarket approval application. A refusal to accept the investigation for purposes of supporting an

application for premarket approval does not relieve the sponsor of any obligation he may be under to submit the data to FDA.

Section 813.119(a)(1) specifically disclaims any implication that disqualification, in and of itself, is a finding that the investigator is not qualified to practice his profession or should be subject to other sanctions.

Section 813.119(b) permits the Commissioner to disqualify the investigator for any violation of the regulations where the violation affected adversely the validity of the data and/or the rights and safety of human subjects, but only if lesser regulatory action such as warnings or rejection of the data have not been or are unlikely to be effective in securing investigator compliance.

Although the proposal stated that failure to comply with specific provisions of the regulation might result in disqualification, § 813.119 states simply that any violation of the regulations may result in disqualification. This does not represent any change in policy since the enumerated conditions for disqualification in the proposal covered all the duties imposed on the investigator by this subpart of the regulation.

Comments received on the sections dealing with disqualification of investigators (proposed § 812.119) objected to the way in which the grounds for disqualification were set forth. The Commissioner concurs that, as drafted, the proposal implied that disqualification could result from insignificant deficiencies in investigator conduct and may have given the impression that FDA might in the future invoke this sanction far more frequently than indicated in the preamble to that proposal.

To clarify his intent regarding disqualifications and to minimize the possible abuse of this sanction in the future, the Commissioner has stated in § 813.119(b) more restrictive grounds for disqualification of an investigator. An investigator may be disqualified only if the Commissioner finds all three of the following: (1) That the investigator violated one or more of the obligations set forth in Subpart E or G of this part or in any other FDA regulations governing the conduct of clinical investigators (e.g., the IND regulations); (2) that the violation adversely affected (a) the validity of the data produced in the investigation, and/or (b) the rights of human subjects, and/or (c) the safety of human subjects; and (3) that other lesser regulatory actions, such as warnings or rejection of individual studies, have not been or probably will not be adequate to achieve compliance by the investigator. The sanction will not be used in trivial situations but only when the violation compromised the integrity of the study or the rights or safety of the subjects. It further requires the Commissioner to consider the availability, and past or probable effectiveness, of lesser sanctions as an alternative to disqualification.

Section 813.119(c) establishes a procedure to be followed by FDA when regulating or reviewing clinical investigations subject to FDA jurisdiction that were conducted by disqualified investigators. In those cases where the Commissioner believes that rejection of specific studies and other remedies are inadequate to achieve compliance, the Commissioner may elect to begin the proceeding by providing a notice of the proposed action to the investigator; there would be an opportunity for a regulatory hearing before the Commissioner or a person designated by him; and final action on the proposed disqualification would be taken only by the Commissioner.

The written notice provided to the investigator upon beginning a disqualification proceeding shall contain the following items of information, in accordance with 21 CFR 16.22(a): (1) The notice shall specify the facts that are believed to justify disqualification; (2) the notice shall state that the investigator has an opportunity for a regulatory hearing on the proposed disqualification before the Commissioner, or a person designated by him, and that such hearing will be conducted in accordance with the provisions of 21 CFR Part 16, the procedural regulations for regulatory hearings before the FDA; (3) the notice shall state that time within which a hearing may be requested, which shall not be less than 3 working days from the receipt of the notice; and (4) the notice shall contain the name, address, and telephone number of the FDA official who has been designated by the Commissioner as presiding officer for the regulatory hearing and to whom any request may be filed.

Authority to initiate and decide on disqualification action is limited to the Commissioner.

Several comments were received on proposed § 812.119 suggesting that only the Commissioner should initiate and act on disqualifications. The Commissioner has decided that authority to initiate and act on disqualification of investigators under § 813.119 should be handled by internal delegations of authority rather than by identification in the regulation of particular officials below the level of the Commissioner. Thus, § 813.119 now refers only to the Commissioner as having authority to initiate and act on disqualifications, although the authority both to initiate and to act on disqualification of investigators may be delegated, as appropriate, to other designated FDA officials. Future FDA regulations will establish a uniform procedure for investigator disqualification to be followed by the several FDA bureaus regulating or reviewing clinical investigations on articles subject to FDA jurisdiction. Each bureau will be initially responsible for administering the clinical investigator regulations for the products and substances under its purview, as part of processing applications for research and marketing permits submitted to that bureau. In those cases where the bureau believes that rejection of specific studies and other remedies are inadequate to achieve compliance, the Commissioner or his designate, on recommendation from the bureau director, may elect to commence a disqualification proceeding by providing a notice of the proposed action to the investigator; there would be an opportunity for a regulatory hearing before the Commissioner or a person designated by him; and final action on the proposed disqualification would be taken only by the Commissioner or a person to whom this authority has been officially delegated.

Several comments suggested that an informal conference precede initiation of disqualification of a clinical investigator, as provided in the investigational new drug regulations. These conferences frequently had many formal trappings, such as stenographic transcripts, and were often followed by the contemplated hearing. The requirement of such a conference, in addition to a hearing, doubled the time and expense of all parties involved and produced no discernible benefit. The Commissioner has therefore decided to provide only for a regulatory hearing on disqualification, and not for such an informal conference, in these regulations. The procedures in § 813.119 should provide adequate flexibility and fairness to all parties.

Comments on the disqualification procedures set forth in proposed § 812.119(c) objected that the regulatory hearing procedure denied an adversary hearing, a right to counsel, transcripts, cross-examination, and appeal. The Commissioner advises that regulatory hearings under Part 16 (21 CFR Part 16) provide all these safeguards as well as others essential to due process. Interested persons are referred to those regulations for a complete description of the procedures applicable to disqualification proceedings.

Section 813.119(d) states that if, after the regulatory hearing (or after the time for requesting a hearing expires without a request being made), the Commissioner, upon an evaluation of the administrative record, makes the findings required for disqualification, he shall prepare and issue a final order disqualifying the investigator. Section 813.119(d) further provides that the final order shall include a statement of the basis for the disqualification. If, on the other hand, the Commissioner does not make these findings, he shall issue a final order terminating the disqualification proceeding and shall include a statement of the basis for his decision to terminate the proceeding. This is comparable to the provisions of proposed § 812.119(d).

Once a final order has been issued, the Commissioner shall so notify the investigator. If the investigator is disqualified, the sponsor of every clinical investigation subject to prior review by FDA in which FDA knows that the investigator is participating or has participated will be notified as well. Because FDA does not usually receive information about other

investigational studies before they are completed and submitted to the agency, it will not generally be possible to notify sponsors of these studies of the investigator's disqualification.

Comments on this provision in the proposal requested that the sponsor be notified at the beginning, rather than the completion of disqualification proceedings. The Commissioner agrees that, in certain cases, it may be appropriate for the sponsor of an investigation to be made aware of the violative conduct of one of its investigators before FDA disqualifies the investigator. Therefore, § 813.119(h)(3) allows, but does not require, the Commissioner to provide the sponsor with such information simultaneously with a proposal to disqualify the investigator. The Commissioner is not convinced that every sponsor needs to be notified every time disqualification of an investigator is proposed.

Section 813.119(e) provides that once a clinical investigator has been disqualified, no new investigational study subject to the regulatory jurisdiction of FDA will be authorized by FDA if it includes the disqualified investigator.

In issuing an order disqualifying a clinical investigator, the Commissioner must consider the proper disposition of ongoing investigations involving the investigator. Section 813.119(e)(2) provides several options: (1) the investigations may proceed to permit completion or to permit corrective actions; (2) the continuation of the investigations may be limited to subjects who are already participating; (3) the responsibility for the actual conduct of the investigation may be transferred to an investigator who is in compliance with FDA requirements; or (4) the investigation may be terminated completely. A special concern is the subject who cannot be safely withdrawn from the investigation because he has an implanted intraocular lens that may require surgical removal, or because abrupt withdrawal from the investigational study may create a serious medical problem. This choice must be made, on a study-by-study basis, considering the nature of the investigation, the number of subjects involved, the risks to them from suspension of the study, and the need for involvement of an acceptable investigator.

Section 813.119(e)(2)(iii) provides that any human subject who has been allowed to participate in the investigation shall continue to be monitored and evaluated medically by the disqualified investigator, but may not receive another lens until the investigator is reinstated or another investigator accepts responsibility for the study.

Section 813.119(f) (similar to proposed § 812.119(e)(2)) provides that each application for an exemption or premarket approval application, whether approved or not, that contains or relies upon any clinical investigation conducted by a disqualified investigator may be evaluated to determine whether the study was, or would be, essential to FDA's decision to approve the application. This authority is discretionary, and would depend on the types of problems that led to disqualification and the nature of the investigation involved. If it is determined that, without the results of the investigation in question, further clinical trials would not have been allowed or an application for premarket approval would not have been approved, FDA will then determine whether data from the investigation are acceptable, notwithstanding disqualification. To avoid the agency's having to audit every such investigation, any investigation performed by an investigator before or after disqualification, but before reinstatement, may be presumed to be unacceptable, and the person relying on the data resulting from the investigation may be required to establish that the data were not affected by the circumstances that led to disqualification. This may include requiring the sponsor or applicant to submit validating information. If FDA determines that the clinical investigation was or would be essential, and is not acceptable, it will be eliminated from the consideration of the application for exemption or premarket approval. Elimination of such data may serve as "new information" justifying termination of an investigational device exemption or revocation of a premarket approval application previously approved.

The Commissioner advises that it is not necessary that an investigator be disqualified in order for the agency to reject consideration of a particular clinical investigation in support of an application for exemption or premarket approval. The criteria set forth in the statute and regulations applicable to each type of application, together with the regulations regarding the conduct of investigational study, will still be effective.

Section 813.119(g) provides that FDA will not consider any investigational study begun by the investigator after he has been disqualified, in support of any application for an exemption or premarket approval. This does not, however, relieve the applicant from any other requirement under FDA regulations that all data and information regarding clinical experience with the lens in question be submitted to the agency.

Section 813.119(h) provides for disclosure of the final order disqualifying the investigator to persons having professional dealings with the investigator. This is comparable to § 812.119(e)(1) of the proposal, which elicited many comments.

The Commissioner has retained this provision because he believes that FDA should affirmatively provide information regarding the disqualification of a clinical investigator to entities having professional dealings with that investigator. This includes other Federal, State, or local government agencies supporting research studies, State and local licensing agencies by whom the investigator is licensed, and institutions and universities in which the investigator practices or teaches. The Commissioner notes, however, that in the past, officials of such entities have complained to FDA that they were not notified about a disqualification and that this deprived them of an opportunity to consider the liability of the institution or the value of continued funding of research by the investigator after the disqualification. Moreover, the Commissioner believes that providing such information is within the purpose of section 705 of the act (21 U.S.C. 375).

Because he recognizes that the consequences of such notice could have a serious adverse effect on the reputation and career of the individual, the Commissioner believes that the investigator must be aware that such notice is one of the results of disqualification.

Section 813.119(h) expressly authorizes FDA to notify such entities when the Commissioner believes that such disclosure will further the public interest or promote compliance with the applicable FDA regulations. This determination is within the discretion of the Commissioner upon consideration of the entire record, including the record of hearing. Such notification consists of providing the recipient a copy of the final disqualification order, indicating its legal meaning and stating that the FDA is not advising or recommending that the person notified take any action upon the matter. A copy of each notification shall be given to the investigator.

A determination that a clinical investigator has been disqualified and the administrative record regarding such determination are disclosable to the public under the Freedom of Information Act (5 U.S.C. 552) and under the FDA public information regulations (21 CFR Part 20) as records relating to an administrative enforcement action that has been completed. This is stated in § 813.119(h) and is similar to proposed § 812.119(e)(3).

Since disqualification of a clinical investigator may be neither a sufficient nor an appropriate sanction in every case, the Commissioner believes that disqualification must be independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by law. Section 813.119(i) provides that FDA may at any time recommend commencement of any appropriate judicial proceedings (civil or criminal) and any other appropriate regulatory action, in addition to or in lieu of, and prior to, simultaneously with, or subsequent to, disqualification. This provision is comparable to § 812.119(g)(1) of the proposal. The agency may also refer the matter to another Federal, State, or local law enforcement or regulatory agency for such action as that agency deems appropriate.

Section 813.119(j) provides that the sponsor shall suspend or terminate a noncomplying investigator whether or not FDA has begun any action to disqualify that investigator. Furthermore, in removing an investigator, the sponsor is not required to use either the grounds

or the procedures for disqualification set forth in this proposed regulation. The sponsor is required, however, to advise FDA of this action, supplying the reasons for it within 5 days. This is comparable to § 812.119(h) of the proposal.

Disqualification is not a punishment for past actions but a remedial action to prevent future violations and an assurance that the rights and safety of subjects are appropriately protected and that data in support of applications are produced under circumstances that increase the likelihood of their scientific validity. The Commissioner believes that disqualification should continue indefinitely until the agency finds that the investigator can and will fulfill the requirements imposed under these regulations.

Section 813.119(k) provides that the Commissioner may reinstate a clinical investigator (i.e., determine that he may again conduct clinical investigations subject to prior review by FDA and that data from clinical investigations performed by him may once again be considered in support of applications to FDA for investigational exemptions or for premarket approval), if the Commissioner finds that the investigator can provide adequate assurances that he will operate in compliance with the requirements of FDA regulations. An investigator wishing to be reinstated shall explain to the Commissioner why reinstatement is warranted, including a detailed description of the corrective actions the investigator has taken (or intends to take) to assure that the acts or omissions that led to his disqualification will not recur. The Commissioner may condition reinstatement upon commitments from other persons (e.g., sponsor, parent institutions, institutional review boards, or other investigators) to monitor in detail the investigator's activities, and/or upon the submission of a specific protocol providing for additional steps that the Commissioner determines are necessary to assure compliance. Reinstatement may be made contingent upon the investigator's passing a subsequent FDA inspection. Section 813.119(k) is comparable to proposed § 812.119(f).

In fairness to the investigator, all persons or organizations notified under § 813.119(h) of the investigator's previous disqualification must be notified if he is later reinstated. Once reinstated, a clinical investigator may thereafter conduct additional new clinical investigations subject to prior review by FDA without again going through the reinstatement process. A determination that an investigator has been reinstated is disclosable to the public under the Freedom of Information Act (5 U.S.C. 552) and under Part 20 (21 CFR Part 20) as records relating to completed administrative enforcement actions. A similar provision was found in proposed § 812.119 (f) of the proposal.

Informed Consent of Human Subjects

Subpart F establishes procedures and requirements governing informed consent of human subjects who participate in investigational studies of intraocular lenses.

General Requirements of Informed Consent

Section 813.120 imposes certain general requirements upon investigators in obtaining informed consent from human subjects. An investigator must inform each human subject that the lens is being used for research purposes, must provide each subject an adequate explanation of pertinent information concerning the lens, and must obtain and document legally effective informed consent of the subject.

The subject's consent must be obtained while he or she is so situated as to be able to exercise freedom of choice. Such consent shall be evidenced by a written agreement, signed by the subject.

Exception From the Requirement

Section 812.123 of the proposal provided for exceptions from the requirement of informed consent in life-threatening situations. Comments were received suggesting that oral informed consent of subjects would suffice in other cases. Because the Commissioner believes that implantations of intraocular lenses are hazardous even under controlled conditions, he believes that written informed consent must be required for all implantations of intraocular lenses. Further, because he foresees no cases where implantation of an intraocular lens without consent is compelled by a life-threatening emergency, he is not including in this regulation the provision in proposed § 812.123 providing exceptions from informed consent. Accordingly, written informed consent is required for all implantations of intraocular lenses.

Elements of Informed Consent

Section 813.130 defines in greater detail the general requirements for informed consent that appear in § 813.120.

Section 813.130(a) requires that the investigator have the subject sign an agreement that includes an explanation of pertinent information sufficient to enable the subject to make an informed and intelligent decision concerning his or her participation in the investigational study. Although § 813.130(a) lists specific items of information drawn from the Department of Health, Education, and Welfare regulations, the IND regulations, and the Conference Report (Ref. 3, which restates provisions that appeared in the Senate bill) that must be included in the agreement, this list could not possibly cover all investigational studies and represents only the minimum required. The investigator always must tailor the information he provides to the subject to the requirement of sufficiency to enable the subject to make an informed and intelligent decision regarding participation; this means that an investigator may have to provide information in addition to that expressly required in the list. In the case of intraocular lenses, the information provided the subject must at a minimum describe the injuries that have been associated with intraocular lens use, as described above in this preamble, and supplemented by any additional information otherwise available to the sponsor or investigator. The information provided the subject should also explain that removal of an implanted lens without serious injury to the eye may not be possible, even if the subject decides later to discontinue participation in the study.

Section 813.130(b) prohibits inclusion of exculpatory language in the agreement. Section 813.130(c) requires the investigator to provide to the sponsor and to the institutional review committee sample copies of written materials given or read to each subject, including the information required by § 813.130(a) as well as copies of any forms used to document consent, which must be approved by the committee. Such materials must also be submitted to FDA under Subpart B.

Inspections, Reports, and Records

Proposed Subpart G, which was reserved in the proposal, consolidates many of the inspection, reporting, and recordkeeping requirements applicable to sponsors, institutional review committees, and investigators. In the proposal, these requirements were scattered throughout Subparts C, D, and E, although they are closely related. Many of these requirements are consolidated for ease of reference.

Inspections

Section 813.150 prescribes inspection procedures applicable to sponsors, investigators, and institutional review committees. It also incorporates the provisions of §§ 812.55, 812.77, and 812.115 of the proposal.

Section 813.150(a) requires sponsors, institutional review committees, and investigators to permit an authorized FDA employee to conduct an inspection at reasonable times and in a reasonable manner and to copy records required to be kept by this regulation.

Section 813.150(b) requires sponsors and investigators (but not institutional review committees) to permit FDA to conduct an inspection of any facilities where intraocular lenses are manufactured, processed, held, used, or implanted.

Section 813.150(c) requires investigators to divulge the names of human subjects upon notice that FDA has reason to believe that the informed consent of the subjects was not obtained or that the reports submitted by the investigator do not represent actual results obtained, or where the required records appear false or misleading. This paragraph does not apply to sponsors or institutional review committees.

Similar sections of the proposal prompted two significant comments.

First, it was pointed out that investigators could not always grant access to a sponsor's facilities. The Commissioner advises that persons are not required to grant access to facilities if they lack the authority to do so.

Second, a comment argued that investigators should not be required to supply the names of subjects because this would conflict with their ethical obligation to protect patient confidentiality. Although the Commissioner agrees that this is a sensitive problem, he believes that it is in the public interest that FDA be able to obtain data divulging the identity of subjects in cases of suspected fraud or violation of informed consent and other subject protection requirements. The Commissioner will only invoke the provisions of § 813.150(c) in the clearest cases, after written notice, and will generally seek a court order to obtain the data if refused the requested information rather than seek to disqualify the investigator.

REPORTS

Section 813.153 consolidates most reporting requirements imposed on sponsors, institutional review committees, and investigators. The proposed section categorizes these reports as recall reports, adverse reaction reports, progress reports, suspension/termination reports, and final reports.

Section 813.153(a) is added at the Commissioner's initiative to assure that FDA learns of instances in which intraocular lenses are recalled. Recalls often indicate safety concerns with products and may warrant FDA investigation to determine whether an investigational device exemption should be withdrawn or other action taken.

Section 813.153(b) describes adverse reaction reports and prescribes conditions under which they must be made by investigators to sponsors and to institutional review committees and by sponsors to FDA. A serious adverse effect occurring during the course of a study that may reasonable be regarded as lens (device) related and that was not previously anticipated in nature, severity, or degree of incidence in the investigational plan must be investigated. Comments received from numerous sources, including the Intraocular Lens Manufacturers' Association, requested that the applicability of the requirement be limited to those reactions that are "serious" and are reasonably regarded as lens-related. The Commissioner concurs with this comment and has made the appropriate change in § 813.153(b). The Commissioner intends to eliminate repeated reporting of routine side effects if these are included in the sponsor's informational materials for investigators, but would require reports of unusually severe reactions and reactions of unusually high incidence. Adverse effects such as hypopyon, intraocular infection, and acute corneal decompensation are identified as some of the specific adverse reactions associated with in intraocular lens implantations that must always be reported.

Section 813.153(b)(1) requires investigators to investigate the cause of the reaction and to report the result to the sponsor within 5 days of learning that the reaction has occurred.

Section 813.153(b)(2) requires a similar investigation and evaluation by the sponsor when he learns of the reaction from the investigator (or from any other source). Adverse effects such as hypopyon, intraocular infection, and acute corneal decompensation are identified as some of the specific adverse reactions associated with intraocular lens implantations which must always be investigated and evaluated.

He must within 5 days of learning of the reaction notify all investigators conducting studies involving the lenses, all committees reviewing such studies, and FDA. A partial exception to this requirement is allowed where the adverse reaction is hypopyon: except where FDA directs otherwise, a sponsor need only report the adverse reaction and results of his evaluation to other investigators and committees participating in the study where the incidence of the adverse reaction exceeds that which was previously expected in materials provided to investigators. Generally speaking, hypopyon is not expected to occur in more than 5 percent of the implantations. When a manufacturer expects hypopyon to exceed or approach this amount, serious questions as to the safety and effectiveness of the lens are raised. Accordingly, when the expected rate of hypopyon exceeds or approaches 5 percent, the incidence should be reported and the application for exemption will be reevaluated by FDA.

The Commissioner received several comments arguing that the time period for investigating the reaction should be 5 "working" days rather than 5 calendar days. The Commissioner declines to adopt this suggestion because it would introduce a variation that is undesirable in this important reporting requirement. The Commissioner also received comments suggesting extension of the 5-day period to 10, 15, or 30 days. The Commissioner believes that the 5-day period is adequate in this regulation. If unusual difficulties are encountered, the Commissioner calls attention to the provisions of § 813.10 relating to waiver.

Section 813.153(c) requires both sponsors and investigators to submit progress reports: the sponsor to FDA and each investigator to the sponsor and the committee. Section 813.155(c) also requires that progress reports be submitted at appropriate intervals but in no event at intervals exceeding 1 year. For many studies of intraocular lenses, FDA may determine that a shorter period, e.g., 3 months, is more appropriate.

Periodic reports to the sponsor on the progress of an investigation enable the sponsor to collate and review data to obtain an overall view of the study and report useful informaton to the investigator, as well as to FDA. Frequently, for example, subtle but significant trends not easily detectable at the individual investigator level become apparent when a larger sample is analyzed.

Section 813.153(d) requires the investigator to report a suspension or termination of a study by a committee to the sponsor within 5 days. The institutional review committee must report to FDA if it suspends or terminates a study. No report is required if the committee disapproves a proposed study.

Section 813.153(e) requires final reports from investigators to sponsors and from sponsors to FDA. The investigator has 3 months after the investigation is concluded to complete the report to the sponor; the sponsor has 6 months after the investigation is concluded to submit the report to FDA.

CONTENTS OF INVESTIGATOR RECORDS REGARDING SUBJECTS

Section 813.155 is similar to proposed § 812.111. One comment on proposed § 812.111 argued that in many instances mere patient charts would provide sufficient information to satisfy the objectives of the regulations. The Commissioner believes that medical charts are unlikely to contain the information mandated by this section. Since the Commissioner believes the information requested by proposed § 812.111 is necessary to assure sound research data, he has decided to retain in § 813.155 all the requirements of the proposal.

Section 813.155 requires an investigator to keep certain records regarding subjects of an investigational study. The completeness and accuracy of the data regarding subjects are critical aspects of any research project. Inadequate, incomplete, or inaccurate records will render a scientific study valueless, thereby vitiating any justification for exposing human subjects to risk. Insufficient or erroneous documentation of important health indicators can increase hazards to subjects by reducing the ability of the investigator to detect changes in those indicators.

For similar reasons, § 813.155(a) requires the sponsor, any investigator, and any committee involved in an investigational study to maintain adequate and accurate records concerning the investigational study, including copies of all correspondence among themselves and with FDA regarding the study.

Section 813.155(b) provides that sponsors and investigators must maintain accurate and adequate records regarding the shipment and disposition of intraocular lenses. The provision is comparable to §§ 812.45(c) and 812.107 of the proposal.

In addition, § 813.155(b) adds a requirement essential to safe investigations of intraocular lenses: that the sponsor either provide the investigator with an identification card that the investigator can give to the subject after implantation of the lens, or the sponsor must himself give the subject such a card. The card must contain the lens name, manufacturer's name and address, the model, stvle and serial, batch, lot or other identification number for the implanted lens. This requirement is needed to assure that the subject is able to identify the source of the lens implanted for the duration of implantation, which is intended to be for life, if he should subsequently develop

complications. Such information will also improve the information available to FDA about product defects or manufacturing defects that lead to long-term complications. The Commissioner believes that because of the intended long duration of implantation, a patient could not necessarily trace the device through the surgeon who implanted it, since the surgeon might have retired or died. Similarly, the patient might have changed his residence and lost contact with the implanting investigator.

Section 813.155(c) requires the same records of institutional review committees as does proposed § 812.75(a).

Section 813.155(d) identifies the requisite records regarding subjects of investigational studies. First, it confirms that a medical history of the subject before the study must be included in the case report if relevant to the subject's suitability to participate in the investigation. Section 813.155(d) also requires that the documentation of consent shall be filed in the case report. The records regarding implantation of intraocular lenses shall be maintained in the case report as well as in the records required for control of the device in § 813.55(b). This requirement would allow for a cross check on the distribution of investigational devices and enable selected subjects, e.g., those receiving the investigational device in the last month, to be contacted.

ANIMAL STUDIES

Subpart H, which deals with animal studies, is retained unchanged from the August 20, 1976 proposal.

REFERENCES

Background data and information on which the Commissioner relies in promulgating this regulation and comments on the proposal have been placed on file for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. This file includes memoranda of meetings between FDA employees and individuals outside the agency and other communications about these regulations. The Commissioner is including in the administrative record of this proceeding the background data and information on which the Commissioner based the April 6, 1976 and September 13, 1976 notices. These notices involved the same public health concerns as this proceeding. Additional references concerning intraocular lenses on which the Commissioner relies are:

1. Smith, J. A., and D. R. Anderson, "Effect of the Intraocular Lens on Intraocular Pressure," Archives of Ophthalmology, 94:1291–94, 1976.

2. Mosier, M. A., "Fungal Endophthalmitis Following Intraocular Lens Implantation," Americal Journal of Ophthalmology, 83:1–8, 1977.

3. Morbidity and Mortality Weekly Report (MMWR), "Endophthalmitis Associated with Implantation of Intraocular Lens Prosthesis—United States," 46:25, November 26, 1976.

4. Mailgram from Manufacturer to FDA, February 11, 1977.

5. Memorandum to Division of Compliance, Subject: Hypopyon Report, signed by James Dillon, Ph. D., March 21, 1977.

6. Letter from the Intraocular Lens Implant Society to it members, June 14, 1977.

PROPOSED EFFECTIVE DATE

Because of the urgent need to apply investigational controls to intraocular lens implantations, for the reasons discussed in this preamble, the final regulations shall be effective on February 9, 1978. However, sponsors of ongoing studies of intraocular lenses who wish to continue these studies without interruption must submit an application for an investigational device exemption on or before January 10, 1978. The Commissioner does not intend to waive the requirement that a study not begin until 30 days after submission of an application unless extraordinary and compelling circumstances are shown.

The Commissioner is not developing forms to be used by sponsors and investigators in meeting the requirements of Part 813. The agency will, however, provide reasonable assistance to those seeking to comply with these requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701, 704, 801, 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 1057 as amended, 90 Stat. 567, 569–571, 576–578 (21 U.S.C. 331, 351, 352, 360j, 371, 374, 381)) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Chapter I of Title 21 of the Code of Federal Regulations, as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In Part 16, by amending § 16.1 by redesignating paragraph (b)(26) as (b)(30) and revising it, by designating paragraphs (b)(26), (b)(27) and (b)(29) as "reserved," and by adding new paragraph (b)(28), to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(26)–(27) [Reserved].

(28) Sections 813.30(d), 813.35(b), and 813.170 relating to disapproval, approval with modifications, or withdrawal of approval of an investigational device exemption.

(29) [Reserved].

(30) Any other provision in the regulations in this chapter under which a party who is adversely affected by regulatory action is entitled to an opportunity for hearing, and no other procedural provisions in this subchapter are by regulation applicable to such hearing.

PART 20—PUBLIC INFORMATION

2. In Part 20, by amending § 20.100 by adding new paragraph (c)(30), to read as follows:

§ 20.100 Applicability; cross reference to other regulations.

* * * * *

(c) * * *

(30) Investigational device exemptions in § 813.38 of this chapter.

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

3. In Part 25, by reviewing § 25.1(d)(5) to read as follows:

§ 25.1 Applicability.

* * * * *

(d) * * *

(5) Investigational new drug applications, investigational new animal drug applications, and investigational device applications, unless the agency notifies the applicant that one is required.

* * * * *

PART 813—INVESTIGATIONAL EXEMPTIONS FOR INTRAOCULAR LENSES

4. By adding new Part 813 to read as follows:

Subpart A—General Provisions

Sec.
813.1 Scope.
813.2 Applicability.
813.3 Definitions.
813.5 General qualifications for an exemption.
813.10 Petitions for waiver of requirements.
813.12 Information previously submitted.
813.19 Requirements applicable to importers and exporters of intraocular lenses.

Subpart B—Applications for Exemption for Investigational Studies Involving Human Subjects

813.20 Application.
813.25 Investigational plan.
813.27 Report of prior experience with the lens.
813.30 Food and Drug Administration review of and action on an application.
813.35 Withdrawal of an exemption.
813.38 Confidentiality of data and information in an application.
813.39 Supplemental applications and submissions concerning applications.

Subpart C—Sponsor Responsibilities in Investigational Studies of Intraocular Lenses

Sec.
813.40 General.
813.42 Review of the investigational study by FDA and the institutional review committee.
813.43 Selection of investigators.
813.45 Control over the intraocular lens.
813.46 Monitoring the investigational study.
813.47 Submitting information to investigators.
813.50 Promotion and sale of intraocular lenses.

Subpart D—Institutional Review Committee

813.60 Requirement of institutional review committee.
813.62 Membership of an institutional review committee.
813.65 Procedures for review and monitoring of investigational studies by an institutional review committee.
813.66 Procedures and criteria for review of investigational studies by an institutional review committee.
813.70 Review by institution.
813.79 Actions when review by an institutional review committee is inadequate.

Subpart E—Investigator Responsibilities in Investigational Studies of Intraocular Lenses

Sec.
813.100 General.
813.101 Review of investigational study by FDA.
813.103 Review of investigational study by institutional review committee.
813.105 Conformity to investigational plan.
813.107 Control over intraocular lenses.
813.119 Disqualification of a clinical investigator.

Subpart F—Informed Consent of Human Subjects

813.120 General requirements of informed consent.
813.130 Elements of informed consent in agreement.

Subpart G—Inspections, Reports, and Records

813.150 Inspections.
813.153 Reports.
813.155 Records.

Subpart H—Investigational Studies That Do Not Involve Human Subjects

813.160 Conditions of exemption.
813.170 Termination of exemption.

AUTHORITY: Secs. 301, 501, 502, 520, 701, 704, 801, 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 90 Stat. 567, 569–571, 576–578 (21 U.S.C. 331, 351, 352, 360j, 371, 374, 381).

Subpart A—General Provisions

§ 813.1 Scope.

(a) *General.* This part provides that intraocular lenses may be exempted from any of the requirements of the act enumerated in paragraph (b) of this section that would otherwise be applicable to the device, to permit investigational studies of the device by experts who are qualified by scientific training and experience to investigate the safety and effectiveness of the lenses. This part implements sections 520(g) and 520(1) of the act with respect to intraocular lenses.

(b) *Effect of exemption.* (1) In general, intraocular lenses are exempted from provisions of the following sections of the act and regulations thereunder when an application for exemption applicable to the lenses is in effect under this part: Misbranding under section 502, registration and premarket notification under section 510, performance standards under section 514, premarket approval under section 515, records and reports under section 519, restricted devices under section 520(e), good manufacturing practices under section 520(f), and color additives under section 706.

(2) Intraocular lenses shall not be exempted from a provision of the act listed in paragraph (b)(1) of this section where the Commissioner indicates that the lens is not exempt from such a provision in an order of disapproval, approval, or approval with modifications under § 813.30.

§ 813.2 Applicability.

This part applies to all implantations of intraocular lenses in humans unless a premarket approval application has been approved for these lenses under section 515 of the act.

§ 813.3 Definitions.

(a) "Intraocular lens" means a lens intended to replace surgically the natural lens of the human eye. An intraocular lens is, for purposes of this part, synonymous with "investigational device," lens, or lenses.

(b) "Investigational device" means a device that is used in an investigational study involving human subjects, where the study is for the purpose of determining if the device is safe or effective.

(c) "Investigational plan" means a plan or protocol for using an investigational device in an investigational study. See § 813.25 for requirements applicable to an investigational plan.

(d) "Investigational study" means a study involving human subjects when the study is for the purpose of determining if an investigational device is safe or effective and includes any implantation in a human of an intraocular lens for which there is no approved application for premarket approval under section 515 of the act.

(e) "Investigator" means an individual who actually conducts an investigational study, i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject.

(f) "Monitor," when used as a noun, means an individual selected by a sponsor or contract research organization to oversee the progress of an investigational study. The monitor may be a full-time employee of a sponsor or contract research organization or a consultant to the sponsor or contract research organization. ("Monitor," when used as a verb, means the act of reviewing the progress of an investigational study.)

(g) "Sponsor" means a person who initiates an investigational study, but who does not actually conduct the study (i.e., the investigational device is administered or dispensed to, or used involving, a subject under the immediate direction of another individual). A person other than an individual, e.g., corporation or government agency, that uses one or more of its own employees to conduct an investigational study that it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(h) "Sponsor-investigator" means an individual who both initiates and actually conducts, alone or with others, an investigational study (i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject). The term does not include any person other than an individual. Any sponsor-investigator shall carry out the responsibilities under this part of a sponsor and of an investigator.

(i) "Institution" means a person (other than an individual) who engages in the conduct of research on human subjects or in the delivery of medical services to human subjects as a primary activity or as an adjunct to providing residential or custodial care to human beings. The term includes a hospital, retirement home, prison, university, or device manufacturer. Facility as used in section 520(g) of the act is deemed to be synonymous with the term institution for purposes of this part.

(j) "Subject" means an individual who is or becomes a participant in an investigational study, either as a recipient of the investigational device or as a control. A subject may be either a nonpatient volunteer or a patient on whom the intraocular lens might have a therapeutic effect.

(k) "Person" includes an individual, partnership, corporation, association, scientific establishment, government agency, and any other legal entity.

(l) "Institutional review committee" means a committee (appointed by an institution to review and monitor investigations in which human subjects participate) whose major responsibility is the protection of human subjects from risk to their health, safety, or dignity in accordance with the current professional standards and the requirements of this part. Such a committee may be known as an institutional review board or by other names.

§ 813.5 General qualifications for an exemption.

A shipment of an intraocular lens is exempt from any or all the otherwise applicable requirements of the act enumerated in § 813.1(b)(1) if all the following conditions are met:

(a) The label of the device bears the following: the name and place of business of the manufacturer, packer, or distributor in accordance with § 801.1 of this chapter; the quantity of contents; the sterility shelf life of the lens; and the statement, "Caution—investigational device. Limited by Federal (or United States) law to investigational use".

(b) The labeling of the intraocular lens is not false or misleading in any particular.

(c)(1) An application for investigational device exemption covering that shipment was submitted by the sponsor under Subpart B of this part, and the requisite time has elapsed following the date of receipt of the application by the Food and Drug Administration to permit the investigational study to begin under § 813.30(b).

(2) The Commissioner has not disapproved the application or withdrawn the exemption.

(3) Each shipment of the intraocular lens is made in accordance with the commitments in the application and any conditions imposed in the Commissioner's approval of the application.

(4) The sponsor has complied with the requirements of Subparts B, C, and G of this part, any institutional review committee that is to review and approve the investigational study for which shipment is made has complied with the requirements of Subparts D and G of this part, and the investigator(s) to which the shipment is to be made has com-

plied with the requirements of Subparts E, F, and G of this part.

(d) If the shipment is to be imported into or exported from the United States, the requirements of § 813.19 have been met.

§ 813.10 Petitions for waiver of requirements.

(a) Any person subject to any requirement under this part may petition the Commissioner for a waiver of such requirement. Such a petition shall be submitted in accordance with § 10.30 of this chapter and shall set forth the basis for the petitioner's belief that compliance with the requirement is not necessary to achieve the objectives of this part and, where appropriate, any alternative means to achieve the objective of the requirement from which the waiver is sought.

(b) The Commissioner may, at his discretion grant a petition for a waiver submitted under this section if he finds that compliance with the requirement from which the waiver is sought is not necessary to achieve the objectives of this part and, where appropriate, that the proposed alternative means will achieve the objective of the requirement from which the waiver is sought.

(c) The person who submits a petition under this section continues to be subject to the requirement from which the waiver is sought unless and until the Commissioner grants the petition.

§ 813.12 Information previously submitted.

Wherever this part requires the submission to the Food and Drug Administration of information or data that previously had been submitted in accordance with this part or other parts of this Chapter, the information or data need not be resubmitted but may be incorporated by reference.

§ 813.19 Requirements applicable to importers and exporters of intraocular lenses.

(a) Any person who imports or offers for importation into the United States an intraocular lens shall assure that all the following requirements are met:

(1) The labeling of such lens complies with § 813.5 (a) and (b).

(2) The importer of such shipment is an agent in the United States of the foreign exporter or is the ultimate consignee, and the foreign exporter or the ultimate consignee has, prior to such shipment, completed and submitted to the Food and Drug Administration an application for an investigational device exemption in accordance with § 813.20 and acts as the sponsor of the investigational study to assure compliance with the procedures, conditions, and requirements of this part.

(3) The requisite time has elapsed after the date of receipt of the application by the Food and Drug Administration to permit the investigational study to begin under § 813.30(b).

(4) The Commissioner has not disapproved the application or withdrawn the exemption.

(b) Any person who exports an intraocular lens from the United States to a foreign country shall comply with all the following requirements:

(1) The lens shall conform to the specifications of the foreign purchaser.

(2) The lens shall comply with the laws of the country to which it is being exported.

(3) The label on the outside of the shipping package shall indicate that the lens is intended for export.

(4) The lens shall not be sold or offered for sale in domestic commerce.

(5) The person shall obtain the approval of the exportation of the lens from the country to which it is intended for export.

(6) The person shall request and obtain from the Commissioner a determination that the exportation of the device is not contrary to the public health and safety and has the approval of the country to which it is intended for export.

Subpart B—Applications for Exemption for Investigational Studies Involving Human Subjects

§ 813.20 Application.

(a) The sponsor of an investigational study shall submit to the Food and Drug Administration a completed application for an investigational device exemption that has been signed by the sponsor or an authorized representative of the sponsor. Three copies of the application and any material required to accompany the application, bound and contained in volumes of reasonable size, shall be sent by registered mail or hand delivered to the Bureau of Medical Devices, Document Control Center (HFK–20), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md. 20910. Any subsequent reports, correspondence concerning an application, and supplemental application submitted under § 813.39 also shall be submitted in triplicate by registered mail or hand delivered to this address. The outside wrapper of any application or supplemental application should include the statement "Application (or Supplemental Application) for Investigational Device Exemption" and the outside wrapper of any reports or correspondence should include the statement, "Regarding an Investigational Device Exemption".

(b) An application for an investigational device exemption for an intraocular lens shall include the following information:

(1) A brief statement of its intended use(s) and how it is to be administered.

(2) A description of all components, ingredients, and properties and a description of the principle of operation of the device and any anticipated changes in the device that may occur in the course of the study, in enough detail so that a scientist or physician familiar with the general type of lens can make a knowledgeable judgment about the anticipated safety and effectiveness of the lens in the proposed investigational study.

(3) A description of those methods, facilities, and controls, used for the manufacture, processing, packing and storage of the device in enough detail so that a person generally informed in that area can make a knowledgeable judgment about the safety and effectiveness of the device in the proposed investigational study.

(4) A statement of the location(s) of the study and whether an institutional review committee(s) is to monitor the study at such location(s).

(5) A report of prior investigations of the device that meets the requirements of § 813.27 and a summary of the investigational plan.

(6)(i) A statement from the sponsor that an investigational plan that meets the requirements of § 813.25 and a report of prior investigations of the device that meets the requirements of § 813.27 have been submitted to and approved by the institutional review committee, or (ii) if no institutional review committee exists and one cannot be formed, a statement from the head of the institution that such a committee cannot be formed, and copies of the investigational plan and the report of prior investigations.

(7) A statement from any institutional review committee (where a committee is to monitor the study), signed by the chairman, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the lens, that the committee will review the study periodically at intervals appropriate to the degree of risk but not to exceed 1 year, and that it will review reports of unexpected adverse effects on a timely basis for the purpose of determining if the study should be continued.

(8) A copy of all informational materials to be given to subjects, including all form(s) to be used to obtain informed consent of human subjects as required by Subpart F of this part (this material may be appended to the investigational plan or the summary of the investigational plan).

(9) A copy of all informational material, including labels and other labeling, which is to be supplied to investigators as required by § 813.47(a).

(10) A description of the scientific training and experience that the sponsor considers appropriate to qualify individuals as suitable experts to investigate the safety and effectiveness of the intraocular lens. (See § 813.43(a).)

(11) A copy of the agreement signed by investigators who will be participating, to comply with Subparts E, F, and G as required by § 813.43(b).

(12) The name and a summary of the training and experience of the individual who is to monitor the progress of the study for the sponsor as required by Subpart C.

(13) A statement as to whether any institutional review committee has ever disapproved any investigational study of

the device and the reasons for such disapproval.

(14) A statement that the sponsor will comply with each of the requirements of Subparts C and G of this part.

(15) A statement by a sponsor notifying FDA if he intends to charge investigators and subjects for the device.

(16) A statement by the sponsor of his reasons for any request for a waiver of the requirement of § 813.30(a) that a study shall not begin before the expiration of 30 days after the Food and Drug Administration has received an application meeting the requirements of this subpart, if such waiver is requested.

(17) An environmental impact statement meeting the requirements of Part 25 of this chapter when requested by the Food and Drug Administration after receipt of an application under this section.

(18) Any other information relevant to review of the application required by the Food and Drug Administration to be submitted. The sponsor may refuse to provide the information requested under paragraph (b)(18) of this section and treat FDA's request as a final disapproval for purposes of requesting a regulatory hearing under § 813.30. If a sponsor fails to respond to a request for information within the time prescribed in a request, FDA may treat the application as withdrawn.

§ 813.25 Investigational plan.

(a) The investigational plan for the investigational study of an intraocular lens shall include the following:

(1) A statement of the intended use of the lens;

(2) A general outline of the plan and any anticipated or foreseeable changes or variations in the plan that may be made based on experience gained in the study;

(3) A description of what results are expected from the investigational study;

(4) A justification for beginning the study, taking into account prior experience with the intraocular lens;

(5) The expected duration of the investigational study;

(6) Indentification of the investigator or investigators, the facilities where the study will occur, and any institutional review committees that will supervise the study;

(7) The patient population in which the lens will be used (in terms of age, sex, and condition) and the size of each population;

(8) A justification for using such patient population and of the size of each population;

(9) The sponsor's plan for monitoring the study in accordance with § 813.46;

(10) A description of records to be maintained, and the reports to be made, by the investigator(s) and the sponsor to assure compliance with the plan and enable the progress of the investigation and the safety and effectiveness of the lenses to be reviewed by the sponsor, any institutional review committee, and the Food and Drug Administration;

(11) The plan for obtaining informed consent from subjects and copies of all informational materials to be given to subjects, including all forms and materials to be used in obtaining such consent; and

(12) A description of the scientific training and experience the sponsor considers appropriate to qualify individuals as suitable experts to investigate the safety and effectiveness of the intraocular lens. (See § 813.43(a).)

(b) The procedures and conditions in the investigational plan may vary depending on the following:

(1) The scope and duration of the investigational study;

(2) The number of human subjects who are to be involved in the study;

(3) The need to permit changes to be made in the device during the study conducted in accordance with the plan; and

(4) The purpose of the study, e.g., whether the study is designed for developing data to obtain approval for the commercial distribution of the device.

(c) When an investigational study is to develop data to obtain approval for commercial distribution of the device, the Food and Drug Administration will not ordinarily regard an investigational plan as capable of providing data that will support an application for such approval unless it provides for more than one independent qualified investigator.

(d) The investigational plan may provice for additional animal tests to be made during the investigational study.

§ 813.27 Report of prior experience with the lens.

(a) A report of prior investigations with the lens shall be submitted to an institutional review committee and to the Food and Drug Administration.

(b) The report of prior investigations of a lens shall include:

(1) A bibliography of any publications relevant to the investigational study and copies of significant publications both adverse and supporting.

(2) Any other unpublished information available to the sponsor, both adverse and supporting, information relating to preclinical investigations of the lens, including appropriate tests in animals and tests in vitro, and prior clincal investgations of the device or clinical experience with the device from commerial marketing, whether in the United States or in foreign countries, in sufficient detail so that a scientist or physician familiar with the general type of lens can make a knowledgeable judgment about the anticipated safety and effectiveness of the device in the proposed investigational study.

(c) Prior investigations of a lens shall not be considered adequate to justify an investigational study involving human subjects unless the conditions of the prior investigations of the lens are comparable to the conditions of the proposed investigational study.

§ 813.30 Food and Drug Administration review of and action on an application.

(a) Upon receipt of an application for an investigational device exemption submitted in accordance with this subpart, the Food and Drug Administration will notify the sponsor of the date of such receipt and inform the sponsor that the investigational study may not be begun until 30 days after the date of the agency's receipt of the application, unless the agency has decided to waive the 30-day time requirement and so informs the sponsor.

(b) An application for an investigational device exemption shall be deemed to be approved on the 30th day after the Food and Drug Administration received the application unless, on or before such day, the Commissioner finds that the application does not meet the requirements of this part and by order disapproves the application, stating his reasons therefor, or finds the application deficient and requests additional information or suggests revisions, or approves the application with modifications. If the Commissioner requests additional information or suggests revisions, the sponsor may treat the application as disapproved for purposes of requesting a regulatory hearing under Part 16 of this chapter.

(c) The Commissioner may by order disapprove an application if he makes any of the following findings:

(1) The application contains an untrue statement of a material fact or omits material information required by § 813.20.

(2) The report of prior investigations of the intraocular lens is inadequate to support a conclusion that it is reasonably safe to begin or continue the proposed investigational study.

(3) There is reason to believe that the lens may be unsafe or ineffective when used for the purpose or in the manner for which it is to be investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the investigational device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, or implantation of the lens do not assure adequately the safety and effectiveness of the lens.

(6) The sponsor's proposed use of the lens is not intended solely for an investigational study, since it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part.

(7) The proposed investigational study on which the application is submitted does not conform to procedures, conditions, or requirements prescribed in this part.

(8) The proposed investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, the factors prescribed in § 813.66(f).

(d) The Commissioner shall notify the sponsor of an approval, disapproval, or approval with modifications of an application. The notification shall contain the order of the approval, disapproval, or approval with modifications and a complete statement of the reasons for the order. An order that is a notification of disapproval or approval with modifications shall advise the sponsor that he has recourse to an opportunity for a regulatory hearing pursuant to Part 16 of this chapter.

(e) The Commissioner may in his discretion decide not to disapprove an application for which there are grounds for disapproval if he concludes that risks do not outweigh the benefits to subjects.

§ 813.35 Withdrawal of an exemption.

(a) The Commissioner may by order withdraw an exemption granted under this part if he makes any of the following findings:

(1) The application for such exemption or any subsequent report contains an untrue statement of material fact or omits material information required by §§ 813.20, 813.39, or Subpart C of this part.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to continue the investigational study involving human subjects.

(3) There is reason to believe that the investigational device may be unsafe or ineffective when used for the purposes or in the manner for which it is investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the investigational device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, or installation of the investigational device do not adequately assure its safety and effectiveness.

(6) The investigational study is not being conducted in accordance with the investigational plan submitted to the Food and Drug Administration or the institutional review committee; or any change in, or deviation from, the investigational plan was not approved as required by § 813.39 and § 813.105.

(7) The sponsor's use of the investigational device is not solely for an investigational study since it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part.

(8) The sponsor has failed to submit an application for premarket approval of the device when requested to do so by the Food and Drug Administration pursuant to § 813.46(d).

(9) The investigational study does not conform to procedures, conditions, or requirements prescribed under this part.

(10) The investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, the factors prescribed in § 813.66(f).

(11) The process of review or monitoring undertaken by the institutional review committee that is monitoring the study is inadequate.

(b) The Commissioner may in his discretion decide not to disapprove an application for which there are grounds for disapproved if he concludes that the risks do not outweigh the benefits to subjects.

(c) An order under this section shall include a complete statement of the reasons for the Commissioner's action. Such order shall be issued only after the sponsor has been afforded an opportunity for a regulatory hearing pursuant to Part 16 of this chapter, except that the order may be issued before providing an opportunity for such hearing if the Commissioner determines that the continuation of testing under the exemption with respect to which the order is to be issued will result in an unreasonable risk to the public health or safety.

(d) An exemption that has been withdrawn under this section may be reinstated if the sponsor satisfies the Commissioner that the grounds for withdrawal no longer apply.

§ 813.38 Confidentiality of data and information in an application.

(a) The existence of an application for an investigational device exemption will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in the Food and Drug Administration file concerning the application shall be handled in accordance with the provisions established in § 314.14 of this chapter for the confidentiality of data and information in new drug applications.

(c) Notwithstanding the provisions of § 314.14 of this chapter, the Food and Drug Administration shall disclose upon request to an individual in whom an intraocular lens has been used a copy of any adverse reaction report relating to such use.

§ 813.39 Supplemental applications and submissions concerning applications.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, information contained in an application submitted under § 813.20 may be updated by means of a report to the Food and Drug Administration under § 813.153.

(b)(1) Whenever the sponsor or any investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan submitted to the Food and Drug Administration under § 813.20 that may affect the validity of the study or the rights or safety of the human subjects under the criteria in paragraph (b)(3) of this section, the sponsor shall submit to the Food and Drug Administration a supplemental application describing the proposed change or deviation and the justification therefor. Except as provided in paragraph (b)(2) of this section, the sponsor shall submit the supplemental application before the change or deviation is implemented, shall obtain the prior review and approval of any institutional review committee pursuant to §§ 813.42(d) and 813.105, shall attach to such supplemental application a copy of the approval of such change or deviation by such committee, and shall not permit the change or deviation to be implemented unless and until the supplemental application is approved or deemed approved under § 813.30(b), except as described in paragraph (b)(2) of this section.

(12) When a change or deviation is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the sponsor is not required to comply with the prior approval requirements of paragraph (b)(1) of this section. The sponsor shall instead notify the Food and Drug Administration and any institutional review committee not notified by the investigator of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after he learns of such change or deviation.

(3) The following changes in, or deviations from, an investigational plan illustrate some of the situations in which prior review and approval are required under paragraph (a) of this section:

(i) A significant change in the method of administration or use of the lens.

(ii) A significant change in the number of subjects participating in the study at one time or cumulatively.

(iii) The use of subjects with medical conditions unrelated to, but possibly affecting, the scope or validity of the study.

(iv) The use of human subjects who require special consideration or protection and who are not listed specifically in the plan, e.g., children, mentally disabled individuals, or prisoners.

(v) The administration of concomitant or concurrent therapy where it is likely that an interaction with the lens might occur.

(c) The sponsor shall submit to the Food and Drug Administration the signed statements required under § 813.43(b) for any additional investigators and, as required by § 813.42(d), the statement signed by the chairman of any institutional review committee that is added to an investigational study after submission of an application for an investigational device exemption under § 813.20 (b). Any such additional statement shall be submitted before an investigator may begin participation in the investigational study.

(d) The sponsor shall submit to the Food and Drug Administration any ad-

ditional informational materials to be given to subjects, including forms, or revisions in informational materials or forms, to be used by investigators to obtain informed consent of human subjects and any additional informational materials, or revision in such informational materials, supplied to investigators, which had not been submitted in an application under § 813.20(b) (8) and (9) or any subsequent reports to the Food and Drug Administration. The sponsor shall submit such forms or materials to the Food and Drug Administration at the same time that they are provided to investigators.

Subpart C—Sponsor Responsibilities in Investigational Studies of Intraocular Lenses

§ 813.40 General.

The requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators.

§ 813.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.

(a) The sponsor shall submit for review and approval by the Food and Drug Administration an application for an investigational device exemption in accordance with Subpart B of this part before any human subjects are allowed to participate in the investigational study.

(b) The sponsor shall not permit any human subjects to participate in the study until the study has been approved by an institutional review committee and the application for exemption is approved by the Food and Drug Administration.

(c) The sponsor shall assure that the institutional review committee and the Food and Drug Administration are provided all the information on the proposed investigational study and the lens that they will need to review, approve, and monitor the study.

(d) The sponsor shall obtain from the institutional review committee a statement, signed by the chairman, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the lens and that the committee will monitor the investigation in accordance with Subpart D of this part.

(e) The sponsor shall not implement a change in or deviate from the investigational plan, or permit a change or deviation to be implemented, unless there has been compliance with the requirements of §§ 813.39 and 813.105.

§ 813.43 Selection of investigators.

(a) The sponsor shall select as investigators only individuals who, because of their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the lens. As a minimum, investigators shall have completed successfully a residency in ophthalmology or its documented equivalent and be licensed to practice medicine in the State or country in which the investigational study is to take place. Sponsors shall adopt appropriate additional criteria for investigators (bearing in mind the investigational plan, the report of prior investigations of the lens, and what is known about the lens).

(b) The sponsor shall obtain from each investigator who will participate in the investigational study a signed agreement for submission to the Food and Drug Administration that includes the following:

(1) A statement of the investigator's education and experience in sufficient detail to allow determination of the investigator's qualifications for investigating the lens. Such statement shall include specific experience with the intraocular lens to be investigated, including date, amount and description of experience, and the name of the institutions where the lens was investigated or used.

(2) An agreement to comply with the investigational plan and the requirements of Subparts E, F, and G of this part.

(3) An agreement that any use of the lens involving human subjects will be under the investigator's supervision or under the supervision of another investigator who is responsible to him and who is named by the investigator in a signed statement under paragraph (b) (5) of this section.

(4) A statement as to whether any investigational study or other research by such investigator has been discontinued on the order of a sponsor, an institutional review committee, or the Food and Drug Administration.

(5) The name of any other investigator who will participate in the investigational study, who is under the investigator's supervision and responsible to him, with a statement of such other investigator's education and experience in accordance with paragraph (b)(1) of this section.

§ 813.45 Control over the intraocular lens.

(a) The sponsor shall permit the lens to be shipped only to investigators who have signed statements under § 813.43 (b).

(b) If the study is suspended, terminated, completed, discontinued, or the exemption is withdrawn, the sponsor shall require the investigator to dispose of the lens in accordance with the requirements of § 813.107(b).

(c) The sponsor shall assure that the methods, facilities, and controls selected for investigating and implanting the lens are adequate to assure the device will be tested under conditions that adequately assure the safety and effectiveness of the lens in the investigational study and, where the sponsor is a manufacturer, distributor, or importer of the lens, he shall also assure that the methods, facilities, and controls used for the manufacture, processing, and storage of the lens adequately assure the safety and effectiveness of the lens in the investigational study.

§ 813.46 Monitoring the investigational study.

(a) The sponsor shall designate one or more appropriately trained and qualified individuals to monitor the progress of the investigational study on a continuing basis and evaluate the data concerning the safety and effectiveness of the lens on behalf of the sponsor upon receipt of such data from investigators, and shall assure that such monitoring and evaluation occur.

(b) The sponsor shall review the investigational study periodically at intervals appropriate to the degree of risk to assure that the requirements of this part are met.

(c) Upon discovery by the sponsor that the investigator has not complied with the requirements of this subpart and Subpart G of this part or his agreement under § 813.43(b), the sponsor shall secure the investigator's compliance or discontinue shipments to the investigator and may require the investigator to return or otherwise make appropriate disposition of the lens in accordance with the requirements of § 813.107(b), and may suspend or terminate any study being performed by the investigator for the sponsor.

(d) A sponsor shall not unduly prolong an investigational study. Where data are developed in the study that would support submission of an application for premarket approval of the lens pursuant to section 515 of the act, the sponsor shall either submit such an application or discontinue the study.

(e) Where the sponsor learns from an investigation and report of an adverse reaction under § 813.153(b) that a serious adverse reaction is lens related and presents unreasonable risk to subjects involved in the study, he shall discontinue the study as soon as possible but in no event later than 5 days after sufficient information is available to warrant suspension. For purposes of this section, suspension of the investigational study means that no new subjects may be added to the study. Where the Food and Drug Administration regards an adverse reaction as lens related and as presenting unreasonable risk to subjects, the agency may request or order the sponsor to suspend the study and to take appropriate action to protect subjects in whom lenses have been implanted. The sponsor shall suspend the study and take such other action as soon as possible but in no event later than 5 days after such request or order. Once the study has been suspended, the sponsor shall not resume the study without the concurrence of the Food and Drug Administration.

§ 813.47 Submitting information to investigators.

(a) The sponsor shall supply all investigators with copies of the investigational plan required under § 813.25, the report of prior investigations of the lens required under § 813.27, and labeling (including labels) for the lens that describes

all relevant hazards, contraindications, adverse reactions, interfering substances, precautions suggested by prior investigations, the sterility shelf life of the lens, and experience with the lens. The labeling shall not represent that the safety or effectiveness of the lens has been established for the purposes to be investigated.

(b) The sponsor shall notify each investigator of the completion or discontinuance of the investigational study or the withdrawal of the exemption as soon as possible but in no event later than 5 days after such action.

(c) The sponsor shall notify each investigator if an application for premarket approval of the device under section 515 of the act is approved.

§ 813.50 Promotion and sale of intraocular lenses.

(a) Neither the sponsor nor any person acting for or on behalf of the sponsor shall disseminate any promotional material representing that the lens being investigated is safe and effective for the purposes for which it is under investigation. This requirement does not restrict the full exchange of scientific information concerning the device, including dissemination of scientific findings. However, this requirement prohibits promotional claims by the sponsor that the lens is safe and effective while the device is being investigated to establish its safety and effectiveness.

(b) The sponsor of the study of an intraocular lens may distribute the lens only if the sponsor has an effective exemption under this part for all lenses sold, and all patients who receive a lens are included in an investigational study under an exemption.

Subpart D—Institutional Review Committee

§ 813.60 Requirement of institutional review committee.

An institutional review committee shall review and monitor all investigational studies of an intraocular lens, except that where an institutional review committee does not exist and one cannot be established, the sponsor of the study shall submit the investigational plan and report of prior investigations pursuant to § 813.20(b) (5) and (6) for review by the Food and Drug Administration. The Food and Drug Administration may disapprove a study that is not to be reviewed and monitored by an institutional review committee if, in the opinion of the Commissioner, the lack of institutional review committee review may expose human subjects to undue risk.

§ 813.62 Membership of an institutional review committee.

(a) Any institutional review committee that undertakes to participate in the review of a proposed study shall possess the professional competence necessary to review the specific study. An institutional review committee shall be composed of not less than five individuals with varying backgrounds to assure complete and adequate review of the investigational study. Such committee shall include, in addition to persons possessing the professional competence necessary to review scientific activities, persons whose primary concerns are in nonscientific areas, e.g., lawyers, clergymen, ethicists, social scientists, or other lay persons. No such committee shall consist entirely of members of a single professional group.

(b) The records of a committee shall identify each member by name, earned degrees, positions or occupation, representative capacity, and other pertinent indications of experience, such as board certification or licenses, sufficient to describe each member's chief anticipated contributions to such committee's deliberations. The employment or other relationship between each member and the institution and any investigator or sponsor of any investigational study reviewed and monitored by the committee shall be described in the records of the committee, e.g., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant.

(c) No committee shall consist entirely of persons who are officers, employees, or agents of, or are otherwise associated with, the institution, apart from their membership on the committee.

(d) No member of a committee shall participate in the committee's review of monitoring of an investigational study in which he has a conflicting interest. No investigator or sponsor shall participate in the selection of members for a committee that will review his investigational study.

(e) The committee is responsible for determining whether a member has a conflict of interest and, if so, such member shall not participate in the review or monitoring of the study.

(f) An institutional review committee may in its discretion invite persons with competence in particular areas (consultants) to assist in the review of complex issues whose resolution requires expertise beyond or in addition to that available within the committee. Consultants may not vote.

§ 813.65 Procedures for review and monitoring of investigational studies by an institutional review committee.

(a) An institutional review committee shall follow written procedures adopted by either the committee or the institution for conducting its review and monitoring of investigational studies and for reporting its findings to the institution, the sponsor, and the investigator.

(b) A committee shall conduct business by a quorum, which shall be defined by written procedures. In no event shall a quorum be less than a majority of the members of the committee.

(c) A committee participating in the review of an investigational study shall monitor that study until the investigation is completed or discontinued by the sponsor or terminated or suspended by the committee or an exemption is withdrawn by the Food and Drug Administration.

§ 813.66 Procedures and criteria for review of investigational studies by an institutional review committee.

(a) Upon receipt of the proposed investigational study, including an investigational plan and a report of prior investigations of the lens from the sponsor or investigator, a committee that is to participate in the review of the study shall perform the following functions:

(1) Determine that each investigator has successfully completed a residency in ophthalmology or its documented equivalent, and is licensed to practice medicine in the State or country in which the investigational study is to take place.

(2) Review the investigational plan and determine that the nature of the investigational study provides a benefit to the proposed subjects such that the risks to the subjects are justified.

(3) Assure that sufficient records will be kept so as to describe clearly the results of the study.

(4) Require the investigator to notify the institutional review committee of any unanticipated side effects or increased hazards or any changes in the investigational study, actual or proposed, that have resulted or may result from the preliminary findings of the study that could result in modification or reversal of the initial determination to authorize beginning the study.

(5) Monitor the investigational study at intervals appropriate to the degree of risk but in no event exceeding 1 year so as to assure that the study continues to be justified during the course of the study.

(6) Assure that the rights of human subjects are properly protected, that legally effective informed consent is obtained, and that the method of obtaining consent properly informs the human subject of the significant aspects of the study in accordance with Subpart F of this part.

(7) Receive, process, and act on complaints relating to any study under review, e.g., from subjects, sponsors, and other members of an institution's staff.

(b) If the committee has any question regarding the proposed investigational study, the committee may request the investigator or sponsor to submit additional information concerning the proposed study.

(c) The committee shall review and approve, approve with modifications, or disapprove a proposed study as soon as possible after receipt thereof.

(d) The committee may disapprove a proposed study for any reason it considers appropriate and shall disapprove a proposed study if it makes any of the following findings:

(1) The information submitted to the committee concerning the study contains an untrue statement of a material fact or omits material information required by this part.

(2) The report of prior investigations of the lens is inadequate to support a

conclusion that it is reasonably safe to begin the proposed investigational study.

(3) There is reason to believe that the lens may be unsafe or ineffective when used for the purpose or in the manner for which it is to be investigated.

(4) The investigational plan is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the lens is safe or effective.

(5) The proposed investigational study does not conform to procedures, conditions, or requirements prescribed in this part.

(6) The investigator does not possess the scientific training and experience appropriate to qualify him as a suitable expert to investigate the safety and, where appropriate, effectiveness of the lens.

(7) The available clinical laboratory facilities and medical support are inadequate to assure that the study will be conducted properly and in conformity with the plan or to assure the safety of the subjects.

(e) A committee participating in the review may suspend or terminate a study after it has begun for any of the following reasons:

(1) Any reason for which the committee shall disapprove a study under paragraph (d) or (f) of this section.

(2) The investigator has disregarded committee recommendations for patient protection or has refused to cooperate with the committee, or to provide information to the committee.

(3) Experience developed during the study, or newly discovered scientific evidence not considered at the time the study was initially approved, indicates that the risks outweigh the potential benefit to the subjects.

(4) The investigator(s) who initiated the study cannot or will not continue to perform as an investigator, and a suitably qualified replacement is not available.

(5) There is evidence of fraud in the submission of data.

(6) The institutional support available for the study is no longer sufficient in quality or amount to assure the safe continuation of the study.

(7) There has been unethical conduct on the part of the investigator in the course of the study.

(8) Such other reasons as the committee may find appropriate.

In the event the committee terminates or suspends a study, it shall notify the sponsor and the Food and Drug Administration as expeditiously as possible, stating its reasons for the suspension, the duration of the suspension, the conditions, if any, under which the study will be permitted to continue, and its recommendations for the proper care of subjects.

(f) The committee shall disapprove a proposed study as being inadequate to justify commencement of testing involveing human subjects if it determines that the proposed investigational study exposes the subjects to undue risks. In assessing risks, the committee shall consider, among other things, whether:

(1) The risks to the subject are so outweighed by the sum of the benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) The rights, safety, and welfare of any such subjects will be adequately protected;

(3) A legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part; and

(4) The conduct of the activity will be reviewed at timely intervals by the institutional review committee and the sponsor.

(g) The committee shall notify the sponsor or investigator who submitted the proposal of its decision on the proposed study. Notification of approval with modifications or of disapproval shall contain a statement of the reasons for the committee's approval with modifications or disapproval.

§ 813.70 Review by institution.

Approval, including approval with modifications, by an institutional review committee may be subject to further appropriate review and approval or rejection by institutional officials, but disapproval by the committee may not be overruled by such officials.

§ 813.79 Actions where review by an institutional review committee is inadequate.

(a) The Commissioner may determine that the process of review undertaken by an institutional review committee is inadequate if he finds that it failed to meet the requirements of this subpart or Subpart G of this part.

(b) If the Commissioner finds that the process of review or monitoring undertaken by the committee is inadequate, he may:

(1) Request the committee to change its process of review or monitoring to meet the requirements of this subpart and Subpart G of this part;

(2) Require the sponsor to obtain review or monitoring by a committee whose process of review or monitoring meets such requirements;

(3) Require that the application be reviewed by the Food and Drug Administration; or

(4) Disapprove the application for an investigational device exemption or withdraw the exemption.

Subpart E—Investigator Responsibilities in Investigational Studies of Intraocular Lenses

§ 813.100 General.

The requirements of this subpart are applicable to investigators of investigational studies, including sponsor-investigators.

§ 813.101 Review of investigational study by the Food and Drug Administration.

An investigator shall not allow human subjects to participate in an investigational study until such time as an investigational device exemption has been obtained from the Food and Drug Administration pursuant to Subpart B of this part.

§ 813.103 Review of investigational study by institutional review committee.

Where the investigation of an intraocular lens is subject to an institutional review requirement under § 813.60:

(a) An investigator shall not allow human subjects to participate in an investigational study until the committee has approved the study.

(b) An investigator shall not implement a change in, or deviate from, the investigational plan until he has complied with the requirements of § 813.105.

(c) An investigator shall report to the committee and to the sponsor any serious adverse reaction occurring in the study that may reasonably be regarded as lens related and that was not previously expected in nature or severity or degree of incidence in the investigational plan.

(d) An investigator shall notify the committee within 3 months after completion or discontinuance of, or the withdrawal of the exemption for, the entire investigational study or of his portion of the study, whichever occurs first.

(e) An investigator shall provide accurate and adequate information regarding the investigational study to the committee in response to its request.

§ 813.105 Conformity to investigational plan.

(a) Whenever the investigator desires to implement a change in the investigational study that will result in a deviation from the investigational plan, he shall:

(1) Where such change may reasonably be expected to increase the risks to subjects and/or affect the scientific validity of the study under the criteria in § 813.39(b), notify the sponsor of the proposed change and obtain the sponsor's assent; submit, or assure that the sponsor submits, to the investigational review committee notice of such change and obtain the written approval of the investigational review committee; and submit, or assure that the sponsor submits, to the Food and Drug Administration a supplemental application in accordance with § 813.39(b) and obtain the approval of the Food and Drug Administration before implementing the proposed change.

(2) Where such change may not reasonably be expected to increase the risks to the subjects, and does not affect the scientific validity of the study involved, the investigator may implement the change, but shall notify the sponsor and

the institutional review committee involved. The notice of the change shall be reflected in sponsor, investigator, and institutional review committee records and in reports under § 813.153(c) and shall be reviewed by the institutional review committee in the regular course of business.

(b) When a change in or deviation from the investigational plan is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the investigator is not required to comply with the prior approval requirements of paragraph (a) of this section. The investigator shall instead notify any institutional review committee and the sponsor, who shall notify the Food and Drug Administration of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after such change or deviation is implemented as required by § 813.39(b)(2).

§ 813.107 Control over intraocular lenses.

(a) An investigator shall only permit the lens to be used for administration to, or use involving, subjects who are under his personal supervision or under the supervision of another investigator who is responsible to him and who is named by the investigator in his signed statement undertaking the obligations of an investigator under § 813.43(b). An investigator shall not supply the lens to any other person for administration to, or use involving, subjects or for any other purpose, without the prior authorization of the sponsor.

(b) An investigator shall return to the sponsor any reusable or unused supply of the lens upon direction of the sponsor, or upon suspension, termination, completion, discontinuance of, or withdrawal of the exemption for, the investigational study. The sponsor may direct or agree to alternative disposition of the lens such as destruction or use in animal or in vitro experiments.

§ 813.119 Disqualification of a clinical investigator.

(a) *Purposes.* The purpose(s) of disqualification of an investigator who has violated the regulations set forth in this part may be one or both of the following:

(1) To preclude the investigator from conducting clinical investigations subject to requirements under the act for prior submission to the Food and Drug Administration until such time as it becomes likely that he will abide by such regulations or that such violations will not recur. The determination to disqualify an investigator does not necessarily constitute a finding or recommendation that the investigator is not qualified to practice or teach medicine or should be subject to other sanctions by other persons such as licensing boards or employers.

(2) To exclude the consideration of any clinical investigations or portions thereof in support of applications for an investigational exemption or for premarket approval from the Food and Drug Administration, which investigations have been conducted in whole or in part by the investigator, until such time as it becomes likely that he will abide by such regulations or that such violations will not recur or that it can be adequately demonstrated that such violations did not occur during or affect the validity or acceptability of a particular investigation or investigations. The determination that a clinical investigation may not be considered in support of an application for exemption or premarket approval does not, however, relieve the applicant for such an application of any obligation under any other applicable regulation to submit the results of the investigation to the Food and Drug Administration.

(b) *Grounds for disqualification.* The Commissioner may disqualify an investigator upon finding all the following:

(1) The investigator violated any of the regulations set forth in this part;

(2) The violation or violations adversely affected the validity of the clinical investigation, the rights of the human subjects, and/or the safety of the subjects; and

(3) Other lesser regulatory actions, e.g., warnings or rejection of data from individual investigations, have not been or will probably not be adequate to assure that the investigator will comply with such regulations in the future.

(c) *Notice of and opportunity for a hearing on proposed disqualification.* (1) Whenever the Commissioner has information indicating that grounds exist under paragraph (b) of this section that in his opinion may justify disqualification of an investigator, he may issue to the investigator a written notice proposing that the investigator be disqualified.

(2) A hearing on the disqualification of an investigator shall be conducted in accordance with the requirements for a regulatory hearing set forth in Part 16 of this chapter.

(d) *Final order on disqualification.* (1) If the Commissioner, after the regulatory hearing or after the time for requesting a hearing expires without a request being made, upon an evaluation of the administrative record of the disqualification proceeding, makes the findings required in paragraph (b) of this section, he shall issue a final order disqualifying the investigator. Such order shall include a statement of the basis for that determination and shall prescribe any actions (set forth in paragraph (e) of this section) to be taken with regard to ongoing regulated clinical investigations being conducted by the investigator. Upon issuing a final order, the Commissioner shall notify (with a copy of the order) the investigator of the action, as well as the sponsor of each clinical investigation subject to requirements for prior submission to the Food and Drug Administration that was being conducted by the investigator and has not been terminated or discontinued or the exemption under which it is being conducted has not been terminated or withdrawn by the Food and Drug Administration.

(2) If the Commissioner, after a regulatory hearing or after the time for requesting a hearing expires without a request being made, upon an evaluation of the administrative record of the disqualification proceeding, does not make the findings required in paragraph (b) of this section, he shall issue a final order terminating the disqualification proceeding. Such order shall include a statement of the basis for that determination. Upon issuing a final order, the Commissioner shall notify the investigator and provide a copy of the order.

(e) *Actions upon disqualification.* (1) No clinical investigations subject to requirements for prior submission to the Food and Drug Administration will be authorized by the Food and Drug Administration if such investigation is to be conducted, in whole or part, by a disqualified investigator.

(2) The Commissioner, after considering the nature of each ongoing clinical investigation that is being performed by the investigator and is subject to requirements for prior submission to the Food and Drug Administration, the number of subjects involved, the risks to them from suspension of the investigation, and the need for involvement of an acceptable investigator, may direct, in the final order disqualifying an investigator under paragraph (c)(1) of this section, that one or more of the following actions be taken with regard to each such investigation:

(i) The investigation may be terminated or suspended in its entirety until the investigator is reinstated under paragraph (k) of this section or another investigator accepts responsibility for the investigation.

(ii) No new subject shall be allowed to participate, or be requested to participate, in the investigation until the investigator is reinstated under paragraph (k) of this section, or another investigator accepts responsibility for the investigation.

(iii) Any human subject who has previously been allowed to participate in the investigation and who remains under the supervision of the investigator should continue to be monitored by the investigator, but the human subject shall not receive another lens until the investigator is reinstated under paragraph (k) of this section or another investigator accepts responsibility for the investigational study.

(iv) Any human subject who has been allowed to participate in the investigation and who, except for suspension of the investigation, would have received the lens shall not receive it unless another investigator accepts responsibility for the investigation.

(f) *Disqualified investigators and applications.* Once an investigator has been disqualified, each application for an investigational exemption or for premarket approval, whether approved or not,

containing or relying upon any clinical investigation performed by the investigator may be examined to determine whether the investigation was or would be essential to a regulatory decision regarding the application. If it is determined that the investigation was or would be essential, the Food and Drug Administration shall also determine whether the investigation is acceptable, notwithstanding the disqualification of the investigator. Any investigation done by an investigator before or after disqualification may be presumed to be unacceptable, and the person relying on the investigation may be required to establish that the investigation was not affected by the circumstances that led to disqualification of the investigator, e.g., by submitting validating information. If the investigation is determined to be unacceptable, such investigation will be eliminated from consideration in support of the application, and such elimination may serve as new information justifying the termination or withdrawal of approval of the application.

(g) *Clinical investigations begun by a disqualified investigator.* No clinical investigation begun by an investigator after the date of his disqualification will be considered in support of any application for an exemption or premarket approval application unless the investigator has been reinstated under paragraph (k) of this section. The determination that a clinical investigation may not be considered in support of an application for an exemption or premarket approval application does not, however, relieve the applicant of any obligation under any other applicable regulation to submit the results of the investigation to the Food and Drug Administration.

(h) *Public disclosure of information regarding disqualification.* (1) Upon issuance of a final order disqualifying an investigator, the Commissioner may notify any other person known to have professional relations with the investigator (e.g., other Federal government departments or agencies that support investigations possibly involving the investigator, State and local medical licensing boards and societies where the investigator practices or is licensed, and administrators and institutional or peer review boards in universities, hospitals, and other institutions in which the investigator teaches or practices) that the investigator has been disqualified by the Food and Drug Administration. Such notice may be given in the discretion of the Commissioner whenever he believes that such disclosure would further the public interest or would promote compliance with the regulations set forth in this part. Such notice, if given, shall include a copy of the final order issued under paragraph (d) of this section and shall state that the disqualification constitutes a determination by the Food and Drug Administration that the investigator is not eligible to conduct clinical investigations subject to requirements for prior submission to the Food and Drug Administration and that the results of any clinical investigations conducted by the investigator may not be considered by the Food and Drug Administration in support of any application for an exemption or premarket approval application. The notice shall further state that it is given because of the professional relations between the investigator and the person notified and that the Food and Drug Administration is not advising or recommending that any action be taken by the person notified.

(2) A determination that an investigator has been disqualified and the administrative record regarding such determination are disclosable to the public under Part 20 of this chapter.

(3) Whenever the Commissioner has reason to believe that an investigator may be subject to disqualification, he may, in his discretion, so notify the sponsor of any ongoing clinical investigation in which that investigator is participating simultaneously with or subsequent to proposing disqualification of the investigator under paragraph (c) of this section, unless there are overriding safety considerations that warrant earlier notification of the sponsor.

(i) *Alternative or additional actions to disqualification.* Disqualification of an investigator under this subpart is independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. The Food and Drug Administration may, at any time, institute any appropriate judicial proceedings (civil or criminal) and any other appropriate regulatory action in addition to or in lieu of (and prior to, simultaneously with, or subsequent to) disqualification. The Food and Drug Administration may also refer pertinent matters to another Federal, State, or local law enforcement or regulatory agency for such action as that agency deems appropriate.

(j) *Suspension or termination of an investigator by a sponsor.* The sponsor of an investigational study may at any time remove an investigator from further participation in the study, whether or not the Food and Drug Administration has begun any action to disqualify the investigator. The sponsor need not use either the grounds or the procedures for disqualification set forth in this subpart. If a sponsor removes an investigator from a study, the sponsor shall notify the Food and Drug Administration in writing of the reasons for such removal as soon as possible, but in no event later than 5 days after such removal.

(k) *Reinstatement of a disqualified investigator.* An investigator who has been disqualified may be reinstated as eligible to conduct clinical investigations subject to requirements for prior submission to the Food and Drug Administration, or as acceptable to be the source of clinical investigations to be submitted to the Food and Drug Administration, if the Commissioner determines, upon an evaluation of a written submission from the investigator, that the investigator can adequately assure that he will conduct such studies in compliance with the requirements set forth in this part. A disqualified investigator who wishes to be so reinstated shall present in writing to the Commissioner reasons why he believes he should be reinstated; the investigator shall also submit a detailed description of the corrective actions he has taken or intends to take to assure that the acts or omissions that led to disqualification will not recur. The Commissioner may condition reinstatement upon the submission of an acceptable protocol for a specific clinical investigation providing for additional corrective actions and/or the submission of special undertakings by a sponsor, an institution, an institutional review committee, or another investigator to review in detail the investigator's compliance with the requirements of this part and/or the investigator's being found in compliance with the applicable regulations upon an inspection. If an investigator is reinstated, the Commissioner shall so notify the investigator and all organizations and all persons who were notified under paragraph (h) of this section of the disqualification of the investigator. A determination that an investigator has been reinstated is disclosable to the public under Part 20 of this chapter.

Subpart F—Informed Consent of Human Subjects

§ 813.120 General requirements of informed consent.

(a) The investigator shall (1) inform each human subject, or the subject's legal representative where the subject lacks legal capacity, that the intraocular lens is being investigated for safety and effectiveness, (2) provide each human subject, or his legal representative, an adequate explanation of pertinent information concerning the lens, including the information required in § 813.130, and (3) obtain and document legally effective informed consent of such subject, or his legal representative.

(b) Informed consent shall be obtained while the subject, or his legal representative, is so situated as to be able to exercise free power of choice without undue inducement or the intervention of any element of force, fraud, deceit, duress, or other forms of constraint or coercion.

(c) Informed consent shall be evidenced by a written agreement, signed by the subject or his legal representative.

§ 813.130 Elements of informed consent in agreement.

(a) The investigator shall assure that the subject or his legal representative signs an agreement that includes a complete explanation of pertinent information concerning the lens, adequate to enable him to make a decision on his willingness to participate or permit the subject to participate in the investigation, and which includes:

(1) A full and fair explanation of procedures to be followed, including an identification of any which are experimental.

(2) A full explanation of the nature, expected duration, and purpose of the administration of the lens.

(3) A description of any attendant discomforts and risks reasonably to be expected.

(4) An explanation of likely results should the procedure fail.

(5) A description of any benefits reasonably to be expected.

(6) A disclosure of any appropriate alternative procedures that might be advantageous for the subject, i.e., spectacles or contact lenses.

(7) A description of the scope of the investigation, including the number of patients involved in the investigational study.

(8) An offer to answer any inquiries concerning the investigational study.

(9) An instruction that the subject, or his legal representative, is free to decline entrance into the investigational study or to withdraw his consent and to discontinue participation in the study at any time without prejudice to the subject.

(10) A statement that the investigational lens is being used for research purposes.

(b) The agreement entered into by such person or his legal representative shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights or to release the institution or its agents, or the sponsor or the investigator from liability for negligence.

(c) An investigator shall provide to the sponsor and to any institutional review committee a sample copy of any written materials given or read to the subject or his legal representative, including the information required to be given by paragraph (a) of this section and a sample copy of any form used to document the consent of such subject or his legal representative, and the form shall have been approved by the committee.

Subpart G—Inspections, Reports, and Records

§ 813.150 Inspections.

(a) Any sponsor, institutional review committee, or investigator shall permit an authorized employee of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect and copy any records concerning the investigational study that are required to be kept by this part.

(b) Any sponsor or investigator who has authority to grant access to the facility shall also permit authorized FDA employees, at reasonable times and in a reasonable manner, to inspect any facilities where the intraocular lens is manufactured, processed, held, used, or implanted.

(c) Any investigator shall permit an authorized employee of the Food and Drug Administration to copy records that identify the names of human subjects, upon notice that the Food and Drug Administration has reason to believe that the consent of human subjects was not obtained, that reports submitted by the investigator to the sponsor or to the institutional review committee do not represent actual cases or actual results obtained, or that such reports or other required records appear to be otherwise false or misleading.

§ 813.153 Reports.

(a) *Recall reports.* Any sponsor shall notify the Food and Drug Administration of any request that investigators return, or otherwise dispose of, any supplies of the intraocular lens, or examine any patients that previously received a lens.

(b) *Adverse reaction reports.* If during the study a serious adverse reaction occurs that may reasonably be regarded as lens related and that was not previously expected in nature, severity, or degree of incidence in the investigational plan (including any incidence of hypopyon, intraocular infection, or acute corneal decompensation), the following actions shall be effected:

(1) The investigator shall investigate the reaction and submit an accurate and adequate report of the investigation to the sponsor and to the committee as soon as possible but in no event later than 5 days after learning of the reaction;

(2) The sponsor shall evaluate any adverse reaction report submitted by the investigator and any reports received from other sources and within 5 days after learning of the adverse reaction, shall report the adverse reaction and the results of his evaluation to the Food and Drug Administration, any committee(s) monitoring the study, or part of the study, in which the reaction occurred (if the investigator(s) has not already reported the reaction to the committee(s)), and all other investigators and sponsors participating in the study. In the case of hypopyon, except where the Food and Drug Administration directs otherwise, a sponsor need only report the adverse reaction and results of his evaluation to other investigators and committees participating in the study where the incidence of the reaction exceeds that which was previously anticipated in materials provided to investigators.

(c) *Progress reports.* (1) Any investigator shall submit accurate progress reports to the investigational review committee and sponsor (or his monitor) at appropriate intervals but in no event at intervals exceeding 1 year.

(2) The sponsor shall make accurate and adequate progress reports to the Food and Drug Administration at appropriate intervals not exceeding 1 year. Such reports shall include any significant findings of the study and any necessary amendments or corrections to previous reports or to the application to keep them accurate.

(d) *Suspension/termination reports.* (1) Any investigator shall report to the sponsor any suspension or termination of the investigational study by a committee within 5 days.

(2) Any institutional review committee shall immediately report any suspension or termination of a study it is reviewing and monitoring under this part to the Food and Drug Administration.

(e) *Final reports.* (1) Within 3 months after the completion or discontinuance of or withdrawal of the exemption for the investigational study (or the investigator's portion of the study), any investigator shall notify the committee and sponsor and make an accurate and adequate final report to the sponsor, and the final report shall include all reports not previously submitted to the sponsor but required by paragraphs (b), (c), or (d) of this section.

(2) Within 30 days after the completion or discontinuance of a study or the suspension or termination of a study by a committee, the sponsor shall notify the Food and Drug Administration of the action.

(3) Within 6 months after the study is completed, discontinued, suspended, or terminated or the exemption is withdrawn, the sponsor shall make a final report to the Food and Drug Administration.

§ 813.155 Records.

(a) The sponsor, any investigator, and any committee shall maintain adequate and accurate records concerning the investigational study, including copies of all correspondence, among themselves and with the Food and Drug Administration regarding the study.

(b) (1) The sponsor and any investigator shall maintain adequate and accurate records showing the shipment, receipt, or other disposition of all supplies of all lenses shipped or received.

(2) The sponsor either shall provide to each investigator an identification card that is to be provided to each subject after implantation or shall provide each subject with such a card. The card shall include the following information on each lens: lens name, manufacturer's name and address, model number, style and serial, batch, lot, or other identification number for each lens. The sponsor and each investigator shall maintain the following records: identification by name of the investigator who received each unit of the lens and who administered the device; the identification by code of the subject who received it; and identification of each unit otherwise disposed of (including identification of the person who disposed of it, the person, if any, who received it, and the purpose or reason for its disposal, e.g., because of contamination or return to the sponsor).

(c) An institutional review committee shall prepare and maintain adequate documentation of its activities regarding each investigational study, including records of information submitted to the committee by sponsors or investigators, information compiled on committee members pursuant to § 813.62, minutes of committee meetings on issues involved in the study and their resolution, committee decisions on the study, and dated deports of successive monitoring as it is performed.

(d) Contents of investigator records. An investigator shall maintain an adequate and accurate case report on each

subject, which shall include the following:

(1) All relevant observations, information, and data on the condition of the subject at the time the subject enters into the study, including information regarding any relevant previous medical history and the results of all diagnostic tests performed to determine that the subject is appropriate for entry into the study.

(2) All documentation regarding the consent of the human subject, as required under Subpart F of this part.

(3) All relevant observations and data on the condition of the subject throughout the duration of his participation in the study.

(e) The sponsor shall retain a copy of any application, report, or correspondence that he submits to the Food and Drug Administration under this part.

(f) A sponsor, investigator, and institutional review committee shall maintain the records required under this part for whichever of the following periods is shortest:

(1) A period of 2 years after the date on which the Food and Drug Administration approves the marketing of the lens for the purposes that were the subject of the study.

(2) A period of 5 years after the date on which the results of the study are submitted to the Food and Drug Administration in support of the marketing of the lens for the purpose that was the subject of the study.

(3) In other situations, e.g., where the investigational study does not result in the submission of an application for marketing the device for the purposes that were the subject of the study, a period of 2 years after the date on which the investigational study (not merely an investigator's portion of a study) is terminated, completed or discontinued, or the exemption is withdrawn.

(g) A sponsor, investigator, or committee may withdraw from the responsibility for maintaining records for the period of time required in paragraph (f) of this section by transferring custody to any other person who will accept responsibility for the records. Notice of such transfer shall be given to the Food and Drug Administration.

(h) The Food and Drug Administration may require a sponsor to submit any records concerning the investigational study, including any records required to be kept under this part.

Subpart H—Investigational Studies That Do Not Involve Human Subjects

§ 813.160 Conditions of exemption.

(a) Where an investigational device is intended for use in humans, a shipment of the device that is intended solely for tests in animals used only for laboratory research purposes, or for in vitro or mechanical tests or similar tests that do not involve use of human subjects, shall be exempt from any of the otherwise applicable provisions of the act listed in § 813.1(c) if:

(1) The labeling of the device complies with the requirements of § 813.5 (a) and (b) and bears the following additional statement:

CAUTION—DEVICE FOR INVESTIGATIONAL USE ONLY IN LABORATORY ANIMALS OR OTHER TESTS THAT DO NOT INVOLVE HUMAN SUBJECTS

(2) The person who ships the device under this subpart uses due diligence to assure that the consignee is regularly engaged in conducting tests in animals used only for laboratory research, or for in vitro or other mechanical tests or similar tests that do not involve use of human subjects and that the shipment of the investigational device will actually be used only in such tests.

(3) The person who ships the device under this subpart maintains adequate records showing the name and address of the consignee to whom the device is shipped, date, quantity, and batch or code mark of each shipment for a period of 2 years after such shipment and, upon the request of a properly authorized employee of the Department at reasonable times, makes such records available for inspection and copying or submits such records to the Food and Drug Administration.

(b) This subpart does not apply to any use of an investigational device that involves use of human subjects.

§ 813.170 Termination of exemption.

(a) The commissioner shall terminate an exemption under this subpart if he makes either of the following findings:

(1) The person shipping an investigational device under this subpart has failed to comply with any of the conditions for the exemption under this subpart.

(2) Any of the grounds for withdrawal of an investigational device exemption under § 813.35 apply.

(b) The Commissioner shall notify the sponsor of the termination of an exemption under this subpart with a full statement of the reasons for such termination and shall afford an opportunity for a regulatory hearing under Part 16 of this chapter. The person whose exemption is terminated shall recall or otherwise assure the destruction of any unused devices.

Effective date: This regulation shall become effective February 9, 1978.

(Secs. 301, 501, 502, 520, 701, 704, 801, 52 Stat. 1042–1043 as amended, 1049–1051 as amended, 1055, 90 Stat. 567, 569–571, 576–578 (21 U.S.C. 331, 351, 352, 360j, 371, 374, 381).)

Dated: November 1, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-32258 Filed 11-10-77;8:45 am]

federal register

FRIDAY, NOVEMBER 11, 1977

PART IV

CIVIL AERONAUTICS BOARD

■

MILITARY CHARTER RATES FOR FOREIGN AND OVERSEAS TRANSPORTATION

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1025; Amdt. 4]

PART 243—REPORT OF CHARTER SERVICES PERFORMED FOR THE MILITARY AIRLIFT COMMAND

Summary of Operating Statistics and Aircraft Utilization—MAC Charter Contracts

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the reporting for charter services, performed for the Department of Defense (DOD) and procured by the Military Airlift Command (CAC), so as to provide detailed data for services performed in foreign and overseas military passenger transportation with standard and stretched jet aircraft under the various optional minimum load standards.

DATES: Adopted: November 3, 1977. Effective: November 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard S. Friedman, Postal and Military Rates Section, B.F.R., B-66b, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, Phone: 202-673-5368.

SUPPLEMENTARY INFORMATION: Economic Regulations Docket No. 29387, Amendment No. 4 to Part 243. For the reasons set forth in ER-1024, being issued contemporaneously with this final rule amendment, we are amending Part 243 (14 CFR Part 243) effective November 3, 1977, as follows:

Amend § 243.8(e) to add the following proviso:

§ 243.8 Schedule D-3—Summary of operating statistics and aircraft utilization—MAC Charter Contracts.

* * * * *

(e) * * *

Provided, That in reporting the miles flown in Category B passenger charters, when such services are performed with a standard [1] or stretched [2] aircraft type at more than one of the minimum aircraft loads specified in Part 288.8 of the Economic Regulations (14 CFR Part 288.8) for that aircraft type, a footnote designation shall be placed after the total revenue aircraft miles flown, as reported for that aircraft type, on Line 10. In the Notes section at the bottom of Schedule D-3, keyed to the footnote designation placed after the reported total revenue aircraft miles flown on Line 10, a detailed summary shall be provided listing the revenue aircraft miles flown in each specified minimum load for each aircraft type.

* * * * *

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-32523 Filed 11-10-77;8:45 am]

[1] B-707-320B/C, B-707-300 series, DC-8-62 and DC-8F aircraft.

[2] DC-8-F-61, 63 aircraft.

[6320-01]

[Reg. ER-1024; Amdt. 60]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Minimum Charter Rates for Foreign and Overseas Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the minimum military charter rates for foreign and overseas air transportation services performed for the Department of Defense (DOD) and procured by the military Airlift Command (MAC). The investigation to determine the fair and reasonable rates for these services was instituted by ER-962, July 27, 1976, in response to a joint nine-carrier petition. The amended rates will increase the annual MAC charter revenues in two stages. Beginning November 3, 1977, the carriers will receive a 5.24 percent increase over current levels. Another 0.7 percent increase will become effective after 45 days unless, based on comments that the parties are authorized to file, the Board determines that the initial increase is enough.

DATES: Adopted: November 3, 1977. Effective: November 3, 1977 and December 19, 1977 for the second rate increase in Section 288.7(a)(1). Due: November 25, 1977, for authorized supplementary comments.

ADDRESSES: Persons wishing to submit supplementary comments, as authorized at page 21 of the rule, may do so through submission of twelve (12) copies of written data, views, or arguments, addressed to Docket 29387, Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. 20428, upon receipt.

FOR FURTHER INFORMATION CONTACT:

Leonard S. Friedman, Postal and Military Rates Section, B.F.R., B-66b, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, Phone 202-673-5368.

SUPPLEMENTARY INFORMATION: Economic Regulation Docket 29387, Amdt. 60 to Part 288. By EDR-321/PSDR-46, March 8, 1977, the Board gave notice that it had under consideration proposed amendments to Parts 288 and 399 of its Regulations (14 CFR Parts 288 and 399) which would revise the minimum rates for foreign and overseas air transportation of military traffic for DOD. Comments were received jointly from six carriers; [1] Capitol International Airways, Inc. (Capitol); The Flying Tiger Line Inc. (Tiger); Northwest Airlines, Inc. (Northwest); Pan American World Airways, Inc. (Pan Am); Trans International Airlines, Inc. (TIA); Trans World Airlines, Inc. (TWA); World Airways, Inc. (World); and the DOD. Reply comments were submitted by the Joint Carriers and Pan American.

The proposed rates in the Notice were predicated on carrier and DOD forecast and supporting detail for the fiscal year ending September 30, 1977, screened and adjusted in the light of (1) cost data furnished by the carriers for the fiscal year ended June 30, 1976, used as the base period; (2) other reported data; and (3) price or wage increases actually experienced subsequent to the base period or to be experienced during fiscal year 1977, as evidenced by existing contracts or similar documentation. In accordance with established practice, the Board refused to recognize any anticipatory cost increases or any price or wage increases which were not adequately supported. In addition to these routine types of cost adjustments, it was also proposed to adjust costs and realign the rate structure so that: (1) rates for standard and stretched jets would be based on commercial charter seat spacing of 180 seats for standard jets and 250 seats for stretched jets rather than the 165/219 seat configurations currently in use; (2) a standard 10 percentage point difference in the ratio of leased to owned aircraft between the industry and each individual carrier would be used as a reasonable benchmark in determining when an additional leased aircraft profit element should be applied; and (3) the current minimum rate structure for Category B passenger charters would be replaced with a two part rate structure consisting of a separate standard jet rate at a level approximately 33 percent higher than the stretched jet rate.

We have decided to adopt final minimum rates based upon the rates proposed in the Notice but with a number of significant modifications. These adjustments and modifications are incorporated into the rate and summarized in the preamble to the rule. Except for these modifications and adjustments, the tentative findings and conclusions in

[1] Airlift International, Inc., Capitol International Airways, Inc., Overseas National Airways, Inc., Seaboard World Airlines, Inc., Trans International Airlines, Inc., and World Airways, Inc.

EDR–321 are incorporated herein and made final. The major change from the proposed rule is that instead of a two part rate distinguished by type of equipment there will be a four part rate distinguished by seating density as well as by type of equipment. This has been accomplished by establishing reduced minimum rates for standard and stretched jets which employ commercial charter seating. Under this rate structure, DOD will have its choice of 4 different rates for Category B charter service ranging from a high of 3.685 cents per mile for standard jets with conventional military seating to a low of 3.016 cents per mile for commercially configured stretched jets. We believe that with these modifications the minimum rate structure adopted herein will provide fair and reasonable compensation to the carriers and at the same time provide DOD with the flexibility to tailor services to meet the needs of its diverse military transport system.

In addition to these structural modifications, various noncontractual costs will include an allowance for anticipatory cost increases. These costs consist of costs for insurance, maintenance and other nonsalaried items of expense for which increases cannot be documented. The complete details of this procedure are set forth in p. 20–21 along with the methodology used to make the required adjustments. However, in light of the fact that no allowance for anticipatory cost increases was made in the Notice and considering the likelihood that the ratepayer may object to such increases, the rates which have been adjusted to reflect these costs will not become effective until the parties have been afforded a reasonable opportunity to evaluate the change and to submit comments. To implement this procedure, the rates herein will become effective in two stages with the rates reflecting anticipatory cost increases tentatively scheduled to go into effect 45 days after the date that the rule is adopted. In the interim, rates will be established based upon the past accepted technique of using historical costs adjusted to reflect known contractual increases and an allowance for experienced cost inflation.

Rate Structure

ALLOWABLE CABIN LOADS (ACL)

The level of seating (i.e., allowable cabin loads) for military charter flights is specified in each carrier's MAC contract. At the present time, the specified level of seating for aircraft used in these services is 165 seats for standard jets and 219 for stretched jets. In response to a recommendation by the Comptroller General of the United States, the Board proposed to increase the passenger allowable cabin loads (ACL) to which the minimum MAC rates would apply, consistent with seating configurations provided for commercial standard and stretched jet charter services. It was concluded that, with this seating change, less flights would be required to transport MAC traffic and thus reduce DOD's costs but, more importantly, to conserve fuel.

The Joint Carriers, Tiger, and Pan Am, while not completely opposed to the change, believe that DOD and not the Board should mandate the seating density for MAC services. The Joint Carriers also charge that any attempt by the Board to direct the carriers to establish prescribed military seating specifications would interfere with their discretion under section 401(e) of the act to adopt schedules and change equipment, citing *Continental Airlines Inc.* v. *C.A.B.*[2] in which the Board's authority vis-a-vis that section was discussed. The DOD also opposes any increase in the minimum seating capacity for MAC flights. It argues that the circumstances of the military passengers are different from commercial traffic and the proposed seating configurations would pose discomfort problems. Alternatively, DOD suggests that the Board fix a seat mile rate based on existing capacity figures and leave the choice of accommodation (i.e., high or low density) to DOD.

Upon consideration of the comments, but not because of the legal considerations raised by the Joint Carriers,[3] the Board has determined that the minimum ACL's proposed in the Notice should not be adopted at this time. Instead, we will retain the existing configurations of 165 and 219 seats respectively, to establish a basic seat mile rate for standard and stretched jets and fix a second, but lower seat mile rate based upon the higher density configurations proposed in the Notice. We have taken action because of DOD's apparent request for flexibility to tailor seating accommodations to its needs rather than to have a set standard. Thus, over the years the carriers and the DOD have shown little inclination to depart from the minimum rates established by the Board. If the Board were to establish rates at the high density seating level proposed in the Notice, these will become the standard specified in the carriers' MAC contracts and DOD would not retain the option of using the more luxurious accommodation. Accordingly, we believe that a reasonable accommodation of DOD and carrier interests is made if high and low density seating configurations are distinguished and separate minimum rates are established for each. In that way, MAC will have the option to contract for the more efficient service when, in its opinion, the circumstances of its military transport needs so require. It will also satisfy the carriers' suggestion that any change in standard military seat specifications originate from MAC itself rather than from the Board.[4]

In view of our determination above to afford DOD the choice of optional seating configurations, we shall require the volume of operations flown in each seating configuration to be reported in the carriers' Form 243 report. However, we do not believe that extensive additional reporting for this purpose is warranted at this time. Accordingly, the regulations will be amended so that only a notation (i.e., a footnote) specifying the Category B miles flown in each configuration will be reported.

TWO-TIER RATES FOR CATEGORY B STANDARD AND STRETCHED JET SERVICES

At the present time, there is one rate for Category B charters based upon the average costs of the service. In the Notice, the Board found that due to inherent differences in the seat mile costs for the aircraft used to perform these services, the current rate structure was not consistent with sound economics in that it tended to overcompensate the stretched jet operators and undercompensate the standard jet operators in relation to the costs of the service. To rectify the problem, the Board proposed for the first time a two part rate structure for Category B passenger services consisting of separate rates for standard and stretched jets. It was our tentative conclusion that this difference in rates should be based on the costs of each type of equipment so that MAC would be afforded a clear opportunity to choose between service and price in determining its military transportation needs. Therefore, a cost-based minimum Category B rate structure consisting of a rate for stretched jets and a separate rate for standard jets at a level 32.6 percent higher than for stretched jets was proposed. The Board proposed that this new rate structure be applied only to Category B passenger services as sufficient information to develop a separate rate for standard jet cargo charters was thought not to be available at that time.

Objections to this structure were filed by the Joint Carriers, Tiger, Pan Am

[2] Continental Air Lines, Inc. v. C.A.B. 522 F. 2d 107 (D.C. Cir. 1974).

[3] Contrary to the petitioner's contentions, the *Continental* decision has no applicability to this case. It overturned as an unwarranted interference with the carriers' discretion to control schedules and equipment that portion of the Board's DPFI Phase 6A opinion which afforded a competitive price advantage to aircraft coach services configured at a prescribed level of density. Here, in contrast, no such policy is involved and the seating standards proposed by the Board in the Notice merely established the minimum cabin load for MAC pay purposes. Under these standards, the amount of revenue for the aircraft used in MAC services is calculated and the allowable ACL is used to determine the minimum number of seats each aircraft must have to achieve that revenue. This is consistent with domestic fare policy which is to base the carriers' passenger revenue requirements on a prescribed level of accommodations (Phase 6A and 6B of the Domestic Passenger Fare Investigation). The ruling in the *Continental* case did not disturb the Board's power to adopt such standards.

[4] The Joint Carriers, as well as many of the carriers submitting individual comments, contend that the increased ACL will result in increased costs for those items of expense which fluctuate in proportion to seating density. These contentions are dealt with infra, at p. 14 in connection with our general discussion of costs.

and the DOD. The thrust of the carriers' opposition to having two tiers of rates are, inter alia, (1) a one part rate based on average cost rates created a healthy balance between competitors and equipment; (2) it would deprive DOD of flexibility in equipment selection; (3) the greater productivity of the stretched jets committed to the Civil Reserve Air Fleet (CRAF) is recognized in the MAC contract award point system, and commonrating of these jets with the standard jets provides equitable compensation for the services provided; (4) a system of differentiated rates will upset the competitive balance for services by various aircraft types and drive the higher-rated aircraft operators out of the MAC program; (5) the cost differential between standard and stretched jets assumed by the Board does not exist; (6) there are commercial charter yields for stretched jet services that exceed comparable yields from standard jet commercial rates and the overall higher yields from standard jets are considerably narrower than assumed by the Board; (7) the proposal is inconsistent with the treatment of backhaul mileage which is not distinguished by type of equipment and cargo services for which a single minimum rate is proposed; and (8) the variance in commercial charter rates for the different equipment types is keyed to market factors not present in MAC services. Further, DOD claims that the proposed rate structure would bring economic pressure to bear on MAC to procure services only with the less costly stretched jets, thus affecting the valuable national defense asset represented by the standard jet aircraft.

Northwest supports the proposed dual rate structure as a reasonable means to encourage the acquisition and use of the most efficient types of aircraft, particularly from a fuel standpoint. Northwest states that it no longer uses its B–707 aircraft in commercial operations and that Pan Am is taking similar steps to phase out its B–707 commercial schedules.

Upon review of the comments, we find nothing that would persuade us to depart from our tentative determination that establishing differentiated rates is the most rational method of assuring a fair and reasonable structure of rates for Category B charter services. The current rate structure no longer represents sound regulatory policy, discourages efficiency and creates a significant disparity in earnings among the carriers which provide the MAC services. In establishing this structure, the Board essentially tinkered with the natural workings of the marketplace and upset the logical distribution of traffic and revenue between types of equipment. In the commercial charter market, differences in capacity between types of equipment are recognized by the charterer. Rates per seat-mile tend to reflect the lower unit cost of the higher-density equipment, but not exclusively since charterers have generally been willing to pay the higher unit rate for the flexibility offered by the smaller aircraft to assemble planeload charters. Thus, despite a price per seat-mile differential approaching 23 percent,[5] small standard jets effectively compete with larger stretched jets for commercial charter traffic. In the case of the military rate structure, however, the cost and value of service differentials between standard and stretched jets have not been recognized, thereby insulating the carriers against the natural forces of competition and also permitting MAC to charter standard jet equipment at prices which do not reflect its very desirable procurement flexibility. Moreover, by not distinguishing prices based on relative available capacity, the current rate structure has distributed revenues in an artificial manner resulting in inadequate returns for one class of equipment and moderate and, in the case of some carriers, excessive returns for the other.[6] In short, basing Category B rates on a single rate undifferentiated by type of equipment has resulted in a rate structure that is unrelated to the costs and values of the service.

As indicated, commercial charter rates have generally tended to recognize the unit costs of the distinctive types of equipment used in the service as well as other factors, tangible and intangible, that affect prices. Thus, the rates paid for a given type of equipment should reflect its size and service value to the charterer. It is our intention that the economic principles reflected in commercial charter rates should likewise be reflected in military rates, and that over the long run, the military rate structure should, to the extent feasible, be based on cost. Despite our preference for a cost-based rate structure, for the reasons discussed later, we have determined that this structure should not be fully implemented at this time. To achieve this objective, instead of the full-cost based rates proposed in the Notice, there will be initially a difference in the rates that is only partially reflective of the differences in costs. Whether or not the rated differential should be further increased to reflect more fully or completely the actual costs of the service shall be a consideration in future MAC rate reviews.

A cost based rate structure will to a greater degree than in the past reflect differences in the values and costs of the various types of equipment used in MAC operations and will result in more equitable distribution of revenues. Since there will no longer be a common rate in effect to protect the carriers against competition, it will also tend to tailor aircraft and services in accordance with the needs of MAC in the market rather than the needs of the carriers. Essentially, the amounts and types of equipment committed to MAC operations will, over the long run, reflect a balancing by DOD of cost versus value of service.

The stretched jet costs less per passenger mile, can accommodate 70 more passengers on the average than a standard jet and over the long run offers the most efficient type of service the military can buy. If MAC decides to shift its procurement to the more efficient stretched jets, the government will be the beneficiary of reduced fuel costs and other savings as fewer flights will be required to meet the DOD procurement needs. On the other hand, the substantial advantage of the standard jet to DOD cannot be overlooked. DOD pays a lower cost per flight,[7] can charter with groups as small as 165 passengers and can avoid the risk of paying for empty seats in situations where there are not enough passengers to fill the capacity of the larger equipment. Consequently, if MAC finds that the smaller jet has a greater utility to its system than the more efficient equipment it should, as commercial charters do, be willing to pay for the added value. In short, making Category B charter rates reasonably proportional to costs will give DOD its choice of equipment at prices which reflect the underlying costs and values of the service.

Notwithstanding our commitment to differentiated rates as the best possible method of assuming a fair and reasonable Category B rate structure, we believe the uncertainties involved in moving immediately to a fully cost based structure warrant the exercise of caution. At this time, the types and amount of equipment committed by the carriers to the MAC program are to a considerable extent geared to the present rate structure, in which as previously indicated the standard jet operators have more or less been insulated against the natural forces of competition. Specifically, the present commitment of standard jet aircraft is based on the supposition that MAC will continue to procure them. Although for the reasons discussed

[5] See Appendix J. This rate difference is based on a comparison of published tariffs for planeload affinity and single entity charters with B–707 and DC–8 aircraft, which are comparable to the MAC contract services being performed. The Joint Carriers' analysis, attempting to demonstrate little or no rate differential, included group charters on scheduled services and operations with wide-bodied aircraft which are not representative of the services or equipment types under review in this investigation.

[6] As set forth in the Notice, prior to the increased interim rates established in ER–962 for the year ended March 31, 1976, the carriers operating standard jets reported a negative return of 20.11 percent whereas the stretched jet operators earned a return of 4.36 percent. Some stretched jet operators earned more. Therefore, it is not surprising to find these operators opposed to lower stretched jet rates.

[7] What is overlooked by those carriers that view with pessimism the future of the standard jet is that even though MAC will pay less for each stretched jet seat that it buys, it will continue to pay more for each stretched jet flight. Military charter rates are established on a seat mile basis and a stretched jet has a substantially greater number of seats in it for MAC to pay for.

above, the varying transportation needs of MAC should insure a sufficient market for both types of equipment, notwithstanding a difference in the price to be charged, the record does not permit us to reach any definitive conclusions. For these reasons, we believe that our move toward a cost-based Category B rate structure should be gradual and that a small difference in the rates for both types of equipment, partially reflective of the differences underlying cost, should be established until further experience when the new rate structure is obtained. In our view, fair and reasonable results will be produced if the standard jet passenger rate is established at 7.5 percent below its average economic cost and the stretched jet passenger rate is established at 7.5 percent above its average economic cost. With this modification, the difference in rate between equipment is 10.66 percent. In our judgement, such a differential will maintain approximately the same total cost compensation to the MAC carriers (based on fiscal year 1977 fixed buy) which a single weighted average rate would provide, give a measure of financial relief to the operators of the standard jets and, by establishing the payment differential at 11.2 percent before mileage absorption, we will be moving the rate structure in the direction of a greater degree of rationality. After this rate structure has been in effect and both the carriers and DOD have had full opportunitv to evaluate the results, the Board will be in a better position to determine whether any further changes in the structure are warranted.

Finally, we agree with the carriers that it would be inconsistent to establish a passenger service without utilizing the same type of structure for cargo service. Accordingly, we shall fix differentiated minimum Category B cargo rates for standard and stretched jet operations. With respect to the level of these rates, we conclude that such levels should reflect the same approximate percentage difference as herein established for passenger service. This will insure that as in the case of passenger services, DOD and the carriers will be afforded a reasonable period in which to try out the new rate structure, at a small differential, until it is fully implemented.

Based on the respective costs and operations reported for each type of equipment, the minimum MAC Category B standard and stretched jet cargo rates being established hrin will b s a 3ett being established herein will be set at 3 percent above and below each equipment's weighted average unit cost; or approximately the same 11 percent differential found reasonable for passenger services. In determining the cost inputs used in the development of these rate levels, each carrier's unit costs were wighted to reflect its relative participation in the MAC cargo program. Ordinarily, the weights used for this purpose are based on each carrier's projected MAC contract fixed-buy dollar award by type of service. This was the method used in determining the cost for stretched jets.[8] In the case of standard jets, however, MAC's projected fiscal year 1977 contract buy did not include an award for cargo services. Therefore, in order to overcome this deficiency, and provide a reasonable standard jet cargo approximation of the costs incurred by each carrier's actual volume of cargo service performed during calendar year 1976, including an expansion buy. It is our view that the costs developed under this method will provide a reasonable approximatios of the costs incurred by standard jets in prospective cargo operations.

CATEGORY A, Z AND Y SERVICES

Our determination to adopt a four part rate structure for Category B charters will require changes in the rates for other classes of military transport regulated by the Board. These classes are Category A, Category Z and Category Y scheduled services. Category A services are individually-ticketed services provided for MAC by scheduled carriers at Part 288 rates. Its rates will change because they are based on the one-way Category B passenger charter rate which has been amended to reflect a higher level. Category Y service is scheduled service provided at roundtrip Category B charter rates as a substitute for cancelled charter flights which the carrier has contracted with MAC. Although Category Y has rates because they are tariff rates are not subject to this investigation, they are also based on rates which have changed as the result of this review. We shall therefore clarify the rule to elucidate what the new Category A, Z and Y rates should be.

CATEGORY A AND Z RATES

We turn first to the issue of the fair and reasonable minimum rates for Categories A and Z scheduled services. In the past, when this issue was raised, Category A and Z rates were set at the level of the rate established for one-way Category B charters. However, now that separate Category B rates for standard and stretched jets have been established, a new basis for the Category A and Z rates must be found. In the Notice, the Board tentatively found that these Category A rates should be set at the Category B one-way charter rates for standard jet service—the higher of the two. The alternative was to use the one-way stretched jet rate, which on a per seat basis is lower than the price of a one-way seat on individually ticketed scheduled service. Consequently, the Board saw the first choice as necessary in order to avoid a situation in which it would be cheaper for MAC to use scheduled service than to buy a standard jet charter. No party has persuasively challenged the correctness of this choice, and it shall be adopted.[9]

The comments on the proper level of Category A/Z rates reflect a wide variety of viewpoints. On the one hand, TWA supports our approach of using the one way Category B rate established for standard jets. On the other hand, Northwest requests that the one-way stretched jets rate be used. It is this carrier's position that if the Categories A and Z rates are pegged at levels which exceed the one-way stretched jet Category B rates, military traffic now using these scheduled service rates will be diverted to one-way Category B charters. Finally, Pan American urges that the current Category A/Z rate structure be retained. It would accomplish this by establishing a single weighted average rate for standard and stretched jets and equating the Category A and Z rate to this composite Category B one-way rate.

The requests that Category A and Z rates be keyed to one-way Category B stretched jet rates is denied. We shall also deny Pan American's request to use a composite Category B rate for these services. There has never been a definitive costing of Category A and Z services, and, as previously indicated, the rates for these services have generally been equated with the rate for one way Category B charter services. Consequently, the impact of these rates on scheduled cost and revenues—including particularly the extent to which regular fare paying passengers may be burdened by these rates—is not known, and under these circumstances we are not prepared to adopt a rate below the level for standard jet charters which itself has never been tested on the basis of scheduled service economics. As to the matter of diversion, the bulk of the military business that will be affected by these rates is off-channel Category Z traffic, which is not subject to diversion from charters. Although Category A traffic transported over routes that have charters is subject to diversion, the possibility that MAC will switch this traffic back to charters is slight. The underlying rationale for Category Z scheduled service rates was that military planning and scheduling required the expeditious carriage of cargo and/or personnel on scheduled service rather than charters which were often inconvenient for the military to use. Scheduled service gives DOD a higher frequency of departures for this purpose and, in addition, avoids delay in the movement of military units that do not contain enough personnel to fill up a plane. This service provides MAC with something more than it can get on a charter and under these circumstances there is no reason to believe that the

[8] Our overall discussion of costs at p. 19 infra, sets forth the details of this methodology with its underlying rationale.

[9] In addition, the standard jet Category B cargo rate mentioned in the previous section shall be used as the rate for Category A scheduled cargo service.

government will not, as it has in the past,[10] continue to pay for the added value.

CATEGORY Y

With respect to Category Y service, the rates for these services have been based on the composite minimum roundtrip Category B passenger charter rate. Inasmuch as Category Y service is a service of the scheduled carriers provided as a substitute for cancelled standard jet charters, it should logically be priced at the applicable standard jet charter rate. Accordingly, we conclude that Category Y services should be paid for at the roundtrip minimum Category B passenger rate established herein for standard jets. We shall expect the carriers to file new Category Y tariffs effective 30 days after the date of this rate amendment, implementing these determinations.

In reaching this conclusion, we do not in any way purport to prejudge the Category Y Fares Investigation (Docket 28096) in which the legitimacy of Category Y fares is being investigated. This case is currently pending before the Board on review, and we shall decide therein whether the carriers should be permitted to have such fares. The purpose of the above discussion is to insure that the levels of the rates currently being charged for these services are changed to reflect the rate structure changes we have made herein.

CATEGORY A CARGO PALLET STANDARD WEIGHTS

At present, the payments by DOD for Category A cargo services are based on the assumption that each cargo pallet tendered weighs a standard 3,750 pounds. Thus, there is a flat charge per pallet equal to the product of the Category A cargo rate times 3,750 pounds. The standard weight is intended to reflect the amount of MAC cargo that can be accommodated in a representative Category A pallet and is not distinguishable by aircraft type. Pan Am contends that the 3,750 pound standard does not produce a reasonable payment for its B–747 pallets which, with efficient stacking, are carrying 4,980 pounds of Category A cargo. The carrier urges that the standard weight be increased to 4,980 pounds for its B–747 Category A cargo services, or, in the alternative, that a standard of 4,500 pounds be fixed for all Category A cargo services without regard to the equipment.

We believe that Pan American has submitted adequate justification for an increase in the B–747 Category A pallet weight from 3,750 to 4,980 pounds. However, no matters have been raised to indicate that the current standard weight of 3,750 for all other types of equipment does not continue to provide reasonable compensation for Category A cargo services. Accordingly, we shall amend the rule to provide a standard Category A cargo pallet weight of 4,980 pounds on B–747 aircraft and retain the 3,750 pound standard pallet weight for Category A cargo services performed by all other aircraft types.

WIDE BODIED EQUIPMENT

The minimum rates for Category B services performed with wide bodied jet equipment will be the same as established for stretched jet services. For passenger services, this will be the stretched jet rate at the 250 seat ACL since it reflects a better approximation of wide bodied aircraft capacity. While we recognize that the seat-mile cost is lower for wide bodied equipment, MAC's use of wide bodied equipment has traditionally amounted to a very small percentage of the total MAC Category B charter buy. Consequently, in the past, the Board has excluded wide bodied costs as a component of its cost calculations and used the stretched jet rate as a reasonable rating classification. Although the wide bodied jets have now come into their own in commercial markets, there continues to be relatively little use of these aircraft in MAC markets. Considering this de minimis use and the fact that no carrier has submitted a forecast of wide-bodied operations, we are of the opinion that consideration of a separate wide-bodied rate should await a future proceeding. In the interim, the rates for wide bodied equipment shall continue to reflect the rate for the largest narrow bodied jet.

COSTS OF SERVICE

As previously indicated, the rates proposed in EDR–321 were based on adjusted forecast operating costs for the fiscal year ending September 30, 1977, as compiled from data submitted by the carriers and DOD. As expected, DOD contends that the cost projections are too high while the carriers argue that they are not high enough and each has proposed various adjustments. Based upon our review of the comments, we believe that certain adjustments should be made and that other adjustments should be rejected. The next succeeding section of this rule lists the areas of controversy, summarizes the comments of the parties and sets forth our final determinations on the matters raised in the comments.

DIRECT MAINTENANCE

We have adjusted as unreasonably high for ratemaking purposes World's direct maintenance costs for DC–8 aircraft. As DOD points out, World's costs exceed the next highest projection by 14 percent and reflect a level which is 77 percent above the average for these aircraft. We will adjust World's costs to those of ONA, the next highest carrier.

FUEL COSTS

Fuel costs have been updated to reflect each carrier's reported average fuel prices for MAC operations performed during the month of April 1977. With this adjustment, the rates will reflect fuel cost experience for the latest available period. In view of the continued tendency of fuel costs to fluctuate more widely than other costs, we shall continue to leave this component of the rates open and subject to adjustment, as necessary, on an ad hoc basis between rate reviews. This procedure has been useful in keeping the MAC rates sensitive to changes in underlying costs and its sufficiency for this purpose has not been challenged.

CREW SEVERANCE COSTS

DOD contends that the MAC rates should not be burdened with flight crew severance and furlough payments which it attributed to commercial service cutbacks. Pan Am, in response, argues that the volume of MAC services has also declined significantly, that this was a contributing factor to the overall retrenchment of in-flight personnel, and, therefore, it is proper that the MAC rates include the share of these costs that are allocable to the MAC operations. The facts support Pan Am's argument, and therefore a proportionate allocation of crew severance and furlough costs to MAC operations will continue to be made.

PASSENGER FOOD EXPENSE

In 1976, MAC revised its passenger meal specifications so that food services would no longer be required which exceeded generally accepted commercial standards. To reflect that change, we accepted the result of MAC's food cost survey which showed that, with few exceptions, the carriers' unit passenger food costs would decrease by 25 percent over the recognized level incorporated into the last rate review. Tiger, Northwest, Pan American, TIA and World argue that their decreased food expense be used instead of MAC's projections. It is their position that by its very nature MAC's study did not purport to represent the decreased food expenses incurred by each carrier and therefore, that it should not be used as a substitute for costs based on individual experience. The DOD has not objected to this request.

We have modified the proposed rates to incorporate the estimated passenger food expenses submitted by Tiger, Northwest, Pan American, TIA and World. The information response data does not disclose that the other four carriers included a revised estimate in submitting forecast costs for this item. Accordingly, the passenger food costs attributed to these carriers will continue to reflect the 25 percent reduction estimated by DOD.

COSTS ASSOCIATED WITH CHANGED ACL'S

As previously indicated, we have determined to permit reduced minimum rates for narrow bodied aircraft which provide commercial charter seating. The Joint Carriers, Tiger, TIA and World contend that these rates are too low because they do not reflect the increased costs associated with the higher density seating. They contend that increased costs for food, flight attendants and fuel will be incurred as the result of placing a larger number of passengers on each MAC charter and that other additional

[10] Consistent wtih our decision in fixing the Category A minimum passenger rate, we will establish the Category A minimum cargo rate at the one-way Category B weighted average unit rate determination for standard jet cargo services.

costs will be incurred due to the lower utilization of aircraft.

We have adjusted the rates to include the increased costs claimed by the carriers for food, flight attendants and fuel. Appendices A, B and C [11] show these adjustments along with supporting detail. On the other hand, we are not persuaded that the requested adjustment for the lower utilization is warranted. The carriers' claim for this adjustment is based on the assumption that the amount saved when commercial charter seating is employed does not include investment, depreciation and other fixed costs of operations; in other words that the same number of aircraft would be assigned to and charged to MAC operations, notwithstanding the lower level of operations due to the use of an increased number of seats. However, this is not a realistic assumption. If DOD decides that it is economically advantageous to it to switch to the more efficient seating, it will require not only fewer flights but ultimately fewer aircraft to meet its needs, as a proportionately smaller amount of flight equipment will be required to handle the traffic. This will be manifested by a proportionate reduction in the overall revenue hours and aircraft days attributed to MAC services. Moreover, considering the established MAC ratemaking policy to recognize only such costs and investments as are required to perform the MAC services, any future rate determinations would have to exclude the investment, depreciation and other fixed costs, associated with this reduced level of operations (as well as the other savings in direct costs) in order to insure that MAC is not burdened with the cost of services it does not use. The carriers' argument does not reflect these considerations and, therefore, it is not well taken.

RETURN ON INVESTMENT AND TAXES

The proposed rates were based upon a return on recognized investment of 10.5 percent and an added risk return of 4.5 percent on leased aircraft for those carriers with a leased to total aircraft ratio substantially in excess of the average for the domestic trunks and local service carriers. This is consistent with established MAC rate policy that the return element for MAC should be 1.5 percentage points below that found reasonable for domestic scheduled air services. The Joint Carriers urge that the return be increased to the 12 percent return established for domestic and passenger services in Phase 8 of the Domestic Passenger Fare Investigation. The carriers, while not challenging the basic assumption that MAC services involve lesser risks, argue that with major fleet reequipment programs pending, the need to increase the MAC rate of return to a level commensurate with that for commercial operations has become acute. They argue that without such a return, the carriers will be unable to attract the capital needed to undertake these reequipment and modernization requirements they now face. The carriers argue further that where MAC operations once were substantial enough to warrant separate scrutiny by investors, they are now viewed, along with other airline services, in the context of the totality of the carrier's operations. The Joint Carriers' pleading contains a letter from a major airline lender (White, Weld & Co.) which purports to support the conclusion. From this they conclude that in order not to diminish the carriers' overall rate of return at a time when a healthy return on investment is critical, the MAC rate of return should be increased to the level found reasonable by the Board for overall carrier operations.

The 10.5 percent rate of return standard used in previous MAC rate proceedings will be retained. That standard is predicated on the assumption that there are significant differences in risks between commercial services and contract services performed for the DOD, and that these reduced risks enter into the cost of capital. If at one time it may have been that there was significant competition among carriers to supply MAC needs, that is certainly no longer the case. There is neither price nor service competition among the carriers. Rather, the amount of business that each carrier obtains depends on the award of points based on criteria other than price or service. ER–786 defined the other features that reduce the risk for MAC operations as the guarantee of a minimum gross volume of business for an entire year; the presence of a minimum rate which generally remains in effect for at least one year; and the assurance that each MAC flight will carry a specified minimum volume of military business.[12] The Board considered these features and determined that a sufficient level of earnings would be provided if the rate of return allowed for military contract operations was 10.5 percent. Profit levels allowed under this standard have been generally adequate for the carriers to attract capital and maintain adequate service and, under these circumstances, we are not persuaded that an increased rate of return for MAC operations is warranted at this time.

TAXES

The proposed rates included a provision for federal income taxes, with no provision for state taxes. TIA argues that inasmuch as the Board always asks for information on state income taxes, it should either make an allowance for these taxes or explain why no such allowance is made.

We will adhere to our established tax policy, which has been fully explained in MAC rate reviews, of providing a constructive allowance for taxes computed at the 48 percent federal rate. A provision for state income taxes will not be adopted. The provision for federal income taxes is a constructive allowance based on the 48 percent federal rate. The issue of state income taxes was raised in the Domestic Passenger Fare Investigation (Docket 21866–7) but a provision for state taxes was not allowed because of the Board's finding that there was "no reason to believe that the constructive allowance for income taxes computed at the federal statutory rates does not provide adequate recognition of state and federal income taxes actually to be paid." [13] Similarly, there has been no showing here that the allowance for federal income taxes is not sufficient to cover the carrier's liability for taxes paid at both the state and federal level. The request in this review for state tax data was inadvertent and it will be excluded in future reviews.

LEASED AIRCRAFT AND OPERATING MARGIN

As set forth in the Notice, leased aircraft costs were recognized in accordance with the policy in Part 399.43 of the Board's Policy Statements. This policy basically provides that except in unusual circumstances not specifically defined therein, leased aircraft costs will be recouped as part of the rental expense.[14] In such circumstances, a profit element of 6 percentage points below the standard rate of return may be added to reflect the additional risks of operation with leased aircraft that are not compensated for by the return on investment. In this proceeding, the Board determined that the exception to its policy should be applied in instances where the ratio of the carriers' leased aircraft to its total fleet was 10 percentage points above the average for the domestic trunkline carriers and local service carriers. In such instances, therefore, an additional rate of return of 4.5 percent (the 10.5 percent standard return reduced by 6 percentage points) was applied to the valuation of leased aircraft in excess of the industry average. In the case of Airlift and ONA, however, the Board determined that even with the additional risk element for leased aircraft, the total amount of return dollars computed for the carriers would not provide a reasonable margin of profit. In order to provide such a margin, a minimum tax and return markup (return as a percentage of the operating expenses) of 20 cents per plane mile was established. The costs of all other leased aircraft were included as part of the rental expense and no other adjustments for return and taxes were made.

[11] Appendices A through R are filed with the Office of the Federal Register as part of the original document.

[12] ER–786, p. 22.

[13] Order 71–4–59/60 opinion at p. 33.

[14] The regulation provides that where such unusual circumstances are found to exist, a profit element may be added where the investment represented by a carrier's leased aircraft in relation to its total aircraft is significantly in excess of the aggregate for the industry. For the purpose of this regulation, the industry has been defined as domestic trunkline carriers and local service carriers.

DOD, although it does not object to an additional profit element for leased aircraft, does object to the method by which this element was applied. As previously indicated, the regulation provides that in unusual circumstances a profit element may be added where the ratio of the carrier's leased to owned aircraft exceeds the industry average. It is DOD's position that the computation of such elements should be based on the ratio of leased to total aircraft of the participating MAC carriers (including supplementals) and not the domestic trunk and local service carriers, many of which have no international operations. Also, DOD contends that due to the adjustments made to provide Airlift and ONA with the Board's minimum operating margin, the projected leased aircraft costs of these carriers will exceed the amount of costs that would be recognized if the aircraft were owned. It points out that this result is in conflict with established Board policy in this area. Accordingly, DOD requests that Airlift's and ONA's leased aircraft be recosted to exclude the costs which exceed those which would have been allowed if the aircraft were owned.

Neither position of DOD will be adopted. With respect to the groupings used to compute the carriers' need for a profit element, the last rate review thoroughly considered the matter and determined that the aggregate of the domestic trunks and local service carriers provided the correct basis for comparison. In substance, the use of a profit element for leased aircraft is designed to compensate for the risks of operating these aircraft that were not taken into account in developing the standard rate of return on investment established in Phase 8 of the Domestic Passenger Fare Investigation.[15] Since that proceeding involved only the operations of domestic air carriers (and the domestic services of international route carriers), it is logical that these carriers be used in determining the carrier's need for a profit element. As for the increased return elements provided to Airlift and ONA, DOD's contention that the Board's leased aircraft policy imposes a bar to allowing them misses the point. The point is that even if these elements result in a greater return on leased aircraft than if they were owned, the carriers should not be denied the opportunity to earn a reasonable minimum profit on their investment, defined in a prior proceeding as 20¢ per plane mile.[16] Since the amount of return allowed fluctuates with the total amount of investment committed to MAC operations, not allowing a minimum profit on a carrier's leased equipment effectively penalizes the rest of the industry. In our view, therefore, whether or not the aircraft to which this return is applied are leased or owned is immaterial.

COST WEIGHTINGS

In order to develop the rates of the Category B passenger and cargo services, the cost pools developed for each type of equipment used in these services were weighted to reflect each carrier's participation in the MAC program. To determine that participation, separate weightings were developed for passenger and cargo operations. The Joint Carriers and Pan American oppose this methodology as inconsistent with the weighting methodology used in prior MAC rate proceedings. It is their position that past practice requires that the determination of each carrier's share of MAC business be computed by weighting such carriers passenger and cargo costs (respectively) by its total fixed buy dollar award for the current fiscal year, and that the Board should have used this method of weighting in determining the rates. It is also contended by the carriers that this method is more consistent with the contract award system in which DOD retains full discretion to determine what portion of the award will be passenger charter and what portion shall be cargo carriage.

We have determined that, except for the adjustment discussed previously to incorporate an increment for standard jet cargo costs,[17] the present weighting methodology is reasonable and should be retained. Our reasons for taking this action are two in number. First, the present weighting methodology is entirely consistent with the technique used in the last rate review and the carriers' contentions to the contrary are erroneous. Second, rates developed under the carriers' proposed total contract weighting approach would not reflect each carrier's particular mix of passenger and cargo business, which is obviously essential if such rates are to reflect the underlying volume of traffic and equipment associated with each type of service. Moreover, weighting costs based on each carriers' distinctive mix of military traffic is clearly warranted in view of our determination that sound regulatory policy requires a cost-related rate structure which recognizes the costs for distinctive types of equipment.

COST FORECASTS

The rates proposed in the Board's Notice were based on cost experience and cost forecasts adjusted to reflect known cost increases plus a 10.5 percent return on recognized investment. Since that time, wage and price increases occasioned by general inflationary trends within the economy have resulted in cost levels above those incorporated into the proposed rates. In accordance with past practice, the Board has recognized wage and price increases as evidenced by signed contracts while refusing to incorporate other items of a more tenuous and unsubstantiated nature.[18] The costs allowed represent an existing obligation of the carrier to pay a sum certain in the future, have a sound basis in fact and are therefore adequately justified.

The absence of cost projections on about 20 percent of total costs despite persistent inflationary trends raises the question, although not specifically addressed in the Notice, of whether forecasting these expenses based upon past experienced costs will result in rates that are reasonably representative of current conditions. The traditional approach by the Board to questions of this kind has been to disallow anticipatory cost increases, and rely on an annualization of experienced cost trends to approximate cost growth incurred since the base period. The continued attrition in the carriers' realized return and the Board's recent decision allowing passenger fares to reflect anticipatory costs raise the question as to whether this existing practice is not now unduly conservative. In Order 77-9-94,[19] the Board broke with precedent and determined that sound ratemaking in a period of inflation required that passenger fares incorporate a three months allowance for anticipatory costs. Without deciding at this point that anticipatory cost allowances will become a standard feature in each and every rate case we are asked to decide, we tentatively find that we should adopt the passenger fare methodology to MAC rates. In this context, the latest composite ROI of 6.45[20] percent, while not totally demonstrative of the need to recognize anticipatory costs, at the very least suggests that DOD has been protected against the payment of substantial cost increases incurred during the period since the rates were last reviewed and that some additional adjustment to the rates is necessary if the carriers are to achieve reasonable earnings in the period after the rates are closed.

In our view, a six month allowance for anticipatory costs will eliminate the risk of underestimating costs, keep the rates from being virtually out-of-date costwise by the time the rate review is completed and insure that the carriers receive and DOD pays rates which reflect the average costs of the service for at least one year. It is also consistent with the degree of projection underlying the passenger fare allowance in Order 77-9-94 in that ratemaking costs will reflect levels projected to exist at the midpoint of the period during which the rates are expected to remain in effect—in the case of passenger fares a six months lifespan and in the case of MAC rates a twelve months

[15] PS-44, April 8, 1971.

[16] ER-959, July 15, 1976. This figure represents the markup which the Board used for Saturn's L-188 aircraft in the last domestic rate review and has not been challenged.

[17] As previously indicated at p. 9, MAC's 1977 fixed buy did not include a standard jet cargo award so the weighting for this aircraft was based on each carrier's actual 1976 experience.

[18] We have, for example, not accepted TIA's claimed increased servicing expenses on contracts with World for lack of adequate documentation.

[19] September 22, 1977.

[20] Allowing for the reduced return element for constructive leased equipment, the allowable rate-of-return on investment for MAC services is 9.79 percent for the same annual period ended June 30, 1977.

lifespan. Even though the rates will be somewhat above cost during the initial six month period of the rates, there should be no cause for alarm, since continuing inflation during the last six months should protect the DOD against payment of any overages.

We have retained the annualization methodology of projecting cost escalation used in the last domestic MAC rate review, except that instead of adjusting base period costs to reflect costs as at the rate effective date, such costs will be projected six months into the forecast year. In addition, we have determined that, for present purposes, the cost escalation factor should be based on historical trends in costs for the scheduled international route carriers. In our view the aggregate costs for the MAC carriers, which are heavily influenced by the results of the supplemental carriers, are not sufficiently representative to provide a reliable measure of the cost inflation incurred in MAC services. On this basis, a projected cost level as at July 1, 1977, was developed. This level was then further adjusted to reflect cost levels to be incurred within the following six months.

Since the Notice did not address the issue of an adjustment for future increases we have determined to permit the filing of additional comments before any rates based on such costs are permitted to go into effect. In order to implement this determination, the two separate sets of rates shown in the amended Part 288 have been computed. The first set of rates reflects experienced cost inflation to July 1, 1977, plus contractual increases in accordance with past methodologies. These rates will become effective as final MAC rates for a period of 45 days beginning on November 3, 1977. The second set of rates includes contractual increases plus a six month allowance for other anticipated costs. The carriers and the DOD shall be permitted to file comments on these rates limited to the issue of anticipatory costs, such comments to be filed with the Board's Docket Section by November 25, 1977. It is proposed that these rates will supersede the previously effective rates as final rates for prospective application.

Category B Minimum Rates

Set forth below are the existing minimum passenger and cargo rates for the standard and stretched jet aircraft and the revised fair and reasonable minimum rates adopted with this amendment to Part 288 with the percentage differences between the current and the adopted rates.[21]

	Current rates (in cents)	Adopted rates (in cents)	Percent increase or (decrease)
Passenger [1] per passenger-mile:			
Standard jets:			
Roundtrip	3.306	3.685	11.46
One-way	5.941	6.951	17.00
Stretched jets:			
Roundtrip	3.306	3.330	0.73
One-way	5.941	6.281	5.72
Cargo per ton-mile:			
Standard jets:			
Roundtrip	12.729	14.632	14.95
One-way	19.157	28.825	50.47
Stretched jets:			
Roundtrip	12.729	13.184	3.57
One-way	19.157	25.893	35.16

[1] Based on ACL for standard jets at 165 seats and stretched jets at 219 seats.

The adopted rates listed above include application of the mileage absorption factor to convert the adjusted cost-based rates, discussed in the previous sections, from actual flown mileage units to unit rates related to the mileages as are paid for by the DOD. (See Appendix M.) The absorption factors are based on MAC flown and pay miles data supplied by the carriers and are listed in Appendix L.

The one-way rates are derived by the same method employed for previous MAC rates determinations. As set out in Appendix N, the commercial backhaul factors are 2.57 and 2.62 percent for passenger and cargo one-way trips, respectively, based on the reported MAC results for the calendar year 1976. The cost savings inherent in the operation of return-empty backhauls are reflected at eight percent for the elimination of passenger service cost and one percent for savings attributed to the more direct return mileage, fewer landings, loading and unloading, and planning costs.[22] (See Appendix O for the overall computation.)

The convertible and mixed service rates are also computed in the same manner as for past MAC rates. The computation for the convertible cargo rates is shown in Appendix P.

As discussed in the Notice, the minimum rates for MAC services performed with small turbine aircraft are not being amended. Moreover, for this purpose, the rates specified in the amended rule will include the currently effective fuel surcharge.

In view of the carriers' need for prompt rate relief, we find good cause

[21] Based on the fiscal year 1977 fixed-buy contracts, the adopted rates result in an overall increase of 5.24 percent in MAC revenues. See Appendix Q.

[22] An additional one-half and one percent savings, respectively, for standard and stretched jet passenger trips are included for the commercial ACL densities (180 and 250 passengers) to take into account the increase in the fuel burn at the higher passenger loads.

exists to make the amendments herein effective on less than thirty (30) days notice.

In consideration of the above, the Board is amending Part 288 of the Economic Regulations (14 CFR Part 288), effective as follows:

1. Amend paragraphs (a) and (d) of § 288.7 the paragraphs as amended to read as follows:

§ 288.7 Reasonable level of compensation.

It shall be a condition on the exemption granted by this part that the level of compensation for transportation shall not be uneconomically low. In the absence of specific Board approval, the compensation for such services shall not be less than the compensation specified in paragraphs (a)–(f) below:

(a) For charter services in foreign and overseas transportation, and in transportation between the 48 contiguous States, on the one hand, and Alaska or Hawaii, on the other hand, other than specified in paragraph (c) of this section, the following minimum rates are adopted:

(1) Performed with turbine-powered aircraft:

Amended Rates Effective November 3, 1977

Aircraft Type	Passenger rates, per passenger-mile		Cargo, per ton-mile		Convertible Rates 1/		Mixed passenger-cargo rates, per revenue plane-mile 1/ 2/	
	Round Trip	One Way	Round Trip	One Way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round Trip	One Way
Regular Turbojets: (165 ACL)	3.685¢	6.951¢	14.632¢	28.825¢	3.685¢	16.848¢		
Passengers - Pallets								
165 and 0							$6.080	$11.469
117 and 3							5.865	11.193
105 and 4							5.811	11.124
93 and 5							5.758	11.055
81 and 6							5.704	10.986
63 and 7							5.623	10.883
51 and 8							5.563	10.806
0 and 12							5.341	10.521
DC-8-61/63F: (219 ACL)	3.330	6.281	13.184	25.893	3.330	15.212		
Passengers - Pallets								
219 and 0							7.293	13.755
159 and 5							6.920	13.179
65 and 12							6.336	12.276
47 and 13							6.225	12.103
0 and 18							5.933	11.651
B-727 Pacific Interisland 3/	4.457	8.512	22.772	45.316	4.457	27.326		
Passengers - Pallets								
105 and 0							4.679	8.938
61 and 2							4.437	8.611
50 and 3							4.376	8.529
46 and 4							4.354	8.499
0 and 7							4.099	8.157
B-727 All Other: 3/	5.027	9.602	25.463	50.671	5.027	30.554		
Passengers - Pallets								
105 and 0							5.279	10.082
61 and 2							4.987	9.680
50 and 3							4.914	9.579
46 and 4							4.889	9.542
0 and 7							4.583	9.120

Page 1 of 2

See footnotes at end of table.

Amended Rates Effective November 3, 1977

Aircraft Type	Passenger rates, per passenger-mile		Cargo, per ton-mile		Convertible Rates 1/		Mixed passenger-cargo rates, per revenue plane-mile 1/ 2/	
	Round Trip	One Way	Round Trip	One Way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round Trip	One Way
Regular Turbojets: (180 ACL)	3.414¢	6.423¢	14.632	28.825¢	3.414¢	16.848¢		
Passengers - Pallets								
165 and 0							$6.144	$11.562
117 and 3							5.911	11.259
105 and 4							5.852	11.183
93 and 5							5.793	11.108
81 and 6							5.735	11.032
63 and 7							5.648	10.918
51 and 8							5.583	10.834
0 and 12							5.341	10.521
DC-8-61/63F: (250 ACL)	3.016 4/	5.660 4/	13.184 4/	25.893 4/	3.016 4/	15.212 4/		
Passengers - Pallets								
219 and 0							7.539	14.150
159 and 5							7.099	13.466
65 and 12							6.410	12.393
47 and 13							6.278	12.188
0 and 18							5.933	11.651

1/ Conversion rates shall apply only for flights that are converted a minimum of 10 days in advance of performance of the service. Conversion charges for convertible flights or variable mixed flights shall be at the rate of $75 per seat changed on each segment. If a flight is converted with less than 10 days' notice, the one-way rates shall apply to each leg of the converted round trip.
2/ For the Coral Sea variable mixed operation the conversion charge shall be $207 per cargo pallet in lieu of a seat charge.
3/ Shall also apply to the L-382/L-100-10/20/30 and CV-990 aircraft.
4/ Also applies to wide bodied (B-747, DC-10, and L-1011) equipment.

Amended Rates Effective December 19, 1977

Aircraft Type	Passenger rates, per passenger-mile		Cargo, per ton-mile		Convertible Rates 1/		Mixed passenger-cargo rates, per revenue plane-mile 1/ 2/	
	Round Trip	One Way	Round Trip	One Way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round Trip	One Way
Regular Turbojets: (165 ACL)	3.709¢	6.998¢	14.710¢	28.892¢	3.709¢	16.937¢		
Passengers - Pallets								
165 and 0							$6.120	$11.547
117 and 3							5.902	11.255
105 and 4							5.847	11.213
93 and 5							5.792	11.110
81 and 6							5.738	11.037
63 and 7							5.656	10.928
51 and 8							5.595	10.847
0 and 12							5.369	10.545
DC-8-61/63F: (219 ACL)	3.354 4/	6.327 4/	13.249 4/	25.022 4/	3.354 4/	15.287 4/		
Passengers - Pallets								
219 and 0							7.345	13.856
159 and 5							6.949	13.234
65 and 12							6.328	12.260
47 and 13							6.209	12.073
0 and 18							5.899	11.586
B-727 Pacific Interisland 3/	4.457	8.512	22.772	45.316	4.457	27.326		
Passengers - Pallets								
105 and 0							4.679	8.938
61 and 2							4.437	8.611
50 and 3							4.376	8.529
46 and 4							4.354	8.499
0 and 7							4.099	8.157
B-727 All Other: 3/	5.027	9.602	25.463	50.671	5.027	30.554		
Passengers - Pallets								
105 and 0							5.279	10.082
61 and 2							4.987	9.680
50 and 3							4.914	9.579
46 and 4							4.889	9.542
0 and 7							4.583	9.120

See footnotes at end of table.

Amended Rates Effective December 19, 1977

Aircraft Type	Passenger rates, per passenger-mile		Cargo, per ton-mile		Convertible Rates 1/		Mixed passenger-cargo rates, per revenue plane-mile 1/ 2/	
	Round Trip	One Way	Round Trip	One Way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round Trip	One Way
Regular Turbojets: (180 ACL)	3.437¢	6.467¢	14.710¢	28.892¢	3.437¢	16.937¢		
Passengers - Pallets								
180 and 0							$6.186	$11.641
128 and 3							5.948	11.322
115 and 4							5.889	11.242
101 and 5							5.829	11.163
88 and 6							5.770	11.083
69 and 7							5.681	10.964
54 and 8							5.614	10.875
0 and 12							5.369	10.545
DC-8-61/63F: (250 ACL)	3.038	5.701	13.249	26.022	3.038	15.287		
Passengers - Pallets								
250 and 0							7.595	14.253
182 and 5							7.130	13.522
74 and 12							6.402	12.377
54 and 13							6.263	12.158
0 and 18							5.899	11.586

1/ Conversion rates shall apply only for flights that are converted a minimum of 10 days in advance of performance of the service. Conversion charges for convertible flights or variable mixed flights shall be at the rate of $75 per seat changed on each segment. If a flight is converted with less than 10 days' notice, the one-way rates shall apply to each leg of the converted round trip.
2/ For the Coral Sea variable mixed operation the conversion charge shall be $207 per cargo pallet in lieu of a seat charge.
3/ Shall also apply to the L-382/L-100-1-/20/30 and CV-990 aircraft.
4/ Also applies to wide-bodied (B-747, DC-10, and L-1011) equipment.

Provided, That subject to the provision of § 288.8, the minimum rates set forth above shall not be applicable to passengers or cargo carried on a particular trip in excess of the amount that the contract calls for DOD to supply and the carrier to provide space:

And provided further, That if a carrier performs a one-way charter flight carrying nonmilitary traffic for a nonmilitary user, the carrier may charter the return flight of that aircraft to DOD at a published one-way charter tariff rate that is in fact available to the general public for equivalent services.

* * * * *

(d) For Category A transportation services, performed on and after—

(1) Passengers, 6.951 cents per passenger-mile.

(2) Cargo, 28.825 cents per ton-mile.

(3) The foregoing rates per passenger-mile and per ton-mile shall be applied to the shortest mileage between the commercial air carrier points as set forth in the latest IATA Mileage Manual used to compute point-to-point passenger fares and cargo rates per pound.

(4) For cargo services to/from military bases outside the United States, the rates per pound shall not be less than the rate to/from the nearest commercial point, computed in accordance with subparagraphs (2) and (3) of this paragraph.

(5) The cargo charges determined in accordance with subparagraphs (2) through (4) of this paragraph shall be applied on the basis of a standard weight per pallet of 4,980 pounds for B–747 aircraft and 3,750 pounds for all other aircraft types.

* * * * *

2. Amend § 288.8 to read as follows:

§ 228.8 Minimum aircraft loads.

The minimum charges established in § 288.7(a) shall be deemed economic only when the resulting revenues are at least the equivalent of such charges applied to the following minimum loads:

Aircraft type	Number of passengers, all-passenger and convertible flights	All-cargo flights	Convertible flights
B-747	375	90	90
DC-10-40	280	----	----
DC-10-30	303	75	75
L-1011	272	----	----
B-707-320B/C	165/180	36.5	31.7
B-707-300 series	165/180	----	----
B-707-138B	137	----	----
B-707-100 series (other)	149	----	----
DC-8F-61, 63	219/250	45	39.0
DC-8-62	165/180	39.2	----
DC-8F	165/180	36.5	31.7
DC-8 (50 series)	165/180	----	----
DC-8 (other)	165/180	----	----
DC-9-30	95	----	----
B-727	105	18	15.0
CV-990	105	----	----
L-382	----	20.7	----
L-100-10/20/30	----	20.7	----

Provided, That for the purpose of this section, compensation equal to the minimum rate applied to the load that actually can be accommodated shall be considered economic whenever a carrier is prevented from accommodating a load equal to the minimum specified above, for reasons other than adverse weather, off-loading by DOD, or the bulk of the cargo supplied by DOD, but in no event less than 90 percent of the above minimum loads. For purpose of this proviso, failure by the carrier to accommodate more than 12 loaded pallets on the B–707–320B/C and DC–8F aircraft, and 16 loaded pallets on the DC–8–61/63 aircraft, irrespective of the total weight thereof, on the all-cargo segment of any convertible charter flight, due to the presence of galley equipment and/or crew facilities on the main deck of the aircraft for use on that convertible charter flight, is deemed to be due to the bulk of the cargo supplied by DOD. (Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended; 49 U.S.C. 1324, 1373, and 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-32525 Filed 11-10-77;8:45 am]

[6320-01]

SUBCHAPTER F—POLICY STATEMENTS

[PS-75, Amdt. 54]

PART 399—STATEMENTS OF GENERAL POLICY

Military Exemptions

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule amends the minimum rate considered fair and reasonable for the transportation provided to the Department of Defense for individually ticketed military passengers on scheduled services.

DATES: Adopted: November 3, 1977. Effective: November 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard S. Friedman, Postal and Military Rates Section, B.F.R., B-66b, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, phone: 202-673-5368.

SUPPLEMENTARY INFORMATION: Policy Statements Docket No. 29387, Amendment No. 54 to Part 399. For the reasons set forth in Regulation ER-1024, being issued contemporaneously with this rule amendment, we are amending Part 399 (14 CFR Part 399) effective November 3, 1977, as follows:

Amend § 399.16(b) to read as follows:

§ 399.16 Military exemptions.

* * * * *

(b) The minimum charges considered fair and reasonable for the transportation of Category Z individually ticketed passengers in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand, and Hawaii or Alaska, on the other hand, will be the same as the Category A passenger rate per passenger mile as set forth in § 288.7(d)(1) of Part 288 of the Economic Regulations (14 CFR Part 288), applied to the shortest mileage between the commercial air carrier points as shown in the current IATA Manual to compute point-to-point passenger fares.

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-32524 Filed 11-8-77;8:45 am]

federal register

FRIDAY, NOVEMBER 11, 1977
PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77-4173	Aug. 19, 1977.
AR77-4285; AR77-4286; AR77-4287 AR77-4288.	Sept. 30, 1977.
California:	
CA77-5090; CA77-5091; CA77-5092; CA77-5093; CA77-5094; CA77-5095.	Do.
Connecticut:	
CT77-3132	Do.
Louisiana:	
LA77-4219	Sept. 23, 1977.
Michigan:	
MI77-2125	Sept. 16, 1977.
Montana:	
MT77-5053	July 22, 1977.
New Jersey:	
NJ77-3079	June 17, 1977.
Pennsylvania:	
PA77-3053; PA77-3054; PA77-3055; PA77-3056.	May 13, 1977.
PA77-3107	Aug. 26, 1977.
PA77-3124	Sept. 9, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR77-4217 (AR77-4290)	Sept. 9, 1977.
Georgia:	
GA77-1115 (GA77-1139)	Sept. 23, 1977.
Kentucky:	
KY77-1123 (KY77-1134)	Sept. 30, 1977.
North Carolina:	
NC76-1121 (NC77-1135)	Oct. 22, 1977.

Signed at Washington, D.C. this 4th day of November 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION NO. AR77-4173 - Mod. #2 (42 FR 42063 - August 19, 1977) Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS	$ 8.85	.40	.35		.04
GLAZIERS	8.20		.25		
ROOFERS	8.30		.10		
PAINTERS:					
Painters, paperhangers & steam cleaners, sheetrock finisher & wall cover hangers	8.00		.45		.02
Spray gun operators and sand blasterers	8.60		.45		.02
All skeleton steel and all work on stages, structural steel over 30 feet high	8.25		.45		.02
ELEVATOR CONSTRUCTORS:					
Journeyman	9.385	.545	.35	4%+a+b	.02
FOOTNOTE:					
B. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate.					

DECISION NO. AR77-4285 - Mod. #2 (42 FR 52898 - September 30, 1977) Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE:					
LATHERS	9.10				.02
ROOFERS	8.30		.10		
ELEVATOR CONSTRUCTORS	9.385	.545	.35	4%+a+b	.02
FOOTNOTE:					
A. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate.					

DECISION NO. AR77-4286 - Mod. #1 (42 FR 52900 - September 30, 1977) Union and Ouachita Counties, Arkansas					
CHANGE:					
ROOFERS	8.30		.10		

DECISION NO. AR77-4287 - Mod. #1 (42 FR 52903 - September 30, 1977) Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS	$ 9.385	.545	.35	4%+a+b	.02
FOOTNOTE:					
A. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate.					
ELECTRICIANS:					
Electricians	10.75	.50	3%		1/4%
Cable splicers	10.875	.50	3%		1/4%
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	8.00		.40		.02
Spray gun operators and sand blasterers	8.60		.40		.02
All skeleton steel and all work on stages, structural steel over 30 feet high	8.25		.40		.02
ROOFERS	8.30		.10		
PLUMBERS:					
Within 10 mile radius of Pulaski County Courthouse	10.60	.60	.55		.02
Over 10 miles from Pulaski County Courthouse	10.90	.60	.55		.02
GLAZIERS	8.20		.25		
LATHERS	9.10				.02

DECISION NO. AR77-4288 - Mod. #1 (42 FR 52901 - September 30, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE:					
BRICKLAYERS-Stonemasons	8.85	.40	.35		.04
LATHERS	9.10				.02
ROOFERS	8.30		.10		

DECISION NO. CA77-5090 - Mod. #2 MODIFICATIONS P. 3

(42 FR 52905-September 30, 1977)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Electricians:					
Lake Tahoe Area					
Electricians	$13.98	.84	3%+.92		.08
Cable Splicers	15.28	.84	3%+.92		.08
Calaveras and San Joaquin Cos.					
Electricians	13.05	.96	3%+1.49		.01
Cable Splicers	14.68	.96	3%+1.49		.01
Napa and Solano Counties					
Electricians	12.91	1.08	3%+1.10		.04
Cable Splicers	13.42	1.08	3%+1.10		.04
Lake, Marin, Mendocino, and Sonoma Counties					
Electricians	13.15	1.11	3%+.30		.02
Cable Splicers	14.50	1.11	3%+.30		.02
Elevator Constructors	14.82	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Line Construction:					
Del Norte, Modoc and Siskiyou Counties					
Tree trimmer helper; Groundman	8.24	.45	3%	.10	1/2%
Head groundman; Headgroundman (chipper); Powdermen; Jackhammermen	8.76	.45	3%	.10	1/2%
Line Equipment Men	10.02	.45	3%	.10	1/2%
Linemen Polesprayer; Heavy Line Equipment men; Certified lineman welder	11.63	.45	3%	.10	1/2%
Tree trimmer	10.50	.45	3%	.10	1/2%
Cable Splicers; Leadman; Pole Sprayer	12.88	.45	3%	.10	1/2%
Lake, Marin, Mendocino and Sonoma Counties					
Groundman	$10.52	$1.11	3%+.80		.02
Line Equipment Operators	11.84	1.11	3%+.80		.02
Linemen	13.15	1.11	3%+.80		.02
Cable Splicers	14.50	1.11	3%+.80		.02

MODIFICATIONS P. 4

DECISION NO. CA77-5090 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Lake, Marin, Mendocino, San Francisco and Sonoma Cos.					
Brush	11.77	.99	1.30	.80	.03
Spray	12.27	.99	1.30	.80	.03
Tapers	12.72	.99	1.30	.80	.03
Plumbers; Steamfitters:					
Alpine, Amador, (Southern portion of County), Butte, Calaveras, Colusa, Fresno, Glenn, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Monterey, Plumas, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne and Yuba Counties	13.60	1.44	2.00		.10

Footnote:

(a) Employer contributes 8% of basic hourly rate for over 5 years service, and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit. Six Paid Holidays. A through F.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
(Piledriving)					
Group 1	9.18	1.58*	2.25	1.00	.29
Group 1(a)	9.55	1.58*	2.25	1.00	.29
Group 1(b)	9.78	1.58*	2.25	1.00	.29
Group 2	9.78	1.58*	2.25	1.00	.29
Group 2(a)	10.60	1.58*	2.25	1.00	.29
Group 3	10.92	1.58*	2.25	1.00	.29
Group 3(a)	11.36	1.58*	2.25	1.00	.29
Group 4	11.93	1.58*	2.25	1.00	.29
Group 5	12.11	1.58*	2.25	1.00	.29

*Includes $.28 per hour to Pensioned Health and Welfare Fund.

Power Equipment Operators:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Area 1	Area 2				
Group 1	$9.13	$10.64	$1.58*	$2.25	.90	.29
Group 2	9.50	11.01	1.58*	2.25	.90	.29
Group 3	9.73	11.24	1.58*	2.25	.90	.29
Group 4	10.32	11.83	1.58*	2.25	.90	.29
Group 5	10.55	12.06	1.58*	2.25	.90	.29
Group 6	10.71	12.22	1.58*	2.25	.90	.29
Group 7	10.87	12.38	1.58*	2.25	.90	.29
Group 8	11.31	12.82	1.58*	2.25	.90	.29
Group 9	11.54	13.05	1.58*	2.25	.90	.29
Group 10	11.76	13.27	1.58*	2.25	.90	.29
Group 10-A	11.88	13.39	1.58*	2.25	.90	.29
Group 11	12.06	13.57	1.58*	2.25	.90	.29
Group 11-A	13.22	14.73	1.58*	2.25	.90	.29
Group 11-B	13.52	15.03	1.58*	2.25	.90	.29
Group 11-C	13.84	15.35	1.58*	2.25	.90	.29

*Includes $.28 per hour to Pensioned Health and Welfare Fund.

DECISION NO. CA77-5090 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Brick Tenders:					
Calaveras & San Joaquin Cos.	$9.98	$1.25	$1.70		
Power Equipment Operators:					
Chief of Party to Group 10					
Tile Setters' Helpers:					
Alpine, Amador, Butte, Calaveras, Colusa, Eldorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Yolo and Yuba Cos.	7.78	.80	1.20		

DECISION NO. CA77-5091 - Mod. #2
(42 FR 52927-September 30, 1977)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

Change:

Electricians:					
Lake Tahoe Area					
Electricians	13.98	.84	3%+.92		.08
Cable Splicers	15.28	.84	3%+.92		.08
Calaveras and San Joaquin Cos.					
Electricians	13.05	.96	3%+1.49		.01
Cable Splicers	14.68	.96	3%+1.49		.01
Napa and Solano Counties					
Electricians	12.91	1.08	3%+1.10		.04
Cable Splicers	13.42	1.08	3%+1.10		.04
Marin and Sonoma Counties					
Electricians	13.15	1.11	3%+.30		.02
Cable Splicers	14.50	1.11	3%+.30		.02
Elevator Constructors	14.82	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025

DECISION NO. CA77-5091 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Marin, San Francisco, and Sonoma Counties					
Brush	$11.77	.99	$1.30	.80	.03
Spray	12.27	.99	1.30	.80	.03
Tapers	12.72	.99	1.30	.80	.03
Plumbers; Steamfitters:					
Alpine, Amador (Southern portion of County), Calaveras, Fresno, Mariposa, Merced, Monterey, San Joaquin, Santa Cruz, Sutter, Tehama, Tuolumne and Yuba Counties	13.60	1.44	2.00		.10

Footnote:
(a) Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit. Six Paid Holidays. A through F.

Power Equipment Operators:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Area 1	Area 2				
Group 1	$9.13	$10.65	$1.58*	$2.25	.90	.29
Group 2	9.50	11.01	1.58*	2.25	.90	.29
Group 3	9.73	11.24	1.58*	2.25	.90	.29
Group 4	10.32	11.83	1.58*	2.25	.90	.29
Group 5	10.55	12.06	1.58*	2.25	.90	.29
Group 6	10.71	12.22	1.58*	2.25	.90	.29
Group 7	10.87	12.38	1.58*	2.25	.90	.29
Group 8	11.31	12.82	1.58*	2.25	.90	.29
Group 9	11.54	13.05	1.58*	2.25	.90	.29
Group 10	11.76	13.27	1.58*	2.25	.90	.29
Group 10-A	11.88	13.39	1.58*	2.25	.90	.29
Group 11	12.06	13.57	1.58*	2.25	.90	.29
Group 11-A	13.22	14.73	1.58*	2.25	.90	.29
Group 11-B	13.52	15.03	1.58*	2.25	.90	.29
Group 11-C	13.84	15.35	1.58*	2.25	.90	.29

*Includes $.28 per hour to Pensioned Health and Welfare Fund.

Add:						
Brick Tenders:						
Calaveras & San Joaquin Cos.	$9.98	$1.25	$1.70			
Power Equipment Operators:						
Chief of Party to Group 10						
Tile Setters' Helpers:						
Alpine, Amador, Calaveras, Eldorado, Nevada, Placer, Sacramento, San Joaquin, Sutter, Tehama, Yolo and Yuba Counties	7.78	.80	1.20			

MODIFICATIONS P. 7

DECISION NO. CA77-5092 - Mod. #2
(42 FR 52941-September 30, 1977)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Brick Tenders	$8.45	$1.05	$2.30	.60	
Electricians:					
Orange County					
Electricians	13.34	.81	3%+1.45		.02
Cable Splicers	13.95	.81	3%+1.45		.02
Elevator Constructors:					
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator Constructors	13.41	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Kern County (North of of Tehachapi Range)					
Elevator Constructors	14.82	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Plasterers:					
Los Angeles and Orange Cos.	12.135	.83	1.85		.115
Plasterers' Tenders:					
Imperial, Inyo, Mono, Riverside and San Bernardino Counties	11.22	1.05	2.45		
Los Angeles and Orange Cos.	10.475	1.05	2.30	.85	
Footnote:					
(a) Employer contributes 8% of basic hourly rate for over 5 years service and 6% for 6 months to 5 years' service as Vacation Pay credit. Six Paid Holidays. A through F.					
Laborers					
(Tunnel)					
Batch Plant Laborers; Bull gang mucker, trackman; Concrete crew, including rodders and spreaders; Changehouseman; Dumpman; Dumpman (outside); Swamper (Brakeman and switchman on tunnel work); Tunnel materials handling man; Tool man	$9.64	$1.50	$2.30	.60	
Cable Tender; Chuck tender; Nipper; Steel form raiser and setter's helper; Vibratorman, jackhammer, pneumatic tools (except driller); Loading and unloading agitator cars; Pot tender using mastic or other materials	9.76	1.05	2.30	.60	

DECISION NO. CA77-5092 (Cont'd)

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Blaster, Driller, powderman; Chemical grout jetman; Cherry pickerman; Grout gunman; Grout mixerman; Grout pumpman; Jackleg miner; Jumbo man; Kemper and other pneumatic concrete placer operator; Miner tunnel (hand or machine); Powderman (primer house); Primer man; Shotcrete man; Steel form raiser and setter; Timberman; Retimber (wood or steel); Tunnel concrete finisher; Nozzleman; Operating of troweling and/or grouting machine; Sandblaster	9.92	1.05	2.30	.60	
Shaft, raise miner; Diamond driller	10.20	1.05	2.30	.60	
Add:					
Gunite Laborers:					
Nozzlemen and Rodmen	9.67	1.05	2.30	.95	
Gunmen	9.17	1.05	2.30	.95	
Reboundmen	8.21	1.05	2.30	.95	

DECISION NO. CA77-5093 - Mod #2
(42 FR 52953-September 30, 1977)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Brick Tenders	$8.45	$1.05	$2.30	.60	
Electricians:					
Orange County					
Electricians	13.34	.81	3%+1.45		.02
Cable Splicers	13.95	.81	3%+1.45		.02
Elevator Constructors:					
Imperial, Kern (South of Tehachapi Range), Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator Constructors	13.41	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Kern County (North of Tehachapi Range)					
Elevator Constructors	14.82	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025

DECISION NO. CA77-5093 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Los Angeles and Orange Cos.	12.135	.83	1.85		.115
Plasterers' Tenders:					
Imperial, Riverside and San Bernardino Cos.	11.22	1.05	2.45		
Los Angeles and Orange Cos.	10.475	1.05	2.30	.85	
Footnote:					
(a) Employer contributes 8% of basic hourly rate for over 5 years service and 6% for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays. A through F.					
Add:					
Gunnite Laborers:					
Nozzleman and Rodmen	9.67	1.05	2.30	.95	
Gunmen	9.17	1.05	2.30	.95	
Reboundmen	8.21	1.05	2.30	.95	

DECISION NO. CA77-5094 - Mod. #2 (42 FR 52961-September 30, 1977) San Diego County, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Elevator Constructors	$13.41	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Roofers	11.29	.60	.75	1.00	

DECISION NO. CA77-5095 - Mod. #2 (42 FR 52969-September 30, 1977) San Diego County, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Elevator Constructors	13.41	.745	.56	a	.025
Elevator Constructors' Helpers	70%JR	.745	.56	a	.025
Roofers	11.29	.60	.75	1.00	
Footnote:					
(a) Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays. A through F.					

DECISION NO. CT77-3132 - Mod. #1 (42 FR 52982 - September 30, 1977) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Hartford County:					
Berlin, Bristol, New Britain, Newington, Plainville & Southington	$10.17	1.00	3%+.50		1/4%
Middlesex County:					
Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall and Westbrook	10.36	1.00	3%+.40		
New Haven County:					
Ansonia, Bradford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, South Britain & Wallingford	10.36	1.00	3%+.40		
New London County:					
E. Lyme, Groton, Lyme, New London, Old Lyme and Waterford	10.36	1.00	3%+.40		
PLUMBERS:					
Middlesex County:					
Essex, Ivoryton, Old Saybrook & Saybrook	$11.62	.60	.70	u	.05
New London County:					
Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown & Waterford	11.62	.60	.70	u	.05

MODIFICATIONS P. 11

DECISION #LA77-4219 - Mod. #4 (42 FR 48638 - September 23, 1977) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Truck Drivers (Building Construction):					
Zone 4 - Group 1	$ 7.55				
Group 2	7.85				
Group 3	8.00				
Group 4	8.20				
Group 5	8.35				
Group 6	8.15				

CLASSIFICATION DEFINITIONS

GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, low-boy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with "A" frame when used for transporting material

AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

DECISION #MI77-2125 - Mod. #2 (42 FR 46892 - September 16, 1977) Statewide, Michigan	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Ironworkers:					
Structural & Reinforcing					
ZONE 1					
Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon & Schoolcraft Counties	$9.50	.50	1.00	1.40	.04
ZONE 2					
Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Mason, Manistee, Wexford, Missaukee, Lake, Osceola, Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcalm, Ottawa, Ionia, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hillsdale Counties	10.70	.60	1.00		.08
ZONE 3					
Remainder of State					
Structural	10.80	8%	14%	17%	.09
Reinforcing	10.10	1.23	15%	15%	.07

MODIFICATIONS P. 12

DECISION NO. MT77-5053 - Mod. # 3 (42 FR 37738 - July 22, 1977) Statewide, Montana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Modification No. 1 published, October 28, 1977 in 42 FR 56939 to read Modification No. 2					
DECISION #NJ77-3079 - Mod. #5 (42 FR 31080 - June 17, 1977) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean & Salem Counties, New Jersey					
Change:					
Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers, Tile Layers & Terrazzo Workers:					
ZONE 3	$10.70	.50	.25		.02
Electricians & Cable Splicers:					
ZONE 1	11.70	6%	3%+1.80		.01
ZONE 4	11.99	6%	3%+ .70		.04
Elevator Constructors:					
Mechanics	12.47	.745	.56	4%+b+c	.025
Helper	8.73	.745	.56	4%+b+c	.025
Probationary Helpers	6.235				
Line Construction:					
ZONE 1					
Linemen, Cable Splicers & Equipment Operators	11.70	6%	3%+1.80		1/2 of 1%
Groundmen	9.75	6%	3%+1.80		1/2 of 1%
ZONE 4					
Linemen	11.99	6%	3%+.70		1/2 of 1%
Line Digger Truck Drivers	7.51	6%	3%+.70		1/2 of 1%
Groundmen	8.66	6%	3%+.70		1/2 of 1%
Painters:					
ZONE 4					
New Construction:					
Brush or roller, paperhanging & vinyl wall covering	11.00	.80	.80		.05
Work on all structural steel and iron, steeples, stacks, tanks, flagpoles, all swing work & window jack work above 2 stories, spray painting & sandblasting & line striping by machinery, all power tools & hazardous materials (i.e., creosote, epoxy, acid, pitch mastic, and urethanes	12.00	.80	.80		.05

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NJ77-3079 - Mod. #5 (CONT'D)					
Change:					
Painters:					
ZONE 4					
Repaint COnstruction:					
Brush or roller, paperhanging & vinyl wall covering	$ 8.80	.80	.80		.05
Work on all structural steel and iron, steeples, stacks, tanks, flag poles, all swing work & window jack work above 2 stories, spray painting & sandblasting & line striping by machinery, all power tools & hazardous materials (i.e., creosote, epoxy, acid, pitch mastic, and urethanes	9.60	.80	.80		.05
Sheet Metal Workers:					
ZONE 1	11.04	.98	.88		.02
DECISION #PA77-3053 - Mod. # 5 (42 FR 24672 - May 13, 1977) Elk, Forest, McKean & Warren Counties, Pennsylvania					
Change:					
Electricians:					
Zone 2	$11.25	.60	1%+.40		1%
DECISION #PA77-3054 - Mod. #6 (42 FR 24677 - May 13, 1977) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
Change:					
Bricklayers & Stonemasons					
Zone 3	11.16	.70	.40		
Cement Masons					
Zone 3	11.16	.70	.40		
Electricians					
Zone 2	11.25	.60	1%+.40		1%
Line Construction:					
Zone I					
Class I	11.99	.45	3%		3/8 of 1%
Class II	7.15	.45	3%		3/8 of 1%
Class III	8.36	.45	3%		3/8 of 1%
Marble Setters (Zone 2)	11.16	.70	.40		
Plasterers					
Zone I	11.16	.70	.40		

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3055 - Mod. #5 (42 FR 24688 - May 13, 1977) Greene, Somerset & Potter Counties, Pennsylvania					
Change:					
Line Construction:					
Zone II					
Lineman	$11.99	.45	3%		3/8%
Groundman	7.15	.45	3%		3/8%
Winch truck operator	8.36	.45	3%		3/8%
Painters:					
Zone 1					
Commercial					
Brush	8.85	.65	.40		.05
Spray	9.975	.65	.40		.05
Industrial					
Brush	9.35	.65	.40		.05
Spray	10.475	.65	.40		.05
DECISION #PA77-3056 - Mod. #6 (42 FR 24698 - May 13, 1977) Lehigh County, Pennsylvania					
Change:					
Plumbers	12.84	.57	1.00		.11
Steamfitters	12.16	.80	1.45		.11
DECISION #PA77-3107 - Mod. #3 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
Change:					
Bricklayers:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
Zone 1	$ 9.75	.77	.80		.02
All other work					
Zone 2	10.46	.87	1.75		.02
Drywall Finishers					
All other work	9.70	1.44	.75	.85	.03
Electricians:					
Commercial					
Zone 2	12.53	4.75%	3%+4%		1.5%
Zone 3	12.45	4.4%	3%+4%		½ of 1%
Zone 5	10.59	.73	3%+.15		.03
Line Construction:					
Linemen	13.71	.45	3%		1%
Groundman	8.17	.45	3%		1%
Winch Truck Operator	9.55	.45	3%		1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3107 - Continued					
Painters:					
Zone 1					
Brush	10.195	.975	.40		.06
Spray, Steel & Swing	10.445	.975	.40		.06
Roller	10.195	.975	.40		.06
Zone 2					
Commercial, Brush	10.08	.75	.90		
Commercial, Spray	10.73	.75	.90		
Roofers:					
All other work:					
Zone 1					
Commercial					
Composition, damp and waterproofers	12.07	1.40	.95	e	
Roofer assistant	5.50	1.40	.95	e	
Stone Masons					
Zone 1	9.63	.87	.97		
DECISION #PA77-3124 - Mod. #2 (42 FR 45618 - September 9, 1977) Northampton County, Pennsylvania					
Change:					
Plumbers	12.84	.57	1.00		.11
Steamfitters	12.16	.80	1.45		.11

STATE: Arkansas COUNTY: Conway, Van Buren, Perry and Cleburne

DECISION NO. AR77-4290 DATE: Date of Publication

SUPERSEDES DECISION NO. AR77-4217 dated September 9, 1977 in 42 FR 45586.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories). Building Construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes, in all construction of such structures, the installation inside the building of utilities and equipment, both above and below ground level, as well as excavation and foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.40	.45	.60		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.70	.40	.35		.04
CARPENTERS:					
Cleburne, Van Buren, County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.63	.45	.35		.05
Millwrights & Piledrivermen	9.13	.45	.35		.05
Western half of Conway and Perry Counties:					
Carpenters	7.93	.45	.35		.04
Millwrights & Piledrivermen	8.43	.45	.35		.04
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electricians	10.75	.50	3%		1/4%
Cable splicers	10.875	.50	3%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	9.385	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
Glaziers	8.20		.25		
IRONWORKERS	9.50	.45	.40		.04
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blow-pipe, and concrete pump hose placer

LABORERS CLASSIFICATION DEFINITIONS(CONT'D)

GROUP II - Semi-skilled laborer; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Swinging scaffold, Barco, 90 lb pavement breaker and burners

GROUP V - Nozzleman (Gunite, Grout, and sandblasterer; concrete pump(nozzle placer)

GROUP VI - Powderman and blasterers

GROUP VII - Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.10				.02
LINE CONSTRUCTION:					
Linemen	10.85		3%		3/8%
Cable splicers	10.975		3%		3/8%
Operator	10.85		3%		3/8%
Groundmen (advanced)	65%JR		3%		3/8%
Groundmen (1st 6 months)	49%JR		3%		3/8%
Winch equipment	73%JR		3%		3/8%
MARBLE, TILE AND TERRAZZO WORKERS	7.95				
MARBLE, TILE & TERRAZZO FINISHERS	5.80				
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	8.00		.40		.02
Spray gun operators and sand blasterers	8.60		.40		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.25		.40		.02
PLASTERERS	$ 8.85				.02
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.60	.60	.55		.02
Over 10 mile from Pulaski County Courthouse	10.90	.60	.55		.02
POWER EQUIPMENT OPERATORS:					
GROUP I	9.64	.35	.35		
GROUP II	8.76	.35	.35		
GROUP III	8.36	.35	.35		
GROUP IV	6.92	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II

Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size.

GROUP III - HEAVY EQUIPMENT OPERATORS:

All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator.

GROUP IV - LIGHT EQUIPMENT OPERATORS:

Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 8.30		.10		
SHEET METAL WORKERS	10.25	.45	.44		.05
SPRINKLER FITTERS	10.12	.65	.95		.08

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Paid Holidays - A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: DEKALB & FULTON
DECISION NO.: GA77-1139 DATE: DATE OF PUBLICATION
Supersedes Decision No. GA77-1115, dated September 23, 1977, 42 FR 48632.
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which include building structures; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 4.54				
Concrete finishers (cement masons)	4.38				
Electricians	10.10	9%	11%		½ of 1%
Form setters	4.18				
Ironworkers - reinforcing	3.50				
Laborers:					
Asphalt rakers	3.74				
Drill operators	3.80				
Pipelayers	3.43				
Unskilled	3.31				
Truck drivers	3.33				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	4.50				
Asphalt paving machine (asphalt screed; asphalt spreader)	4.40				
Backhoe	4.84				
Bulldozer	3.90				
Crane, derrick, dragline	5.37				
Front end loader	4.87				
Mechanic	4.13				
Motor grader (motor patrol)	4.81				
Piledriver	4.75				
Roller	4.38				
Scraper (pan)	4.05				

SUPERSEDEAS DECISION

STATE: KENTUCKY DECISION NO.: KY77-1134
COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAUREL, LAWRENCE, LEE, LESLIE, LETCHER, LINCOLN, McCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY, WOLFE.
DATE: DATE OF PUBLICATION
Supersedes Decision No. KY77-1123, dated September 30, 1977, in 42 FR 53042.
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which includes building structures; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 8.10	.35	.35	.25	
CEMENT MASONS	7.95	.35	.35	.25	
ELECTRICIANS (OUTSIDE):					
Linemen	12.20	.45	3%		½ of 1%
Cable splicers	12.45	.45	3%		½ of 1%
Groundmen	9.15	.45	3%		½ of 1%
IRONWORKERS:					
Structural	8.20	.35	.35	.25	
Reinforcing	8.00	.35	.35	.25	
PAINTERS (Brush, Spray, Roller)	8.00	.75	.40	1.00	
PILEDRIVERMEN	7.75	.35	.35	.25	
PLUMBERS	11.15	.25	.70		.02
TRUCK DRIVERS:					
Truck helper & Warehousemen	6.40	.35	.35	.25	
Driver, winch truck & A-frame truck when used in transporting materials	6.50	.35	.35	.25	
Driver, semi-trailer or pole trailer, distributor, dump truck, tandem axle	6.60	.35	.35	.25	
Driver on mixer truck - all types	6.65	.35	.35	.25	
Truck mechanic	6.70	.35	.35	.25	
Tire changer or mechanic helper, drivers on 3 tons and under trucks	6.73	.35	.35	.25	
Driver on pavement breakers	6.75	.35	.35	.25	
Drivers, over 3 tons	6.94	.35	.35	.25	
Driver, euclid & other heavy earth-moving equipment & low-boy	7.51	.35	.35	.25	
Greaser on greasing facility	7.55	.35	.35	.25	
Welders - rate for craft					

DECISION NO. KY77-1134

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, flagmen	$ 6.15	.35	.35	.25	
Hand blade operator & batch truck dumper, deck hand or scow man	6.40	.35	.35	.25	
Power Driven Tool Operator of the following: wagon drill, chain saw, jack hammer, concrete saw, sand blaster, concrete chipper, pavement breaker, vibrator, power wheelbarrow, power buggy, sewer pipe layer, bottom men, dry cement handler, concrete rubber, mason tender	6.50	.35	.35	.25	
Asphalt lute & rakemen, side rail setter	6.55	.35	.35	.25	
Gunnite nozzleman; gunnite operator	6.65	.35	.35	.25	
Tunnel laborers (free air)	6.70	.35	.35	.25	
Tunnel mucker (free air)	6.75	.35	.35	.25	
Tunnel miner, blaster & driller (free air)	7.10	.35	.35	.25	
Drill operator of percussion type drills which are both powered and propelled by an independent air supply	7.45	.35	.35	.25	
Powdermen	7.55	.35	.35	.25	
Caisson workers	7.65	.35	.35	.25	

DECISION NO. KY77-1134

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.90	.35	.35	.25	
GROUP 2	7.25	.35	.35	.25	
GROUP 3	7.40	.35	.35	.25	
GROUP 4	6.76	.35	.35	.25	

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Auto patrol, batcher plant, bituminous paver, cableway, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orangepeel bucket, piledriver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift, (regardless of lift height), all types of boom cats, multiple operator, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, material pump, pumpcrete, Ross carrier, sheep foot, side boom throttle-valve man, rotary drill, power generator, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, tugger, backfiller gurries, subgrader, electric vibrator compactor, welderburner;

GROUP 2 - All air compressors (200 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 h.p. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tract air and road widening trencher;

GROUP 3 - Greaser on grease facilities servicing heavy equipment;

GROUP 4 - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine pump, roller (earth), tamping machine, tractors (under 50 h.p.), vibrator, oiler, air compressors (under 200 cu. ft. per min. capacity), concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: Granville
DECISION NUMBER: NC77-1135 DATE: Date of Publication
Supersedes Decision No.: NC76-1121 dated October 22, 1976 in 41 FR 46805
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	6.00				
Carpenters	4.31				
Cement masons	4.30				
Drywall hangers	6.00				
Electricians	5.00				
Ironworkers, structural	5.07				
Ironworkers, reinforcing	4.75				
Laborers:					
Unskilled	3.26				
Painters, brush	4.38				
Painters, spray	4.50				
Plumbers & pipefitters	5.30				
Roofers	4.75				
Sheet metal workers	5.00				
Tile setters	6.50				
Truck drivers	3.63				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozers	4.00				
Loaders	4.13				

[FR Doc.77-32433 Filed 11-10-77;8:45 am]

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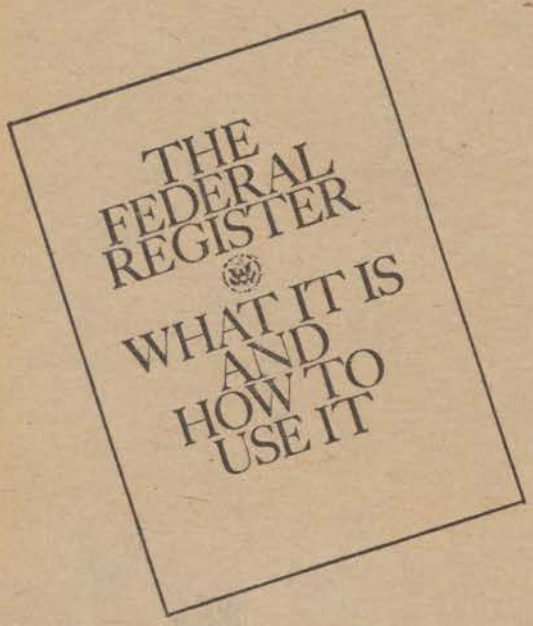

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